

FOCUS ON

Register of people with significant control

From 6 April 2016 all companies are required to keep a register of people with significant control (PSC register) and, from 30 June 2016, file relevant information at Companies House. This requirement is in addition to those in respect of existing registers.

The requirement to keep a PSC register has been introduced with the objective of increasing transparency over control and ownership of UK companies. However, this places additional obligations on companies, their officers and the people with significant control over them.

What are the requirements?

A number of amendments have been made to the Companies Act 2006, principally by the Small Business Enterprise and Employment Act 2015.

These amendments introduce a number of additional requirements on companies, effective from 6 April 2016. These new requirements include:

- taking reasonable steps to find out whether there are people with significant control (PSCs);
- contacting people identified as relevant, or others who may know them, to confirm whether they are a PSC;
- obtaining or confirming relevant information to put in the PSC register;
- putting information obtained into the PSC register; and keeping the PSC register up to date.

For companies incorporated prior to 30 June 2016, when the company completes its first Confirmation Statement (the replacement for the annual return), the company's PSC information will also need to be entered. Though the company's own register must be kept up to date, changes are recorded annually at Companies House using the Confirmation Statement.

Companies can elect to hold their own register at Companies House instead and update this register in real time.

What is meant by a PSC?

A PSC is defined as an individual that:

- holds, directly or indirectly, more than 25% of the shares or voting rights in the company; or
- holds the right, directly or indirectly, to appoint or remove a majority of the board of directors of the company; or
- has the right to exercise, or actually exercises, significant influence or control over the company; or
- where a trust or firm would satisfy any of the above conditions, any individual that has the right to exercise, or
- actually exercises, significant influence or control over the activities of that trust or firm.



Whilst many companies will find the identification of PSCs relatively straight forward, where for example the company is part of a group or where there are agreements to vote or exercise rights jointly, different rules apply for the information required to be obtained, confirmed and recorded on the PSC register.

What information is required to be kept on the register?

From 6 April 2016, the PSC register must be kept, and it cannot be blank! Where, for example, a company is in the process of obtaining information, a specific statement is required by law to be made in the PSC register.

The particulars of a relevant individual that are required to be obtained and confirmed for inclusion in a company's PSC register include:

- their name;
- a service address;
- the country, state (or part of the UK) in which the PSC usually resides;
- their nationality;
- their date of birth;
- their usual residential address;
- the date on which the individual became a PSC in relation to the company (6 April for existing companies);
- the nature of the PSC's control over the company; and
- any restrictions on disclosing the PSC's information that are in place.

A specific statement is also required in the PSC register if you believe the company has no PSCs.

Do PSCs have any obligations?

There are a number of legal obligations on a PSC. For example, a relevant individual that does not respond to requests for PSC information may be committing a criminal

offence. A company is also entitled to apply restrictions to shares or rights in the company held by the individual who is not responding.

Is information held on the PSC register publicly available?

Where a company keeps its own PSC register an individual or organisation with a proper purpose may obtain access or a copy of the PSC register; though not information relating to a PSC's residential address.

Information provided to Companies House will form a central PSC register that will be publicly available, subject to certain redactions.

What happens if the company does not comply with the new requirements?

Failure to comply with the requirements of the PSC regime could lead to the company or directors, or identified PSCs committing a criminal offence. The company and its directors could face a fine or imprisonment or both.

Is further guidance available?

The Department for Business, Innovation and Skills has issued a significant amount of additional information in the form of summary, statutory and non-statutory guidance in this area. This guidance contains, for example, further detail of the requirements and processes involved at various stages of keeping the PSC register, official wording for entering on the PSC register and example notices relating to obtaining and confirming PSC information.

The guidance can be obtained from:

www.gov.uk/government/organisations/companies-house

How can we help?

These changes may give rise to a complicated set of initial and ongoing obligations for you and your company.

If you would like to discuss these new requirements in more detail, or require assistance with this or other company secretarial requirements please contact us.

Contact

For further information, please contact your local office or email us at info@mhllp.co.uk



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