

EUROPEAN COMMUNITIES

The European Economic Interest Grouping Regulations 1989

Made 10th April 1989

Laid before Parliament 19th April 1989

Coming into force 1st July 1989

The Secretary of State, being a Minister designated**(a)** for the purposes of section 2(2) of the European Communities Act 1972**(b)** in relation to measures relating to European Economic Interest Groupings and their members, in exercise of the powers conferred on him by that section and of all other powers enabling him in that behalf, hereby makes the following Regulations: –

PART I

GENERAL

Citation, commencement and extent

1. These Regulations, which extend to Great Britain, may be cited as the European Economic Interest Grouping Regulations 1989 and shall come into force on 1st July 1989.

Interpretation

2. (1) In these Regulations –
"the 1985 Act" means the Companies Act 1985**(c)**;
"the contract" means the contract for the formation of an EEIG;
"the EC Regulation" means Council Regulation (EEC) No. 2137/85**(d)** set out in Schedule 1 to these Regulations;
"EEIG" means a European Economic Interest Grouping being a grouping formed in pursuance of article 1 of the EC Regulation;

(a) S.I. 1988,785.

(b) 1972 c.68

- (c) 1985 c. 6
- (d) OJ No. L199.31 1985, p.1.

"officer" in relation to an EEIG, includes a manager, or any other person provided for in the contract as an organ of the EEIG; and "the registrar" has the meaning given by regulations 9(1) and 12(1) below; and other expressions used in these Regulations and defined by section 744 of the 1985 Act

or in relation to insolvency and winding up by the Insolvency Act 1986(e) have the meanings assigned to them by those provisions as if any reference to a company in any such definition were a reference to an EEIG.

- (2) A Form referred to in these Regulations by "EEIG" followed by a number means the Form so numbered in Schedule 2 to these Regulations.
- (3) In these Regulations, "certified translation" means a translation certified to be a correct translation –

(a) if the translation was made in the United Kingdom, by

- (i) a notary public in any part of the United Kingdom;
- (ii) a solicitor (if the translation was made in Scotland), a solicitor of the Supreme Court of Judicature of England and Wales (if it was made in England or Wales), or a solicitor of the Supreme Court of Judicature of Northern Ireland (if it was made in Northern Ireland); or
- (iii) a person certified by a person mentioned above to be known to him to be competent to translate the document into English; or

(b) if the translation was made outside the United Kingdom, by –

- (i) a notary public;
- (ii) a person authorised in the place where the translation was made to administer an oath;
- (iii) any of the British officials mentioned in section 6 of the Commissioners for Oaths Act 1889(a);
- (iv) a person certified by a person mentioned in sub-paragraph (i), (ii) or (iii) of this paragraph to be known to him to be competent to translate the document into English.

PART II

PROVISIONS RELATING TO ARTICLES 1-38 OF THE EC REGULATION

Legal personality (Article 1(3) of the EC Regulation)

3. From the date of registration of an EEIG in Great Britain mentioned in a certificate given under regulation 9(5) below the EEIG shall, subject to regulation 11 below, be a body corporate by the name contained in the contract.

(e) 1986 c.45

(a) 1889 c.10 section 6 was amended by the Oaths and Evidence (Overseas Authorities and Countries) Act 1963 (c.27),
section 3

Transfer of official address (Article 14 of the EC Regulation)

4. (1) Notice of any proposal to transfer the official address of an EEIG registered in Great Britain to any other place shall, where such transfer would result in a change in the law applicable to the contract under article 2 of the EC Regulation, be filed at the registry where the EEIG was registered by delivery of a notice in Form EEIG 4 in pursuance of regulation 13(1) below.
- (2) Where the registrar, being the competent authority within the meaning of article 14(4) of the EC Regulation, receives a notice under paragraph (1) above within the period of two months beginning with its publication in the Gazette under regulation 15(1) below and opposes that transfer on the grounds of public interest, that transfer shall not take effect.

Managers (Article 19(2) of the EC Regulation)

5. (1) A manager of an EEIG registered in Great Britain may be a legal person other than a natural person, on condition that it designates one or more natural persons to represent it and notice of particulars of each such person is sent to the registrar in Form EEIG 3 as though he were a manager.
- (2) Any natural person designated under paragraph (1) above shall be subject to the same liabilities as if he himself were a manager.
- (3) There shall be delivered to the registrar in accordance with the provisions of regulation 13(1) below notice of appointment of any manager and the following 'particulars with respect to each manager –
 - (a) (i) his present Christian name and surname;
 - (ii) any former Christian name or surname;
 - (iii) his usual residential address;
 - (iv) his nationality;
 - (v) his business occupation (if any); and
 - (vi) the date of his birth; and
 - (b) in the case of a legal person other than a natural person, its name and registered or

principal office.

