

**European Public Limited-Liability Company Regulations 2004
(2004 No. 2326)**

The Secretary of State, being a Minister designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to measures relating to the registration, operation and regulation of European public limited liability companies, in exercise of the powers conferred on her by section 2(2) of that Act and of all other powers enabling her in that behalf, hereby makes the following Regulations:

PART 1 GENERAL

Citation, commencement and extent

- 1.—(1) These Regulations may be cited as the European Public Limited-Liability Company Regulations 2004.
- (2) These Regulations come into force on 8th October 2004.
- (3) These Regulations extend to the whole of the United Kingdom.

EC Directive and EC Regulation

2. In these Regulations—
'the EC Directive' means Council Directive 2001/86/EC of 8 October 2001 supplementing the Statute for a European Company with regard to the involvement of employees;
'the EC Regulation' means Council Regulation 2157/2001/EC of 8 October 2001 on the Statute for a European Company;
and references to numbered Articles are, unless otherwise specified, references to Articles in the EC Regulation.

Interpretation

- 3.—(1) In these Regulations—
the '1996 Act' means the Employment Rights Act 1996;
the '2006 Act' means the Companies Act 2006;
'the Companies Acts' has the meaning given by section 2 of the 2006 Act;
'SE' means a European Public Limited-Liability Company (or *Societas Europaea*) within the meaning of the EC Regulation and, except as provided in these Regulations, means an SE which is to be, or is, registered in the United Kingdom.
- (2) Except as otherwise provided in these Regulations, words and expressions defined for the purposes of the Companies Acts have the same meaning in these Regulations.
- (3) Except as otherwise provided in these Regulations, words and expressions which are used in the EC Regulation or the EC Directive have the same meaning as they have in that Regulation or Directive.
- (4) Where a word or expression is both defined as mentioned in paragraph (2) and used in the EC Regulation or the EC Directive, it has the meaning it has in that Regulation or Directive except as otherwise provided in these Regulations.

PART 2 REGISTRATION OF SEs AND THE REGISTRAR ETC.

The registrar

4. The registrar has the functions conferred by this Part in relation to the registration, or the deletion of the registration, of an SE.

Registration of an SE formed by merger in accordance with Article 2(1)

5. Where it is proposed to register an SE formed by merger in accordance with Article 2(1) there shall be delivered to the registrar a registration form in Form SE FM01 set out in Schedule 1 together with the documents specified in respect of that Form.

Registration of the formation of a holding SE in accordance with Article 2(2)

6. Where it is proposed to register a holding SE formed in accordance with Article 2(2) there shall be delivered to the registrar a registration form in Form SE FM02 set out in Schedule 1 together with the documents specified in respect of that Form.

Registration of the formation of a subsidiary SE in accordance with Article 2(3)

7. Where it is proposed to register a subsidiary SE formed in accordance with Article 2(3) there shall be delivered to the registrar a registration form in Form SE FM03 set out in Schedule 1 together with the documents specified in respect of that Form.

Registration of an SE by the transformation of a public company in accordance with Article 2(4)

8. Where it is proposed to register an SE by the transformation of a public company in accordance with Article 2(4) there shall be delivered to the registrar a registration form in Form SE FM04 set out in Schedule 1 together with the documents specified in respect of that Form.

Registration of an SE formed as the subsidiary of an SE in accordance with Article 3(2)

9.—(1) Where it is proposed to register an SE formed as the subsidiary of an SE in accordance with Article 3(2) there shall be delivered to the registrar a registration form in Form SE FM05 set out in Schedule 1 together with the documents specified in respect of that Form.

(2) The reference to an SE, a subsidiary of which is to be registered under this regulation, includes a reference to an SE whose registered office is in another Member State.

Registration of an SE on the transfer of its registered office to the United Kingdom in accordance with Article 8

10. Where it is proposed to transfer to the United Kingdom the registered office of an SE whose registered office is situated in another Member State there shall be delivered to the registrar a registration form in respect of that SE in Form SE TR02 set out in Schedule 1 together with the documents specified in respect of that Form.

Certificate of the competent authority under Article 8(8)

11. Where it is proposed to transfer the registered office of an SE from the United Kingdom to another Member State there shall be delivered to the Secretary of State for the purposes of applying for the issue of a certificate under Article 8(8), a transfer form in Form SE TR03 set out in Schedule 1 together with the documents specified in that Form.

Registration of an SE

12. The registrar shall register an SE formed or transformed under the provisions of Articles 2 and 3 or an SE whose registered office is transferred to the United Kingdom under Article 8 where she is satisfied that all the requirements of these Regulations and the EC Regulation in respect of such formation, transformation or transfer of an SE, as the case may be, have been complied with in respect of that SE.

Documents sent to the registrar

13.—(1) The registrar shall retain any document delivered to the registrar under any provision of these Regulations or the EC Regulation.

(1A) Any reference in the 2006 Act to 'the register' is to be read as including a reference to—

- (a) the documents required to be retained by the registrar under paragraph (1), and
- (b) records of the information contained in those documents.

