Changes to legislation: *The Scottish Partnerships (Register of People with Significant Control) Regulations 2017 is up to date with all changes known to be in force on or before 05 August 2020. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY INSTRUMENTS

2017 No. 694

COMPANIES

The Scottish Partnerships (Register of People with Significant Control) Regulations 2017

Made - - - - 22nd June 2017

Laid before Parliament 23rd June 2017

Coming into force in accordance with regulation 1

The Secretary of State, being a Minister designated [F1] for the purposes of section 2(2) of the European Communities Act 1972 [F2] in relation to the creation, operation, regulation or dissolution of companies and other forms of business organisation, makes the following Regulations in exercise of the powers conferred by section 2(2) of that Act.

F1 S.I. 2007/193.

F2 1972 c.68; section 2(2) was amended by section 27(1) of the Legislative and Regulatory Reform Act 2006 (c. 51) and by Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c. 7). The enabling powers in section 2(2) were extended by virtue of the amendment of section 1(2) by section 1 of the European Economic Area Act 1993 (c. 51).

PART 1

General Introductory Provisions

Citation and commencement

1.—(1) These Regulations may be cited as the Scottish Partnerships (Register of People with Significant Control) Regulations 2017 and, save as provided in paragraph (2), come into force on 26th June 2017.

(2) Regulation 4 and regulation 81 come into force on 24th July 2017.

Interpretation

2. In these Regulations—

the "2017 Money Laundering Regulations" means the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 [F3];

"additional matter" means information required to be delivered to the registrar under any of regulations 23 to 30;

"commencement day" is the day specified in regulation 1(1);

"confirmation date" has the meaning given in regulation 36;

"confirmation period" has the meaning given in regulation 36;

"confirmed" in relation to information has the meaning given in regulation 21;

"credit institution" has the same meaning as in regulation 10 of the 2017 Money Laundering Regulations;

"daily default fine" has the meaning given in section 1125 of the Companies Act 2006 [F4], as modified by regulation 70;

"DOB information" has the meaning given in regulation 62;

"eligible Scottish partnership" has the meaning given in regulation 3(2);

"financial institution" has the same meaning as in regulation 10 of the 2017 Money Laundering, Regulations;

"firm" means any entity, whether or not a legal person, that is not an individual and includes a body corporate, a corporation sole and a partnership or other unincorporated association;

"former name", save where provided otherwise in regulation 64, means a name by which an individual was formerly known for business purposes;

"general partnership" is a partnership which is neither—

(a) a limited partnership; nor

(b) a limited liability partnership registered under the Limited Liability Partnerships Act 2000 [F5];

"legal entity" means a firm that is a legal person under the law by which it is governed;

"limited partnership" means a limited partnership registered under section 8(1) of the Limited Partnerships Act 1907 [F6];

"name" means a person's 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 that person's forename and surname or in addition to either or both of them;

"nature of control" in relation to a person with significant control over an eligible Scottish partnership has the meaning given in regulation 18 and Schedule 3;

"officer", in relation to a partnership or a body corporate to which an offence under these Regulations applies, has the meaning given in regulation 3(3);

"partner", in relation to a limited partnership, has the same meaning as "general partner" in section 4(2) of the Limited Partnerships Act 1907;

"public authority" includes any person or body carrying out public functions;

"public function" has the meaning given in Part 3 of Schedule 5;

"qualifying partnership" has the meaning given in regulation 3 of the Partnership (Accounts) Regulations 2008 [F7];

"the register" means the register kept by the registrar under section 1080 of the Companies Act 2006;

"registrable person" has the meaning given in regulation 3(5);

"registrable relevant legal entity" has the meaning given in regulation 3(8);

"the registrar" means the registrar of companies for Scotland appointed under section 1060 of the Companies Act 2006;

"registration date" in relation to—

(a) a limited partnership means the registration date stated on the certificate issued to the limited partnership under section 8C of the Limited Partnerships Act 1907 [F8] and

(b) a Scottish qualifying partnership means the date notified to it by the registrar as the effective date of its registration under regulation 5;

"regulated market" has the meaning given in regulation 3(12);

"relevant body" means—

(a) a police force within the meaning of section 101(1) of the Police Act 1996 [F9];

(b) the Police Service of Northern Ireland; and

(c) the Police Service of Scotland;

"relevant change" has the meaning given in regulation 11;

"relevant legal entity" has the meaning given in regulation 3(6);

"required particulars" has the meaning given in regulation 17;

"review period" has the meaning given in regulation 37;

"Scottish limited partnership" has the meaning given in regulation 3(2)(a);

"Scottish qualifying partnership" has the meaning given in regulation 3(2)(b);

"secured information" has the meaning given in regulation 44;

"service address", in relation to a person, means an address at which documents may be effectively served on that person by physical delivery;

"significant control" has the meaning given in regulation 3(4);

"specified conditions", in relation to a person with or having significant control over an eligible Scottish partnership, means the conditions specified in Part 1 of Schedule 1;

"specified public authority" means a public authority listed in Schedule 4;

"URA information" has the meaning given in regulation 39;

"withdrawal notice" has the meaning given in paragraph 14 of Schedule 2.

F3 S.I. 2017/692.
F4 2006 c. 46.
F5 2000 c. 12.
F6 1907 c.24; section 8 was amended by article 2(5) of the Legislative Reform (Private Fund Limited Partnerships) Order 2017 (S.I. 2017/514).
F7 S.I. 2008/569; regulation 3 was substituted by the Companies and Partnerships (Accounts and Audit) Regulations 2013 (S.I. 2013/2005).
F8 Section 8C was inserted by article 7 of the Legislative Reform (Limited Partnerships) Order 2009 (S.I. 2009/1940) and amended by article 2 of the Legislative Reform (Limited Partnerships) Order 2017 (S.I. 2017/514).
F9 1996 c.16; section 101(1) was amended by section 96(2) of the Police Reform and Social Responsibility Act 2011 (c.13).

