

# Information

## Small Business, Enterprise and Employment Act 2015

### Background information

The Small Business, Enterprise and Employment Act 2015 (Act) came into force on 26 March 2015.

The Act introduces new measures to enhance transparency in relation to ownership and control of companies. The Act also introduces changes which attempt to simplify a company's statutory filing requirements, as well as introducing a ban on corporate directors.

The Act is wide ranging and this information sheet sets out the important changes to be aware of.

### Company control

The Act requires companies to keep a register of people with "significant control" over the company (known as the **PSC register**).

This requirement will apply to all companies other than a few minor exceptions but not to limited liability partnerships.

#### 1 What does "significant control" over the company mean?

It is defined in the Act as:

- a person holding 25% of the shares or voting rights in the company or a right to share in more than 25% of the company's capital or profits;
- an individual who holds the right to appoint or remove a majority of the directors; or
- an individual with the right to exercise, or who in practice exercises significant influence or control over the company.

The final limb of the definition is not entirely clear and makes it difficult for a company to be sure that its list complies with the requirements. Further guidance about the meaning of the expression "significant influence or control" will be issued in October 2015 and should at least remove some of the uncertainty.

Trustees or individuals involved with a trust or nominee arrangement who satisfy any of the above conditions will also need to be entered on the PSC register.

#### 2 The PSC register

From January 2016 companies will need to produce a PSC register and have a duty under the Act to take reasonable steps to collect this information.

At this stage, directors should begin to find or notify individuals who are likely to qualify as having significant control over the company, in order to ensure that the register can be completed fully and in a timely manner.

The details listed on the PSC register for individuals will include name, service address, residential address (which will be protected from public inspection), country of residence, nationality, date of birth and any restrictions limiting disclosure which are in force.

Parent companies will also be listed on the register so that the public can check the PSC register of the parent company should they wish to identify the actual individuals with significant control.

The PSC register must be filed at Companies House from April 2016.

**Head Office**  
Heathervale House  
2-4 Vale Avenue  
Tunbridge Wells  
Kent TN1 1DJ  
T 01892 510000  
F 01892 540170

**Thames Gateway**  
Corinthian House  
Galleon Boulevard  
Crossways Business Park  
Dartford  
Kent DA2 6QE  
T 01322 623700  
F 01322 623701

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### Corporate directors

The Act introduces a ban on corporate directors as of October 2015, prohibiting their appointment and requiring all directors to be natural persons. Any existing corporate director will cease to hold office after October 2016.

Directors should look at whether any practical steps need to be taken in terms of appointing new directors due to these changes.

### Annual return

Companies will no longer have to file an annual return but instead must deliver an annual confirmation to Companies House that all required information has been delivered to Companies House during the period which the confirmation covers.

This will lighten the burden on companies where there have been no changes to the relevant information. However, where a company has made certain changes, it will still need to provide details of these as part of the confirmation.

### Filing

A further useful introduction of the Act is that a company will no longer need to complete some of the statutory registers by electing to keep certain information recorded on the public register maintained at Companies House. This applies to the register of members, directors, secretaries and directors' residential addresses, as well as the PSC register.

Whilst this option alleviates the need to maintain separate registers, it prevents the company from making use of new provisions in the Act to omit the directors date of birth from being publicly available. Directors will have to decide whether they value slightly greater privacy or a lesser administrative burden.

### Conclusion

This information sheet highlights many of the key corporate changes introduced by the Act. Directors should familiarise themselves with the Act at this point so that a clear strategy for complying with the new requirements, particularly the PSC register, can be made.

This information sheet is intended for general guidance only and can be no substitute for considered advice on specific problems. It is based upon our understanding of the legal position as at April 2015 and may be affected by subsequent changes in the law. It should not be considered comprehensive.

Should you require further information about the issues covered, please contact the Corporate team at Thomson Snell & Passmore LLP.