The draft of the *Small Business, Enterprise and Employment Bill* has recently been published after the committee stages in the House of Lords.

As it stands the proposed legislation makes some significant changes to company law and procedure. The aim of the Bill is to promote greater transparency and accountability in companies. So the following summary represents proposals at this stage, but likely nonetheless to be made law:

**Register of People with Significant Control**
Companies will need to keep a new statutory register - a register of people with significant control ("PSC Register"). This will contain the details of all individuals or companies who possess control over a company. Companies will have to investigate, find and disclose the particulars of those who have significant control. There is a corresponding obligation of disclosure on the persons themselves.

The definition of “significant control” means having ownership of 25% of the shares, or voting rights, or the power to appoint or remove directors or the right to exercise significant influence over the company. The last definition is a “catch-all” the practical extent of which is unclear.

Persons who fail to disclose their interests in a company may face sanctions. These include the inability to transfer interests to another party and forfeiture of any payments from the company. Officers of a company which fails to investigate and disclose persons of significant control of the company also commit an offence and can in theory at least be imprisoned or fined.

**New Company Filing Requirements**
The new Bill will also change the filing requirements that the *Companies Act 2006* places on a company. There will no longer be an obligation to file an annual return. Rather, companies are to file a “confirmation statement.” In a confirmation statement the company confirms that the company has provided
all the required information for the specified period of time such as any changes to the board, shareholders or location of the PSC Register.

The confirmation statement is very similar to the annual return but there is a key difference in that it can be filed at any time in a 12 month period. This will give greater flexibility to companies than under the current system.

**Directors Disqualifications**
The Bill will also make amendments to the *Companies Directors Disqualification Act 1986* and add new grounds of disqualification for directors of UK companies. Directors of overseas companies who committed an offence in relation to company law or in relation to the receivership of a company’s property overseas will be disqualified from being a director of a UK company. Further, any person who exercised influence over a director of an overseas company in committing the offence will also be disqualified in the UK.

**Corporate Directors and Shadow Directors**
Under the new Bill, corporate directors, i.e. having a company on the board of another company, will be prohibited and in future cannot be appointed to the board of a company. Any current corporate directors will cease to be directors within 12 months of the new legislation taking effect.

Corporate directors are common in many companies and the new legislation will require the reallocation of responsibilities and directors duties and the reorganisation of a company’s board of directors. This may also involve an administrative burden on a company to remove and appoint directors.

In addition to the ban on corporate directors, the new Bill also places director’s duties and liabilities on “shadow directors.” Under the new Bill the statutory duties of directors will also apply to shadow directors where capable of applying.

**Payment Provisions**
The new Bill heralds subsequent secondary legislation which could impose new obligations on companies to report their payment practices.

These draft Regulations would require companies to publish on their website a quarterly payment report. This would contain, amongst other things, the average number of days within which invoices were paid, the percentage of invoices not paid within their period for payment and the percentage of
invoices paid after 30, 60 and 120 days. Non compliance (that is with the publication of these statistics as opposed to timely payment!) would constitute an offence punishable by a fine. However, the regulations do not place a statutory obligation to pay on time. The keeping of the relevant records is likely to add costly administrative burdens to large businesses.

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