

## Persons with significant control – the new regime

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### Action required by companies, community interest companies and limited liability partnerships

#### What is new?

As from 6 April 2016, UK companies (with some limited exemptions), community interest companies (**CIC**) and limited liability partnerships (**LLP**) are required to take reasonable steps to establish whether they have individuals or legal entities that exercise significant control over the company. All UK companies (unless exempt) need to maintain a register of individuals and other legal entities with 'significant control' over the company, CIC or LLP (**PSC Register**).

From 30 June 2016, the information contained in the PSC Register must be returned to Companies House annually with the company's Confirmation Statement (which is to replace the Annual Return).

The purpose of these new requirements is to ensure transparency as to who exactly are the ultimate owners or controllers of companies.

#### Who is affected?

Most UK companies are directly affected (whether or not they have charitable status), including CICs, and the rules also extend to LLPs, companies limited by guarantee, those limited by shares and unlimited companies.

The limited exemptions are for those companies listed on UK regulated markets or which are subject to the same disclosure requirements as UK listed companies.

#### What action is required?

Companies, CICs and LLPs must create and maintain a PSC Register, and must take reasonable steps to identify whether there are any 'registrable persons' and 'registrable relevant legal entities' in relation to the company. Failure to do so is an offence which can lead to imprisonment and/or a fine.

Even if there are no 'registrable persons' or 'registrable relevant legal entities' in relation to the company, it must still maintain a PSC Register and update it if and when circumstances change.

The obligation does not rest solely with the companies. Individuals and other legal entities must consider if they are 'registrable persons' or 'registrable relevant legal entities' in relation to any company, or whether they are involved in any arrangement (e.g. a trust) through which 'significant control' of a company is held. If they believe they are, now or in future, they must inform the company. Failure to do so is an offence which can lead to imprisonment and/or a fine.

The requirement to have a PSC Register applies from 6 April 2016 and therefore you should take prompt steps to ensure that you comply with your new legal obligations. If it is not immediately possible to establish whether your Company, CIC or LLP has a person or entity with significant control, the government has published wording for companies, CICs and LLPs to include on their registers until the position has been confirmed.

Please note that information concerning 'registrable persons' must not be entered in a PSC Register without their knowledge.

**Who are persons with significant control?**

In summary, persons with significant control are persons or entities who/which:

- a) hold (directly or indirectly) more than 25% of the shares in a company;
- b) hold (directly or indirectly) more than 25% of the voting rights in a company;
- c) have the right to appoint or remove the majority of directors of the company;
- d) otherwise have the right to exercise significant influence or control over the company; or
- e) have the right to exercise significant influence or control over an arrangement that is not a legal entity (e.g a trust) but which meets any of the conditions above.

This can be a complicated area and it may not be immediately obvious whether or not there is 'significant control'. If you are uncertain about the application of the PSC regime you should take advice.

**How can Wrigleys Solicitors LLP help?**

We can advise you on compliance with your legal obligations under the PSC regime, including assisting you in identifying any persons with significant control or any legal entities that exercise significant control and preparing a PSC register for your company.

**Wrigleys Solicitors LLP**

**April 2016**

## Contact Details

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