(1B) In the application of the 2006 Act in relation to those documents and records by virtue of paragraph (1A), the provisions specified in Schedule 1A to these Regulations have effect with the modifications specified in relation to each such provision in that Schedule.

(2) For the purposes of this regulation documents delivered to the Secretary of State under regulation 11 shall be treated as documents delivered to the registrar on the deletion of the registration of the SE making the application under the regulation and the provisions of regulation 14 will apply accordingly.

Application of language requirements to documents relating to SEs

13A.—(1) The following provisions of the 2006 Act apply in relation to documents required to be delivered to the registrar under these Regulations or the EC Regulation—

- (a) section 1103 (documents to be drawn up and delivered in English);
- (b) section 1105 (documents that may be drawn up and delivered in other languages);
- (c) section 1107 (certified translations).

(2) In the application of the provisions listed in paragraph (1) in relation to the documents referred to in that paragraph—

- (a) section 1103 applies as if the reference to section 1104 of the 2006 Act were omitted;
- (b) section 1105 applies as if for subsections (2) and (3) there were substituted—

'(2) This section applies to—

- (a) documents specified in respect of any of the Forms mentioned in regulations 5 to 11 of the European Public Limited-Liability Company Regulations 2004 (provisions relating to registration etc);
- (b) copies of transfer proposals required to be delivered under regulation 68(1)(a) of those Regulations (publication of terms of transfer);
- (c) copies of draft terms required to be delivered under regulation 68(2)(a) or (3)(a) of those Regulations (publication of terms for formation of holding SE or conversion of company into SE);
- (d) copies of amendments to statutes required to be delivered under regulation 82(1)(a) of those Regulations (notification of amendments to statutes);
- (e) documents required to be delivered with Form SE CV01 under regulation 85 of those Regulations (registration of a public company by conversion of SE);
- (f) copies of draft terms required to be delivered under regulation 86 of those Regulations (publication of draft terms of conversion).';

(c) section 1107 applies as if any reference to a company were a reference to an SE.

(3) Section 1106(1) and (4) of the 2006 Act (voluntary filing of translations), and any provision of regulations made under section 1106(2) which specifies the languages in relation to which the facility in section 1106(1) is available, apply in relation to documents within paragraph (4), as if any reference to a company were a reference to an SE.

(4) The documents referred to in paragraph (3) are documents that are or have been delivered to the registrar under these Regulations or the EC Regulation on or after 1st January 2007.

(5) For the purposes of this regulation documents required to be delivered to the Secretary of State under regulation 11 shall be treated as documents required to be delivered to the registrar under that regulation.

Application of the 2006 Act to the registration of SEs

14.—(1) The provisions of the 1985 Act specified in Schedule 2 to these Regulations shall apply in respect of

(a) the registration or the deletion of registration of SEs under these Regulations and the EC Regulation;

(b) the functions of the registrar in respect of such registrations or deletions.

Those provisions shall apply under this regulation subject to any limitations or qualifications specified in relation to each such provision in that Schedule.

(2) This regulation does not affect the application of provisions of the 2006 Act in respect of the matters referred to in paragraph (1)(a) or (b) otherwise than by virtue of this regulation.

False statements in documents sent to the registrar or the Secretary of State

15. Any person who makes a false statement:

(a) in any registration form sent to the registrar under regulations 5 to 10 and regulation 85,

(b) in any transfer form sent to the Secretary of State under regulation 11,

(c) in any document, specified in such a form, or

(d) in any other document required to be sent to the registrar under these Regulations, which he knows to be false or does not believe to be true is liable, on conviction on indictment to imprisonment not exceeding two years, or to a fine, or to both, and on summary conviction to imprisonment not exceeding three months, or to a fine not exceeding the statutory maximum or to both.

[Part 3 (regulations 16 to 54) revoked.]

PART 4 EXERCISE OF MEMBER STATES OPTIONS UNDER THE EC REGULATION

Participation in the formation of an SE by a company formed under the law of a Member State whose head office is not in the Community (Article 2(5))

55. A company, formed under the law of a Member State, the head office of which is not in the Community, may participate in the formation of an SE where the company's registered office is in that Member State and it has a real and continuous link with a Member State's economy.

Additional forms of publication of transfer proposal (Article 8(2))

56.—(1) The SE shall notify in writing its shareholders, and every creditor of whose claim and address it is aware, of the right to examine the transfer proposal and the report drawn up under Article 8(3), at its registered office and, on request, to obtain copies of those documents free of charge, not later than one month before the general meeting called to decide on the transfer.

(2) Every invoice, order for goods or business letter, which, at any time between the date on which the transfer proposal and report become available for inspection at the registered office of the SE and the deletion of its registration on transfer, is issued by or on behalf of the SE, shall contain a statement that the SE is proposing to transfer its

registered office to another Member State under Article 8 and identifying that Member State.

(3) If default is made in complying with paragraph (1) or (2) above the SE is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Extension of protection given by Article 8(7) to liabilities incurred prior to transfer (Article 8(7))

57. The first sub-paragraph of Article 8(7) shall apply to liabilities that arise (or may arise) prior to the transfer.

Power of the competent authorities of a Member State to oppose a transfer on public interest grounds (Article 8(14))

58. If a transfer of a registered office of an SE would result in a change in the law applicable to the SE, the competent authorities may, within the two month period referred to within Article 8(6), oppose the transfer, on public interest grounds.

