Draft Regulations laid before Parliament under sections 1095(6), 1290 and 1292(4) of the Companies Act 2006, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2008 No. 0000

COMPANIES

The Registrar of Companies and Applications for Striking Off Regulations 2008

Made - - - -	***
Coming into force - -	*1st October 2009*

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 1003(2)(b), 1081(2), 1095(1) and (2), 1104(2)(a), 1105(2)(d), 1108(2), 1167 and 1292(1), (3) and (4) of the Companies Act 2006(**a**).

In accordance with sections 1095(6), 1290 and 1292(4) of that Act, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Registrar of Companies and Applications for Striking Off Regulations 2008 and come into force on 1st October 2009.

(2) In these Regulations—

(a) "relevant form" has the meaning given in regulation 4(3);

(b) "relevant material" has the meaning given in regulation 4(2);

(c) "revised accounts" and "revised report" have the meanings given in regulation 6(4); and

(d) "valid objection" has the meaning given in regulation 4(5).

Voluntary striking off: contents of an application

2.—(1) An application under section 1003 of the Companies Act 2006 (application for voluntary striking off) must contain a declaration that neither section 1004 nor section 1005 of that Act prevents the application from being made.

(2) The declaration must be made by the directors who are making the application on behalf of the company.

(**a**) 2006 c.46.

Annotation of the register

3. Where it appears to the registrar that material on the register is misleading or confusing, the registrar may place a note in the register containing such information as appears to the registrar to be necessary to remedy, as far as possible, the misleading or confusing nature of the material.

Rectification of the register on application

4.—(1) On application under this regulation (but not if there is a valid objection to the application) the registrar must remove from the register any relevant material that—

(a) derives from anything invalid or ineffective or that was done without the authority of the company to which the material relates, or

(b) is factually inaccurate, or is derived from something that is factually inaccurate or forged.

(2) "Relevant material" means material on the register that was included in, or is derived from, a relevant form delivered to the registrar by any person.

(3) A "relevant form" is a standard form required, by rules made under section 1117 of the Companies Act 2006, for giving notice under—

(a) section 87 of that Act (change of address of registered office);

(b) section 167 of that Act (changes relating to directors); or

(c) section 276 of that Act (changes relating to secretaries).

(4) An application to the registrar for the removal of relevant material from the register on the grounds in paragraph (1) may be made by (and only by)—

(a) the person by whom the form was delivered to the registrar;

(b) the company to which the material relates; or

(c) any individual to whom the material relates.

(5) A "valid objection" is—

(a) an objection made in accordance with regulation 5(5) and (6) by a person to whom notice of the application was given under regulation 5(2), or

(b) an objection made in accordance with regulation 5(5) by any other person which is not an objection which the registrar is prevented from taking into account under regulation 5(7).

(6) Regulation 5 makes further provision about applications and provision about objections to the removal of material from the register and notices which must be given by the registrar.

Applications to rectify: further requirements, objections and notices to be issued by the registrar

5.—(1) An application to the registrar under regulation 4 must, in addition to satisfying the requirements of section 1095(3) of the Companies Act 2006, state—

(a) the applicant's name and address;

(b) whether the applicant is a person mentioned in regulation 4(4)(a), a person mentioned in regulation 4(4)(b) or a person mentioned in regulation 4(4)(c); and

(c) whether the relevant material to which the application relates—

(i) derives from anything invalid or ineffective;

(ii) derives from anything that was done without the authority of the company to which the material relates;

(iii) is factually inaccurate or is derived from something that is factually inaccurate; or

(iv) is derived from something that is forged.

(2) The registrar must give notice of the application to every person mentioned in regulation 4(4) whose identity and name and address the registrar knows, other than the applicant.

(3) The notice must—

(a) include the name and registered number of the company to which the material which is the subject of the application relates;

(b) specify what is to be removed from the register and indicate where on the register it is;

(c) state the information provided to the registrar under paragraph (1)(c);

(d) state the date on which the notice is issued;

(e) give particulars of the recipient's right to object to the application and the requirements applying to that right under paragraphs (5) and (6);

(f) explain the effect of paragraph (8); and

(g) explain the effect of regulation 4(1) and of section 1095(4) of the Companies Act 2006.

(4) An objection to the application may be made to the registrar by any person.

(5) An objection must be made by giving notice in writing to the registrar, and the notice must state the name and address of the person making the objection and identify the application to which the objection relates.

(6) A person to whom notice of an application was given under paragraph (2) and who wishes to object to the application must do so before the end of the period of 28 days beginning with the date on which that notice was issued (as stated in the notice).

(7) The registrar must not take account of an objection made by any other person after the end of the period of 28 days beginning with the date on which the notices under paragraph (2) were issued.

(8) If a valid objection is made to the application, the registrar must reject the application.