- (4) Section 289(2) of the 1985 Act applies as regards the meaning of "Christian name", "surname" and "former Christian name or surname".

Cessation of membership (Article 28(1) of the EC Regulation)

6. For the purposes of national law on liquidation, winding up, insolvency or cessation of payments, a member of an EEIG registered under these Regulations shall cease to be a member if –
- (a) in the case of an individual –
 - (i) a bankruptcy order has been made against him in England and Wales; or
 - (ii) sequestration of his estate has been awarded by the court in Scotland under the Bankruptcy (Scotland) Act 1985(a);
 - (b) in the case of a partnership –
 - (i) a winding up order has been made against the partnership in England and Wales;
 - (ii) a bankruptcy order has been made against its members in England and Wales on a bankruptcy petition presented under article 13(1) of the Insolvent Partnerships Order 1986(b); or
 - (iii) sequestration of the estate of the partnership has been awarded by the court in Scotland under the Bankruptcy (Scotland) Act 1985;
 - (c) in the case of a company, the company goes into liquidation in Great Britain; or
 - (d) in the case of any legal person or partnership, it is otherwise wound up or otherwise ceases to exist after the conclusion of winding up or insolvency.

Competent authority (Articles 32(1) and (3) and 38 of the EC Regulation)

7. (1) The Secretary of State shall be the competent authority for the purposes of making an application to the court under article 32(1) of the EC Regulation (winding up of EEIG in certain circumstances).
- (2) The court may, on an application by the Secretary of State, order the winding up of an EEIG which has its official address in Great Britain, if the EEIG acts contrary to the public interest and it is expedient in the public interest that the EEIG should be wound up and the court is of the opinion that it is just and equitable for it to be so.
- (3) The court, on an application by the Secretary of State, shall be the competent authority for the purposes of prohibiting under article 38 of the EC Regulation any activity carried on in Great Britain by an EEIG where such an activity is in contravention of the public interest there.

Winding up and conclusion of liquidation (Articles 35 and 36 of the EC Regulation)

8. (1) Where an EEIG is wound up as an unregistered company under Part V of the Insolvency Act 1986, the provisions of Part V shall apply in relation to the EEIG as if any reference in that Act and the 1985 Act to a director or past director of a company included a reference to a manager of the EEIG and any other person who has or has had control or management of the EEIG's business and with the modification that in section 221(1) after the words "all the provisions" there shall be added the words "of Council Regulation (EEC) No. 2137 85 and".
- (2) At the end of the period of three months beginning with the day of receipt by the registrar of a notice of the conclusion of the liquidation of an EEIG, the EEIG shall be dissolved.

PART III

REGISTRATION ETC (ARTICLE 39 OF THE EC REGULATION)

Registration of EEIG whose official address is in Great Britain

9. (1) The registrar for the purposes of registration of an EEIG in Great Britain where its official address is in Great Britain shall be the registrar within the meaning of the 1985 Act and the contract shall be delivered –
 - (a) to the registrar or other officer performing under that Act the duty of registration of companies in England and Wales, if the contract states that the official address of the EEIG is to be situated in England and Wales, or that it is to be situated in Wales; and
 - (b) to the registrar or other officer performing under that Act the duty of registration of companies in Scotland, if the contract states that the official address of the EEIG is to be situated in Scotland.
- (2) With the contract there shall be delivered a registration form in Form EEIG 1 containing a statement of the names and the particulars set out in article 5 of the EC Regulation.
- (3) The registrar shall not register an EEIG under this regulation unless he is satisfied that all the requirements of these Regulations and of the EC Regulation in respect of registration and of matters precedent and incidental to it have been complied with but he may accept a declaration in Form EEIG 1 as sufficient evidence of compliance.
- (4) Subject to paragraph (3) above, the registrar shall retain the contract, and any certified translation, delivered to him under this regulation and register the EEIG.
- (5) On the registration of an EEIG the registrar shall give a certificate that the EEIG has been

registered stating the date of registration.

