

inside this issue:

Companies Act – an Update

HIPs: The countdown has stopped!

Chancel Repair Searches

The formations team – The Challenge is on

Change in Corporation tax

Using Umbrella Companies for shelter

Gibraltar in relation to the transition from exempt to non resident companies

Business Stationery Rules

Tax Amnesty

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An Update on the Companies Act – Will Your Companies Be Ready?

Companies incorporated under the new Act will be formed from October 2008, it comprises 1,300 sections and 16 Schedules and is the longest Act ever to have been passed by Parliament. It is coming into effect in pre-announced stages, with some in force now, and the rest becoming law in stages in October of 2007 and 2008, the intention being that all will be in force by October 2008. It is intended to simplify and modernise the existing law by removing a number of administrative requirements for private companies.

The points below are extracts on how the new act will affect private companies.

Formation

Companies under the new Act will only be capable of being formed from October 2008; model articles will apply automatically to companies that are incorporated after that date, but not to companies incorporated before. In both cases the shareholders will be able to choose to adopt all or any part of the new model articles.

1. Private companies may be formed by one person; there will be no need to appoint a company secretary, although the duties remain.
2. The memorandum of association will be a brief document simply stating that the subscribers have agreed to become members and to take at least one share each.
3. Model articles of association will apply by default where no tailored articles are lodged at incorporation. The articles rather than the memorandum will state the principles covering the way the company conducts its business.
4. The Act abolishes the concept of authorised share capital.

Directors & Secretaries

One area that everybody will have to become familiar with will be the new rules about Directors and Secretaries.

1. At least one director of every company will have to be a natural person (who need not be domiciled in the UK); companies may not be appointed as a sole director; children under 16 may not be appointed as a director; from 1 October 2008 any under age directors will cease to be directors.
2. A director's private address will be held as

protected information at Companies House and a service address needs to be given.

3. Flexibility with execution of documents is introduced.
4. Two new registers are created; the register of director's residential addresses and the register of authorised signatories.
5. Private companies will no longer need to have a company secretary.
6. Codification of directors' duties, including a new duty to promote the success of the company.

Meetings

1. AGMs will no longer be a requirement, unless 10% of shareholders demand a meeting to be held.
2. Notice period for shareholder meetings will be 14 days.
3. Written resolutions only have to be agreed to by the necessary majority – a simple majority for an Ordinary Resolution, or not less than 75% for a Special Resolution. Further if consent to the passing of the resolution is not obtained within 28 days of the circulation date the resolution lapses.

4. The consent to short notice will change from 95% to 90% for private companies. It remains at 95% for public companies.

5. A private company's director will no longer need shareholder approval to allot shares.

Capital Maintenance

There is no doubt that some aspects of corporate life will be made simpler by the Act, for example, private companies will be able to:



- Reduce share capital by member's resolution supported by a solvency statement signed by all the directors. This will be a quicker and cheaper process.
- Convert its share capital from one currency to another without having to go to court or buy back shares out of capital and issue new shares.

After October 2008 it will no longer be illegal, in most circumstances, for a private company to give financial assistance in connection with the purchase of its own shares.

Accounts

The Act makes it clear that a company's accounts are the responsibility of its directors and private companies will have to file annual reports and accounts at Companies House within 9 months (down from 10 months at present) of the year-end.

There will be an offence of knowingly or recklessly delivering information to the registrar of companies that is misleading, false or deceptive. The Registrar will have the power to remove filed material that could be used to commit fraud.

As seen from the above company law has been altered dramatically and this will be a period of change for all concerned requiring forward planning.

A copy of 'The New Companies Act – Will Your Companies Be Ready?', a guidance document prepared by Stanley Davis that focuses on key aspects of the Companies Act, is available from Shital Mehta, Manager of the Technical Department shital.mehta@stanleydavis.co.uk



HIPs – The Countdown Has Stopped

HIPs, initially due to be implemented on 1 June 2007, have now been postponed by the Government until 1 August 2007. The industry's reaction is one of sheer dismay and utter disbelief – so what next for the HIP saga.