Key terms

3.—(1) This regulation sets out some key terms used in these Regulations.

(2) An "eligible Scottish partnership" is—

(a) a limited partnership registered in Scotland (a "Scottish limited partnership"), or

(b) a general partnership constituted under the law of Scotland, during any period in which it is a qualifying partnership (a "Scottish qualifying partnership").

(3) Where these Regulations provide that an offence is committed by every officer of a partnership or body corporate who is in default—

(a) "officer" includes—

(i) any partner in the partnership or director of the body corporate, and

(ii) any manager, secretary or similar officer;

(b) an officer is "in default" for the purposes of the provision if the officer authorises or permits, participates in, or fails to take all reasonable steps to prevent, the contravention;

(c) a partnership or a body corporate which is an officer of the partnership or body corporate does not commit an offence as an officer in default unless one of its officers is in default; the officer in question also commits the offence and is liable to be proceeded against and punished accordingly.

(4) References to a person with or having "significant control" over an eligible Scottish partnership are to an individual who meets one or more of the specified conditions.

(5) Individuals with significant control over an eligible Scottish partnership are either "registrable" or "non-registrable" in relation to the eligible Scottish partnership—

(a) they are "non-registrable" if they do not hold any interest in the eligible Scottish partnership except through one or more other legal entities over each of which they have significant control and—

(i) as respects any right in the eligible Scottish partnership which they hold indirectly as described in paragraph 9(1)(b)(i) of Schedule 1, the legal entity through which the right is held is a relevant legal entity in relation to the eligible Scottish partnership; and

(ii) as respects any right in the eligible Scottish partnership which they hold indirectly as described in paragraph 9(1)(b)(ii) of Schedule 1, at least one of the legal entities in the chain is a relevant legal entity in relation to the eligible Scottish partnership;

(b) otherwise, they are "registrable",

and references to a "registrable person" in relation to an eligible Scottish partnership are to an individual with significant control over the eligible Scottish partnership who is registrable in relation to that eligible Scottish partnership.

(6) In relation to an eligible Scottish partnership, a legal entity is a "relevant legal entity" if—

(a) it would have come within the definition of a person with significant control over the eligible Scottish partnership if it had been an individual, and

(b) it is subject to its own disclosure requirements, as specified in paragraph (7).

(7) A legal entity is subject to its own disclosure requirements if—

(a) it is an eligible Scottish partnership;

(b) Part 21A of the Companies Act 2006 applies to it, whether by virtue of section 790B of that Act or another enactment that extends the application of that Part;

(c) it has voting shares [F10] admitted to trading on a regulated market [F11] situated in an EEA State; or

(d) it has voting shares admitted to trading on a market listed in Schedule 1 to the Register of People with Significant Control Regulations 2016 [F12].

(8) A relevant legal entity is either "registrable" or "non-registrable" in relation to an eligible Scottish partnership—

(a) it is "non-registrable" if it does not hold any interest in the eligible Scottish partnership except through one or more other legal entities in relation to each of which it would come within the definition of a person with significant control if it were an individual, and—

(i) as respects any right in the eligible Scottish partnership which it holds indirectly as described in paragraph 9(1)(b)(i) of Schedule 1, the legal entity through which the right is held is a relevant legal entity in relation to the eligible Scottish partnership; and

(ii) as respects any right in the eligible Scottish partnership which it holds indirectly as described in paragraph 9(1)(b)(ii) of Schedule 1, at least one of the legal entities in the chain is a relevant legal entity in relation to the eligible Scottish partnership;

(b) otherwise, it is "registrable",

and references to a "registrable relevant legal entity" in relation to an eligible Scottish partnership are to a relevant legal entity which is registrable in relation to that eligible Scottish partnership.

(9) For the purposes of paragraphs (5) and (8)—

(a) whether a person—

(i) holds an interest in an eligible Scottish partnership, or

(ii) holds that interest through another legal entity

is to be determined in accordance with Part 2 of Schedule 1; and

(b) whether a person has significant control over that other legal entity is to be determined in accordance with paragraph (3) and Part 1 of Schedule 1, reading references in those provisions to the eligible Scottish partnership as references to that other entity.

(10) Paragraphs (3) and (5) are to be read and have effect as if each of the following were an individual, even if they are legal persons under the laws by which they are governed—

(a) a corporation sole,

(b) a government or government department of a country or territory or a part of a country or territory,

(c) an international organisation whose members include two or more countries or territories (or their governments),

(d) a local authority or local government body in the United Kingdom or elsewhere.

(11) For the purposes of paragraph (7)(c) and (d)—

"voting shares" means shares carrying voting rights;

"voting rights" means rights to vote at general meetings of the legal entity in question, including rights that arise only in certain circumstances, and in relation to a legal entity that does not have general meetings at which matters are decided by the exercise of voting rights, a reference to voting rights is to be read as a reference to rights in relation to the entity that are equivalent to those of a person entitled to exercise voting rights in a company.

(12) In paragraph (7) "regulated market" has the same meaning as in Directive 2004/39/EC[F13] of the European Parliament and of the Council on markets in financial instruments (see Article 4.1(14)), save that, in relation to an EEA State that has not implemented that Directive, it has the same meaning as in Council Directive 93/22/EEC[F14] on investment services in the securities field.

F10 See paragraph (11) for the meaning of "voting shares".
F11 See paragraph (12) for the meaning of "regulated market".
F12 S.I. 2016/339.