



PRACTICE NOTE

PN17/2014

Date: 7th Jan 2014

Information for new officers - Document Filing Obligations in the Companies Registry as required by the Companies Acts 1931 – 2004

This practice note sets out the requirements for filing in the Companies Registry the more common statutory documents prescribed under the Companies Acts 1931 - 2004. Such duties are mainly, but not exclusively, the responsibility of the directors of a company.

Failure to register a document within its prescribed filing period leads to the payment of a late filing fee, can lead to the prosecution of a company and/or its officers and may leave a company open to removal from the register. In certain cases, the Companies Registry is unable to accept a document for registration outside its filing period and this could have serious consequences for a company. This handout is intended as a general guide only and must be read in conjunction with the relevant legislation. It should not be relied upon and should not be used as a substitute for legal advice.

This practice note does **NOT** cover every prescribed document under the Companies Acts. If you are in any doubt as to your wider duties and obligations under the Acts, or whether you should be filing a form, you should seek advice from your lawyer, accountant or other professional adviser.

Annual Return

WARNING – Do not confuse this Annual Return with any other form of annual or periodic return or statement, such as a tax or VAT return, which you are obliged to submit to any other Government Department.

Every company, whether trading or not, is required to file an annual return each year. For most companies, the annual return is dated on the anniversary of its incorporation. For companies incorporated before 1993 the return date is different but still remains on the same date each year. The return also includes a declaration as to whether or not the company has prepared accounts and/or kept accounting records. You do **NOT** need to submit the accounts themselves unless the company is (a) a public company, (b) a subsidiary of a Manx public company or (c) liable to file accounts under the Timeshare Act. There is a registration fee of **£380** payable when you submit the return unless the company claims exception from the fee. It has a filing period of one month and late fees are payable in excess of this period.

NOTE – Failure to file the annual return can result in the company being struck off the register. This can have serious financial and legal implications.

Change in Details of Directors and/or Secretaries – Form 9N

Whenever a director or secretary is appointed or resigns, and whenever a change such as the name, address, or nationality occurs in the details of an existing director or secretary, you must submit Form 9N within one month from the date of the change. The form requires you to list the change(s) and the date(s) and requires any new person appointed to consent in writing to his appointment. Late fees are payable if the form is not submitted in time.

Change of Registered Office – Form 4

If your company changes its registered office, you must file Form 4 within one month of the change. Late fees are payable if the form is not submitted in time.

NOTE – Notices and other official documents are liable to be sent to the registered office as stated on our records. If you do not tell us about a change, you may not become aware of important information regarding your company. This may result in your company being struck off the register or you may suffer serious financial or legal consequences.

Increasing the Capital or Allotting Shares – Forms 10 & 45

If you increase the nominal share capital of your company or issue new shares, then you are required to file a Form 10 in the first case and a Form 45 in the latter. **With effect from 7th January 2014 Capital duty is no longer payable on the Form 10.** There is no standard registration fee payable on either form. Both these documents have a one month filing period and late fees are payable if not submitted in time.

Resolutions

Certified copies of certain types of resolutions passed **by the company (shareholders)** are required to be filed with us. There is a filing period of one month for all resolutions and no standard filing fee is payable. Late fees are payable if not submitted in time.

NOTE – You are not required to file with us any resolutions passed at a meeting of the company's directors. Care should be exercised to ensure that when you wish to pass a resolution, you are aware whether such a resolution ought to be passed at a directors' meeting or a shareholders' meeting. The Companies Acts and your Articles of Association will specify the type of meeting at which a particular type of resolution may be passed.

Mortgages and Charges

In general terms, if your company creates a document which secures any of its assets to another party, then details of that document must be filed with us within one month. The type of prescribed form to be used will depend on the type of charge created. Any person interested in the charge has the right to file details of it with us.

NOTE – We cannot accept registration of the charge if it is submitted outside the filing period. In those circumstances, you will need to obtain an Order from the Isle of Man High Court of Justice extending the time for registration. Failure to register a charge altogether makes that charge void against the liquidator and any creditor of the company.

Further information

Details about all the fees payable in the Companies Registry are obtainable from the website www.gov.im/categories/business-and-industries/companies-registry. Payment of fees can be made in cash or by cheque made payable to "Isle of Man Government". We regret that we cannot accept cheques drawn on an account outside the Isle of Man or the U.K. Statutory forms and practice notes are also available free of charge from our website. 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

If you are a CSP, Advocate or other professional incorporating a company on behalf of a client who intends managing the company themselves, please ensure they are provided with a copy of this Practice Note.

COMPANIES REGISTRY

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