PEOPLE WITH SIGNIFICANT CONTROL (PSCs)

CRO®

All UK companies and LLPs must maintain a Register of People with Significant Control (PSC Register) which, along with other statutory registers must be made available to public inspection upon request

Introduced in April 2016, PSC legislation constitutes one of the most important and complex pieces of new company law introduced in the UK for many years and you should seriously consider engaging CRO to manage your company secretarial matters if you have any concerns over how to apply these rules.

Effects of PSC legislation

The legislation is designed to improve the transparency of corporate ownership for UK registered companies. It encompasses all companies incorporated under the Companies Act 2006, hence it applies to private and public companies, LLPs, companies limited by guarantee (whether or not registered with the Charity Commission) and Community Interest Companies.

A major effect of this relatively new regime will be that it will clearly become virtually impossible to maintain any degree of secrecy behind the ownership of shares where a shareholder owns over 25% of the capital of a company, and failure to disclose PSC details is a criminal offence.

Definition of People with Significant Control

A PSC is an individual who meets one or more of the following conditions:

(i) an individual who holds more than 25% of shares in the company
(ii) an individual who holds more than 25% of voting rights in the company
(iii) an individual who holds the right to appoint or remove the majority of the board of directors of the company
(iv) an individual who has the right to exercise, or actually exercises, significant influence or control over the company
(v) where a trust or firm would satisfy one of the first four conditions if it were an individual, any individual holding the right to exercise, or actually exercising, significant influence or control over the activities of that trust or firm.

Application of the Legislation

The legislation relating to PSCs is particularly complex and is not reproduced here in detail. The following notes are a selection of important issues to consider:

- The PSC register must never be empty. There are a series of prescribed statutory statements that may be entered
- No person must be entered on the PSC register unless the information is actively confirmed as correct and in date
- There are specific rules governing how to record PSC information in statutory registers
- It is possible for a company to have no PSCs
- A PSC can be a corporate entity if the entity itself maintains a PSC register
- Where shares are held by a corporate entity that does not maintain a PSC register then reasonable steps must be taken to identify the named individual who is the ultimate beneficiary of the shareholdings regardless of the size or complexity of the structure behind the shareholding in question
- If it is not possible to identify a PSC there is prescribed wording to be entered into the register. The company must be able to show that it has taken reasonable steps to identify the PSC
- The legislation provides for the ability to suppress the identity of a PSC where there are exceptional circumstances that may lead to a serious risk of violence or intimidation of an individual
- The legislation applies equally to LLPs and companies limited by guarantee where reference to shares, voting rights and the right to remove directors are all replaced by appropriate alternative wording
- The legislation does not currently extend to co-operative societies, community benefit societies and charitable incorporated associations. It does, however, apply to Community Interest Companies, and companies limited by guarantee that are registered charities

Important: These notes do not constitute a full and complete guide but give a brief overview of a complex subject. We will provide further guidance on request and if doubt you can contact us for further guidance.

Company Registrations Online Ltd
Carpenter Court, Maple Road, Bramhall, Stockport, Cheshire SK7 2DH
T: +44 0161 440 8884 | E: info@companyregistrations.co.uk

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