

# THE ECONOMIC CRIME AND CORPORATE TRANSPARENCY ACT 2023: GET YOUR HOUSE IN ORDER



GOVERNANCE & SUSTAINABILITY

Part of the Horizon Scanning series

After a lengthy period of scrutiny as the Bill made its way through Parliament, the Economic Crime and Corporate Transparency Bill finally received Royal Assent on 26 October 2023, becoming the **Economic Crime and Corporate Transparency Act 2023** (the “Act”).

The Act is very wide-ranging and includes significant reform to the limited partnership regime and the **corporate criminal liability regime**. This briefing focuses on the measures relating to changes to the company administration regime under the Companies Act 2006 (“CA 2006”).

## Key measures

The Act will result in various changes to the company incorporation and administration regime as part of the drive to improve corporate transparency and tackle the abuse of the UK companies regime to facilitate economic crime. Key measures include the following:

**Enhanced powers of the Registrar:** The Act will transform the role of Companies House by granting the Registrar of Companies significantly increased powers to query and reject information filed at Companies House and in some instances, remove material from the register. In effect, Companies House will no longer be a passive repository of information; instead the Registrar will take on a more active role in ensuring the quality and integrity of the information relating to companies and other entities that is held at Companies House. The Registrar may also require a person to provide additional information in connection with a filing.

**Identity verification:** The Act will require the verification of the identities of all proposed and existing directors, as well as persons with significant control (PSCs). It will be an offence for a person to act as a director without having had their identity verified (although this does not affect the validity of their appointment nor their taking of actions as a director). Directors who act while unverified will also be liable to disqualification under the directors’ disqualification regime. Persons (including company secretaries) who file documents on behalf of a company must also have their identities verified.

**Company filing regime:** Only officers or employees of a company and (if an individual) whose identities have been verified or authorised corporate service providers can file documents with Companies House.

**Changes to the company administration regime:** Amongst other things, companies will need to have, and maintain, a registered office at an “appropriate” address, as well as an

“appropriate” registered email address where it is expected that correspondence sent by the Registrar would come to the attention of a person acting on behalf of the company. A number of additional confirmations are required to be given both on incorporation of a company and in the annual confirmation statements provided by a company.

**Statutory registers and register of members:** Most statutory registers (including register of directors, register of secretaries and the PSC register) other than a register of members will be abolished. Instead, those records will be maintained at Companies House. Information (name and address) relating to members will need to be included in the register of members in a specified form. With the abolition of certain registers, the onus is much more on companies to notify Companies House of any changes to the details of directors and PSCs. It will be an offence for an individual to act as a director unless their appointment has been notified to Companies House within the statutory deadline.

**This table** sets out in more detail an overview of the key corporate measures introduced by the Act and provides some commentary on the implications of certain measures.

## Timing

Implementation of many of the measures will require further secondary legislation which is expected over the next 12-24 months. In addition, Companies House will require substantial operational reform to be able to fulfil their significantly increased role (including new systems to facilitate identity verification). Certain obligations will also have an additional six-month transitional period from when the relevant provision comes into force before applying. Accordingly, there is a lead time before many of the measures take effect. The Government has committed to publishing a timeline for implementation shortly.

Nonetheless, Companies House has already **announced** that certain measures that do not require secondary legislation are expected to come into force in early 2024 - including provisions relating to the Registrar’s enhanced powers to query information, requirements for companies to maintain a registered office at an “appropriate address” and a registered email address, as well as the stronger checks on company names and confirmations required on incorporation.

Companies will need to do a significant amount of housekeeping and ensure their internal processes are ready for the new regime.

## NEXT STEPS FOR COMPANY SECRETARIES/ COSEC TEAMS

- Details of the verification process have not been confirmed. Once regulations relating to the process have been finalised, company secretaries and other individuals who file on behalf of the company will need to have their identities verified in order to make company filings. Individuals who file on behalf of companies will also need to familiarise themselves with any new filing systems and forms put in place under the new regime.
- Companies will also need to make their existing directors and PSCs/RLEs aware of the identity verification requirements and have in place relevant systems to manage the process of ensuring that their directors are verified. Individual directors and officers may need to personally complete the verification process (given that it is envisaged that verification will entail a digital process involving face ID) and so will need to ensure they have the relevant documentation to hand. For certain directors (which may include overseas directors) for whom the digital process is not available, the process may be more involved and more documentation may be required.
- Organisations, particularly those with larger group structures, which may be involved in periodic group re-organisations or in incorporating new group subsidiaries, should familiarise themselves with changes to the incorporation regime, including the stricter company names regime.
- In light of the Registrar’s powers to query and reject information for inconsistencies with existing information, companies may want to check their internal records against information held at Companies House. It may be possible to mitigate risks to an extent by making filings to correct inaccurate information.
- Companies will need to ensure that their registered office is at an “appropriate” address according to the criteria set out in the Act. Companies will also need to ensure it maintains a registered email address that is adequately monitored.
- In advance of the abolition of the registers of directors, directors’ residential addresses, secretaries and PSCs, companies may want to ensure that all filings at Companies House are kept up to date. CoSec teams may want to consider whether, in any event, they still wish to maintain internal records following the abolition of these statutory registers.
- Companies should familiarise themselves with changes related to the register of members and ensure that the register includes the members’ name in the correct format, records the date of any change in this information, and any historical information.

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