Power of the management or administrative organ of an SE to amend statutes where in conflict with employee involvement arrangements (Article 12(4))

59. Where there is a conflict between the arrangements for employee involvement and the existing statutes the management or administrative organ of the SE may amend the statutes to the extent necessary to resolve the conflict without any further decision from the general shareholders meeting.

60. [*Revoked*]

Minimum number of members of the management organ (Article 39(4))

61. The minimum number of the members of the management organ of an SE is two.

Minimum number of members of the supervisory organ (Article 40(3))

62. The minimum number of the members of the supervisory organ of an SE is two.

Members of the supervisory organ to be entitled to require the management organ to provide certain information (Article 41(3))

63. Each member of the supervisory organ is entitled to require the management organ to provide to that member information of a kind which the supervisory organ needs to exercise supervision in accordance with Article 40(1).

Minimum number of members of an administrative organ (Article 43(2))

64. The minimum number of the members of the administrative organ of an SE is two.

Timing of the first general meeting of an SE (Article 54(1))

65. The first general meeting of an SE may be held at any time in the 18 months following an SE's incorporation.

Proportion of shareholders of an SE who may require one or more additional items to be put on the agenda of any general meeting (Article 56)

66. The proportion of the shareholders of an SE who may require one or more additional items put on the agenda of any general meeting is to be the holders of at least 5% of the SE's subscribed capital.

SEs subject to law on public limited liability companies as regard the expression of their capital (Article 67(1))

67. An SE shall be subject to the provisions of the enactments and rules of law applying to a public company as regards the expression of its capital.

PART 5 PROVISIONS REQUIRED BY THE EC REGULATION

Publication of terms of transfer, formation and conversion (Articles 8(2), 32(3) and 37(5))

68.—(1) Where a transfer proposal is drawn up under Article 8(2)—

(a) a copy of the proposal shall be delivered to the registrar together with Form SE TR01, and

(b) the registrar shall cause notice of the receipt of the copy of the proposal to be published in the Gazette.

(2) Where draft terms for the formation of a holding SE, whether or not its registered office is to be in the United Kingdom, are drawn up under Article 32(2)—

(a) a copy of the draft terms shall be delivered to the registrar together with Form SE DT01, and

(b) the registrar shall cause notice of the receipt of the copy of the draft terms to be published in the Gazette.

(3) Where draft terms for the conversion of a public limited-liability company into an SE are drawn up under Article 37(4)—

(a) a copy of the draft terms shall be delivered to the registrar together with Form SE DT02, and

(b) the registrar shall cause notice of the receipt of the copy of the draft terms to be published in the Gazette.

(4) The Forms referred to in paragraphs (1) to (3) are those set out in Schedule 1.

Publication of completion of merger (Article 28)

69. Where an SE is formed by merger, whether its registered office is in the United Kingdom or not, and a public company has taken part in that procedure, the registrar shall cause to be published in the Gazette notice that the merger has been completed.

Publication of fulfilment of conditions for the formation of a holding SE (Article 33(3))

70.—(1) Where, in respect of a company of a type specified in relation to the United Kingdom in Annex II to the EC Regulation, the conditions for the formation of a holding SE, whether or not it is to be registered in the United Kingdom, are fulfilled, the company shall deliver to the registrar within 14 days of such fulfilment notice of that event in the Form SE SC01 set out in Schedule 1 and the registrar shall cause to be published in the Gazette notice that these conditions have been fulfilled.

(2) If default is made in complying with paragraph (1), the company is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Publication of other documents or information (Articles 8(12), 15(2), 59(3) and 65)

71.—(1) Where, under the Articles of the EC Regulation listed in paragraph (2), the occurrence of an event is required to be publicised, the registrar shall cause to be published in the Gazette notice of receipt of the particulars of that event described in those Articles.

(2) The Articles referred to in paragraph (1) above are:

Article 59(3)

Article 65.

(3) Where, under the Articles listed in paragraph (4), the registration of an SE, whether on formation under Title II of the EC Regulation, or on the transfer of the registered office of an SE under Article 8 or the deletion of a registration under that Article is required to be publicised, the registrar shall cause to be published in the Gazette notice of that registration or the deletion of that registration and of the receipt of the documents and particulars related to that registration or deletion required to be delivered to the registrar by the EC Regulation or these Regulations.

(4) The Articles referred to in paragraph (3) are:

Article 8(12)

Article 15(2).

Protection of creditors and others on a transfer (Article 8(7))

72.—(1) Where an SE proposes to transfer its registered office to another Member State under Article 8 the SE shall satisfy the Secretary of State that the interests of creditors and holders of other rights in respect of the SE (including those of public bodies) have been adequately protected in respect of any liabilities arising (or that may arise) prior to the transfer by the making of a statement of solvency in the terms set out in paragraphs (4) and (5).

