

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Eighth Delegated Legislation Committee

DRAFT COMPANIES (ADDRESS OF REGISTERED
OFFICE) REGULATIONS 2016

DRAFT REGISTRAR OF COMPANIES AND
APPLICATIONS FOR STRIKING OFF
(AMENDMENT) REGULATIONS 2016

Thursday 17 March 2016

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Monday 21 March 2016

STRICT ADHERENCE TO THIS ARRANGEMENT WILL GREATLY
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IN GENERAL COMMITTEES

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The Committee consisted of the following Members:

Chair: STEVE McCABE

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| † Ali, Rushanara (<i>Bethnal Green and Bow</i>) (Lab) | † Pawsey, Mark (<i>Rugby</i>) (Con) |
| Blunt, Crispin (<i>Reigate</i>) (Con) | † Quin, Jeremy (<i>Horsham</i>) (Con) |
| † Brennan, Kevin (<i>Cardiff West</i>) (Lab) | † Soubry, Anna (<i>Minister for Small Business, Industry and Enterprise</i>) |
| † Djanogly, Mr Jonathan (<i>Huntingdon</i>) (Con) | † Tomlinson, Michael (<i>Mid Dorset and North Poole</i>) (Con) |
| Doughty, Stephen (<i>Cardiff South and Penarth</i>) (Lab/Co-op) | † Vickers, Martin (<i>Cleethorpes</i>) (Con) |
| † Elphicke, Charlie (<i>Lord Commissioner of Her Majesty's Treasury</i>) | † Warman, Matt (<i>Boston and Skegness</i>) (Con) |
| Kerevan, George (<i>East Lothian</i>) (SNP) | † Wollaston, Dr Sarah (<i>Totnes</i>) (Con) |
| † Kinnock, Stephen (<i>Aberavon</i>) (Lab) | Joanna Welham, <i>Committee Clerk</i> |
| † McFadden, Mr Pat (<i>Wolverhampton South East</i>) (Lab) | † attended the Committee |
| † Morden, Jessica (<i>Newport East</i>) (Lab) | |

Eighth Delegated Legislation Committee

Thursday 17 March 2016

[STEVE McCABE *in the Chair*]

Draft Companies (Address of Registered Office) Regulations 2016

11.30 am

The Minister for Small Business, Industry and Enterprise (Anna Soubry): I beg to move,

That the Committee has considered the draft Companies (Address of Registered Office) Regulations 2016.

The Chair: With this it will be convenient to consider the draft Registrar of Companies and Applications for Striking Off (Amendment) Regulations 2016.

Anna Soubry: It is a pleasure to serve under your chairmanship, Mr McCabe. The two sets of regulations provide new procedures to protect innocent parties when there is inaccurate information on the public register about a company's registered office address or the appointment of a company director.

I will discuss first the regulations that deal with registered office addresses. Every company must have a registered office to which all communications and notices may be addressed. The company need not trade from that address. It can use the address of a third party—for example, a firm of solicitors—as its registered office. The registrar of companies receives complaints that some companies use the address of another business or a private individual that they are not authorised to use. If someone finds that their address is being misused in that way, the impact can be significant and, of course, distressing. In the worst cases, bailiffs can be sent to the address in the false belief that it is linked to the company; they do not know otherwise. However, the existing provisions in the Companies Act 2006 allow only the company itself to apply to have the address removed from the public register.

The regulations provide a new procedure to prevent a company from continuing to use an address when it is not authorised so to do. A person will be able to apply to the registrar for a registered office address to be changed on the grounds that the company is not authorised to use it. The registrar will send a notice to the company, directing it either to change its registered office address or to provide evidence that it is authorised to use the address. If the registrar is satisfied that the company is not authorised to use the address, they will change the registered office address to a temporary default address. The intention is for the registrar to operate an address at Companies House for that purpose. That is eminently sensible and will help innocent parties caught up in no doubt illegal, shoddy and shameful dealings to clear their name. One can imagine that if they were the occupier of a house, it would be particularly distressing, especially if bailiffs tipped up on their doorstep.

I come now to the regulations on disputes about director appointments. Companies must inform the registrar when a director is appointed or removed, or when a director's details change. At present, a person who appears on the public register as a company director can apply to have their name taken off on the grounds that they did not agree to the appointment. However, the company can stop an application merely by objecting, without having to provide any evidence to support its objection. The regulations change that by requiring the company to provide evidence that the person consented to become a director. If the company supplies that information, the person's name will stay on the public register. If the company does not, the person's name will be removed from the public register.

