

Registration of charge or debenture out of time

Where a mortgage, debenture or other charge is taken over the business and assets of a company, information on the charge must be registered at Companies House within 21 days of the date of its creation.

If this is not done, the charge is void against the liquidator or administrator and any creditor of the company.

If you find yourself in this difficult situation, all is not lost.

The time for registration of the mortgage or charge may be extended, or any omission or mis-statement of any information provided to Companies House may be rectified, by court order under the provisions set out in section 404 of the Companies Act 1985.

The application to court may be made by the company or any person interested (such as the person to whom the charge was granted).

The order will only be granted if the court is satisfied that:

- the failure to register the charge was accidental, inadvertent or there was another good reason; or
- the failure is not of a nature to prejudice the position of creditors or shareholders of the company; or
- on other grounds it is just and equitable for the court to extend the time period for filing.

Jordans' service assumes that the application will be made to the High Court by the company over whose property the mortgage or charge has been created and that a director of the company will give the witness statement in support of the application. The director will be required to give evidence of the solvency of the company in his witness statement.

Jordans' services

Our service includes the following:

- Drafting of the claim form and witness statement in support of the claim.
- Preparation of a directors' resolution authorising the application.
- A full procedural guide.
- Filing a sealed copy of the Order together with the original mortgage or charge and prescribed particulars at Companies House within the time stated in the Order (if received in good time).
- A court hearing is required and accordingly the company must arrange appropriate legal representation. Regrettably, Jordans is unable to act in this capacity.

Preparation of form M395

If the form M395 setting out the particulars of the mortgage or charge in question has not yet been prepared, Jordans would be pleased to assist with the preparation of this form. Our fee for doing so will be an additional £250.00 plus VAT.

Next steps

Our fee for this service starts is £375.00 + VAT.

If you would like us to proceed with the preparation of the application, complete and return the order form together with the additional copy documents indicated in the order form.

For more information on our charge registration service please contact our Corporate Legal Services team by emailing helen_goose@jordans.co.uk or telephone (0117) 918 1322.