(2) The statement of solvency must be made by all the members of the administrative organ in the case of an SE within the one-tier system and by all the members of the management organ in the case of an SE within the two-tier system.

(3) In the case of an SE within the two-tier system the statement of solvency may not be made unless authorised by the supervisory organ.

(4) The statement shall state that the members of the administrative or management organ, as the case may be, have formed the opinion—

(a) as regards its financial situation immediately following the date on which the transfer is proposed to be made, that there will be no grounds on which the SE could then be found to be unable to pay its debts, and

(b) as regards its prospects for the year immediately following that date, that, having regard to their intentions with respect to the management of the SE's business during that year and to the amount and character of the financial resources which will in their view be available to the SE during that year, the SE will be able to carry on business as a going concern (and will accordingly be able to pay its debts as they fall due throughout that year).

(5) In forming their opinion for the purposes of paragraph (4)(a), the members of the administrative or the management organ, as the case may be, shall take into account the same liabilities (including prospective and contingent liabilities) as would be relevant under section 122 of the Insolvency Act 1986 or, as the case may be, Article 102 of the Insolvency (Northern Ireland) Order 1989 (winding up by the court) to the question whether a company is unable to pay its debts.

(6) The statement required by this regulation shall be in the Form SE SS01 set out in Schedule 1.

(7) A member of an administrative or management organ who makes a statement under this regulation without having reasonable grounds for the opinion expressed in the statement is liable, on conviction on indictment, to imprisonment not exceeding two years, or to a fine, or to both, and on summary conviction to imprisonment not exceeding three months, or to a fine not exceeding the statutory maximum, or to both.

Power of Secretary of State where an SE no longer complies with the requirements of Article 7

73.—(1) If it appears that an SE no longer complies with the requirements laid down in Article 7, the Secretary of State may direct the SE to regularise its position in accordance with Article 64(1)(a) or (b) within such period as may be specified in the direction.

(2) A direction under paragraph (1) is enforceable by the Secretary of State—

(a) in the case of an SE whose registered office is in England and Wales, by an application to the High Court in England and Wales for an injunction;

(b) in the case of an SE whose registered office is in Scotland, by an application to the Court of Session for an order under section 45 of the Court of Session Act 1988; or

(c) in the case of an SE whose registered office is in Northern Ireland, by an application to the High Court in Northern Ireland for an injunction.

[Paragraphs (3) and (4) of reg. 73 are amendments to the Insolvency Act 1986 which are incorporated in the text of that Act in the current edition of *Blackstone's Statutes on Company Law*.]

Review of decisions of a competent authority (Articles 8(14) and 19)

74.—(1) Where any competent authority or competent authorities oppose—

(a) the transfer of the registered office of an SE under Article 8(14); or

(b) the taking part by a company of the type specified in relation to the United Kingdom in Annex 1 to the EC Regulation in the formation of an SE by merger under Article 19 whether or not its registered office is to be in the United Kingdom, the provisions of paragraphs (2) to (5) shall apply.

(2) An SE, the transfer of whose registered office is opposed by a competent authority or authorities under Article 8(14) or a company whose taking part in the formation of an SE by merger, whether or not its registered office is to be in the United Kingdom, is opposed by a competent authority or competent authorities under Article 19, may appeal to the relevant court on the grounds that the opposition:

(a) is unlawful; or

(b) is irrational or unreasonable; or

(c) has been made on the basis of a procedural impropriety or otherwise contravenes the rules of natural justice.

(3) For the purposes of this regulation the 'relevant court' is in the case of—

(a) an SE, or a company, whose registered office is in England or Wales, the High Court in England and Wales;

(b) an SE, or a company, whose registered office is in Scotland, the Court of Session; and

(c) an SE, or a company, whose registered office is in Northern Ireland, the High Court in Northern Ireland.

(4) An appeal may only be brought under this regulation with the permission of the court.

(5) The court determining an appeal may—

(a) dismiss the appeal; or

(b) quash the opposition, and where the court quashes an opposition it may refer the matter to the opposing competent authority or authorities with a direction to reconsider it and to make a determination in accordance with the findings of the court.

**PART 6 PROVISIONS RELATING TO THE EFFECTIVE APPLICATION
OF THE EC REGULATION**

Competent authorities

75. The competent authorities designated under Article 68(2) are—

- (a) in respect of Articles 8, 54, 55 and 64, the Secretary of State;
- (b) in respect of Article 25—
 - (i) the High Court in England and Wales, in relation to a public company whose registered office is in England and Wales,
 - (ii) the Court of Session, in relation to a public company whose registered office is in Scotland,
 - (iii) the High Court in Northern Ireland, in relation to a public company whose registered office is in Northern Ireland; and
- (c) in respect of Article 26—
 - (i) the High Court in England and Wales, in relation to an SE where the registered office is proposed to be in England and Wales,
 - (ii) the Court of Session, in relation to an SE where the registered office is proposed to be in Scotland,
 - (iii) the High Court in Northern Ireland, in relation to an SE where the registered office is proposed to be in Northern Ireland.

