



C O R P O R A T E

A publication by Glaisyers Solicitors LLP

July 2009

DIRECTORS' PRIVACY - ARE YOU PROTECTED?

Introduction

In this second newsletter on the changes in the Companies Act 2006 ("2006 Act") we address the issue of the public availability of directors' residential addresses. The issue of directors' privacy was highlighted in December 2008 by the Huntingdon Life Sciences experiences. The invasion of privacy of directors of the animal testing company and its suppliers included unsavoury daubings, hoax bombs, and HIV threats. Whilst those incidents were (hopefully) in the extreme, the importance of protecting your privacy should not be underestimated. The new provisions of the 2006 Act improve accessibility to privacy measures and we set out below how you can take advantage of these new measures to ensure that your private and family life is protected.

Current Law

The Companies Act 1985 ("1985 Act") is currently the legislation governing the requirements for directors and company secretaries to provide their usual residential address to the company and to Companies House. Under the 1985 Act, companies were required to keep a register containing details of directors' usual residential addresses, together with his name, any former names, his nationality, business occupation, particulars of any other directorships held by him, and his date of birth. Both the register and the Companies House records may be inspected by the public.

Directors and company secretaries are currently able to obtain confidentiality orders in circumstances where they can demonstrate that they or a person who lived with him would be at serious risk of violence or intimidation. This allows the residential address of the company officer to be replaced with a service address on all future records at Companies House and on the registers of the company concerned. Only about 11,000 confidentiality orders have been made and they are relatively difficult to obtain, largely in view of the stringent criteria with which a director must comply to be eligible.

A director could not rely on a risk of invasion of privacy or identity fraud as a reason to protect his residential address.

The New Position – 1 October 2009

From the 1st October 2009 the provisions of the 2006 Act will apply. From this date a director may provide a service address to be entered onto the register for public inspection. This can be the registered office of the company, or any other address at which the director can be contacted or served with documents, which can include the director's residential address (although if this is used it will not be highlighted as such).

The director must also provide his usual residential address. This information will be classified as "protected information", and will not be released for inspection by the general public. Companies House will disclose this information to government and other public agencies and credit reference agencies. If a director provides his residential address as his service address, the fact that it is his residential address will not be disclosed to the general public, and will also be classed as "protected information". The protected information held by Companies House will continue to be protected even after a director ceases to be a director of the company.

A director will also be able to make an application under the 2006 Act to prevent their residential address being disclosed to credit reference agencies. The criteria to apply for this protection is similar to the current confidentiality order regime, ie that there is a serious risk of violence or intimidation to him or a person who lives with him as a result of activities of a company of which he is a director.

The further option will exist to make an application to the Registrar of Companies, to make an address on the register unavailable for public inspection. This will cover the gap left by the service address regime, as old documents filed at Companies House which contained the

Glaisyers Solicitors LLP

One St James's Square, Manchester, M2 6DN

Email: manchester@glaisyers.com Telephone: 0161 832 4666 Fax: 0161 832 1981

www.glaisyers.com

GLAISYERS
S O L I C I T O R S L L P
www.glaisyers.com

residential addresses will still remain open for inspection by the public. The grounds for making an application are similar to the grounds set out above for applications to prevent disclosure to a credit reference agency, with the additional ground that the director must currently be beneficiary of a confidentiality order or has made a successful application to prevent disclosure of his address to credit reference agencies. Any applications of this nature can only be made in respect of addresses placed on the register on or after 1st January 2003, so any documents prior to this date will be unaffected.

Conclusion - What you need to do

We envisage that a large number of directors will wish to take advantage of the ability to provide a service address other than their residential address for the public record. This will be of particular benefit where their residential address had not been previously filed at Companies House. Additionally, in the event the director wishes to limit the access to his residential address to credit reference agencies, or wishes to expunge any previous record of his residential address from the public record, he may be able to take advantage of the new regime set out above. This will enable him to protect both his own and his family's privacy, and to ensure that he is not subjected to any unwanted or unnecessary invasions of privacy.

Help is at hand

In an age when information is ever more readily accessible, protecting your privacy is an important concern for every director. If you think you would benefit from a consultation as to the implications of the new legislation, how this will affect your privacy and whether you are able to take advantage of the regime to protect your privacy, please contact us.

Contact details



John McMuldroy



Julian Bond

If you would like to receive more information regarding the contents of this newsletter or information on any other company law related matters then please do not hesitate to contact one of our Company / Commercial partners on **0161 832 4666**.

Julian and John specialise in all aspects of company / commercial work, mainly acting for SMEs but also undertaking international work such as joint ventures and manufacturing agreements.

how we can help your business

We are a medium sized city centre firm with a high degree of expertise in our chosen fields. We therefore provide a level of service which is comparable to that offered by many a national and international law firm, whilst retaining a personal interest in our clients and their businesses.

We believe passionately in training and developing all the members of our team to ensure that our clients continue to obtain the highest quality of advice and support.



Our range of services

- Commercial/ Corporate
- Family
- Property Development
- Public Law
- Commercial Disputes
- Employment
- Landlord and Tenant
- Corporate Finance
- Personal Injury
- Road Traffic Accidents
- Residential Property
- Housing
- Publicly Funded Work
- Intellectual Property
- Divorce/Child Care
- Mergers & Acquisitions
- Probate/Estate Planning
- Costs Law
- Debt Recovery

If you do not wish to receive further information from Glaisyers Solicitors LLP about events or legal developments which we believe may be of interest to you, please either send an email to manchester@glaisyers.com or contact Wendy Royle by telephone on 0161 832 4666 or by post at Glaisyers Solicitors LLP, 1 St James's Square, Manchester M2 6DN. The material contained in this article is provided for general purposes only and does not constitute legal or other professional advice. Appropriate legal advice should be sought for specific circumstances and before action is taken.