



Significant legislative changes in the UK

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Small Business Enterprises and Employment Act 2015

The above act received Royal Assent in the United Kingdom in March 2015, introducing a number of significant changes to UK company law.

Most significant changes:

- 1. Introduction of Register of persons with significant control (PSC Register)**
 - 2. Prohibition on the use of Corporate Directors for LTD companies**
 - 3. Director's general duties and responsibilities apply to shadow directors**
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1. Introduction of Register of persons with significant control (PSC Register)

- **In order to ensure transparency of controlling ownership, UK companies (with a few exceptions applying) as from 6 April 2016 must maintain a register of persons with significant control (PSCs) at the registered office address and their particulars be entered on a PSC register open to public inspection and copying.**
- **The PSC Register is to be sent to Companies House when the next Compliance Statement (the form which replaces the current Annual Return) is filed. This will be between 1 July 2016 and 30 June 2017 depending upon the return date of the company.**

Who is a PSC for companies

A PSC is an individual who meets any of the following five conditions:

- Directly or indirectly holds more than 25% of the nominal share capital of the company**
- Directly or indirectly controls more than 25% of the votes at general meetings**
- Directly or indirectly is able to control the appointment or removal of a majority of the board**
- Actually exercises, or has the right to exercise, significant influence or control over the company**
- Actually exercises, or has the right to exercise, significant influence or control over any trust or firm (which is not a legal entity) which has significant control (under one of the four conditions above) over the company**

Required particulars of registerable persons

- **Name**
- **Service address**
- **Country of residence**
- **Nationality**
- **Date of Birth**
- **Usual Residence address**
- **Date on what individual became a registerable person**
- **Nature of Control**
- **Details of any restrictions or disclosure**

All Registrable persons who knew or ought to know their status have a duty to notify their status to UK Co and supply their particulars (and also any relevant changes)

Public Access to the PSC Register

- **The PSC register must be available for inspection or copying at the registered office.**
 - **Requests for information must contain the name and purpose of the searcher.**
 - **UK company has 5 days to comply or seek a court order not to comply with the request (court must be satisfied that the search is “not a proper purpose” to order non – compliance with request).**
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Alternative method of records keeping

- **The UK company can elect to maintain PSC information in “ the central register” (due to be launched on 30/06/2016)**
- **Subscribers (new companies) or the existing company make the election.**
- **“Eligible persons” must be notified 14 days prior to the election and make no objection.**
- **during an election**
 - **a pre-existing PSC register becomes historic**
 - **third party rights to inspect or copy the historic PSC register continue**
 - **historic PSC register must advert to the existence of the Central register election**
- **UK Co maintaining its own PSC register must provide annual “snapshot” of its PSC register to the central register.**

2. Prohibition on the use of Corporate Directors for LTD companies

- **As of October 2016 all directors of a UK Ltd company have to be a physical person with certain specified exceptions which have not yet been finalized.**

3. Director's general duties of and responsibilities apply to shadow directors

- **Shadow Directors are defined as persons in accordance with whose directions or instructions the directors of the company are accustomed to act (client/beneficial owner).**
 - **Shadow Directors will now have the same legal duties and obligations as if they were directors of the company.**
 - **No regulations are yet published by the Secretary of State for the general duties of shadow directors.**
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Significant legislative changes in the BVI

BVI

The Government of the British Virgin Islands enacted the BVI Business Companies (Amendment) Act 2015.

The changes came into force on January 15, 2016 except for the changes relating to filing of register of directors, which commenced on 1 April 2016.

