

OVERVIEW OF KEY MEASURES UNDER THE ECONOMIC CRIME AND CORPORATE TRANSPARENCY ACT 2023



GOVERNANCE & SUSTAINABILITY
Part of the Horizon Scanning series

This table provides an overview of the key measures relating to the reform of Companies House and company administration regime.

Category	Measures	Commentary
Powers of Registrar	<p>The Registrar now has four new objectives. These include objectives to ensure the accuracy of information contained in the register, that records kept in the register do not create a false or misleading impression to the public, and to prevent companies from carrying out unlawful activities or facilitating the carrying out of unlawful activities.</p> <p>The Registrar's new powers include powers to:</p> <ul style="list-style-type: none"> reject a document filed with Companies house if it appears inconsistent with other information held in the register. require a person to provide information for purposes of determining whether a person is compliant with any filing obligation (either before or after accepting a filing). resolve inconsistencies in Companies House records by requiring a company to deliver replacement or additional documents. remove a document or material from the register that was previously accepted (but which was not properly delivered) or which constitutes "unnecessary material". <p>The Registrar also has expanded information sharing powers, allowing it to disclose information to <i>any person</i> or public authority for purposes connected with the exercise of its functions.</p>	<p>The increased powers of the Registrar are significant. For filings which have legal consequences (for example, a reduction of capital which is only effective when registered at Companies House), the onus is on companies to ensure that all relevant documents and information are properly supplied and delivered - or run the risk of the Registrar querying or rejecting documents and potentially jeopardising a transaction where time is of the essence. While the Registrar do currently reject filings in certain circumstances, the additional grounds for the Registrar to require a person to provide more information before accepting a filing does mean increased risks of documents being rejected due to some perceived inconsistency with existing information or where the Registrar determines that information provided is insufficient or deficient.</p> <p>It is unclear what the effect of removal of any material, the registration of which has legal consequences, is - whether this could result, for example, in a capital reduction that was previously registered becoming void. The Act does require that, insofar as it relates to such material, the Registrar can only exercise this power in more limited circumstances (where the interest to the company of removal outweighs the interest of any third party).</p> <p>In practice, Companies House has indicated that the Registrar will use its powers to require information with "<i>discretion, using a</i></p>

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	The Registrar will also have a new direct power to impose financial penalties for breaches of CA 2006 without having to go through the courts.	<i>risk-based approach</i> ” - meaning that priority will be given to cases “which, in the Registrar’s view, present the biggest risks to the integrity of the register and the quality of the information it holds.” Given practical constraints, the Registrar is expected to take a proportionate approach in terms of querying any inconsistencies and analysing the information on record.
Company incorporation	<p>Incorporation will require provision of additional confirmations including the following:</p> <ul style="list-style-type: none"> that the company is being formed for lawful purposes the initial subscribers, proposed directors and the company's PSCs are not disqualified from acting as directors; and the proposed directors have completed identity verification (see <i>Identity verification</i>). There is also the <i>option</i> of confirming that the identity of a company's PSCs has been verified although verification can be completed prior to incorporation or within 14 days thereafter. 	This means that it will not be possible to incorporate a company where the proposed subscribers or PSCs are disqualified under the directors’ disqualification legislation.
Identity verification	<p>Identity verification requirements will be introduced for all new <u>and existing</u>:</p> <ul style="list-style-type: none"> Directors (and equivalents for other entities): An individual will need to have their identity verified on appointment, and will not be permitted to <i>act</i> as a director of the company unless their identity is verified. A company is under an obligation to ensure that an individual does not act unless their identity is verified. People with significant control (PSCs) and Relevant Legal Entities (RLEs): An individual who is a registrable PSC or a relevant officer (i.e. a director) of a registrable RLE will need to have their identities verified - but as companies are unable to compel verification, the relevant notification forms will simply include an <u>option</u> to confirm that the identities of the relevant PSCs or officer of RLEs have been verified. <p>Any individual who is an authorised corporate service provider (ACSP) or any individual who delivers documents to Companies House on their own behalf or on behalf of another will also need to have their</p>	<p>Details of the verification process will be set out in separate regulations. Based on available information, Companies House is envisaging that this will involve a digital process using approved photo ID (such as a passport or driving licence) and a photo of the individual’s face, although a non-digital alternative will be available.</p> <p>It should be noted that in order to incorporate a company (see <i>Company incorporation</i>), the identity of the proposed directors have to be verified prior to incorporation. Post-incorporation, while (i) the appointment; or (ii) the action(s) of any person who has not completed identity verification as a director is not invalid, both the person and the company would have committed an offence. Directors who act without their identities having been verified are also liable to being disqualified. In practice, this is likely to mean that the relevant individual would have to have their identity verified prior to appointment.</p> <p>Crucially, identity verification applies to <i>existing</i> directors so companies would need to ensure all their existing directors are verified in due course. Details of any transitional arrangements</p>

