



Business Matters

Company Secretarial Duties

The Companies Act 2006 has brought many changes, including legislation relating to Company Secretary's.

Does my company require a Company Secretary?

From 6 April 2008 private limited companies could choose whether or not to have a company secretary. There is no longer the requirement for private limited companies to have a Company Secretary, although you still have the option to appoint one if you so wish. Irrespective of whether you appoint a Company Secretary or not, your company must still comply to certain statutory requirements.

Information for Companies House

As a private company, either the company secretary or the person responsible for company secretarial matters will regularly deal with Companies House. Legislation dictates that minimal information about a company must be publicly available; for example, annual accounts, registered office address and the details of the directors, the Company Secretary (if applicable) and shareholders.

What if I don't have a Company Secretary?

Correspondence that would typically be sent to the Company Secretary is sent to the company. The usual Company Secretary duties are carried out by either a director or designated person.

I would like to appoint a Company Secretary

Companies House must be notified of any changes to company directors or the secretary, including details such as their name or address.

There are various forms to be completed;
Form 288a – to notify Companies House when a new director or secretary is appointed.

Form 288b – to notify Companies House if a director or the secretary resigns

Form 288c – to notify Companies House of changes to existing directors or secretary details

Liabilities of being a Company Secretary

As a Company Secretary, you are classed as an officer of the company which means that you are criminally liable for any defaults committed by the company. This would include, for example, failure to file documents by the allowable time, change in the company's directors or secretary's details and also the company's annual return.

What duties must I undertake as a Company Secretary?

A Private Limited Company that does not have an appointed company secretary must comply with three main areas:

- Maintaining statutory registers
- Completing and filing statutory documents
- Meetings and resolutions

Maintaining statutory registers

All companies must maintain up-to-date registers of key details including:

- Register of shareholders
- Register of directors
- Register of charges

Registers must be available for inspection and include details of names, addresses, dates of directors' appointment and registration and the number and type of shares held by the shareholders. This is not an exhaustive list of the information that is required.

Completing and filing statutory forms

The company secretary's role is extended to ensure that, for example;

- Annual accounts are filed on time at Companies House

- Completion and filing of the annual return (form 363), which provides general information of the company.
- Potential completion of the 200 or so forms that the company may have to file at Companies House within specified deadlines.

Meetings and resolutions

Company law sets out procedures for conducting aspects of company business through formal meetings, where resolutions will be passed. A resolution is an agreement or decision taken by the company's directors or shareholders. The company is bound by resolutions that are passed. The company secretary would ensure that proper notice is given to those who are entitled to attend the meeting and ensure that copies of resolutions are sent to Companies House within the relevant timescale.

Notice of Company Meetings

If a private limited company holds a general meeting, 14 days notice must be given in writing, email, and, if certain conditions are met, via a website. A private limited company is no longer obliged to hold an annual general meeting, unless there is an express provision in the articles of the company.

Resolutions

Two types of resolution may be passed:

- Ordinary resolutions (passed by simple majority of shareholders)
- Special resolutions (passed by 75% majority of shareholders)

Private companies can also take a decision by written resolution, which does not require a hard copy so can be passed by email. Decisions can be made at a general meeting.

Public or Private Company with appointed Company Secretary

The company secretary needs to follow the duties set out in the Companies Act 2006 and include the duty to keep a register of directors and secretaries and the duty to notify the registrar of any changes.

How we can help

We can help and advise further if you require specific information for your business. We also offer a complete package of services to limited companies which typically include:

- Company formation
- Advising on the appropriate legal procedure to change the offices of a company, change shareholdings, amend the accounting reference date, declare dividends etc
- Acting as the company's registered office
- Advising of director's responsibilities
- Maintaining statutory registers
- Completing the necessary accounts, forms, returns and resolutions on the public record at Companies House
- Advising and assisting on the tax compliance obligations
- Dissolving the company

There are considerable tax benefits for many businesses currently trading through a limited company and most clients require assistance with the extra company law requirements of being in business as a limited company.

Howsons are well placed to advise you of all the duties required of you under company law and to assist in performing these duties.

Call our Specialists for more help

We have offices throughout Staffordshire and North Shropshire. Our specialists can help:

Stoke Office - 01782 848838

John Glover

Burslem Office – 01782 834775

Andrew Riley

Leek Office – 01538 393600

Sarah Hall, Rachel Buckland or Alastair Kennedy

To email: initialsurname@howsons.com

(N.B. When addressing the Leek office please replace .com with .net)

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Partners: James Eyre-Walker FCA
Suzanne Preston ACA FCCA
Stephen Eardley ACA FCCA
Robert Sunderland FCA
Alastair Kennedy FCA
Seaton Kennerley ACA
Mervyn Davies ACA
Andrew Riley ACA
Nick Armstrong ACA
Chris Parry ACA FCCA
Consultant: Malcolm Kerr FCA CTA

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Leek: 01538 393600
Uttoxeter: 01889 563550
Newport: 01952 813330
Burslem: 01782 834775
Market Drayton: 01630 652751
Alsager: 01270 884314

Howsons Stoke
PO Box 165
Winton House
Stoke-on-Trent
ST4 2RW

T: 01782 848838
F: 01782 744572
stoke@howsons.com
www.howsons.com