

Briefing Note: PSC register

Introduction

This Briefing Note provides an overview of the people with significant control (PSC) register, including key points to note and legal requirements.

This Briefing Note should not be relied upon as legal advice and you should contact us for advice on your specific circumstances.

Who must have a PSC register?

As of 6 April 2016 the following must have and keep a PSC register:

- private companies limited by shares or by guarantee;
- limited liability partnerships;
- public companies limited by shares or by guarantee, that do not fall within any exceptions: and
- unlimited companies.

This includes Community Interest Companies (CICs), Charitable Companies and companies that are dormant.

As of 26 June 2017 the PSC register no longer forms part of a company's annual Confirmation Statement. Instead a notification must be sent to Companies House as and when there is a change to one or more of the five specified conditions below using Forms PSC01 to PSC09 (depending on the type of company and its registerable PSC). We recommend you seek legal advice if you are unsure of what Form to use as once a registerable entity has been identified, a company has 14 days to update its own register and a further 14 days to file the information to Companies House.

Who is a PSC?

'People with significant control' are individuals (which can be persons, corporations, government departments, local authorities etc) or relevant legal entities (RLE's) that meet **one or more** of the five specified conditions. The specified conditions are:

1. the individual holds, directly or indirectly, $\geq 25\%$ of the company's shares;
2. the individual holds, directly or indirectly, $\geq 25\%$ of the company's voting rights;
3. the individual holds the right, directly or indirectly, to appoint a majority of the board of directors;
4. the individual has the right to exercise or actually exercises a significant influence or control over the company; and

Briefing Note

July 2017

For detailed advice on all Commercial Law matters please contact:

Mark Williams

Corporate Partner

mew@gabyhardwicke.co.uk

or

Gemma Ritchie

Associate Solicitor

gcr@gabyhardwicke.co.uk

01323 435955

Briefing Note: PSC register

5. (only applicable to trusts and limited partnerships) the individual has the right to exercise, or actually exercises, significant control or influence over the activities of a trust or firm that, in each case does not have legal personality under its governing law, where the trustees or members of that trust or firm meet any of conditions 1 to 4 above.

Company obligations under the PSC regime

A company has four main obligations under the PSC regime. These are:

- to **identify** the PSC and identify the nature of the PSC's interest;
- to **record** the details of the PSC on the company's own PSC register;
- to **provide** this information to Companies House using the appropriate Form; and
- to **update** the information on the company's own PSC register within 14 days of the relevant change and update the information at Companies House within a further 14 days.

To identify the PSC, a company must take 'reasonable steps' to identify and investigate registerable PSC's. The government has published guidance on what will constitute 'reasonable steps' and failure to take 'reasonable steps' is a criminal offence. Once the company has taken such 'reasonable steps', the company is required to send notice to anyone it knows, or has reasonable cause to believe, to be a registerable PSC seeking confirmation of the PSC's required particulars.

Details of the PSC may be kept in hard copy or electronic form and may be arranged in such manner as the directors of the company think fit. However, the government does prescribe the information that it must contain and there is official wording to be used to express the nature of the PSC's interest which may not be deviated from.

The PSC register must be available for inspection at all times. Failure to make the PSC register available for inspection is a criminal offence and it is therefore essential that the PSC register is up to date and readily available at all times. Certain information such as residential addresses is protected and shouldn't be disclosed.

What information must be on a PSC register?

The information that must be kept on a PSC register varies according to the type of person concerned. For an individual the required particulars are: name, service address, country or state of usual residence, nationality, date of birth, usual residential address, date of becoming a registerable PSC and the nature of the PSC's control.

For a RLE the required particulars are: corporate or firm name, registered or principal office, legal form and governing law, company registry and registration number (if applicable), date of becoming a registerable RLE and the nature of the RLE's control.

If an individual ceases to be a PSC, their information must remain on the register until at least ten years has passed from the date that person ceased to be a PSC.

Briefing Note: PSC register

Offences under the PSC regime

A breach of the PSC regime will generally result in criminal liability, with prison sentences of up to two years. In addition, the court may impose fines. It is therefore essential that every company required to keep a PSC register is fully aware of its obligations under the PSC regime.

If you require any further advice on this subject please contact either Mark Williams or Gemma Ritchie on 01323 435955 or by email: mew@gabyhardwicke.co.uk or gcr@gabyhardwicke.co.uk.

If you would like to know more about this topic or our other legal services, please contact:

Gaby Hardwicke Solicitors

33 The Avenue
Eastbourne
East Sussex
BN21 3YD

Tel: 01323 435955

Fax: 01323 435901

www.gabyhardwicke.co.uk