The topic of Home Information Packs has created quite a strong debate over the years, and one which was gaining unprecedented strength as the days approached Friday 1 June 2007.

Whether for or against the debate on HIPs, the sector was forced to believe that HIPs were no longer a myth but actually a reality; a message reinforced on many occasions by the Government. So with an urgent and excited pace, mixed with anxiety and a sense of the unknown, the market place stumbled forward to create a new and beautiful marketplace of HIPs.

However just 8 days before the much publicised HIPs launch date the industry's confidence was soon to be redefined as naivety because on Tuesday 22 May 2007 an urgent Government announcement stated:

- HIPs will be introduced from 1 August 2007 for four bedroom houses and larger only
- HIPs will be introduced for smaller properties as soon as possible – once enough assessors have qualified
- Properties can be marketed as soon as a HIP has been commissioned so sellers will not have to wait



for when the HIP is compiled and ready

- EPCs (Energy Performance Certificate) can be up to 12 months old when they are put in a HIP

As a consequence, the HIPs Regulations 2007 will be withdrawn and revised regulations will be laid catering for these changes and the new consultation paper.

A review of the position will be undertaken later in 2007, taking into account the market from 1 August 2007.

In terms of searches, Government officials have now been advised by CNLIS (The Council for the National Land and Property Information Service), the UK's leading provider of electronic land and property information which is required for conveyancing,

that local authorities will not be running with the new Con 29 questions (Schedule 8, HIPs Regulations 2007) from 1 June but have now decided to introduce them on 1 August 2007 when HIPs are launched.

As debate and discussion once again heats up, all we can suggest is watch this space for regular industry updates www.stanleydavis.co.uk

Stanley Davis Group is able to take advantage of the 8 week delay by fully overhauling and trialling our systems and completing the integration programme with providers and volume clients.

Contact us For more information about HIPs contact david.kaye@stanleydavis.co.uk

See you at the Altar

The importance of Chancel Repair searches recently hit the headlines when a couple found themselves bound by medieval canon law which faced them with the cost to repair the chancel of a 13th-century village church. They were presented with a final demand in the High Court of more than £200,000 for the cost of restoring the church of St John the Baptist in Aston Cantlow, Warwickshire.

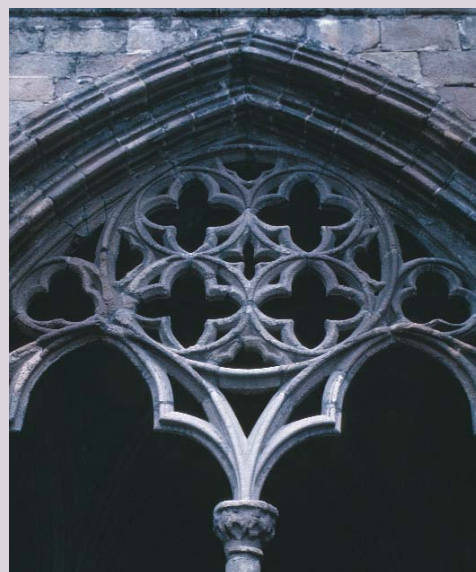
The initial repair bill, presented in 2000, was about £95,000 but, after a legal challenge that ended in the House of Lords in June 2003, the cost of the work being commissioned by the parish council of Aston Cantlow and Wilmcote with Billesley had more than doubled.

The couple bought their farm in 1974. It included glebe land whose owners had been "lay rectors" of the parish since 1743. As such, they were required to pay for repairs to the chancel – the

area surrounding the altar. In exchange for this burden, rectors were formerly entitled to receive tithes – the tenth of the product of the parishioners' labour – but these were abolished in 1936.

If a property is near a church, or is on land formerly owned by some of the older universities, there may be an obligation to contribute towards repairs to the chancel of the local parish church. This liability only affects parishes in which there is a mediaeval church. Whilst this may affect many rural communities, it is also important to appreciate that it can apply in towns and cities (eg Brighton, Manchester, Bedford, Lancaster and even parts of London, such as Fulham, can be covered).