The two sets of regulations share the aim of providing a more effective way of correcting information on the public register. They will enable the registrar quickly to change addresses to protect innocent third parties and make it easier to resolve cases in which people have been appointed as directors without their agreement. There is a very good explanatory note with each draft statutory instrument. I nearly said that my speech is almost word for word the same, but it is not. However, the explanatory notes could not be clearer, so I pray them in aid of all that I am saying.

I hope that the regulations will be passed. If we need to debate them, I am happy to do so. They will mean that the things that I have described can be done. They are really about tidying up injustices and inefficiencies to make things better for everyone, including businesses. We do not anticipate that they will add further cost or burden to businesses, especially small businesses. I therefore commend both sets of regulations to the Committee.

11.34 am

Kevin Brennan (Cardiff West) (Lab): Happy St Patrick's day to you, Mr McCabe, and to the Committee. I have to say that, as the son of a man from west Cork—my late father, who is sadly no longer with us—but happy St Patrick's day to one and all.

There is a small burden to business set out in the impact assessment. I am sure that the Minister would like me just to correct her on that. I think that £180,000 is given as the net cost to business of resolving disputes about registered offices that companies state on the public register of companies. However, the Minister is right that the measure is not controversial. I think everyone would agree that it is entirely improper that companies are able easily to register someone else's address as the address of a business, whether by error, as does happen, or with more malevolent intent. That can be done to avoid the serving of writs or other measures such as bailiffs calling, or even to avoid customers contacting the company via its registered address at Companies House.

There should be a quick and easy procedure to rectify such occurrences, without affecting the business or individual whose address might have been registered in that way. Clearly, it could be distressing and damaging to the reputation of an individual or company if bailiffs called at their address in relation to something that was nothing to do with them. The reputational damage, not to say the distress and cost, could be great.

It is right, therefore, that the Government should seek through the regulations before us to rectify the problem, just as it is right to rectify the problem that directors are often wrongly registered with companies. According to the Government's impact assessment, there are 500 or 600 cases of that a year. That is a relatively small number, given the number of directors that there are, but for each individual it could be the cause of considerable embarrassment or difficulty. Being wrongly registered as a director of a company could lead to their being drawn into disputes that are nothing to do with them. Again, it is wrong that a person should be prevented from removing their listing as a company director simply because the company objects, as the law currently states. The registrar should be able to resolve the dispute in a straightforward and proper manner, using a simpler procedure.

The measures are uncontroversial and we do not intend to divide the Committee, but I have one or two questions for the Minister. She will know that the free protected online filing scheme, known as PROOF, already gives greater security to a company filing its details at Companies House. It is surprising that not all companies are members of the scheme. The two main reasons are, first, that once a company has joined PROOF, almost all of its documents have to be filed electronically and, secondly, that many officers of small companies have simply never got round to applying to join the scheme. Will she tell the Committee whether there is any intention to make the scheme compulsory for newly registered companies or to promote it more rigorously to companies? That might make it possible to avoid some of the difficulties that the Committee is trying to rectify.

What does the Minister feel is the size of the problem? How many companies have their addresses hijacked each year, and what are the costs to business of trying to resolve those disputes? Although there is a small cost to businesses from introducing the measures, there are also, obviously, costs in the existing situation.

Do the Government intend to look at the penalties and sanctions that can be exercised against rogue companies that hijack addresses? What measures do they have in hand or are they thinking about to tackle that problem? In addition to an easy passage for companies that are victims of the practice, there should, on the other side, be sanctions for those who misuse the system in this way and cause businesses and individuals cost, distress and reputational damage.

It would be helpful if the Minister elucidated those points a little further, but I reiterate that the regulations appear to the Opposition to be sensible and proportionate measures that will assist businesses. Therefore, it is not our intention to vote against them this morning.

11.40 am

Dr Sarah Wollaston (Totnes) (Con): Will the Minister clarify a question that I have? Currently, an individual will not know whether they have been named as a company director or whether their address has been hijacked until they are alerted to a problem. Do the regulations contain a mechanism whereby there is an obligation for a letter—a "To whom it may concern" type of letter—to be sent to an address to ensure that an individual knows that that is happening in advance, rather than just having a mechanism to deal with it after

the event? Likewise, is there an obligation to write to individuals at their known address so that they are notified in advance, rather than waiting for a problem to arise?