Enforcement of obligation to amend Statutes in conflict with arrangements for employee involvement

76.—(1) If it appears to the Secretary of State that—

- (a) the statutes of an SE are in conflict with the arrangements for employee involvement determined in accordance with the European Public Limited-Liability Company (Employee Involvement) (Great Britain) Regulations 2009(a) or, as the case may be, the European Public Limited-Liability Company (Employee Involvement) (Northern Ireland) Regulations 2009; and
 - (b) the statutes have not, to the necessary extent, been amended she may direct the SE to amend the statutes to that extent within such period as she may specify in the direction.
- (2) A direction under this regulation is enforceable on the application of the Secretary of State—

- (a) in respect of an SE with its registered office in England and Wales, to the High Court in England and Wales by injunction;
- (b) in respect of an SE with its registered office in Scotland, to the Court of Session by an order under section 45 of the Court of Session Act 1988; and
- (c) in respect of an SE with its registered office in Northern Ireland, to the High Court in Northern Ireland by injunction.

Records of an SE transferred under Article 8(11) or a public company ceasing to exist under Article 29(1) and (2)

77.—(1) Where—

- (a) the registration of an SE is deleted under Article 8(11) pursuant to a transfer of its registered office to another Member State; or
 - (b) a public company ceases to exist under Article 29(1)(c) or (2)(c), the records of that SE or public company, as the case may be, kept by the registrar shall continue to be kept by her for a period of twenty years following such a deletion or cessation of existence.
- (2) Where the registration of an SE is deleted, the Form, and the documents accompanying it, delivered to the Secretary of State under regulation 11, together with a copy of the certificate issued under Article 8(8) shall be deemed to be documents to be retained by the registrar under regulation 13 and the provisions of these Regulations apply accordingly.

Application of enactments to members of supervisory, management and administrative organs

78.—(1) This regulation applies to enactments relating to public companies to the extent that they are required, by the EC Regulation, in the manner described in paragraph 2, to be applied in relation to SEs.

(2) Enactments are required to be applied for the purposes of paragraph (1) where—

- (a) any provision of the EC Regulation, other than Article 9, requires the application of any enactment relating to public companies to determine any question or matter; or
- (b) in the case of any matter not regulated by the EC Regulation or, where matters are partly regulated by it, of those aspects not covered by it, Article 9 requires the application of any enactment relating to public companies.

(3) Subject to paragraphs (4), (5) and (6) references to 'directors' or 'board of directors' in any enactment to which this regulation applies shall have effect as if they were references—

(a) in a one-tier system, to the members of the administrative organ; and

(b) in a two-tier system, to the members of the supervisory and management organs.

(4) Any enactment so applied in relation to a two-tier system shall be applied separately in respect of the members of the supervisory organ and the members of the management organ in relation to the functions of the organ, and in respect of the acts and omissions of the members of those organs.

(5) Where, in a two-tier system, any function relates to the management of the SE and, by virtue of Articles 39(1) or 40(1), is a function that cannot be carried out by the supervisory organ, nothing in paragraph (3) has the effect of permitting or requiring the members of the supervisory organ to carry out any such functions.

(6) Where, by virtue of any provision in the EC Regulation or in the statutes, any transaction or function carried out by the management organ in a two-tier system requires the authorisation of the supervisory organ, nothing in paragraph (3) affects, or removes, the requirement for such authorisation.

Register of members of supervisory organ

79.—(1) Every SE which has adopted the form of a two-tier system in its statutes must keep a register of the members of its supervisory organ ('the register of SO members').

(2) The register must contain the required particulars (see regulations 80 and 80A) of each of the members of the supervisory organ.

(3) The register must be kept available for inspection—

(a) at the SE's registered office, or

(b) at such place as may for the time being be specified in regulations under section 1136 of the 2006 Act in the case of a company and its register of directors under section 162 of that Act.

(4) The SE must give notice to the registrar—

(a) of the place at which the register is kept available for inspection, and

(b) of any change in that place,

unless the register has at all times been kept at the SE's registered office.

(5) The register must be open to the inspection—

(a) of any shareholder of the SE without charge, and

(b) of any other person on payment of a fee of £3.50 for each hour or part of an hour during which the right of inspection is exercised.

(6) If—

(a) default is made in complying with paragraph (1), (2) or (3),

(b) default is made for 14 days in complying with paragraph (4), or

(c) an inspection required under paragraph (5) is refused, an offence is committed by the SE and by every officer of the SE who is in default. For this purpose a person who, by virtue of section 251 of the 2006 Act (shadow directors) as it applies in relation to an SE, is a shadow director of the SE is treated as an officer of the SE.

(7) A person guilty of an offence under this regulation is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(8) In the case of a refusal of inspection of the register, the court may by order compel an immediate inspection of it.

(9) For the meaning of 'the court' in this regulation see section 1156 of the 2006 Act.

(10) Where an SE is required by this regulation to keep a register of SO members, the application of regulation 78 to that SE does not require particulars of members of the supervisory organ to be kept on any register under section 162 of the 2006 Act (register of directors).