- (6) The certificate may be signed by the registrar, or authenticated by his 'official seal.
- (7) A certificate of registration given in respect of an EEIG under this regulation is conclusive evidence that the requirements of these Regulations and of the EC Regulation in respect of registration and of matters precedent and incidental to it have been complied with, and that the EEIG is an organisation authorised to be registered, and is duly registered, under these Regulations.
- (8) Where an EEIG is to be registered with the contract written in any language other than English, the contract to be delivered under paragraph (1) above may be in the other language provided that it is accompanied by a certified translation into English.
- (9) Where an EEIG has published a proposal to transfer its official address to a place in Great Britain under article 14(1) of the EC Regulation, the registrar responsible for the registration of the EEIG with the new official address shall, where the transfer of the official address has not been opposed under paragraph (4) of that article, register the EEIG with its new official address on receipt of a registration form in Form EEIG 1 containing –
 - (a) evidence of the publication of the transfer proposal; and
 - (b) a statement that no competent authority has opposed the transfer under article 14(4) of the EC Regulation.
- (10) Any communication or notice may be addressed to an EEIG where its official address is in Great Britain at its official address stated on Form EEIG 1 or in the case of any change in the situation of that address at any new official address stated on Form EEIG 4.

Prohibition on registration of certain names

- 10.** (1) An EEIG shall not be registered in Great Britain under regulation 9 above by a name which includes any of the following words or expressions, or abbreviations thereof, that is to say, "limited", "un-limited" or "public limited company" or their Welsh equivalents.
- (2) In determining for the purposes of section 26(1)(c) of the 1985 Act (as applied by regulation 18 of, and Schedule 4 to, these Regulations) whether one name is the same as another, there are to be disregarded the words "European Economic Interest Grouping" or the initials "EEIG" or their authorised equivalents in official languages of the Economic Community, other than English, the authorised equivalents being set out in Schedule 3 to these Regulations.

Change of name

11. (1) Regulation 10(2) above applies in determining under section 28(2) of the 1985 Act as applied by regulation 18 of, and Schedule 4 to, these Regulations whether a name is the same as or too like another.
- (2) Where an EEIG changes its name the registrar shall (subject to the provisions of section 26 of the 1985 Act which apply by virtue of regulation 18 of, and Schedule 4 to, these Regulations and regulation 10 above) enter the new name on the register in place of the former name, and shall issue a certificate of registration altered to meet the circumstances of the case.
- (3) A change of name has effect from the date on which the altered certificate is issued.

Registration of establishment of EEIG whose official address is outside the United Kingdom

12. (1) The registrar for the purposes of registration under this regulation of an EEIG establishment situated in Great Britain where the EEIG's official address is outside the United Kingdom shall be the registrar within the meaning of the 1985 Act.
- (2) For the purposes of registration under paragraph (1) above there shall be delivered, within one month of the establishment becoming so situated at any place in Great Britain, to the registrar at the registration office in England and Wales or Scotland, according to where the establishment is situated, a certified copy of the contract together with –
 - (a) a certified translation into English of the contract and other documents and particulars to be filed with it under article 10 of the EC Regulation if the contract and other documents and particulars, or any part thereof, are not in English; and
 - (b) a registration form in Form EEIG 2 containing a statement of the names and particulars set out in articles 5 and 10 of the EC Regulation.
- (3) Paragraph (2) above shall not apply where an establishment is already registered in Great Britain under paragraph (1) above.
- (4) The registrar shall not register an EEIG establishment under this regulation unless he is satisfied that all the requirements of these Regulations and of the EC Regulation in respect of registration and of matters precedent and incidental to it have been complied with but he may accept a declaration in Form EEIG 2 as sufficient evidence of compliance.
- (5) Subject to paragraph (4) above, the registrar shall retain the copy of the contract, and any certified translation, delivered to him under paragraph (2) above and register the EEIG establishment.
- (6) Any communication or notice may be addressed to an EEIG where its official address is outside the United Kingdom at any of its establishments in Great Britain.

- (7) Regulation 10 above shall apply to an EEIG establishment to be registered under this regulation as it applies to an EEIG to be registered under regulation 9.
- (8) If an EEIG fails to comply with any provision of paragraph (2) above, the EEIG, and any officer of it who intentionally authorises or permits the default, is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale and if the failure to comply with any such provision continues after conviction, the EEIG and any such officer shall be guilty of a further offence of failure to comply with that provision and shall be liable to be proceeded against and punished accordingly.