11.41 am

Mr Jonathan Djanogly (Huntingdon) (Con): I wholeheartedly welcome the regulations. They are an important contribution to the fight against corporate fraud.

I have seen addresses being hijacked on three occasions. It can lead to all sorts of complications and go on for a very long time. People who are using the wrong address inadvertently will want proof that it is the wrong address; it can really be very complicated indeed. I take the point made by the hon. Member for Cardiff West that we need to query what penalties there are for people who use addresses wrongly.

Do the regulations on directors extend to shadow directors—not just to a bog-standard director, but to people who should register and therefore should be included in the regulations?

11.42 am

Anna Soubry: We have had some very good and interesting questions. I think I will be able to respond—*[Interruption.]* Ooh, as if by magic! I may have to write to hon. Members in relation to some of their questions.

Every company must have a registered office to which all communications and notices may be addressed. A company might provide an address that turns out, effectively, to be a bogus one. We have a really good set of regulations to deal with that. I was really struck—and I did not know this until I looked through my notes—that Companies House alone receives 100 complaints a month about the unauthorised use of addresses. That is an astonishingly high number of complaints. There is a real problem out there.

On the basis that companies must provide a registered address, if a company provides one that is then found to be bogus, it is already breaching the law and action can be taken. I suggest to the hon. Member for Cardiff West that there are those powers, because a process will be triggered. Clearly the company does not have a registered address if a complaint has been made that a false address has been used. The company is therefore in breach of existing law.

Mr Djanogly: My right hon. Friend mentioned companies giving a bogus address. What happens if individuals hijack a company and give a bogus address?

Anna Soubry: I do not know the answer to that question, but I might be able to answer it in a few moments. If not, I shall write to my hon. Friend.

In response to my hon. Friend the Member for Totnes, the registrar is now required to write to every newly appointed director, which will give them the opportunity to object if they have been falsely appointed. I hope that that deals with her question.

Returning to my hon. Friend the Member for Huntingdon, the regulations do not extend to shadow directors. They apply only to directors registered as such at Companies House.

Mr Djanogly: The other aspect is alternate directors, who have a duty to register. I would have thought that the regulations should apply to them. Do they?

Anna Soubry: At the moment, I do not know the answer to that. I will write to my hon. Friend. Is it not excellent that we have Members on the Back Benches who know what they are talking about? They have huge experience of these things. [HON. MEMBERS: "Hear, hear."] My hon. Friend is a very good example of the wealth of experience that exists in this place.

By way of magic, I can say that section 1095 of the Companies Act 2006 provides a way for the registrar to remove factually inaccurate or forged information or material deriving

"from anything invalid or ineffective or that was done without the authority of the company".

That may be helpful in answering my hon. Friend's excellent questions.

I am pleased that the regulations are not contentious. Some important and interesting points have been raised, and I will deal with them all by way of letter.

Kevin Brennan: I asked some questions about the voluntary PROOF scheme that was introduced in 2005. Can the Minister say anything about that, or will she confirm for the record that she intends to write to the Committee about it?

Anna Soubry: I am so sorry, Mr McCabe. I should have made it clear that all Members who have asked me questions will get proper letters. I always say that the usual rules apply: if I cannot answer it, I will provide an

answer by way of letter. That letter will specifically look at the questions that the hon. Gentleman has raised about that scheme, such as whether it can be made compulsory, whether we should do more to promote it, and so on and so forth. That may be another way to deal with these problems.

The important thing is that the regulations have got the balance right. The cost sounds like a lot of money, but when it is spread across the 3.6 million companies registered with Companies House, it is a drop in the ocean. The regulations are the right way to go about things. Yes, there will be more of a duty on companies, but it is very minor. It is about striking the right balance so that do not place too much of a burden on companies, but we do redress this wrong. There can be few things as annoying as discovering that someone has used one's address. If bailiffs turn up, that is the ultimate distress and a gross annoyance.

I am pleased that the regulations are not contentious. I apologise for not having all the answers, but we will sort that out by way of letter. On that basis, I commend the regulations to the Committee.

Question put and agreed to.

DRAFT REGISTRAR OF COMPANIES AND APPLICATIONS FOR STRIKING OFF (AMENDMENT) REGULATIONS 2016

Resolved,

That the Committee has considered the draft Registrar of Companies and Applications for Striking Off (Amendment) Regulations 2016.—(*Anna Soubry.*)

11.48 am

Committee rose.