Particulars of members to be registered under regulation 79: individuals

80.—(1) An SE's register of SO members must contain the following particulars in the case of any member of the supervisory organ who is an individual—

(a) name and any former name;

(b) a service address;

(c) the country or state (or part of the United Kingdom) in which the member is usually resident;

(d) nationality;

(e) business occupation (if any);

(f) date of birth.

(2) For the purposes of this regulation 'name' means a person's Christian name (or other forename) and surname, except that in the case of—

(a) a peer, or

(b) an individual usually known by a title,

the title may be stated instead of the person's Christian name (or other forename) and surname or in addition to either or both of them.

(3) For the purposes of this regulation a 'former name' means a name by which the individual was formerly known for business purposes.

Where a person is or was formerly known by more than one such name, each of them must be stated.

(4) It is not necessary for the register to contain particulars of a former name in the following cases—

(a) in the case of a peer or an individual normally known by a British title, where the name is one by which the person was known previous to the adoption of, or succession to, the title;

(b) in the case of any person, where the former name—

(i) was changed or disused before the person attained the age of 16 years, or

(ii) has been changed or disused for 20 years or more.

(5) A person's service address may be stated to be 'The SE's registered office'.

(6) For the meaning of 'service address' see section 1141 of the 2006 Act.

Particulars of members to be registered under regulation 79: corporate members and firms

80A. An SE's register of SO members must contain the following particulars in the case of a body corporate, or a firm that is a legal person under the law by which it is governed,—

- (a) corporate or firm name;
- (b) registered or principal office;
- (c) in the case of an EEA company to which the First Company Law Directive (68/151/EEC) applies, particulars of—
 - (i) the register in which the company file mentioned in Article 3 of that Directive is kept (including details of the relevant state), and
 - (ii) the registration number in that register;
- (d) in any other case, particulars of—
 - (i) the legal form of the company or firm and the law by which it is governed, and
 - (ii) if applicable, the register in which it is entered (including details of the state) and its registration number in that register.

Register of residential addresses of members of an SE's supervisory organ

80B.—(1) Every SE which has adopted the form of a two-tier system in its statutes must keep a register of the residential addresses of the members of its supervisory organ (the 'register of SO members' residential addresses').

(2) The register must state the usual residential address of each of those members.

(3) If a member's usual residential address is the same as the member's service address, as stated in the SE's register of SO members, the register of SO members' residential addresses need only contain an entry to that effect.

This does not apply if the member's service address is stated to be 'The SE's registered office'.

(4) If default is made in complying with this regulation, an offence is committed by—

- (a) the SE, and
- (b) every officer of the SE who is in default.

For this purpose a person who, by virtue of section 251 of the 2006 Act (shadow directors) as it applies in relation to an SE, is a shadow director of the SE is treated as an officer of the SE.

(5) A person guilty of an offence under this regulation is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(6) This regulation applies only to members who are individuals, not where the member is a body corporate or a firm that is a legal person under the law by which it is governed.

(7) Where an SE is required by this regulation to keep a register of SO members' residential addresses, the application of regulation 78 to that SE does not require particulars of members of the supervisory organ to be kept on any register under section 165 of the 2006 Act (register of directors' usual residential addresses).

Duty to notify registrar of changes

80C.—(1) An SE which has adopted the form of a two-tier system in its statutes must, within the period of 14 days from—

- (a) a person becoming or ceasing to be a member of the supervisory organ of the SE, or
- (b) the occurrence of any change in the particulars contained in its register of SO

members or its register of SO members' residential addresses,

give to the registrar notice of the change, and the date when it occurred, in whichever of the Forms SE AP01, SE AP02, SE TM01, SE CH01 or SE CH02 set out in Schedule 1 is appropriate.

(2) Notice of a person having become a member of the supervisory organ must—

- (a) contain a statement of the particulars of the new member which are required to be included in the SE's register of SO members and those which are required to be included in its register of SO members' residential addresses,

(b) be accompanied by a consent by that person to act in that capacity.

(3) Where—

(a) an SE gives notice of a change of a member of its supervisory organ's service address as stated in the SE's register of SO members, and

(b) the notice is not accompanied by notice of any resulting change in the particulars contained in the SE's register of SO members' residential addresses, the notice must be accompanied by a statement that no such change is required.

(4) If default is made in complying with this regulation, an offence is committed by—

(a) the SE, and

(b) every officer of the SE who is in default.

For this purpose a person who, by virtue of section 251 of the 2006 Act (shadow directors) as it applies in relation to an SE, is a shadow director of the SE is treated as an officer of the SE.

(5) A person guilty of an offence under this regulation is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Protected information: restriction on use or disclosure by SE

80D. In the application of section 241(1)(b) of the 2006 Act in relation to an SE, the reference to any requirement of the Companies Acts includes a reference to any requirement of regulation 80C.

Putting a member of the supervisory organ's address on the public record

80E.—(1) In the application of section 246 of the 2006 Act (putting a director's usual residential address on the public record) in relation to a member of the supervisory organ of an SE—

(a) the references in subsections (3)(a) and (4)(a) to the company's register of directors are references to the SE's register of SO members, and

(b) the reference in subsection (3)(b) to the company's register of directors' residential addresses is a reference to the SE's register of SO members' residential addresses.

