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PRACTICE NOTE

NMVPN6/2014 **Date: 7th Jan 2014**

The Companies Act 2006

Filing Details of Directors and Members

This Practice Note replaces NMVPN6/2011 "Filing Details of Directors and Members" issued on 1st April 2011.

Introduction

NOTE:- This Practice Note is issued by the Department of Economic Development in its capacity as Registrar of Companies under the Companies Act 2006 ("the Act"). All references, unless specifically stated, are to that Act only.

Copies of Acts of Tynwald dealt with by the Companies Registry can be found on the following website administered by the Attorney General:

http://www.legislation.gov.im/cms/index.php

This practice note sets out the procedures whereby a company can register details of its directors and/or members with the Department under the provisions of sections 203 and 204 of the Act. It does **NOT** address any other rights or powers granted to, or obligations imposed upon, a company's directors or members. The Department will not give advice on such matters, and it is your responsibility to understand and appreciate them before accepting the role.

This practice note is intended as a general guide only and must be read in conjunction with the relevant legislation. It has no legal status and should not be relied upon as a substitute for legal advice.

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1. Directors

1.1 **Incorporation**

1.1.1. There is no provision for a company to notify us of the details of the first directors of the company as part of the application for incorporation. It is the responsibility of the company's members to appoint one or more directors within one month after incorporation. The directors can be individuals or companies, but please note that a corporate director must be the holder of a CSP licence or a subsidiary of such a licenceholder.

1.1.2. The company must keep a register of directors containing the following information on each director:-

- name and business or residential address
- date of appointment
- date of cessation

1.2 **Filing a copy of the register and any changes**

1.2.1. After incorporation, a company may, under section 204(1) of the Act, elect at any time to file a copy of the register of directors. If the company does not elect to file a copy of the register, it is not required to notify us of any changes in the directors at the time they occur.

1.2.2 **PLEASE NOTE:-** If the company does elect under section 204(1), it will need to file a complete copy of the register with all the recorded details since incorporation.

1.2.3. Once the company has made an election under section 204(1), it must register any changes in the details given within one month from the date of any change. Any change must be notified to us on Form IM12. A change will not be accepted for registration unless a copy of the register has previously been filed.

1.3 **Annual Return**

Even if a company has not elected to file a copy of the register, it must still provide information about its directors on each annual return. The annual return must include details of the names and addresses of the directors in office during the previous year, together any dates of appointment or resignation of those directors.

1.4 **Ceasing to file changes**

A company may elect to cease to file details of any changes by submitting Form IM13 with us. From that point onwards, the company is not required to tell us of any changes at the time that they occur. However, there is still the obligation to give full details on each subsequent annual return filed with us.

1.5 If the Department refuses to accept any document for registration, you have, under section 208(4) of the Act, the right of appeal to the Isle of Man High Court of Justice against such refusal.

2. Members

2.1 **Incorporation**

2.1.1. The memorandum filed must state the name and the residential or business address of each subscriber, and, if the company has a share capital, the number of shares taken.

2.1.2. The company must keep a register of members containing the following information on each member:-

- name and business or residential address
- if the company has a share capital, the number and class of shares held
- the date the name was entered in the register
- the date of ceasing to be a member

2.2 **Filing a copy of the register and any changes**

2.2.1. After incorporation, a company, under section 203(1) of the Act, may elect to file a copy of the register of members. If the company does not elect to file a copy of its register of members, it is not required to notify us of any changes in the members.

2.2.2 **PLEASE NOTE:-** If the company does elect under section 203(1), it will need to file a complete copy of the register with all the recorded details since incorporation.

2.2.3. Once the company has made an election under section 203(1), it must register any changes in the details given within one month from the date of any change. Any change must be notified to us on Form IM10. A change will not be accepted for registration unless a copy of the register has previously been filed.

2.3 **Annual Return**

The annual return contains no details about the company's share capital or members, so if the company does not elect to file a copy of its register of members, there will be no information held on the public record.

2.4 **Ceasing to file changes**

A company may elect not to continue to file details of any changes by submitting Form IM11 with us. From that point onwards, the company is not required to tell us of any changes at the time that they occur.

2.5 If the Department refuses to accept any document for registration, you have, under section 208(4) of the Act, the right of appeal to the Isle of Man High Court of Justice against such refusal.

3. Fees payable

3.1 No fee is payable on the filing of a copy of the register of directors or the register of members, or on the notice of ceasing to file changes in those registers.

3.2 A late filing fee is payable if an election has been made and a change in the register of directors or members is not filed within one month from the date of the change.

The late fee is calculated as follows:-
Length of delay, measured from when the document is due

1 month and one day to 3 months	**£100**
More than 3 months and one day	**£250**

4. FURTHER INFORMATION

Our staff will willingly answer general queries by telephone or e-mail but cannot give legal advice. If you require such advice you should consult an Advocate. The telephone number for the Companies Registry is: 01624 689389 and the e-mail address is: companies@gov.im

Statutory forms and practice notes are available free of charge from the website: www.companiesregistry.gov.im .

Forms can also be obtained from legal stationers, accountants, advocates and Corporate Service Providers whose addresses can be found in the business section of the telephone book or at: www.manx-ads.com

A list of Licenceholders is available on the Isle of Man Financial Supervision Commission's website at www.fsc.gov.im / Licenceholders.

Details of Isle of Man Advocates are available from the Isle of Man Law Society at:

Isle of Man Law Society
27 Hope Street
Douglas
Isle of Man
IM1 1AR

Tel: (01624) 662910 Fax: (01624) 679232
E-mail: iomlawsoc@advsys.co.uk http://www.iomlawsociety.co.im/index.htm

Documents may be submitted at any time during office hours (9.00am to 4.30pm Monday to Thursday and 9.15am to 4.30pm on Friday) 'over the counter' in the Companies Registry.

Submission may also be effected by post or after office hours by way of the letterbox to the left of the main staff entrance in Hill Street. Presenters requiring acknowledgement of receipt of a document should provide a stamped self-addressed envelope.

The Companies Registry will remain closed on the first Wednesday of each month until 11.00 hrs for staff training. Documents can still be left in the letterbox.

For the purpose of determining the date of submission of a document, documents submitted after 4.30 p.m. on any working day (Day 1) but before 9.00 a.m. on the following working day (Day 2), will be treated as having been submitted on Day 1. For the avoidance of doubt, documents submitted before 9.00 a.m. on the day immediately following a weekend or Bank Holiday will be treated as having been submitted on the last working day prior to the weekend or Bank Holiday.

However, section 208(3) of the Companies Act 2006 states that a document which is not accepted for registration and has been rejected under the provisions of section 208(1), will not be considered to have been submitted at all.

It is the responsibility of presenters to ensure that documents arrive in the Companies Registry within the filing periods prescribed.

We are aware that post can on occasion be delayed. However presenters should be aware of that and post documents in plenty of time. The Companies Registry cannot operate a system which allows for such delays as to do so would simply amount to an extension to the filing periods set down by law.

Please note: The Department does not currently accept statutory documents by fax or E-Mail.