

Company Law Reform: Small Business Summary

The purpose of company law and corporate governance is to promote enterprise and stimulate investment. We are determined to ensure that our system makes it easy to set up and grow a business. A thorough overhaul of the law is needed to make it more suited to the needs of small business. This summary sets out the main elements of the Company Law Reform Bill affecting small business. The Bill was introduced into Parliament on 1 November.

Clearer law

Current company law was written mainly with the large company in mind. The provisions that apply to private companies are often expressed as an exception to the provisions applying to public companies, making them hard to understand. We have turned this approach on its head. Those parts of the law most relevant to small companies (such as the model articles of association and the requirements on accounts and reports) come first so that the provisions that apply to them are easier to find. The Bill also uses simpler, clearer language.

Better guidance

We cannot eliminate the complexity in company law, (as this would reduce flexibility for companies). So making it easier to understand for both companies and their advisors involves supplementing it with clear and comprehensive guidance. Small companies will easily be able to identify the basic day-to-day requirements that apply to them. We will increase the coverage of Companies House plain English guidance and ensure it follows the principles of "Think Small First." We benefited from the advice of small companies in preparing draft model articles of association for private companies and we intend to seek their help again in developing the guidance most frequently used by small companies. This will include a new small company checklist of the basic company law requirements.

Improved website

Increasingly, small companies are using the Companies House website. Companies House will continue to improve their website for their customers, including a wider range of web-based guidance, better links to related websites and on-line access to up to date companies legislation. During 2007, Companies House will be offering web incorporation and this will be supported by easier access to relevant material, for example a company will be able to access its own details through the "my Companies House" portal.

Specific legislative changes

The main changes to company law affecting small companies are as follows:

Forming a company

There will be separate model articles of association for private companies. These will contain the minimum key rules on the internal workings of the company and will be shorter and clearer.

No requirement for a company secretary

We are abolishing the requirement for private companies to have a company secretary.

Directors

The general duties that a director owes to the company are currently established in case law rather than statute making it hard for them to be widely understood. The Bill includes a statutory statement of directors' general duties both to make the law in this area more accessible and to change the law where it no longer corresponds to modern business practice. We will provide clear guidance for new directors on what these duties mean.

Directors' addresses on the public record

Directors will automatically have the option of filing a service address on the public record (rather than their private home address).

Resolutions and meetings

Private companies will not need to hold an annual general meeting unless they positively opt to do so. It will be easier for companies to take decisions by written resolution rather than holding a meeting, as such resolutions may in future be carried with a simple or 75% majority of eligible votes rather than requiring unanimity as at present. Companies will be able to make greater use of electronic communications for communications with shareholders.

Accounts and Reports

The provisions on accounts and reports have been restated to make them much easier to understand for small companies and their advisors. We are retaining the option for small and medium sized companies to file abbreviated accounts with Companies House. The deadline for private companies to file their annual reporting documents will reduce from ten months after the year-end to nine, reflecting both improvements in technology and the increased rate at which information becomes out of date.

Financial assistance and capital maintenance

The rules on providing financial assistance to potential or actual shareholders, which limit the circumstances in which companies can provide assistance for

the acquisition or purchase of their own shares, are highly complex and largely irrelevant to the majority of private companies and we are abolishing them. We are also making it easier for private companies to make capital reductions.

Keeping the law up to date

In order to keep the law up to date and ensure it meets users' needs, the Bill includes a power to allow the reform or restatement of company law to be made in future by a special form of secondary legislation, subject to strong requirements on public consultation and Parliamentary scrutiny.

Costs and benefits

The Government estimates that total net savings to companies of company law reform could be around £250 million annually.

More information

The Company Law Reform Bill will take several months to complete its passage through Parliament and is not expected to come into force before 2007. The full text of the Bill with explanatory notes is also available through the DTI website: [www.dti.gov.uk/cld/review.htm] and through the Companies House website (www.companieshouse.gov.uk). You can also follow the progress of the Bill directly on the United Kingdom Parliament webpage <http://www.parliament.uk/>

If you have any queries or comments about the legislation, please contact us in one of the following ways:

Email us at companylawreform@dti.gsi.gov.uk, or
Write to Patrick Barry, Company Law Reform Bill,
5th Floor, 1 Victoria Street, London SW1H 0ET.