



## The Companies Act 2006: the early 2007 changes

Some of the first changes to UK company law to be introduced by the Companies Act 2006 (the “**2006 Act**”) will apply from early in 2007. This alert summarises the key provisions of the 2006 Act that will come into force on **20 January 2007** and **6 April 2007**, and those of the Companies Act 1985 (the “**1985 Act**”) that will be repealed on those dates. The changes made on 1 January 2007 were summarised in our recent Corporate Legal Alert “New disclosure requirements for companies”.

### The 20 January 2007 changes

The following changes will apply from 20 January 2007:

- **company communications:** new rules will apply to communications that are authorised or required by the 1985 Act or the 2006 Act and are made between the company and its members, debt security holders and others. These rules will permit companies to send or supply documents by making them available on a corporate website, subject to meeting various statutory requirements. The 1985 Act provisions which facilitated the use of electronic and website communications in some contexts (e.g. sending notices of meetings) will be repealed. Companies should note in particular that a provision will come into force which has the effect that a company will be deemed to have agreed to receive documents relating to meetings or proxies electronically if it gives an electronic address in a notice calling a meeting or in a proxy form or instruction to appoint a proxy;
- **liability regime for reports:** directors will be protected from civil liability to third parties for untrue or misleading statements in, or omissions from, directors’ reports, directors’ remuneration reports and summaries of those reports which are first sent to members (and others) on or after 20 January 2007;
- **investigating share interests:** the 1985 Act provisions governing a public company’s investigation into persons who have or had an interest in its shares will be repealed and replaced with provisions in the 2006 Act. The 2006 Act provisions contain only minor differences from the 1985 Act provisions, and will not apply to a notice issued by a public company before 20 January 2007;
- **major shareholding notifications:** new major shareholding notification requirements will be set out in the FSA’s Disclosure and Transparency Rules and these will apply from 20 January 2007. The current 1985 Act requirements will be repealed; and
- **secondary legislation:** all legislative powers to make secondary legislation under the 2006 Act will come into force.

## The 6 April 2007 changes

The following changes will apply from 6 April 2007:

- **directors' age limit:** the restrictions on public companies and subsidiaries of public companies appointing a director who is 70 years old or more will be removed;
- **directors:** the following 1985 Act provisions relating to directors will be repealed:
  - the prohibition on a company paying a director remuneration free of income tax;
  - the prohibition on a director of a listed company dealing in options over its shares;
  - a director's duty to notify interests in shareholdings to his or her company and the company's obligation to record those interests in a register; and
  - a banking company's obligation to keep a register of copies of certain transactions with its directors (e.g. loans) and make details of those transactions available to shareholders in the form of a statement;
- **periodical statements:** the 1985 Act requirement for certain financial services companies to publish a periodical statement every February and August relating to their share capital and liabilities will be removed;
- **authenticating documents:** the 1985 Act provision about authentication of documents by a company will be repealed. The 2006 Act does not re-enact that provision; and
- **amendment to the Enterprise Act 2002:** Part 9 of the Enterprise Act 2002 will be amended to enable public authorities, in certain circumstances, to disclose information where the information is to be used in civil proceedings or otherwise for the purpose of establishing, enforcing or defending legal rights. The amendment is intended to help consumers and holders of intellectual property rights that are being infringed.

Margaret Hodge made a statement in the House of Commons on 18 December 2006 in which she said that on 6 April 2007 she also intended to commence the part of the 2006 Act that deals with takeovers (thereby repealing the interim regulations that were made last year to comply with the EU Takeovers Directive) and to repeal the 1985 Act provision which allows a company by newspaper advertisement to close temporarily its register of members. Neither of these matters has in fact been dealt with in the commencement order that was published on 27 December 2006.

All companies should be reviewing their articles of association to consider taking account of some of these changes, bearing in mind in particular the transitional provisions that have been made regarding existing consents by shareholders to receive documents electronically.

- **If you have any questions or require specific advice on any matter discussed in this publication, please contact Eric Campbell (DDI: +44 (0)20 7782 8965 or E-mail: [ecampbell@mayerbrownrowe.com](mailto:ecampbell@mayerbrownrowe.com) or Kirsty Payne (DDI: +44 (0)20 7782 8795 or E-mail: [kpayne@mayerbrownrowe.com](mailto:kpayne@mayerbrownrowe.com)) or your regular contact at Mayer, Brown, Rowe & Maw.**

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