

## **New company law requirements - the PSC register**

From 6 April 2016, all private UK companies must maintain a register of 'people with significant control' - the 'PSC register'. This new requirement by the Small Business, Enterprise and Employment Act 2015 applies to all private UK companies, whether limited by shares or by guarantee.

### **Charitable company requirements**

Charitable companies will need a PSC register if a person (which in this context means either an individual or an organisation) has significant control of the company, i.e. if they:-

1. have the right to exercise, or actually exercise, significant influence or control over the company:
  - 'control' will be indicated by having a right to direct the organisation's activities
  - 'significant influence' will be indicated by a person being able to ensure that the organisation generally adopts activities which that person desires
  - in neither case does the control or influence have to be exercised by a person with a view to gaining economic benefits from those policies or activities;
2. directly or indirectly have the right to appoint or remove a majority of the directors of the company;
3. directly or indirectly hold more than 25% of the voting rights in the company:
  - in the standard charitable company limited by guarantee model this will only apply to companies with three or fewer members (and will apply to any charitable companies that are subsidiaries of another organisation);
4. directly or indirectly own more than 25% of the shares in the company:
  - this applies to companies that have three or fewer shareholders (and will apply to any subsidiary trading companies);
5. have the right to exercise, or actually exercise, significant control over an organisation which is not a legal entity (e.g. a trust) which meets any of the above criteria in relation to the company:
  - if a trust has significant control of a charitable company, the person(s) with significant control of that trust will be required to go on the PSC register in relation to the company.

### **What should be included in the PSC register?**

The register must include:

- name;

- service address;
- the country or state (or part of the United Kingdom) in which the individual is usually resident;
- nationality;
- date of birth;
- usual residential address;
- the date on which the individual became a registrable person in relation to the company in question; and
- the nature of his or her control over that company.

There are a number of protections (based upon the existing regime for protecting directors' residential addresses) to ensure that the usual residential address is not accessible to the wider public.

## **Compliance**

All companies must take reasonable steps to identify people they know or suspect to have significant control, including by giving notice to persons with significant control and others to obtain information.

Companies are required to update the information if they know, or might reasonably be expected to have known, that a change to a PSC has arisen. Persons with significant control must inform the company of any changes to the information recorded.

Companies will need to provide a statement of initial significant control setting out their PSC's to Companies House on incorporation (a 'statement of initial significant control') and will have to update that information at least once every year by submitting a confirmation statement.

Anyone, including an unrelated individual or organisation, with a proper purpose can have access to the register free of charge. It is therefore very important that the register is kept up to date.

It is possible from 30 June 2016 to keep the register at Companies House. However that will mean that additional information is available for public view. Failure to comply is a criminal offence and may result in a fine and/or prison sentence of up to two years.

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