

Economic Crime and Corporate Transparency Act 2023 – what does it mean for my company?

17 November 2023

The Economic Crime and Corporate Transparency Act 2023 (**Act**) received Royal Assent on 26 October 2023. The Act is the latest in a number of recently enacted measures to tackle economic crime and increase corporate transparency. It also aims to fundamentally change the role of UK Companies House moving forward - making it less of a post-box simply receiving company information, and more of a proactive gatekeeper and custodian of robust data.

Many of the headline changes set out in the Act require further action in order to be fully implemented – for example, some require additional detail (to be set out in secondary legislation) and others require changes to Companies House operating systems and processes. The Department of Business and Trade has published numerous [Fact Sheets](#) which provide useful summaries of the Act's provisions and aims.

What are the main changes to be aware of?

For those running and operating companies in the UK, the Act will (over time) bring about the following changes:

- **Changes to how you will deal with Companies House** - to deliver documents to the Registrar on your own behalf or on behalf of someone else you will need to have your identity verified or be a registered ACSP ("authorised corporate service provider").
- **Extra information will be needed on new company incorporations and in confirmation statements** – for example, each company will need to provide a registered email address (which won't be publicly available) and give confirmation that the subscribers wish to form the company for a "lawful purpose".

Full names of subscribers must also be given, together with identity verification confirmations for directors and PSCs (see below).

Subscribers, PSCs and proposed directors will also need to confirm they have not been disqualified as directors.

There will also be a one-off confirmation statement post "go live" providing detailed membership information to the Registrar. In future, confirmation statements must also be accompanied by a statement to the Registrar that the intended future activities of the company are lawful.

- **Changes to registered offices** – for example, they need to be an "appropriate address" – being an address where a document addressed to the company and delivered (by hand or by post) would be expected to come to the attention of a person acting on behalf of the company and acknowledgment of delivery can be obtained.
- **Changes to company names** - for example, you can't register a company name which contains computer code.
- **Requiring identity verification for all company directors and PSCs (and relevant officers of RLEs)** – this covers both new incorporations/appointments and also those already in role (subject to transitional provisions). Generally, identity verification should be a one-off requirement.

Company secretaries don't automatically need to have their identity verified, however as noted above they will need to go through this process if they wish to file documents on behalf of others (which would be a typical task for a [company secretary](#)).

Two routes to identity verification are outlined:

1. An online direct route with Companies House (e.g. digital identification is uploaded, a selfie is taken and technology matches the selfie to the face shown on the identity document via automated process); or
2. Via an ACSP.

Finally on the topic of identity verification, it is expected that the long-awaited prohibition on corporate directors will also come into force at the same (or similar) time as the identity verification requirements. It is anticipated that a company will not be permitted to act as a corporate director (who must be a corporate entity with separate legal personality) unless all directors of the company seeking appointment are themselves natural persons and, prior to appointment, are subject to an appropriate identity verification process – hence why the implementation of the prohibition is likely to be linked to the go live of identity verification.

- **Some local registers will disappear** – for example, the register of directors, secretaries, directors' residential addresses and PSCs will no longer need to be legally maintained as part of a company's statutory books. Instead, this information will be provided direct to Companies House.
- **Changes some information needed for the register of members** – for example, full names of members will be required, and members must provide a service address.
- **Increased/enhanced powers for the Registrar of Companies** – for example:
 - 2.1. Power to reject documents for inconsistencies and issue notices to resolve inconsistencies;
 - 2.2. Power to require additional information; and
 - 2.3. Powers for administrative removal of material from the register.
- **Changes to accounts filings for small and micro companies** – the regime for filing accounts for companies classified as small companies or micro-entities will be modified.
- **Brings in a new “failure to prevent fraud” offence** – this is a new strict liability offence of failure to prevent fraud for large companies and partnerships (**organisations**). The offence extends liability to such large organisations when an “associate” (such as an employee, agent or person performing services for or on behalf of the organisation) commits a specified offence which is intended to benefit the organisation or any person to whom the associate provides services on behalf of the organisation. It will be punishable by an unlimited fine.

The organisation will have a defence if it can demonstrate it had reasonable procedures in place to prevent the fraud, or alternatively that it was not reasonable in all the circumstances to have such procedures in place. The Act requires the government to publish guidance in respect of “reasonable procedures” prior to bringing the offence into force.

- **Reform of the identification doctrine** – the Act also reforms the identification doctrine in respect of corporate criminal liability for economic crimes. Under section 196 of the Act, “if a senior manager of a body corporate or partnership (the organisation) acting within the actual or apparent scope of their authority commits a relevant offence after this section comes into force, the organisation is also guilty of the offence.” Previously, an organisation could only be criminally liable for misconduct committed by a more limited category of persons who were viewed as its directing mind and will. Section 196 now catches the actions of a larger group of senior executives (beyond board level) and therefore increases the risk of criminal liability for corporate organisations – especially as those persons falling within the category of senior manager is widely drafted. The extended identification doctrine is scheduled to come into force on 26 December 2023.
- **Increased levels of Companies House fees** – Companies House has said they will be increasing some of their fees from early 2024. Companies House fees are set on a cost recovery basis, so their fees must cover the costs of the services they deliver.

Practical steps to take

In order to prepare for the impact of the Act, you may wish to consider the following:

- How your filings at Companies House will be dealt with in future - bear in mind the new requirement for identity verification for anyone delivering information to Companies House.
- Anticipate identity verification requirements for all directors and PSCs – consider internal comms to make impacted individuals aware of this requirement, so they are on board with the concept for when the requirement comes in.
- Consider any existing corporate directors and whether they will be permitted going forward – are any changes to board composition desirable at this stage?

- Consider whether certain “local” company registers are still desired for internal audit or governance purposes, even when not legally required.
- Anticipate the extra information needed during the lifecycle of your companies – for example, the new requirement to have a registered email address and full name details and service addresses for members.
- The Act will change many longstanding processes that companies are familiar with – so factor in additional time when making filings to get up to speed with any changes to process. Companies House may also take a more robust approach to filings than previously, so factor in any additional time for queries.
- Consider your current fraud prevention procedures in light of the new failure to prevent fraud offence, including any training needed for staff.

When are the changes happening?

The Act will have a phased implementation programme – as noted above, many aspects will require secondary legislation and/or changes to Companies House systems and processes before they can go live. A recent Companies House blog suggests that some of the reforms to Companies House (and associated increases in Companies House fees) could come into force from early next year. We anticipate that some of the more complex changes to implement (e.g. identity verification) will take several months longer – but it is advisable to consider how the changes will impact the operation of your company sooner rather than later.

For more information about how we can help, visit our [company secretarial](#) services page.

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