Most significant changes:

- 1. Filing of the Particulars of Directors**
 - 2. Financial Records and Underlying Documentation**
 - 3. AML Regime - Beneficial Ownership information and Company Profile Data**
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1. Filing of the Particulars of Directors

- **Every BVI company (new and existing) will have the obligation to file the particulars of the Directors of the Companies.**
- **The Registry will not be public and will only be available for inspection as a result of a court order or a written order from a competent BVI authority.**
- **The filing of the particulars of the Directors will begin on April 1, 2016.**
 - **Companies incorporated up to March 31, 2016 (existing companies) will have a one year period until March 31, 2017 to file the particulars of the directors.**
 - **Companies incorporated from April 1, 2016 (new companies) will have 21 day period since the date of appointment of the directors to proceed with the filing.**
 - **Any changes of director(s) shall be filed within 30 days of the relevant appointment**

Required particulars of Directors

- **Full name**
 - **Date of appointment as a director or nomination as a reserve director**
 - **Date of cessation as a director or reserve director**
 - **Address for service of documents**
 - **Residential address**
 - **Date and Place of Birth**
 - **Nationality**
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2. Financial Records and Underlying Documentation

- **Companies and Partnerships are obliged to keep records that are sufficient to show and explain the company's business or transactions. Such records will at any time enable to determine the financial position of the company with reasonable accuracy.**
 - **The company must confirm in writing to its BVI registered agent the physical address where the accounting records are kept and the name and address of the person that controls and maintains these accounting records.**
 - **Any changes in this regard have to be informed to the BVI registered agent within 14 days.**
 - **Accounting records must be maintained for a minimum of five years from the termination of a transaction.**
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3. AML Regime - Beneficial Ownership information and Company Profile Data

- **Eligible Introducers need to provide to the BVI registered agents Beneficial Ownership information for all companies they have formed on behalf of their clients.**
- **The UBO information will include:**
 - **Beneficial owner's name**
 - **Date of Birth**
 - **Residential Address**
 - **Nationality**
- **BVI registered agents need to create a Company Profile for all BVI companies to enable risk rating (activity, geographical location, source of funds)**

3. AML Regime - Beneficial Ownership information and Company Profile Data

- **BVI registered agents have the whole 2016 to collect UBO information.**
- **The transition period for collection of record keeping confirmation ends 14 January 2017.**

Significant legislative changes in Gibraltar

Gibraltar Income Tax Act 2010

Income Tax (Amendment) Act 2015

- **The Income Tax (Amendment) Act 2015 amends the Income Tax Act 2010 in a number of areas, most notably the tax filing requirements for companies.**
 - **It also contains changes to the Qualifying (Category 2) Individual Rules 2004 and the High Executive Processing Specialist Skills Rules 2008**
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Changes related to Income Tax Act 2010

- **Every Gibraltar company has to have a Tax identification Number (TIN).**
- **Previously, a Gibraltar company was only required to file a Tax Return and accounts if it had income assessable to tax in Gibraltar. Now the annual filing requirements are required for every company registered in Gibraltar even where the company has no income and the accounts will be dormant. The Income Tax Office has stated that this change will apply to accounting periods commencing on or after 1 January 2016.**
- **Companies House also now require that ALL companies file their balance sheets in order to remain in Good Standing.**

Changes related to Income Tax Act 2010

- A full and complete return must be submitted that will require the filing of audited accounts for companies with assessable income with over £1.25 million for a 12 month period for accounting periods ended on or after 1 July 2015.**
 - Companies with assessable income of less than £1.25 million must submit accounts accompanied by an Independent Accountant's Report.**
 - The deadline for the filing of Tax Returns for both points above remains unchanged at 9 months from their accounting period end.**
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Changes related to Income Tax Act 2010

- **Filing requirements of Gibraltar companies that declare dividends:**
 - **For accounting periods ending on or after 1 January 2016, every Gibraltar company (except if listed on a recognized stock exchange) that declares a dividend must file a return within nine months after the end of the accounting period in which the dividend was declared.**
 - **Gibraltar companies that declare dividends towards shareholders that are ordinarily residents in Gibraltar or to another Gibraltar company must provide these shareholders with information about the amount of tax credit and the “dividend entitlement divided” between that part paid out of profits chargeable to tax in Gibraltar and that part paid out of profits not chargeable to tax.**

Corporate Tax in Gibraltar

- **This has not changed – Income accrued in or derived from Gibraltar will attract 10% corporate tax. HOWEVER Income from elsewhere will not suffer corporation tax and a “nil” or dormant tax return may be filed.**