

Records, Accounts and Filing

Overview

UK Company Law requires that companies undertake certain administrative tasks, keep certain records and file certain documents with Companies House. The obligation to prepare and audit annual financial accounts and to file an annual return are dealt with in a separate note.

Annual General Meetings are no longer required for private companies under the Companies Act, 2006, unless a company opts to hold them. However, shareholders can demand an AGM. Certain important decisions taken at company's meeting must be notified to Companies House.

Every company must maintain a registered office. This is the company's address for formal communications. The registered office must be a real address but does not have to be the place where business is done. There are certain obligations in respect of business stationery which are set out in separate notes.

Returns to Companies House

Companies legislation requires a company to make a return of information in relation to various key changes and transactions. An annual return must be made, usually with accounts, and certain key information. The returns can be made by paper filing or electronically. It is intended in due course, to make electronic filing the exclusive means of filing. This may not come into force for some time.

Companies House information is available for inspection by the public. Companies House maintain a very user friendly website whereby basic information can be viewed free of charge and other, more detailed information about a company may be purchased.

Separately, certain private businesses compile comprehensive information and analysis of Companies House returns and information.

Records

Companies must keep formal records of shareholders, shares, directors and secretary, director's interests in matters and details of persons other than registered owners who have interest in shares.

Company records must be made available for inspection by certain parties. Anyone can inspect the register of members. Members of the company are entitled to inspect minutes of meetings or other documentation. Directors are entitled to see minutes of directors meetings.

Companies must keep official records and registers to include the following:

- Register of debenture holders;
- Present and past directors and secretaries
- Director's interests in shares and debentures
- Shareholdings past and present
- Charges on company's assets

Minutes must be kept of board meetings and general meetings together with certain official documents. Company's Memorandum & Articles of Association, copy accounts, share certificates and director's service contracts must be kept.

Every shareholder is entitled to copies of the accounts, at least 21 days before any general meeting at which such accounts will be presented. They are entitled to inspect the minutes of a general meeting. Any member of the public can ask for a copy of the register of shareholders.

Annual Financial Accounts

Every company must prepare annual financial accounts that report on the performance, activities and the assets and liabilities of the company. The accounts must be prepared in accordance with provisions laid down in Companies legislation and with accounting standards and practices.

Generally, accounts must include:

- a profit and loss account;
- a balance sheet signed by a director;
- an auditors' report signed by the auditor (if appropriate);
- a directors' report signed by a director or the secretary of the company;
- notes to the accounts; and
- group accounts (if appropriate).

Most companies must have their accounts audited by an independent auditor. The auditor must generally be a member of one of the Accountancy bodies. The auditor must report on whether the financial accounts give a true and fair view of the company and its activities. The auditor looks at the company's internal books of accounts, controls and systems in order to give his report.

There is an exemption from the audit requirement for certain small companies, if they are eligible and wish to take advantage of it. To qualify for total audit exemption, a company must qualify as small, have a turnover of not more than £1 million; and have a balance sheet total of not more than £1.4 million.

The directors' report usually describes the company's activities, reviews business and indicates future developments. A business review is mandatory since 1st October 2007. It must provide information on the company's performance and prospects. The directors' report must include details of directors, share interests or options, details of dividends,

details about research and development as well as political and charitable gifts. Where a company is part of a group, group accounts may be required.

The first accounts are due within 22 months of the date of incorporation. Thereafter accounts are due 9 months after the annual accounts date. The accounting reference date can be changed upon notification to the Companies Office.

There is an obligation to make an annual return and file accounts with Companies House. There are certain exemptions. Small and medium size companies and limited liability partnerships can benefit from certain relaxations from the general obligations to audit and file accounts.

Most small or medium size businesses and limited liability partnerships are entitled to submit abbreviated to Companies Office. There is a right to file abbreviated accounts if the company passes certain tests in relation to size, employees and turnovers. Small firms are those with a turnover of £6.5M or less, balance sheet total of £3.26M or less and less than 50 employees. Medium size firms are those with a turnover of £25.9M or less, balance sheet of less than £12.9M and no more than 250 employees.

In the case of small companies and limited partnerships, an abbreviated balance sheet only and notes are required together with a special audit report. Alternatively, an audit exemption may be available (see above).

In the case of medium size companies and limited liability partnerships, abbreviated profit and loss accounts, full balance sheet and special auditors report is required. Some small companies qualify for an exemption from filing audited accounts. Audited accounts may still be necessary for other purposes. .

Audit exempt companies and limited liability partnerships must deliver unaudited accounts to the Companies Office in the form of an unabbreviated balance sheet and notes. The note must make certain confirmations. Where the audit exemption applies,

company tax returns may also be submitted on the basis of an unaudited account. Audit exemptions are also available for certain dormant companies.

Annual Returns

An annual return may be filed on line and 70% of UK companies now do so. The fee payable with the annual return is £30.00. Filing on line attracts a reduced filing fee of £15.00. The company directors and secretary are responsible for filing annual return within 28 days of the date to which it is made up. The law determines the annual return date. There are penalties for failure to make an annual return.

The annual return includes details of the name of the company, address, principal activities, details of company secretary, residential address, nationality, date of birth of directors and the company's "made up" date. The obligation applies to limited companies and limited liability partnerships.

Details of share capital is required including the nominal value of the total share capital, shareholders names and address, numbers and types of shares issued and total value of each type of share. Similar information is required for limited liability partnerships.

The "made up" date is the official date on which all information on the annual return must be correct. The made up date is usually the anniversary of incorporation or the made up date of a previous annual return.

A full list of shareholders is required on the company's first return and every subsequent third return or each time an alternation is made to the shareholders. Details must be given of the name and class of share. Shareholders information must include the name and address of the shareholders at the made up date, shareholders who have ceased to be members since last made up date, each members total shares in each class as well as the made up date.

Filings with Companies House

The following are key matters which must be notified to the Companies Office:-

- any amendments to the memorandum and articles
- special resolutions
- change in accounting date
- change in registered office
- appointment of new officers, resignation or change of detail (director or secretary)
- share issues.
- changes in share rights

All mortgages charges and security granted by companies must be registered in Companies House within 21 days. This registration is over and above any other registration which may be required because of the nature of the asset e.g. registration in Land Registry; the register of trade marks, designs. A registerable charge which is not registered cannot be enforced against the company's liquidator.

There is a fee of £13.00 for registering the charge. It is a duty of the company to register its charges. If the company acquires property which is subject to a charge which would have been registerable upon creation it must be registered within 21 days. A court order is required if the charge is not filed on time in order to extend time to register the charge.

This Guide is intended as an overview and broad outline of the matters covered in it. Its purpose is to inform and raise awareness. We are happy to offer specific legal advice on particular circumstances.

This Guide should not be relied on as a substitute for comprehensive legal advice with reference to the particular circumstances.

While we have taken due care in the preparation of this publication, we do not accept legal liability as a result of any reliance placed on anything in this Guide. The reader should rely only on specific legal or taxation advice.

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