

2008 No. 1738

COMPANIES

The Company Names Adjudicator Rules 2008

Made - - - - *1st July 2008*

Laid before Parliament *3rd July 2008*

Coming into force - - *1st October 2008*

The Secretary of State makes the following Rules in exercise of the powers conferred by section 71 of the Companies Act 2006(a).

Introductory

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Company Names Adjudicator Rules 2008 and come into force on 1st October 2008.

(2) In these Rules—

“the Act” means the Companies Act 2006 and references to a “section” are to a section of the Act;

“the appropriate form” means the form determined by the Chief Adjudicator in relation to a particular matter; and

“the Office” means the office of the company names adjudicator at the Intellectual Property Office, Concept House, Cardiff Road, Newport, South Wales, NP10 8QQ.

(3) In these Rules references to the filing of any application or other document are to be construed as references to its being delivered to the adjudicator at the Office.

Forms and fees

2.—(1) The Chief Adjudicator shall have the power to determine the form and content of any form required to be used by these Rules.

(2) Where a form is required to be used by these Rules that form shall be accompanied by the fee, if any, specified in the Schedule in respect of that matter.

Proceedings before the adjudicator

Procedure for objecting to a company’s registered name

3.—(1) An application under section 69(2) shall—

(a) be made on the appropriate form;

(a) 2006 c.46.

- (b) include a concise statement of the grounds on which the application is made;
 - (c) include an address for service in the United Kingdom; and
 - (d) be filed at the Office.
- (2) The adjudicator shall send a copy of the appropriate form to the primary respondent.
- (3) The adjudicator shall specify a period within which the primary respondent must file its defence.
- (4) The primary respondent, before the end of that period, shall file a counter-statement on the appropriate form, otherwise the adjudicator may treat it as not opposing the application and may make an order under section 73(1).
- (5) In its counter-statement the primary respondent shall—
- (a) include an address for service in the United Kingdom;
 - (b) include a concise statement of the grounds on which it relies;
 - (c) state which of the allegations in the statement of grounds of the applicant it admits and which it denies; and
 - (d) state which of the allegations it is unable to admit or deny, but which it requires the applicant to prove.
- (6) Any member or director of the primary respondent who is joined as a respondent to the application must be joined before the end of a period specified by the adjudicator.
- (7) The adjudicator shall send a copy of the appropriate form referred to in paragraph (4) to the applicant.

Evidence rounds

- 4.—(1) When the period specified under rule 3(3) has expired, the adjudicator shall specify the periods within which evidence may be filed by the parties.
- (2) All evidence must be—
- (a) accompanied by the appropriate form, and
 - (b) copied to all other parties in the proceedings.

Decision of adjudicator and hearings

- 5.—(1) Where the applicant files no evidence in support of its application the adjudicator may treat it as having withdrawn its application.
- (2) The adjudicator may strike out the application or any defence in whole or in part if it is vexatious, has no reasonable prospect of success or is otherwise misconceived.
- (3) Any party may, by filing the appropriate form, request to be heard in person before a decision is made by the adjudicator under the Act or these Rules.
- (4) Following a request under rule 5(3) the adjudicator shall decide whether a decision can be made without an oral hearing in circumstances where—
- (a) the primary respondent files no evidence; or
 - (b) the applicant files no evidence in reply to the respondent's evidence; or
 - (c) the decision will not terminate the proceedings.
- (5) Where the adjudicator decides that a decision can be made without an oral hearing the adjudicator will specify a period for the parties to submit written submissions before making a decision.
- (6) Where the adjudicator decides that a hearing is necessary he shall require the parties or their legal representatives to attend a hearing and shall give the parties at least 14 days' notice of the hearing.

(7) When the adjudicator has made a decision on the application under section 69(2) he shall send to the parties written notice of it, stating the reasons for his decision.

(8) The date on which the decision was sent to the parties shall be taken to be the date of the decision for the purposes of any appeal.

General powers of adjudicator in relation to proceedings before him

6.—(1) At any stage of proceedings before him, the adjudicator may direct that the parties to the proceedings attend a case management conference or pre-hearing review.

(2) The adjudicator may give such directions as to the management of the proceedings as he thinks fit, and in particular he may—

- (a) direct a document to be filed or to be copied to a party to proceedings within a specified period;
- (b) allow for the electronic filing and sending of documents;
- (c) direct how documents filed or sent electronically are to be authenticated;
- (d) direct that a document shall not be available for public inspection;
- (e) require a translation of any document;
- (f) direct that a witness be cross-examined;
- (g) consolidate proceedings;
- (h) direct that proceedings are to be heard by more than one adjudicator;
- (i) direct that part of any proceedings be dealt with as separate proceedings; or
- (j) suspend or stay proceedings.

(3) The adjudicator may control the evidence by giving directions as to—

- (a) the issues on which he requires evidence;
- (b) the nature of the evidence which he requires to decide those issues; and
- (c) the way in which the evidence is to be placed before him,

and the adjudicator may use his power under this paragraph to exclude evidence which would otherwise be admissible.

Requests for extensions of time

7.—(1) The adjudicator may extend (or further extend) any period which has been specified under any provision of these Rules even if the period has expired.

(2) Any party can request an extension of any time period specified under any provision of these Rules.

(3) Any request for a retrospective extension must be filed before the end of the period of 2 months beginning with the date the time period in question expired.

