

Ongoing Company Information and Legal Requirements

Company Books

You are required at law to maintain statutory records including a Minute Book, Register of Directors and Secretary, Register of Share Transfers etc. which should be kept at the registered office.

Memorandum and Articles of Association

You must ensure that your company complies with its constitutional documents, its Memorandum and Articles of Association. The Memorandum of Association governs the powers which a company has and states its name, domicile, objects, limitations of liability (if any) and authorised share capital. The Articles of Association set out the internal regulations of the company.

Company stationery

When you have set up your business as a limited company, you should be aware that there is certain information you must include on the company stationery by law. This information is as follows:

1. The full name of the company. If you are going to trade under a different name, the full registered name of the company must also be present on the stationery and must include the word limited.
2. The registered office address. Again, if the trading address is different to the registered office address, both must appear.
3. The registered number of the company and the fact that the company is registered in England and Wales.
4. If you want to include the names of the directors you must include the names of all of the directors or none of them.

Nameplates

The name of the company should be displayed in a prominent place at the registered office.

Board Meetings

A meeting of directors will be called by the secretary usually on the instructions of the chairman but can be called by the secretary at the request of any director. It is usual to give formal written notice, but valid meetings can be arranged (subject to any provision to the contrary in the company's Articles of Association) informally if all the directors agree. There is no statutory minimum period of notice, but it must be reasonable and in accordance with the company's practice. Notice of the meeting will normally be accompanied by an agenda, reports, accounts and other documents which are to be discussed at the meeting. Meetings held by telephone conference are only valid if permitted by the company's Articles of Association.

Alternatively, a resolution in writing signed by all directors entitled to receive notice of a meeting or a committee of the directors is valid as if it had been passed at a meeting. The above is a resume of

obligations and you should check the company's Articles of Association to see if any of the points referred to have been varied.

The directors are required to keep minutes of their meetings and this is the responsibility of the secretary. Emphasis should be on recording decisions, not general discussion.

Annual General Meetings

Every company is required to hold an Annual General Meeting (AGM). The first AGM must be held within 18 months after the date of incorporation. Subsequent AGMs must be held in each year and must be held not more than 15 months after the last AGM.

The Board of Directors decide the date of the AGM and resolve to call the meeting. Notice must then be given to all the members entitled to attend and to the auditors specifying the date, time and place of the meeting, the agenda, the fact it is the AGM and that proxies may be appointed (except where there is no right to appoint proxies). A copy of the accounts should also be sent with the notice.

The period of notice for an AGM is 21 clear days, but shorter notice is valid if it is agreed by all the members entitled to attend and vote at the meeting. The notice period must not include the date of service and the date of the meeting (48 hours should be allowed for posting).

Special notice is required for resolutions removing directors or auditors. If any special resolution is to be passed, the agenda must state that it is to be proposed as a special resolution and the exact wording of the resolution must be given. Copies of all special resolutions and some other resolutions must be sent to the Registrar of Companies.

Minutes of any meeting must be taken and should be signed by the chairman of the meeting. They are then evidence that the meeting was duly convened unless the contrary is proved.

Extraordinary General Meetings

Any general meeting other than an Annual General Meeting is called an Extraordinary General Meeting (EGM). The directors may call an EGM whenever they think fit, subject to giving the proper notice. Members with one tenth of the voting shares may requisition the calling of an EGM. The requisition must be deposited at the company's registered office.

On receipt of such a requisition, the directors must proceed to call the EGM within 21 days (i.e. send out the notices). If the directors do not call the EGM, those requisitioning may themselves call the meeting to be held within three months.

The period of notice for an EGM depends on the business to be conducted. In general, if the meeting is being convened to pass a special resolution, 21 days' notice must be given and 14 days' notice is required for most ordinary resolutions. These notice periods do not include the day of service or the day of the meeting. The meeting can be held on short notice if this is agreed by a majority in number of the members who hold 95 per cent of the voting shares.

As for AGMs, minutes of all general meetings must be kept and copies of all special resolutions and some other resolutions must be sent to the Registrar of Companies.

Company Accounts

As far as your ongoing requirements are concerned, each company has to prepare accounts annually and these have to be filed with the Registrar of Companies within ten months of your accounting reference date. The requirements to appoint auditors and have your accounts audited have been relaxed and are dependent upon the company's annual turnover (see elective regime below).

There is an obligation on the company to present the accounts to shareholders at a general meeting which is usually the AGM unless the shareholders elect to dispense with the requirement (again see elective regime below). Once the accounts have been laid before the members at the AGM or general meeting, then a copy of the accounts has to be filed at Companies House. Failure to file within the requisite periods will give rise to an automatic fine.

If a company qualifies as a small company then all you need to prepare and file at Companies House is abbreviated accounts. There are rules establishing whether you are a small company determined by your annual turnover and the number of employees. Certain statutory statements need to be made on such accounts.

Annual Returns

You will be sent an annual return by Companies House which shows the information held on the company. The details on this form must be checked, any amendments made and the form returned to Companies House within the time specified together with payment of the annual fee. The fee for the submission of the annual return in paper form is £30 and £15 where the form is filed electronically.

During the life of the company, any changes to the structure of the company have to be notified to the Registrar on an ongoing basis. Notices must be in writing, there is usually a prescribed form of notice.

Electronic Filing

Companies House offer a WebFiling and Online Filing service, which enables companies to file a number of Companies House forms online.

The number of forms which can be filed online are increasing on an ongoing basis. The main 'standard' documents which can be filed online are the forms to change the company's officers, registered office address and filing the company's Annual Return. If you would like to file an appointment form online, you will need three items of personal information from the director/ secretary who is going to be appointed. This may include: place of birth, telephone number, national insurance number, passport number, mother's maiden name, eye colour and father's first forename. This information is electronic confirmation of the director's consent to act instead of the signature of the director on his appointment form.

To register for this service, you will need to obtain a security and authentication code from the Companies House website at www.companieshouse.co.uk. The security code will be sent to you by e-mail and the authentication code will be sent to the company's registered office address for added security.

Elective Regime

The members may pass a resolution by unanimous agreement for the purpose of dispensing with the following requirements of the Companies Act: -

- ♦ The requirement to hold an Annual General Meeting
- ♦ The requirement to lay accounts before the company in a general meeting
- ♦ The annual appointment of auditors
- ♦ The requirement that the directors' authority to allot shares can only last for five years.

In addition to the above, a private company can also elect to reduce the percentage required for consent to short notice of an extraordinary general meeting from 95% to 90% of members entitled to attend and vote at such meeting.

What is the effect of adopting the Elective Regime?

♦For family run companies or companies with few shareholders, the requirement to comply with various formalities is removed. The formalities are time consuming and their preparation can involve expense in terms of solicitor's and or accountant's fees.

♦If you dispense with the requirements to lay accounts before members, then copies of the accounts and auditor's report must be sent to every member together with a notice advising each member that he can require the accounts to be laid before a general meeting.

♦With regard to the automatic re-appointment of the company's auditors, any member still has the right to request the auditors appointment be brought to an end by written notice.

If at any time the company decides it wants to opt out of the elective regime, the resolutions (or any of them) may be revoked at any time by way of ordinary resolution passed by the company in a general meeting.

If you would like further advice on the matters set out above, including how to adopt the Elective Regime, please contact Sonya Gillespie or a member of the Corporate Team.