Filing of documents

13. (1) The documents and particulars referred to in paragraphs (a) to (j) of article 7 of the EC Regulation and required to be filed under that article in Great Britain shall be filed within 15 days (or, in the case of an EEIG whose official address is outside the United Kingdom, 30 days) of the event to which the document in question relates by delivery to the registrar for registration of a notice, together with a certified translation into English of any documents and particulars, or any part thereof, which are not in English – (a) in the case of paragraph (d) where the official address of the EEIG is in Great Britain, in Form EEIG 3 of the names of the managers and the particulars referred to in regulation 5(3) above, of particulars of whether they may act alone or must act jointly and of the termination of any manager's appointment;

(b) in the case of paragraphs (a), (c) and (e) to (j), and in the case of paragraph (d) where the official address of the EEIG is outside the United Kingdom, in Form EEIG 4 of the documents and particulars referred to in that Form; and

(c) in the case of paragraph (b), in Form EEIG 5 of the setting up or closure of an establishment of an EEIG in Great Britain, except where regulation 12(1) above applies.
- (2) The registrar shall retain the documents and particulars and any certified translation delivered to him under this regulation.
- (3) If an EEIG fails to comply with any provision of paragraph (1) above, the EEIG, and any officer of it who intentionally authorises or permits the default, is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale and if the failure to comply with any such provision continues after conviction, the EEIG and any such officer shall be guilty of a further offence of failure to comply with that provision and shall be liable to be proceeded against and punished accordingly.

Inspection of documents

14. Any person may –

- (a) inspect any document or particulars kept by the registrar under these Regulations or a copy thereof; and
- (b) require the registrar to deliver or send by post to him a copy or extract of any such document or particulars or any part thereof.

Publication of documents in the Gazette and Official Journal of the Communities

15. (1) The registrar shall cause to be published in the Gazette –

(a) the documents and particulars issued or received by him under these Regulations and referred to in article 8(a) and (b) of the EC Regulation;
and

(b) in the case of those documents and particulars referred to in article 7(b) to (j) of the EC Regulation a notice (stating in the notice the name of the EEIG, the description of the documents or particulars and the date of receipt).

- (2) The registrar shall forward to the Office for Official Publications of the European Communities the information referred to in article 11 of the EC Regulation within one month of the publication of the relevant documents and particulars in the Gazette under paragraph (1) above.

EEIG identification

16. (1) If an EEIG fails to comply with article 25 of the EC Regulation it is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

- (2) If an officer of an EEIG or a person on its behalf issues or authorises the issue of any letter, order form or similar document not complying with the requirements of article 25 of the EC Regulation, he is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

PART IV

SUPPLEMENTAL PROVISIONS

Application of the Business Names Act 1985

17. The Business Names Act 1985(a) shall apply in relation to an EEIG which carries on business in Great Britain as if the EEIG were a company formed and registered under the 1985 Act.

Application of the Companies Act 1985

18. The provisions of the 1985 Act specified in Schedule 4 to these Regulations shall apply to EEIGs, and their establishments, registered or in the process of being registered under these Regulations, as if they were companies formed and registered or in the process of being registered under the 1985 Act and as if in those provisions any reference to the Companies Act included a reference to these Regulations and any reference to a registered office included a reference to an official address, but subject to any limitations mentioned in relation to those provisions in that Schedule and to the omission of any reference to a daily default fine.

Application of Insolvency Act 1986

19. (1) Part III of the Insolvency Act 1986 shall apply to EEIGs, and their establishments, registered under these Regulations, as if they were companies registered under the 1985 Act.
- (2) Section 120 of the Insolvency Act 1986 shall apply to an EEIG, and its establishments, registered under these Regulations in Scotland, as if it were a company registered in Scotland the paid-up or credited as paid up share capital of which did not exceed £120,000 and as if in that section any reference to the Company's registered office were a reference to the official address of the EEIG.

Application of the Company Directors Disqualification Act 1986

20. Where an EEIG is wound up as an unregistered company under Part V of the Insolvency Act 1986, the provisions of sections 1, 2, 4 to 11, 12(2), 15 to 17, 20 and 22 of, and Schedule 1 to, the

Company Directors Disqualification Act 1986**(b)** shall apply in relation to the EEIG as if any reference to a director or past director of a company included a reference to a manager of the EEIG and any other person who has or has had control or management of the EEIG's business and the EEIG were a company as defined by section 22(2)(b) of that Act.

Penalties

- 21.** Nothing in these Regulations shall create any new criminal offence punishable to a greater extent than is permitted under paragraph 1(1)(d) of Schedule 2 to the European Communities Act 1972.

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10th April 1989