(4) Any request made under paragraph (2) shall be made on the appropriate form and shall include reasons why the extra time is required. A request for a retrospective extension shall also include reasons why the request is being made out of time.

Public proceedings

8.—(1) Subject to paragraphs (3) and (4), any hearing before the adjudicator of proceedings relating to an application under section 69(2) shall be held in public.

(2) Any party to the proceedings may apply to the adjudicator for the hearing to be held in private.

(3) The adjudicator shall only grant an application under paragraph (2) where—

- (a) it is in the interests of justice for the hearing to be held in private; and

(b) all the parties to the proceedings have had an opportunity to be heard on the matter, and where the application is granted the hearing shall be held in private.

(4) Any hearing of an application under paragraph (2) shall be held in private.

(5) In this rule a reference to a hearing includes any part of a hearing.

(6) Nothing in this rule shall prevent a member of the Administrative Justice and Tribunals Council or of its Scottish Committee from attending a hearing.

(7) All documents connected to proceedings shall be available for public inspection unless the adjudicator directs otherwise.

Evidence in proceedings before the adjudicator

9.—(1) Subject to rule 6(3), evidence filed under these Rules may be given—

(a) by witness statement, affidavit or statutory declaration; or

(b) in any other form which would be admissible as evidence in proceedings before the court, and a witness statement may only be given in evidence if it includes a statement of truth.

(2) For the purposes of these Rules, a statement of truth—

(a) means a statement that the person making the statement believes that the facts stated in a particular document are true; and

(b) shall be dated and signed by the maker of the statement.

(3) In these Rules, a witness statement is a written statement signed by a person that contains the evidence which that person would be allowed to give orally.

Correction of irregularities of procedure

10.—(1) Any irregularity in procedure may be rectified on such terms as the adjudicator may direct.

(2) Where rectification includes the amendment of a document by the adjudicator the parties will be given notice of this amendment.

Costs or expenses

Costs or expenses of proceedings

11. The adjudicator may, at any stage in any proceedings before him under the Act, award to any party by order such costs (in Scotland, expenses) as he considers reasonable, and direct how and by what parties they are to be paid.

Security for costs or expenses

12. An application for security for costs (in Scotland, caution for expenses) shall be made on the appropriate form. The adjudicator may require a person to give security for costs (in Scotland, caution for expenses) if he is satisfied, having regard to all the circumstances of the case, that it is just to require such security or caution.

Address for service

Address for service

13.—(1) Where a person has provided an address for service in the United Kingdom under rule 3 he may substitute a new address for service in the United Kingdom by notifying the adjudicator on the appropriate form.

(2) Where the primary respondent has a registered office in the United Kingdom the adjudicator may treat this as the address for service in the United Kingdom unless and until an alternative address is provided.

Miscellaneous

Hours of business

14.—(1) For the transaction of relevant business by the public under the Act the Office shall be open—

- (a) on Monday to Friday between 9.00 am and midnight; and
- (b) on Saturday between 9.00 am and 1.00 pm,

unless the day is an excluded day (see rule 15).

(2) For the transaction of all other business by the public under the Act the Office shall be open on Monday to Friday between 9.00 am and 5.00 pm unless the day is an excluded day (see rule 15).

(3) In this rule and in rule 15 “relevant business” means the filing of any application or other document.

Excluded days

15.—(1) The following shall be excluded days for the transaction of any business by the public under the Act—

- (a) a Sunday;
- (b) Good Friday;
- (c) Christmas Day;
- (d) a day which is specified or proclaimed to be a bank holiday by or under section 1 of the Banking and Financial Dealings Act 1971^(a); or
- (e) a Saturday where the previous Friday and the following Monday are both excluded days.

(2) Any application or document received on an excluded day shall be treated as having been filed on the next day on which the Office is open for relevant business.

(3) Where any period for filing any document ends on an excluded day that period shall be extended to the next day on which the Office is open for relevant business.

1st July 2008

Gareth Thomas
Parliamentary Under Secretary of State for Trade and Consumer Affairs
Department for Business, Enterprise and Regulatory Reform

(a) 1971 c.80.

SCHEDULE

FEES

<i>Form</i>	<i>Fee (£)</i>
Form required by rule 3(1)	400
Form required by rule 3(4)	150
Form required by rule 4(2)	150
Form required by rule 5(3)	100
Form required by rule 7(4)	100
Form required by rule 12	150

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules are made under the Companies Act 2006 (c.46) (“the Act”). They regulate the proceedings before a company names adjudicator under section 69 of the Act when an application has been made objecting to a company’s registered name because of its similarity to another name in which the objector has goodwill.

Rules 1 and 2 contain introductory provisions, including provisions relating to forms and fees.

Rules 3 to 9 contain provisions relating to proceedings before the company names adjudicator. These include provisions relating to applications for objections to a company’s registered name; evidence rounds; the adjudicator’s decision; the adjudicator’s powers and provisions on the conduct of such proceedings.

Rule 10 contains provisions on corrections of irregularities of procedure.

Rules 11 and 12 contain provisions relating to costs or expenses.

Rule 13 contains provisions on providing an address for service, and rules 14 and 15 set hours of business.

The Schedule contains the fees which are required to accompany each form.

An impact assessment has not been produced for these Rules as no impact on the private or voluntary sectors is foreseen.

STATUTORY INSTRUMENTS

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The Company Names Adjudicator Rules 2008

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