The only way to identify any liability is to carry out a chancel repair search at the time of purchase of the property.



Contact sue.yew@stanleydavis.co.uk
for all enquiries on Chancel Repair Searches and Chancel Checks.

The Formations Team: The Challenge is on...

At the heart of the Stanley Davis Group is company formations, a service that is integral to the support we offer and which provides a crucial link to the ongoing maintenance work that we do, such as completing statutory registers, acting as company secretary, redrafting Memorandum & Articles of Association and restorations etc.

As one of the first and more traditional services of the company, the department takes pride of place like an early childhood photograph in the Stanley Davis Group Scrapbook; unique, special, often with a cheeky smile, much cherished and certainly much loved.

Formations have been at the heart of the Stanley Davis business since Stanley started over 40 years ago. The team of 4 based out of the London HQ has the wealth of experience and knowledge that clearly puts their capabilities ahead of others in the industry. And they know it.

Together the team have nearly 70 years experience (no, that's not a typo) at the Stanley Davis Group, and if you add in the fact that Lynda started working with Stanley in 1979 then this increases to over 80 years!

Working very closely together the team are able to answer most questions that come their way. In fact, they love the challenge! Customer service is inherent to their way of thinking and the service they provide, and this is the main reason for many of the loyal clients that still use Stanley Davis today.



Lyn



Angela



Lynda



Paul

“We are on hand to provide advice on all the options available.”

With nearly a quarter of a century under her 'SDG' belt, **Lyn Bond** is the Formations Manager of the team. Clients love the way she has information at her fingertips and knows all about them. 'Knowing what makes clients tick is key to maintaining good relationships; it is important to ensure that we make it as easy as possible for clients to use our services' comments Lyn. And having been here for nearly 25 years she knows all of the clients very well.

“You are easily guided through the formation process.”

Angela Tungatt works part time at Stanley Davis Group. Since joining in 1987, her roles are very varied and include filing of 288s, preparation of packages, ordering stationery and dealing with client enquiries. Taking a careful and considerate approach, Angela is focused on the detail and accuracy of packages – she likes to proof read and ensure that everything is 'just right'.

The process of formations needs to be very streamlined, so the team need to be very organised and methodical too. With Angela's careful approach she ensures that the team are well-resourced, fully trained and accurate.

“We keep your costs down by focusing on speed and your basic requirements.”

Lynda Spencer started with the company in 1990 and is a Director of Stanley Davis Group. As a committed member of the team, Lynda oversees the day to day and enjoys getting involved with the practicalities of the department. Knowing the culture and ethos of the company, Lynda tailors the training and delivery that both represent client needs and in-house values and systems. Lynda has worked for Stanley Davis for so long that many of our clients think her surname is Davis and she is part of the family; but as she will always tell you working for the group is like being with family.

“We know that time is important to you so we will form your company as quickly and as simply as possible.”

Having been in formations since 2000, **Paul Vines** is the relative newcomer to the team! Being committed to speed, Paul works at a pace that is second to none. With a detailed knowledge of the Companies Act, Paul offers guidance to clients that help them find the right solution.

The Stanley Davis Group formations team really are a fountain of knowledge, and there's only one way to find out – challenge them!

Change in Corporation Tax

Some may say that the 2007 budget has given a boost to large business and taken away from small business.

The rates of corporation tax are being changed from 1 April 2008:

- The standard rate is to be reduced from 30% to 28%
- The small companies rate will be increased, starting 1 April 2007, with an increase to 20% then in stages to 22%
- The small companies rate for ring fenced profits will remain at 19%

A Watertight solution?

New legislation introduced in April 2007 now means that some MSCs could potentially have their income reduced by as much as 30% as the increased liability of income tax and national insurance contributions packs a hard punch.

In an attempt to minimise tax liabilities in the longer term, many in the sector have opted for setting up a limited company whilst operating under an umbrella service company.

