New register of significant shareholders for private companies

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Paul McGrath
PARTNER | UK

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As one of its final acts before dissolution of Parliament, the Government has enacted legislation to force private companies to keep a register of people having 'significant control' over them. This register will be in addition to the register of shareholders and will be available for public inspection. The same information will need to be supplied to Companies House on an annual basis.

Companies will need to look behind the identity of shareholders who are themselves companies, trustees or nominees and work out who has significant control or influence over the company.

Anyone who directly or indirectly owns more than 25% of a company's shares or controls more than 25% of the company's voting rights will be treated as having 'significant control,' as will anyone who is able, directly or indirectly, to appoint or remove a majority of the directors. The Secretary of State for Business, Innovation and Skills will be able to issue further binding guidance as to what else will constitute significant control or influence.

It will be possible in very limited circumstances to protect certain information from public disclosure, but this is likely to be where disclosure would create a serious risk of harm (such as details of investors in a company involved in animal testing).

A company that fails to comply with the new regime can be fined and its directors can be fined or imprisoned for up to two years. A shareholder or someone who exercises significant control who fails to supply this information or supplies false information can also face a fine or imprisonment.

As currently drafted, the Act does not apply to limited liability partnerships ('LLPs'). LLPs have been on the receiving end of some adverse tax legislation recently, so this is a small but welcome relief. However, the original Government proposal did extend to LLPs, so it cannot be assumed that they will remain exempt forever.

The Act may impact entrepreneurs in a number of ways. Obviously, it is an additional administrative burden which must be dealt with. It may also affect the willingness of some angel investors to invest: private investors can be reluctant to make public the fact of their investment and sometimes maintain their privacy through the use of nominee companies, which hold shares on their behalf. Under the new regime, if they want to preserve their privacy, they may have to take a smaller percentage interest in a company.

Authors

Paul McGrath

PARTNER | LONDON

Corporate

+44 20 7597 6156

paul.mcgrath@withersworldwide.com