

## **Execution of documents by foreign companies**

Until now overseas companies executed documents under English law using the Foreign Companies (Execution of Documents) Regulations 1994 (SI 1994/950), which adapted the relevant sections (36 and 36A) of the 1985 Act to make them suitable for companies with a non-UK structure.

They are replaced by The Overseas Companies (Execution of Documents and Registration of Charges) Regulations 2009 on 1 October 2009 which will, by regulation 90, adapt the 2006 Act provisions in the same way. The overall effect is that the practicalities of execution by an overseas company will continue unchanged, allowing execution under its common seal; in any manner permitted by local law; or by an individual with the requisite authority.

Sections 1044 – 1059 deal with overseas companies under the Companies Act 2006. Every company incorporated outside the UK that operates its business in the United Kingdom through at least one establishment (either a branch or a place of business that is not a branch) and is not a UK-incorporated subsidiary company, is required to register its particulars with the Registrar of Companies. The Regulations are important for both UK companies transacting with overseas companies and the overseas companies themselves.

In respect of execution, the Regulations essentially replicate the current position but relate to underlying provisions in the Companies Act 2006 rather than provisions in the outgoing 1985 Companies Act. Part 2 of the Regulations, amongst other provisions, states that documents governed by the laws of England and Wales or Northern Ireland may be executed by a foreign company by that company affixing its common seal to the document or in any manner permitted by the laws of the territory in which that company is incorporated. The latter will have the same effect in relation to that company as if it were an English, Welsh or Northern Irish company executing a document under common seal. Signatories should be aware that the provisions are not dependent upon the overseas company registering in the UK with the registrar of companies.

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