



Companies Act Update 2006

Home addresses

As you are no doubt aware, the final phase of the Companies Act 2006 came into force on 1 October 2009.

Directors can now take steps to ensure that their home address is removed, so far as possible, from information that is publicly available through both Companies House and their company via the Register of Directors. To date, such protection has only been afforded to those directors who are at serious risk of violence or intimidation as a result of the activities of one or more of the companies with which they are involved.

The changes are as follows:-

- Directors can now give notice to the company and Companies House that they want an address other than their home address recorded in the company's Register of Directors and at Companies House. This "service address" can be "the company's registered office" or another address, provided that it is a physical location where the delivery of documents can be acknowledged (it cannot be a PO Box or a DX number, for example).
- Unless and until any such notice is filed, the director's home address will be treated as his "service address" both by the company and Companies House.
- All companies, regardless of when they were incorporated, will be required to maintain a new register, the Register of Directors' Residential Addresses, in which the company maintains a record of the home addresses of its directors. Importantly, this register will not be open to public inspection. If the director's home address is the same as his service address, all that is required is an entry to that effect.
- Directors must notify both Companies House and their company of any change to either their home or service address (if different to their home address).
- However, any information as to a director's home address (or information that a director's service address is the same as his home address) now constitutes "protected information".

- Ordinarily, both the company and Companies House will need to obtain a Court order before disclosing protected information (directors will have to be notified of any application to Court).
- However, Companies House can disclose protected information to certain public authorities (such as the security and intelligence agencies, the Serious Fraud Office and HMRC) or to credit reference agencies without obtaining a Court order provided that fairly stringent conditions on the use and disclosure of that information are complied with.

The major flaw in the new regime, however, is that there is no requirement on Companies House to remove a director's home address from publicly available information that has already been filed at Companies House – for example, annual returns and returns of allotment of shares. The reason, quite simply, is a lack of resource at Companies House. Therefore, directors need to be aware that even if they do file a service address, although those trying to obtain their home address from Companies House will have a much more difficult task on their hands, they are not guaranteed absolute confidentiality.

Having said that, it remains possible for directors, who are at serious risk of violence or intimidation as a result of the activities of one or more of the companies with which they are involved, to obtain a Court order requiring Companies House to remove their address from all publicly available information at Companies House (directors who already have the benefit of a confidentiality order under the Companies Act 1985 will continue to receive this protection).

Another beneficial change, at least for some, is that those directors who are or were formerly employees of the security and intelligence agencies or the Police can now seek a Court order requiring Companies House to remove their home address from all publicly available information, irrespective of whether they can show that they are at serious risk of violence or intimidation.

However, in all cases, a director cannot get Companies House to remove his home address from any publicly available information that was filed before 1 October 2003. The reason is that this information is stored non-electronically (including on microfiche), which makes it impossible to remove the protected information without serious risk of damage to the integrity of the public record.

Finally, it should be noted that new provisions come into force today that will also enable company secretaries and members of LLPs to take steps to obtain some degree of protection in terms of the disclosure of their home addresses. Further, the changes to the requirements regarding the disclosure of shareholders' home addresses in annual returns that came into force on 1 October 2008 are also being continued. However, again, the changes are not retrospective and therefore do not guarantee absolute confidentiality. However, as for directors, those who are at serious risk of violence or intimidation or who are or were employees of the security and intelligence agencies or the Police can take steps to obtain a Court order to force Companies House to remove their home address from all publicly available information filed on or after 1 October 2003.

Contact us

If you are interested in taking advantage of the above changes and would like Berryman's assistance, please contact:

Duncan James

DD 0845 310 7252

E duncan.james@berryman.co.uk

Patrick Billyeald

DD 0845 310 7192

E patrick.billyeald@berryman.co.uk

Roger Harcourt

DD 0845 310 5529

E roger.harcourt@berryman.co.uk

Tom Gray

DD 0845 310 7284

E tom.gray@berryman.co.uk

Berryman Park House Friar Lane Nottingham NG1 6DN

DX 10004 Nottm 1 **T** 0115 945 3700 **F** 0115 948 0234

W www.berryman.co.uk

DISCLAIMER OF LIABILITY FOR CONTENT

The above article is intended to provide general information only and is not to be treated or relied upon as specific legal or commercial advice. Specific professional legal advice should be taken before any course of action is pursued in relation to the information contained in the article. We make no representations or warranties of any kind with respect to the accuracy, completeness, or suitability for any purpose of the article and the information contained in it. We expressly exclude all liability for any loss or damage howsoever arising from the information contained in this article to the fullest extent permitted by law. The copyright in the above article is owned by Berryman Shacklock LLP. Any copying or adaptation of the article without prior consent of the copyright owner is prohibited.