

User Guide

The Companies Act 2006 Frequently Asked Questions

Q. Has the Companies Act 1985 been replaced?

A. The aim of the Companies Act 2006 is to replace the Companies Act 1985 in its entirety, however the Companies Act 2006 is being implemented in stages and therefore until October 2009, when the last of the provisions take effect, the Companies Act 1985 will still apply in part.

Q. Where can I get a copy of the Companies Act 2006?

A. A copy of the Companies Act 2006 is available from the Office of Public Sector Information <http://www.opsi.gov.uk/acts/acts2006a.htm>,

Q. How can I find out which provisions are in force and which are still to be implemented?

A. The Companies House Website is updated regularly as to changes and implementation timetables. www.companieshouse.gov.uk

Q. I've heard that directors no longer have to provide their home address is this true?

A. No, currently directors still have to provide this information but from Oct 2009 this will be protected

information and only made available to specified public bodies and credit reference agencies (although applications by vulnerable directors can be made so that credit reference agencies cannot access this information). What directors will have to do from Oct 2009 is to also provide a service address (which can be the same as the residential address) which will be made available on public register.

Q. I understand that strict duties have now been placed on directors, what exactly are they?

A. The duties placed on directors in the new Companies Act are not new, they clarify the existing common law. See our [User Guide](#) for further guidance on this topic.

Q. I own two companies, one of which is the sole director of the other, will this still be permitted under the new Companies Act?

A. No. As of 1 October 2008 a corporation cannot be the sole director of a company, there has to be at least one natural (an individual over the age of 16) person in the role of a director.

Q. Does my company still require a Company Secretary?

A. Providing that your company is a private company then no. As of the 6th April 2008, companies now have the option of having a Company Secretary. Note, however, the provisions of the company's articles of association, as if this document requires the company to have a Company Secretary then the company must either have one or amend their articles to remove the requirement.

Q. So if my company is no longer required to have a Company Secretary does that mean that I can run the company on my own as the only director.

A. Yes, however please note that if signing certain documents on behalf of the company your signature will be required to be witnessed. The new Companies Act has changed the way that certain documents need to be signed they can now be signed by two directors, a director and a secretary or a director and witness.

Q. Will the way our accounts are prepared change?

A. The form and content of your accounts, including the directors report, will need to be changed to reflect the changes implemented

by the new Companies Act. Your accountant will be able to answer any specific questions you have on this matter.

Q. What meetings are my company obliged to hold?

A. Private companies are no longer obliged to hold Annual General Meetings; however, reference should be made to the company's articles of association which may require such meetings (note that the articles can be amended by a shareholder resolution). There are still a number of decisions that must be made by the shareholders and therefore meetings will still be held, however these will just be known as General Meetings, rather than Extraordinary General Meetings, as all decisions that previously had to be taken by extraordinary resolution can now be passed as a special resolution (although once again the articles of the company should be consulted to confirm there is no obligation to pass extraordinary resolutions in relation to any matter, as this would require an extraordinary general meeting).

Q. Rather than have shareholder meeting all the time we tend to make decisions by written resolution, will this still be permissible?

A. Yes provided that the company is private one, the new Companies Act has made it easier to pass written resolutions. Previously unanimous consent was necessary, now only a 75% majority is required to pass special resolutions and a simple majority for ordinary resolutions. Note however that companies are still unable to use written resolutions to pass resolutions removing a director or auditor from their office.

Q. Will the forms that the company have to send to Companies House change?

A. Yes they will change to reflect the section of the act they align to, however new forms are not being introduced until Oct 2009.

Q. When I review the company's articles of association I have to read them in conjunction with Table A of the Companies Act 1985 on which our articles are based, is Table A being amended?

A. Yes, Table A has already been amended to bring it into line with the changes thus far made by the Companies Act 2006, however they are only applicable to company's incorporated on or after 1st October 2007. You will therefore refer to the version of Table A that was in force when your company was incorporated or when your articles were amended to provide otherwise.

Q. I have noted that the company's articles are not going to reflect the changes to the law, what can we do?

A. The company's articles can be amended or replaced provided that the changes are approved by a 75% majority of the shareholders. Note that many companies will have been incorporated with very basic articles and it may be worth taking this opportunity to have them completely redrafted and tailored to the company's needs.

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