

Companies Act 2006 - Changes to Disclosure Obligations



Introduction

Under the provisions of the Companies Act 2006 new obligations on companies came into force on 1 January 2007 requiring them to include specified details on their websites and on electronic communications. Many companies may well be unaware of these provisions and possibly would be in breach of the new obligations. This brief note should assist in explaining what needs to be done.

Existing Requirements

Company Name

According to the Companies Act 1985 private companies and limited liability partnerships are required to disclose their company name on all of the following:

1. Business letters of the company;
2. Notices and official publications;
3. Bills of exchange, promissory notes, endorsements, cheques and orders for money or goods purporting to be signed before or on behalf of the company; and
4. Bills of parcels, invoices, receipts and letters of credit.

Company Particulars

A company's place of registration, registered number and registered office address are required to appear on all business letters and order forms.

If a company with a share capital chooses to make a reference to the amount of share capital on its business letters, or on its order forms, that reference must be to paid-up share capital. This will now apply to any electronic forms of the same documents. However, such a disclosure is rare for UK companies.

The Additional Requirements

Disclosure requirements have now been adapted to take into account the increased use of electronic communication in business.

As well as existing requirements, which remain in effect, the name of the company must appear on the company's websites and order forms, and, similarly, the specified particulars (place of registration, registered number and registered

office) must be included on all of the company's websites.

Business letters and order forms now include documents in both hard copy and electronic form. Therefore any communication sent electronically (such as emails) will also need to include the relevant information.

Insolvent Companies

Existing legislation states that when a company is being wound up, every invoice, order for goods, or business letter issued by or on behalf of the company in which the name of the company appears, must contain a statement that the company is being wound up.

In addition to the above, an insolvent company is now required to disclose this information on order forms (whether in hard-copy or electronic form) and on all of the company's websites.

Penalties for Non-Compliance

Any officer of the company who authorised the issue of the non-complying document or website could be liable for a £1000 fine.

What needs to be done next?

There are no recommendations on how information should be disclosed so long as the information is legible.

It is advisable to check that every company website contains the company's name as registered at Companies House, as well as any trading name. It is also important to ensure that any electronic templates (such as faxes and emails) contain the relevant information.

Please contact Sarah Pozner (sarah.pozner@incelaw.com) or Nick Gould (nick.gould@incelaw.com) for further information.

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