(2) Paragraph (1) is without prejudice to the generality of regulation 78.

The SE as a body corporate

81.—(1) Where—

(a) any enactment is applied in the manner described in regulation 78(2); or

(b) any enactment applies to an SE otherwise than in the manner described in regulation 78(2) and those enactments are expressed to apply to, or in respect of, a body corporate, an SE, whether or not registered in the United Kingdom, shall be treated for the purposes of the application of those enactments as if it were a body corporate.

(2) Nothing in this regulation has the effect of constituting an SE as a body corporate incorporated in, or formed under the law of, the United Kingdom (or any part of the United Kingdom).

Notification of amendments to statutes and insolvency events (Articles 59(3) and 65)

82.—(1) Where, under Articles 59(3) and 65, publication by the registrar in the Gazette of the events described in those Articles is required by regulation 71(1)—

(a) in the case of Article 59(3), the amendments to the statutes shall be delivered to the registrar by the SE accompanied by Form SE AS01 in Schedule 1 within 14 days of the adoption of those amendments; and

(b) in the case of Article 65, notice of the relevant event set out in Form SE WU01 in Schedule 1 shall be delivered to the registrar by the SE within 14 days of the occurrence of the event.

(2) If default is made in complying with paragraph (1)(a) or (b) the SE is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Accounting reference period and financial year of transferring SE

83.—(1) Where an SE transfers its registered office to the United Kingdom under Article 8—

(a) its first accounting reference period, for the purposes of section 391 of the 2006 Act, is the period of twelve months beginning with its last balance sheet date before the registration of the transfer and the date on which that period ends is its accounting reference date for those purposes; and

(b) its first financial year for the purposes of section 390 of the 2006 Act begins with the first day of its first accounting reference period and ends with the last day of that period or such other date, not more than seven days before or after the end of that period as the SE may determine.

(2) For purposes of this regulation 'the last balance sheet date' is the date as at which the balance sheet of the transferring SE was required to be drawn up under the provisions of the law of the Member State in which it had its registered office, where the balance sheet was the last one required to be drawn up before the registration of the transfer in the United Kingdom.

(3) Where the transferring SE has not been required to draw up a balance sheet under the provisions of the law of the Member State where it had its registered office, or, if different, of the Member State where it was first registered, before the registration of the transfer in the United Kingdom, its accounting reference date for the purposes of section 391 of the 2006 Act is the last day of the month in which the anniversary of its registration on formation falls and its first accounting reference period is the period beginning with its date of registration on formation and ending with its accounting reference date; and paragraph (1)(b) above applies in respect of its first financial year accordingly.

Penalties for breach of Article 11 (use of SE in name)

84. Where:

(a) an SE fails to comply with Article 11(1); or

(b) any person fails to comply with Article 11(2)

the SE or that person is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

PART 7 PROVISIONS RELATING TO THE CONVERSION OF AN SE TO A PUBLIC COMPANY IN ACCORDANCE WITH ARTICLE 66 OF THE EC REGULATION

Registration of a public company by the conversion of an SE

85.—(1) Where it is proposed to convert an SE to a public company in accordance with Article 66 there shall be delivered to the registrar a registration form in Form SE CV01 set out in Schedule 1 together with the documents specified in that Form.

(2) In this Part the SE is referred to as the 'converting SE'.

Publication of draft terms of conversion

86. Where under Article 66(4) draft terms of conversion are required to be publicised there shall be delivered to the registrar a copy of such draft terms accompanied by Form SE

DT03 set out in Schedule 1 and the registrar shall cause to be published in the Gazette notice of the receipt by her of the copy of the draft terms.

Registration under the 2006 Act

87.—(1) On and after the day on which Form SE CV01 is delivered to the registrar section 14 of the 2006 Act (registration) shall apply in relation to the documents delivered with Form SE CV01 as if—

- (a) they have been delivered under section 9 of that Act (registration), and
- (b) the requirements of that Act in respect of registration had been complied with.

(2) [*Revoked*]

(3) On registration of the documents referred to in paragraph (1) the registrar shall give a certificate—

(a) that the converting SE is incorporated and retains the legal personality it had when an SE;

(b) that those documents are registered under the 2006 Act; and

(c) that it is a public company limited by shares.

(4) The certificate is conclusive evidence—

(a) that the requirements of the 2006 Act in respect of registration have been complied with, and

(b) that on and after the registration the converting SE is a public company limited by shares.

Effect of registration

88.—(1) In its application to a converting SE on or after registration the Companies Acts shall have effect with the modifications set out in paragraphs 2 to 9 of Schedule 4 to these Regulations.

(2) On and after registration a converting SE shall be known by the name contained in the certificate given under regulation 87(3) (subject to any change of name by the converting SE).

(3) The persons named in Form SE CV01 shall be deemed to have been appointed as the first directors or secretaries of a converting SE on registration.

Records of a converting SE

89. The records of a converting SE, when the converting SE has been registered as a public company limited by shares under the provisions of this Part, relating to any period before its registration as a public company shall be treated for the purposes of the Companies Acts as if they were records of that public company.

