

The new PSC Regime: what you need to know

Companies are now required to maintain a register of the persons who have significant control over the company which is known as the PSC register.

Most UK companies are now required to:

- take reasonable steps to find out if there are people who have **significant control or influence over the company** (each a **PSC**);
- **contact those people**, or others who might know them, to confirm whether they meet one or more of the conditions, and, if they do, **get the relevant information** from those people, who are under an obligation to respond to such requests;
- put the information on the company's own **PSC register**;
- keep the information **up-to-date**; and
- after 30 June 2016, supply the information on its PSC register to Companies House on a **confirmation statement**, which will replace the annual return.

For the average small owner-managed company, the PSC register will require no more information than is already required to be disclosed on the annual return (i.e. the company shareholders). It is important, however, that you review the ownership and control of your company and ensure that all the necessary information is recorded in the PSC register.

This briefing is intended to summarise the key points of the new regime. More detailed information can be found by referring to the [guidance](#) issued by the Department of Business Innovation and Skills (BIS).

What is a person with significant control?

A person has significant control over a company if they meet one or more of the following conditions:

1. the person holds, directly or indirectly, more than 25% of the shares in the company;
2. the person holds, directly or indirectly, more than 25% of the voting rights in the company;
3. the person holds the right, directly or indirectly, to appoint or remove a majority of the board of directors of the company;
4. the person otherwise has the right to exercise, or actually exercises, significant influence or control over the company;

5. the person has the right to exercise, or actually exercises, significant influence or control over the activities of a trust or firm which is not a legal entity, but would itself satisfy any of the first four conditions if it were an individual.

What does significant influence or control mean?

Under conditions (4) and (5), reference is made to **significant influence** or **control**. BIS has provided statutory guidance as to the meaning of these terms.

Where a person can direct the activities of a company, trust or firm, this is indicative of **control**.

Where a person can ensure that a company, trust or firm generally adopts the activities which they desire, this is indicative of **significant influence**.

In the BIS guidance, there are a number of non-exhaustive examples of circumstances which may give rise to **significant influence** or **control**. These include:

- a person who has absolute decision rights or veto rights over decisions relating to the running of the business of the company;
- a person who is significantly involved in the management and direction of the company, such as a person who is not a member of the board, but is regularly consulted on board decisions and whose views influence decisions made by the board; and
- a person whose recommendations are always or almost always followed by shareholders who hold the majority of the voting rights in the company, when they are deciding how to vote.

Simply having the benefit minority shareholder protections such as a right to veto changes to a company's constitution or preventing dilution does not make someone a person of significant control.

There are also a number of specific roles (such as lawyers, accountants and other professional advisors) which are exempt from inclusion on the register to the extent that they fall under requirements (4) and (5) above.

Relevant legal entities

A PSC is by definition an individual, and not a legal entity. But your company might be owned or controlled by a legal entity, not an individual. A legal entity's details must be included on the PSC register if it is both **relevant** and **registrable** in relation to your company.

A legal entity is **relevant** in relation to your company if, were it an individual, it meets the criteria to be a PSC and it either keeps its own PSC register, or would need to keep its own PSC register but for a specific exclusion.

A relevant legal entity (RLE) is **registrable** in relation to your company if it is the first relevant legal entity in your company's ownership chain.

If a company is owned by a legal entity which is not both registrable and relevant (such as a non-UK company) then the company is under an obligation to consider the ownership and control of that legal entity to identify any individuals or RLE who have a 'majority stake' in that entity.

Obtaining information

When a PSC has been identified, you will need to obtain, confirm and enter the following details on the PSC register about the PSC:

- name
- date of birth
- nationality
- country, state or part of the UK where the PSC usually lives
- service address
- usual residential address
- the date when the individual became a PSC in relation to your company
- which of the five conditions for being a PSC the individual meets, with quantification of the interest where relevant
- any restrictions on disclosing the PSC's information that are in place.

Information about a PSC must be confirmed with that PSC before it is entered – typically this means that the information must be provided or approved by or on behalf of the PSC. You can also use previously confirmed information provided that you have no reason to believe that it has changed.

Non-compliance

There are potential criminal sanctions for individuals, companies, directors, PSC's or RLE's who fail to comply with the PSC obligations. In addition to this, the company has the power to disenfranchise (such as by restricting voting rights) any person who fails to respond to a request for information.

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