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	<p>identities verified (see also <i>Authorised corporate service provider/ company filings</i>).</p> <p>Verification of the identity of an individual can be done with Companies House directly or by an ACSP confirming to Companies House that it has carried out the verification process in relation to that individual.</p>	<p>will be set out in separate regulations but it is anticipated that existing directors will need to confirm that their identities have been verified at the time of delivery of the next annual confirmation statement.</p> <p>Helpfully, the government is intending that the relevant person will only need to be verified once. Once verified, that person should be verified for all purposes under CA 2006 (i.e. whether as a director, PSC or person who is able to file documents). The Act allows for unique identifiers to be allocated to individuals whose identity has been verified, which should facilitate this. Regulations may also be made to specify circumstances in which a person may cease to have their identity verified, and to allow for reverification.</p> <p>For PSCs and RLEs, it would be unfeasible to prevent a person from being a PSC/RLE simply because they have not completed their identity verification. However, in these circumstances, if the option to confirm verification of their identities has not been exercised in the relevant notification, the Registrar must give notice to the relevant PSC or RLE requiring them to make the relevant confirmation. A person who fails to comply with the notice without reasonable excuse commits an offence.</p>
Authorised corporate service providers (ACSP)/ Company filings	<p>An individual or entity can apply to be authorised as an ACSP. Eligibility is based on the person being a “relevant person” under the UK Money Laundering Regulations (i.e. already registered with a supervisory body for anti money-laundering purposes - including auditors, company service providers and legal professionals) and (if an individual) having their own identity verified on application.</p> <p>Company filings at Companies House can only be undertaken by:</p> <ul style="list-style-type: none"> • (where a filing is being made on their own behalf) a verified individual (unless exempt) and who is not a person disqualified under the directors’ disqualification regime. • (where a filing is being made on behalf of another person (e.g. a firm or company)) (i) an officer or employee (or officer or employee of a corporate officer) of the firm whose identity is verified or (ii) an ACSP (or its employees). 	<p>Note that, as it stands, a group company secretary cannot file on behalf of another entity within the group unless they: (i) are also an officer or employee of that entity and (ii) have their identity verified.</p> <p>Any person wishing to act as an ACSP must register with the Registrar and be authorised as such. The ACSP regime relies on protection conferred by the fact that only “relevant persons” under Money Laundering Regulations can apply to be an ACSP.</p> <p>It should be noted that employees of an ACSP can file documents at Companies House on behalf of another person (without separate identity verification).</p>

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Directors	<p>Companies must notify Companies House if a person becomes, or ceases to be, a director, as well as of any changes in certain information about the director (name, date of birth, nationality, service or residential address) within 14 days of the change occurring. Failure to notify is an offence.</p> <p>A person cannot be appointed as a director if the person is disqualified under the directors' disqualification regime. New grounds for disqualification have been added, including grounds of persistent breaches of filing obligations and identity verification requirements and certain other breaches of Companies Acts. Persons designated under sanctions legislation are also disqualified from being directors.</p> <p>It is also an offence for a person to act as a director unless their appointment has been <i>notified</i> to Companies House within the statutory deadline (although the appointment itself is not invalidated).</p>	<p>Similar to the verification requirement, although failure to notify does not invalidate the appointment of a person as a director nor affect the validity of their acts as a director, the person will be committing an offence if they act unless their appointment has been notified to Companies House within the statutory deadline.</p> <p>It only <i>becomes</i> an offence for a director to act if notification still has not been given after the 14-day period within which the appointment must be notified has expired (i.e. the director can act within that 14 day period prior to notification so long as notice is given within the deadline). However, in practice, companies and directors will, of course, want to ensure that notice is given as soon as possible within that period.</p>
PSCs	<p>Companies must notify Companies House when they become aware that a person has become, or ceased to be, registrable as a PSC or RLE in relation to the company and or any changes in the required particulars relating to a registrable PSC or RLE within 14 days of the company becoming aware of the change. Failure to notify is an offence.</p> <p>Such notification will include an option to confirm that the identity of the relevant PSC or RLE has been verified (see Identity verification).</p>	<p>With the abolition of the company's own PSC register (see Statutory registers), all relevant information relating to registrable PSCs/RLEs will be kept at Companies House. This at least reduces the risk of inconsistencies between the company's PSC register (which is the "actual" statutory register under the previous regime) and any information held at Companies House.</p>
Company names	<p>Companies are restricted from being registered under the Act by names that, in the opinion of the Secretary of State, is intended to facilitate an offence that involves dishonesty or deception or suggests a false or misleading connection with a foreign government or authority.</p> <p>Companies are also not permitted to register with a name that consists of, or includes, computer code and the Registrar can determine a new name for the company.</p> <p>The Registrar can also determine a new name for a company that fails to comply with a direction to change its name.</p>	<p>The Secretary of State has the power to direct that a company must change its name even where it is already using it, where there were proper grounds for refusing registration at the time at which the name was registered.</p>
Contact details - Registered office	<p>Companies must have and maintain a registered office at an "appropriate address".</p>	<p>An "appropriate address" is an address where: (i) a document addressed to the company and delivered there would be expected to come to the attention of a person acting on behalf of the</p>