(9) When a valid objection is made, the registrar must also—

(a) send an acknowledgment of receipt to the person who made the objection; and

(b) notify the applicant and every other person mentioned in regulation 4(4) (but not the person who made the objection or any other person who has made an objection) of the fact that an objection has been made.

(10) If no valid objection is made, the registrar must notify the applicant of that fact.

Documents relating to Welsh companies: exceptions to the requirement for a certified translation, and revocation of previous exceptions

6.—(1) The documents in paragraph (2) are excepted from the requirement in section 1104(2) of the Companies Act 2006 that a document relating to a Welsh company must, on delivery to the registrar in Welsh, be accompanied by a certified translation into English.

(2) The documents are—

(a) a non-traded company's memorandum of association;

(b) a non-traded company's articles;

(c) a community interest company report prepared for a non-traded company under section 34 of the Companies (Audit, Investigations and Community Enterprise) Act 2004(**a**);

(d) a resolution or agreement which was agreed to by members of a non-traded company and to which Chapter 3 of Part 3 of the Companies Act 2006 applies, except for a resolution or agreement listed in paragraph (3);

(e) annual accounts and reports of a non-traded company required to be delivered to the registrar under Part 15 of the Companies Act 2006;

(f) a declaration referred to in regulation 11(1)(b) or regulation 12(1)(b) or (c) of the Community Interest Company Regulations 2005(**b**) which relates to a non-traded company;

(**a**) 2004 c.27.
(**b**) S.I. 2005/1788, amended by S.I. 2007/1093; there are other amending instruments but none is relevant.

(g) revised accounts and any revised report of a non-traded company, and any auditor's report on such revised accounts and reports, required to be delivered to the registrar by the Companies (Revision of Defective Accounts and Reports) Regulations 2008(**a**);

(h) a document required to be appended to the group accounts of a non-traded company by paragraph 30(2) of Schedule 6 to the Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008(**b**) (banking groups: information as to undertaking in which shares held as a result of financial assistance operation).

(3) The following is the list of resolutions and agreements referred to in paragraph (2)(d)—

(a) a special resolution that—

(i) a private company should be re-registered as a public company;

(ii) a public company should be re-registered as a private limited company;

(iii) a private limited company should be re-registered as an unlimited company; or

(iv) an unlimited company should be re-registered as a limited company;

(b) a special resolution agreeing to the change of a company's name;

(c) a special resolution under section 37 of the Companies (Audit, Investigations and Community Enterprise) Act 2004(**c**) altering a company's articles so that it may become a community interest company;

(d) a resolution or agreement as altered by an enactment other than an enactment amending the general law, required to be delivered to the registrar under section 34 of the Companies Act 2006;

(e) a resolution or agreement as altered by an order of a court or other authority, required to be delivered to the registrar under section 35 or 999 of that Act;

(f) a special resolution under section 88(2) of that Act requiring the register to be amended so that it states that a company's registered office is to be situated in Wales;

(g) a special resolution under section 626 of that Act (reduction of capital in connection with redenomination);

(h) a special resolution under section 641(1)(a) of that Act (resolution for reducing the share capital of a private limited company supported by solvency statement);

(i) a resolution under section 664(1) of that Act that a public company should be re-registered as a private company to comply with section 662.

(4) For the purposes of paragraph (2)(g), "revised accounts" and "revised report" have the meanings given in regulation 2 of the Companies (Revision of Defective Accounts and Reports) Regulations 2008.

(5) Regulation 4 of the Companies (Welsh Language Forms and Documents) Regulations 1994(**d**) is revoked.

Documents delivered in other languages

7.—(1) The documents listed in paragraph (2) are specified for the purposes of section 1105(2)(d) of the Companies Act 2006 as documents which may be drawn up and delivered to the registrar under the Companies Acts in a language other than English but which must, when delivered to the registrar, be accompanied by a certified translation into English.

(2) The documents are—

(a) a memorandum of association;

(**a**) S.I. 2008/373.
(**b**) S.I. 2008/410.
(**c**) Section 37 was amended by paragraph 7 of Schedule 4 to S.I 2007/1093 and by paragraph 105 of Schedule 4 to S.I. 2007/2194.
(**d**) S.I. 1994/117; relevant amending instruments are S.I. 1994/727, 1994/734. By virtue of S.I. 2006/3428, regulation 4 has effect with adaptations as if made under section 1104(2) of the Companies Act 2006.

(b) a company's articles;

(c) a valuation report required to be delivered to the registrar under section 94(2)(d) of the Companies Act 2006;

(d) any order made by a competent court in the United Kingdom or elsewhere.

Permitted characters and symbols for names and addresses in documents delivered to the registrar

8.—(1) The characters and symbols specified in paragraph (3) are permitted for the purposes of section 1108(1) of the Companies Act 2006 (and names and addresses in documents delivered to the registrar must therefore contain only those characters and symbols).