[*Schedule 1 (forms) is omitted.*]

SCHEDULE 1A

MODIFICATIONS OF PROVISIONS OF THE 2006 ACT APPLYING IN RELATION TO DOCUMENTS SENT TO THE REGISTRAR ETC

[Schedule introduced by regulation 13(1B)]

1. Section 1081 (annotation of the register), as if after subsection (1) there were inserted—

'(1A) 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.'

2. Section 1085 (inspection of the register), as if in subsection (2) the second sentence were omitted.
3. Section 1093 (registrar's notice to resolve inconsistency on the register), as if—
 - (a) any reference to a company were a reference to an SE, and
 - (b) the reference in subsection (3)(b) to an officer of a company were a reference—
 - (i) in a one-tier system, to a member of the administrative organ of an SE, and
 - (ii) in a two-tier system, to a member of the supervisory or management organ of an SE.
4. Section 1094 (administrative removal of material from the register), as if—
 - (a) for paragraph (a) of subsection (3) there were substituted—

'(a) anything whose registration has had legal consequences in relation to the SE as regards its registration;'
 - (b) any reference in subsection (4) to a company were a reference to an SE.
5. Section 1095 (rectification of register on application to registrar), as if any reference to a company were a reference to an SE.
6. Sections 1096(1) to (5) and 1097 (rectification of register under court order), as if any reference to a company were a reference to an SE.

SCHEDULE 2

PROVISIONS OF THE 2006 ACT APPLYING TO THE REGISTRATION OF SES [Schedule introduced by regulation 14]

1. Section 1066(1) to (5) (registered numbers), as if any reference to a company were a reference to an SE.
2. Section 1082 (allocation of unique identifiers), as if—
 - (a) the reference in subsection (1)(a) to a director of a company were a reference—
 - (i) in a one-tier system, to a member of the administrative organ of an SE, and
 - (ii) in a two-tier system, to a member of the supervisory or management organ of an SE, and
 - (b) paragraphs (b) and (c) of subsection (1) were omitted.
3. Section 1084 (records relating to companies that have been dissolved etc), as if—
 - (a) any reference to a company being dissolved were a reference to an SE being dissolved,
 - (b) the reference in subsection (2) to records relating to a company included a reference to—
 - (i) the documents required to be retained by the registrar under regulation 13(1), and
 - (ii) records of the information contained in those documents, and
 - (c) subsection (4) were omitted.
4. Section 1113 (enforcement of company's filing obligations), as if—
 - (a) any reference to a company were a reference to an SE,
 - (b) any reference to an obligation under the Companies Acts were a reference to an obligation under these Regulations,
 - (c) any reference to a member of a company were a reference to a shareholder of an SE, and
 - (d) any reference to an officer of a company were a reference—
 - (i) in a one-tier system, to a member of the administrative organ of an SE, and
 - (ii) in a two-tier system, to a member of the supervisory or management organ of an SE.
5. Section 1117 (registrar's rules), so far as relating to section 1066(2).

SCHEDULE 4 MODIFICATIONS OF THE COMPANIES ACTS ETC [schedule introduced by regs 85 and 88]

1 [*Revoked*]

Modifications applying on or after registration

2. A reference to a company's incorporation shall be construed as a reference to the registration of the documents delivered with Form SE CV01 under regulation 85.

3. A reference to documents delivered under the 2006 Act shall be taken to include a reference to documents delivered under regulation 85.

4.—(1) A reference to a company's certificate of incorporation shall be construed as a reference to the certificate given under regulation 87(3).

(2) A requirement for the registrar of companies to issue a certificate of incorporation to a company shall—

(a) be construed as a requirement to issue a certificate of registration similar to the certificate under regulation 87(3), and

(b) apply with such other modifications as the registrar considers necessary in consequence of paragraph (a).

5. The converting SE is treated as if it had been formed (as well as registered) under the 2006 Act.

Effect of registration

6. Section 16 of the 2006 Act (effect of registration) shall not apply.

7. Section 112(1) of the 2006 Act (definition of 'member') shall not apply.

8. [*Revoked*]

Certificate as to share capital

9. The following provisions shall not apply—

(a) section 761 of the 2006 Act (public company share capital requirements),

(b) section 122(1)(b) of the Insolvency Act 1986 (winding up by the court: lack of certificate under section 761 of 2006 Act),

(c) Article 102(1)(b) of the Insolvency (Northern Ireland) Order 1989 (which corresponds to section 122(1)(b) of the Insolvency Act 1986).

10. [*Revoked*]

Accounting reference date

11. No modification made under this Schedule shall affect the determination of the accounting reference date of a converting SE by the application of section 391 of the 2006 Act, by virtue of Article 61 of the EC Regulation, or of regulation 83 prior to the registration of the converting SE under regulation 87.

NOTES ON TEXT

The text above incorporates the amendments made by the Companies Act 2006 (Consequential Amendments etc) Order 2008 (SI 2008/948), sch 1, para 235, and the European Public Limited-Liability Company (Amendment) Regulations 2009 (SI 2009/2400).