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and registered email address	<p>Companies must also have and maintain a registered email address which is an “appropriate email address”.</p> <p>Any changes in registered office or to the registered email address must be notified to the registrar.</p>	<p>company; and (ii) delivery of documents there is capable of being acknowledged as delivered.</p> <p>An “appropriate email address” is one where emails sent to it by the registrar would be expected to come to the attention of the person acting on behalf of the company.</p>
Register of members	<p>In respect of each member, the following information must be entered in the register of members:</p> <ul style="list-style-type: none"> • In relation to an individual member, their name (defined as forename and surname) and a service address; • In relation to a corporate member, the corporate or firm name and a service address, <p>and, in each case, the date on which the person was registered as a member.</p> <p>A person who becomes a member is required to provide the relevant information and existing members must give notice to the company of any change in the required information about the member, in each case within two months of the person becoming a member or of any changes. Any person who fails to comply commits a criminal offence. Companies must record the new information along with the date of change in the register of members. Non-traded companies must keep the old information in the register.</p> <p>Companies have the power to require by notice a member to provide any of the required information and members must comply with such notice within a period of one month beginning with the date on which the notice is given. A person who fails to do so “without reasonable excuse” commits a criminal offence.</p>	<p>The imposition of criminal liability on members who fail to provide the relevant information or notify the company of any change in their details has proven contentious. The risk is that small retail shareholders who often fail to respond to requests may end up committing an offence.</p> <p>Failure to enter the name of the member in the register of members in the form required does not prevent a person from becoming a member. While this means that legal title to shares in the company is not affected, the company is still committing an offence if the information is not included in the required form.</p>
Additional filing information	<p>One-off statement - membership information: Non-traded companies will be required to provide a full list of shareholders in the first confirmation statement (after an appointed date) containing the relevant information (name of member and number of shares of each class held). Certain types of traded companies are only required to provide details of shareholders holding at least 5% of any class of shares. Companies subject to DTR5 are exempt.</p>	

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	Confirmation statement - lawful activity: Companies must make a specific confirmation in the annual confirmation statement that its intended future activities are lawful.	
Statutory registers	The requirement for companies to keep a register of directors, a register of directors' residential addresses, a register of secretaries, or a register of persons with significant control (PSCs) is abolished. Instead, all of the relevant information will simply be provided to, and maintained at, Companies House (see <i>Directors</i> and <i>PSCs</i>).	Companies may wish to continue maintaining their own records for internal purposes.
General false statement offence	<p>The existing false statement criminal offence (section 1112 CA 2006) has been amended so that it will be offence for a person to deliver a false, deceptive or misleading filing or statement to the Registrar "without reasonable excuse".</p> <p>There is also a new aggravated offence where a person who delivers a document or statement knowing that the document or statement is misleading, false or deceptive in a material fact.</p>	<p>Previously, a person only commits an offence when they "knowingly or recklessly" deliver a document or statement that was false, deceptive or misleading.</p> <p>This is a lower liability standard. However, in its explanatory note, the Government notes that the "without reasonable excuse" limb is meant to ensure that a company does not commit an offence if it reasonably relies on information provided by others which turns out to be untrue, or to prevent professionals assisting companies being prosecuted from having made an honest mistake.</p>
Limited partnerships	The Act introduces wholesale reform to the limited partnership regime to improve transparency, including requirements to provide additional information relating both to a partnership and its partners (where previously, partnerships, including limited partnerships had minimal filing and notification requirements). The Act also modernises various aspects of the regime including in relation to dissolution and ability for the registrar to de-register a limited partnership (see our separate <i>briefing</i>).	<p>Given the limited filing requirements for limited partnerships, it has been reported that limited partnership structures have been widely (mis-)used to facilitate economic crime and implicated in various money-laundering scandals. The age of the limited partnership regime (contained in the Limited Partnership Act 1907) also means that many aspects of the regime are difficult to apply in modern day contexts.</p> <p>Nonetheless, the limited partnership structure remains useful and attractive in certain contexts (particularly as private funds and pension funding vehicles). The new regime will impose more administrative obligations on general partners, but certain aspects, including the ability to de-register the partnership, should be generally welcomed.</p>