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Lord Stevenson of Balmacara
House of Lords
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18 April 2018

Dear Lord,

Further to the debate on the draft Companies (Disclosure of Address) (Amendment) Regulations 2018 on Monday 16th April 2018 I am writing as promised about points you raised.

You asked about how public authorities access residential address information that is not publicly available. Specified public authorities can access protected residential address information under the Companies Act 2006 under regulation 2 and schedule 2 of the Companies (Disclosure of Address) Regulations 2009 ("the 2009 Regulations"), which sets out the conditions that they must comply with if they wish to receive protected information.

Where address information was placed on the register under the Companies Act 1985, public authorities can access that information if an exemption under the Data Protection Act 1998 (or, after 25 May 2018, the General Data Protection Regulation) can be identified. An example would be where disclosure is considered necessary for the prevention or detection of crime, the apprehension or prosecution of offenders or the assessment or collection of any tax or duty.

You also queried the lack of consultation for these Regulations. Since the companies register was made free to search online in 2015, my Department has received an increasing number of concerning complaints about people being put at risk of physical harm or intimidation because their residential address is publicly available on that register. As there has been no requirement that usual residential address information appear on the register since 2009, many of those complaints have been from those who had filed information before that date.

However, the 2009 Regulations prevent individuals whose residential address is on the register from applying to remove it unless it was filed after 2003, and then only if they are able to demonstrate that they would be subject to a risk of violence and intimidation as a result of the activities of the company. We considered that the urgency of these cases and their growing number meant it was imperative that we acted rapidly without consulting as we did not wish to increase the risk that people are caused actual harm.

We also considered that it was difficult to see what a consultation would have achieved. One of the restrictions to removal was a technical one that can no longer be justified. The Explanatory Memorandum for the 2009 Regulations stated that the reason for preventing applications in respect of address information filed before 1 January 2003 was that "it may not be possible to remove information from non-electronic records without serious risk of damage to the integrity of the public record" (paragraph 7.12).

Rather than redacting the original records which are held on microfiche, the Registrar is now able to redact information from a digital copy of the microfiche. As a result, the risk of damage to the public record no longer exists. Removal of the other restriction, that the applicant must demonstrate that they would be at risk from violence and intimidation from the company's activities, is consistent with the general approach that has been taken since the Companies Act 2006 came into force in 2009.

These regulations remove the anomaly whereby a director appointed in December 2008 is required to have their address on the register, whereas the residential address of another director of the same company who was appointed in December 2009 does not have to be shown on the public register. I fully recognise that consultation plays an important role in developing policy. However, in this instance, I believe that the decision not to consult was justified, for the reasons set out above.

A copy of this letter will be placed in the House of Lords Library.

Rt Hon Lord Henley