

DORMANT COMPANY SIMPLIFICATIONS

Background

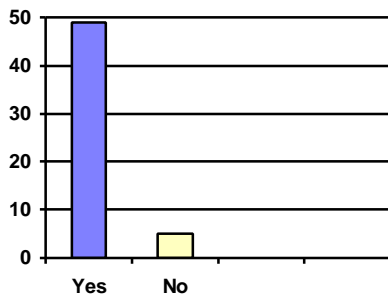
In March 1999, the Department of Trade and Industry published a consultative document on the legislative framework for dormant companies. The document set out a number of proposals for reform and sought views on the impact of agent companies who claim dormant status.

Analysis of responses

This paper summarises the 54 responses that were made to the 1999 consultation document. The responses themselves (except those who asked for their comments to remain confidential) may be viewed in the DTI Library and Information Centre, Room LG.B.38, 1 Victoria Street, London SW1H 0ET.

In analysing the responses, a statistical breakdown is given for each question, showing the proportion of respondents who were for and against the various propositions. A summary of views is also provided. We are grateful to those who took the time to respond to the consultation document.

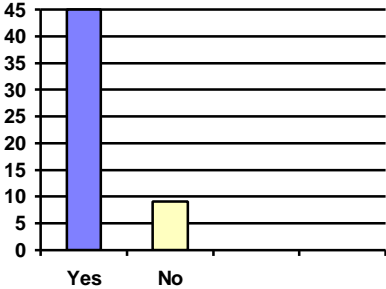
Question 1: Do you consider there is still a need for the dormant company provisions in Section 250 of the Companies Act 1985?



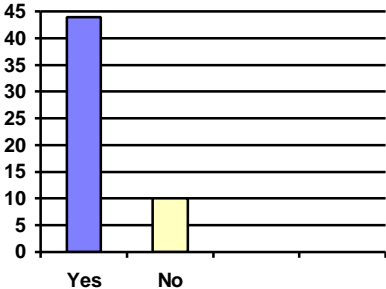
There was wide support for the retention of these provisions. A number of respondents focused on the case of dormant subsidiaries of large groups, who would otherwise be required to file audited accounts. The need to protect company and brand names was also raised here.

Question 2: Do you consider that we should remove the requirement for dormant companies to pass a special resolution in order to gain audit exemption?

The majority of respondents viewed this requirement as an unnecessary burden.

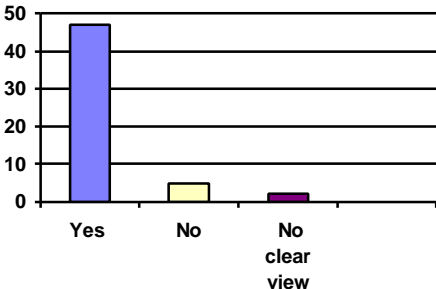


Question 3: Do you agree that 10% or more of shareholders should be able to demand an audit?



Most respondents agreed that such a provision would act as a sensible safeguard for minority interests.

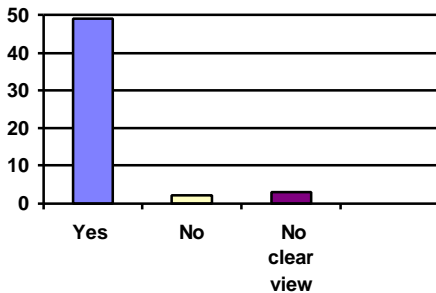
Question 4: Does the requirement for dormant companies to file annual accounts represent fair and proportionate regulation for these companies?



This requirement was generally thought to be a useful discipline. Many respondents stressed the importance of creditors being able to access up-to-date information.

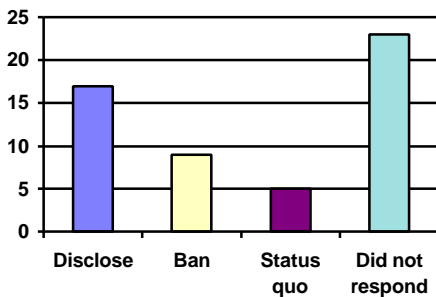
Question 5: Should certain specified payments to Companies House be excluded from the definition of a “significant accounting transaction” for the purposes of assessing whether dormant status applies?

There was broad agreement that the payment of fees to the Registrar of Companies should not count as trading activity. One respondent took the view that the issue of shares beyond subscriber shares should also be excluded from the above definition. However, several respondents expressed reservations about adding late filing penalties to the list of exemptions. It was felt that defining such transactions as “significant” would provide an added incentive for companies to file their accounts promptly.



Question 6: Do you have any views on dormant agent companies?

The consultation did not produce a strong consensus on what action need to be taken in respect of dormant companies acting as agents. Just over half of the respondents gave any view on this question. Of these, 17, around half, were in favour of the proposal that companies should disclose their agency status in the annual accounts. Only a few felt that this should extend to the name of the principal. Among the remaining responses nine felt that companies acting as agencies should be disqualified from claiming dormant status. The remainder, five, favoured the retention of the status quo.



Although the responses to this issue were not as clear cut as to the other questions under consideration the responses show that a large majority (84%) of those who responded on this issue felt that some action was needed in this area. The majority (55%) agreed that companies which were acting as agents should declare their agency status in their annual reports, although they should not be required to disclose the identity of their principal.

Next steps

The Department intends to introduce regulations which will amend the current regime for dormant companies:

- to remove the requirement for dormant companies to pass a special resolution in order to gain audit exemption;
- to exclude certain specified payments to Companies House from the definition of a “significant accounting transaction” for the purposes of assessing dormant status;
- allow 10% or more shareholders of a dormant company to demand an audit be carried out, and;
- require dormant companies acting as agents to disclose their agency status in their annual accounts.