'We saw an increased demand for new limited companies,' comments Lynda Spencer, Director of Stanley Davis Group who oversees UK company formations from their London head office. 'As the April 2007 deadline approached, we received numerous instructions for new incorporations from umbrella companies and their advisers.'

Despite the many advantages some contractors are nervous of the limited company as it is perceived to have more paperwork, to be more onerous and to be more bureaucratic; and when dealing with short term contracts or temporary employment many do not want to face the additional hassle that a corporate structure brings.

There are of course tax implications that need careful consideration and specialist advice.

Contact us Advice on specialist incorporations can be sought from david.kaye@stanleydavis.co.uk

Gibraltar Non-Resident Companies

Gibraltar Exempt Companies have been recently phased-out by the Gibraltar Government. Existing Gibraltar tax-exempt companies are allowed to keep their status until 31st December 2010 and if, they do so, they are required to pay annual exempt tax fee of £450.



All companies which were tax exempt will automatically revert to non-resident company status in 2011. Alternatively exempt companies can choose to cease paying the exempt tax completely and revert to non-resident company status.

A non-resident Gibraltar company will not be subject to taxation in Gibraltar and will not be required to register for Gibraltar taxation purposes.

To be considered a non-resident company, a Gibraltar-registered company has to satisfy the following criteria:

- The company must be owned by persons who are not resident in Gibraltar
- The company must be managed and controlled

by persons who are not resident in Gibraltar

- The company may not trade or carry on business in Gibraltar with residents of Gibraltar. It may however trade with other exempt or qualifying companies or non-resident persons. The company may not have interests in Gibraltar-based properties, physically operate out of Gibraltar and/or employ people in Gibraltar.

Up until recently Gibraltar's regulatory and legislative framework has been rated as among the best in the world by an independent evaluation team from the International Monetary Fund. The Rock has been described as a well regulated but not over regulated jurisdiction in which to do business.

Contact us For more information on offshore options please contact our International Tax Consultant, **Emilio Scintu**.

Changes to Business Stationery Rules

The following new regulations came into force on 1st January 2007 and affect all companies.

Whether in hard copy, electronic or any other form, a company must state its name, in legible lettering, on the following:-

- All the company's business letters;
- All its notices and other official publications;
- All bills of exchange, promissory notes, endorsements, cheques and orders for money or goods purporting to be signed by, or on behalf of, the company;
- All its bills of parcels, invoices, receipts and letters of credit

On all of its business letters, order forms or any of the company's web sites*, the company must show in legible lettering

- Its place of registration
- Registered number
- Its registered office address
- And if it is being wound up, the fact that it is being wound up.

This also applies to Limited Liability Partnerships.

Contact us For further information on this please contact **David Kaye**.

* A web site is not a company's web site if, its content is determined solely by persons other than the company, or it does not relate to the company, its business or operations.

Tax Amnesty on Offshore Bank Accounts

The recent press has highlighted that HM Revenue and Customs (HMRC) were about to announce an "amnesty" for people with undeclared interest from offshore accounts. The major UK banks are required to supply HMRC with details of offshore accounts held by individuals living in the UK.

HMRC has announced that a facility will be available for taxpayers who have not made a full declaration of their income, profits or gains in relation to offshore accounts or assets to "come clean" and make a full declaration to HMRC. This will result in a guaranteed penalty of only 10%, in addition to the tax and interest.

There is also a similar, parallel procedure for dealing with the reporting of previous under-declarations which do not have any offshore connections.

In order to take advantage of this facility there is a set procedure and tight timetable. If you are in this situation, or know anyone who is, please contact us as soon as possible as notifications of intent to use this facility must be made to HMRC by 22 June 2007.

Contact us Please contact **Shital Mehta** for more information – shital.mehta@stanleydavis.co.uk



The disclosure facility is open to those who hold or have held an offshore account, either directly or indirectly, that is in any way connected to a loss of UK tax and/or duty. Both notifications and declarations can be made online at <https://disclosures.hmrc.gov.uk>