(2) But the requirement in section 1108(1) does not apply to the following documents—

(a) a memorandum of association;

(b) a company's articles;

(c) an order made by a competent court in the United Kingdom or elsewhere;

(d) an agreement required to be forwarded to the registrar under Chapter 3 of Part 3 of the Companies Act 2006 (agreements affecting a company's constitution);

(e) a valuation report required to be delivered to the registrar under section 94(2)(d) of that Act;

(f) a document required to be delivered to the registrar under section 400(2)(e) or section 401(2)(f) of that Act (company included in accounts of larger group: required to deliver copy of group accounts);

(g) an instrument or copy instrument required to be delivered to the registrar under Part 25 of that Act (company charges).

(3) The characters and symbols specified in this paragraph are—

(a) those in the Schedule;

(b) full stops, commas, colons, semi-colons and hyphens;

(c) the numerals 0, 1, 2, 3, 4, 5, 6, 7, 8 and 9.

Name
Economic and Business Minister,
Department for Business, Enterprise and Regulatory Reform

Date

SCHEDULE

Regulation 8(3)

PERMITTED CHARACTERS AND SYMBOLS

Characters and symbols referred to in regulation 8(3)(a)				
A	a	B	b	C
c	D	d	E	e
F	f	G	g	H
h	I	i	J	j
K	k	L	l	M
m	N	n	O	o
P	p	Q	q	R
r	S	s	T	t
U	u	V	v	W
w	X	x	Y	y
Z	z	&	@	£
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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision relating to the functions of the registrar of companies under Part 35 of the Companies Act 2006 ("the Act") and the delivery of documents to the registrar under the Act and under other enactments. They also make provision relating to applications for striking a company's name off the register under Part 31 of the Act.

Regulation 2 requires an application to strike a company's name off the register under section 1003 of the Act (voluntary striking off) to contain a directors' declaration.

Regulation 3 authorises the registrar to annotate the register where material on the register appears to be misleading or confusing. "The register" is defined in section 1080(2) of the Act and refers to the records held by the registrar relating to companies. The power in regulation 3 is subject to section 1081(3) to (5) of the Act. The material to which the power applies is limited by paragraph 105 of Schedule 2 to the Companies Act 2006 (Commencement No. 8, Transitional Provisions and Savings) Order 2008.

Regulation 4 provides that an application may be made to the registrar by specified persons to remove particular material relating to a company from the register where the material derives from anything invalid or ineffective or from anything done without the authority of the company, or is factually inaccurate or derived from something that is factually inaccurate or forged.

Regulation 5 sets out further requirements for applications under regulation 4 and makes provision for objections to such applications and for notices to be sent by the registrar. The requirements for applications are in addition to those in section 1095 of the Act which, among other things, requires an application to be accompanied by a statement that the material is such that it may be the subject of an application and is required to be removed. If no objection to the application is received, the Act provides that the registrar may accept this statement as sufficient evidence that the material should be removed from the register. But if an objection is received, the Regulations provide that the registrar must reject the application.

Regulations 6 and 7 are concerned with exceptions to the general rule in section 1103 of the Act that documents required to be delivered to the registrar under the Act or other specified legislation must be drawn up and delivered to the registrar in English. This is qualified by sections 1104 and 1105. Section 1104 allows documents relating to a Welsh company (as defined in section 88(1)) to be drawn up and delivered to the registrar in Welsh. Such a document must, when delivered to the registrar, be accompanied by a certified translation into English, but regulations may provide for exceptions to that requirement. Regulation 6 provides exceptions for certain documents relating to non-traded companies (as defined in the Companies Act 2006). It also revokes existing exceptions.

Section 1105 allows regulations to specify documents which, by way of exception to the general rule in section 1103, may be drawn up and delivered to the registrar in a language other than English provided that, on delivery, they are accompanied by a certified translation into English. "Certified translation" is defined in section 1107. Regulation 7 specifies a number of documents for this purpose. Section 1105 does not apply to any document relating to a Welsh company that is drawn up and delivered to the registrar in Welsh (see section 1104(5)).

Section 1108 of the Act provides that names and addresses in a document delivered to the registrar under any enactment must contain only letters, characters and symbols which are permitted by regulations. The section applies to all documents delivered to the registrar on or after 1st October 2009 (see paragraph 108 of Schedule 2 to the Companies Act 2006 (Commencement No. 8, Transitional Provisions and Savings) Order 2008). Regulation 8 specifies the permitted characters and symbols for this purpose. It also provides that the rule in section 1108(1) does not apply to certain documents, thereby allowing names and addresses in these documents to contain characters and symbols which would otherwise not be permitted.

An Impact Assessment has not been produced for these Regulations as they have only a negligible impact on the costs of business, charities or voluntary bodies.

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