

What voluntary and community organisations need to know about...

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The Companies Act 2006

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Introduction

The law that governs companies has been revised. The new Companies Act 2006 supersedes the 1985 Companies Act. It was brought into force in stages, with the final phase implemented on 1 October 2009.

Many of the changes have been designed to simplify the governance of smaller companies and provide greater accountability and flexibility.

Many charities and charitable organisations opt to register as private companies limited by guarantee, primarily to provide a recognised legal structure for the organisation. They do this particularly if there is a possibility of entering into some type of contract or lease, and to provide some limitation of liability for trustees.

For further information
www.companieshouse.gov.uk

The changes you should know about

Setting up a new company

It is now much easier to set up a new company. A new 18 page form (IN01: Application To Register A Company) is the only form you need to register a new company. The cost of registering is £20.

Memorandum and articles of association

New memoranda will now only include the name and signatures of subscribers and a statement of their wish to form a new company. The company's objects and liabilities will be included in the articles of association. This will make new governing documents shorter and easier to understand. Existing companies will be permitted to adopt the new model articles in whole or in part.

Abolition of AGMs

Private companies are no longer required to hold annual general meetings, although they can elect to provide for them in their articles if they wish. If your governing document currently provides for an AGM, you would need to change it by special resolution. You can also reduce the notice period for AGMs from 21 to 14 days.

Company secretaries

A private company no longer needs to appoint a company secretary, but may do so if it wishes.

Written resolutions

The requirement for unanimous decisions in written resolutions has been abolished and the required majority is similar to that for general meetings: a simple majority of eligible votes for ordinary resolutions, or 75% for special resolutions.

Keeping minutes

You must keep minutes of board meetings for 10 years.

Directors

Addresses protected from disclosure

Every director must file a residential address (their home address) and a service address. The service address can be the same as the residential address, the company's registered office address or somewhere different. The service address will be on the public record. The residential address is held on a private register only available to predetermined organisations.

General duties

The new Act also introduces a statutory code of general duties for directors. These new duties apply only to the directors of charitable companies.

These duties are to:

- act within the company's powers
- promote the success of the company
- exercise reasonable care, skill and diligence
- exercise independent judgment
- not accept benefits from third parties
- declare any interest in proposed transactions or arrangements with the company
- avoid conflicts of interest.

Accounts and fines

Filing accounts

Private companies now only have nine months to file their accounts, one month less than previously. This applies to accounting periods beginning on or after 6 April 2008. The penalty for late filing can be as much as £1500.

Additional information

Age limits

You must be 16 years old or over to act as a company director.

ICT

The 2006 Act enables companies to make greater use of electronic methods for communications with members/shareholders.

Local development & support agencies

www.mvda.info
www.rcvda.org.uk
www.srcga.co.uk
www.teesvalleyrcc.org.uk