



*Modernising
Company Law:*

Small Business
Summary

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Department of Trade and Industry

The Government has published a White Paper *Modernising Company Law*. It is the first part of its proposals for reform following an independent review.

Company law is central to our prosperity. It is important therefore that it is up to date and able to meet the needs of a modern dynamic economy.

British company law was largely created in the nineteenth century. It recognised that the right to limited liability brought with it certain responsibilities, and that the advantages should be matched by arrangements for accountability. Whilst these basic principles remain true today, the details are in need of significant modernisation and reform. A thorough overhaul is needed to make the law clearer and accessible. This will produce savings for companies, freeing them up from unnecessary red tape and improving competitiveness.

This summary sets out the main proposals affecting small businesses.

Needs of small companies

The Government believes that the starting point for company law should be small companies – to “think small first” – with additional or different provisions for larger companies being brought in, where necessary. The law needs to balance various interests, for example those of shareholders, directors, employees, creditors and customers, but it must also avoid unjustified burdens. We also want the new law to be flexible, so it can adapt easily to developments and changing technology.

Decisions

We propose to modernise and simplify the ways in which companies take decisions, including by:

- ◆ removing the requirement for private companies to hold AGMs unless members want them; and
- ◆ simplifying the rules on written resolutions to make it easier for private companies to take decisions.

We also want to increase transparency. In future:

- ◆ company constitutions will be a single document. There will be simpler, clearer models for both private and public companies;
- ◆ where the members of a private company do want an AGM it will be held within ten months of the financial year-end; and
- ◆ shareholders will be able to require a scrutiny of a poll.

Directors

The Government agrees that the primary role of directors should be to promote the success of the company for the benefit of its shareholders as a whole, and that directors' general duties to the company should be codified. We also propose to prepare clear guidance for new directors on what these duties mean.

Reporting and auditing

The Government believes that company reporting should provide accurate, accessible information at reasonable cost.

The Government proposes to replace the current directors' report. For small companies we believe all that is needed is a short, simple, supplementary statement. We also propose to simplify the accounts for around 15,000 companies by increasing the definition of a small company for accounting purposes to the EU maximum (£4.8 million turnover, £2.4 million balance sheet total, 50 employees). As it is important that company accounts should be generally available, we will abolish the option for small and medium-sized companies to file abbreviated accounts at Companies House. We also propose to reduce the time allowed to file accounts to seven months for private companies.

We do not propose to adopt the idea of an independent professional review as an alternative to audit for some small company accounts. We will however assess the impact of the July 2000 increase in the audit threshold for small firms to £1 million before deciding whether to propose a further increase.

Other aspects of auditing are under consideration as part of the work to improve corporate governance following the collapse of Enron.

Keeping the Law Up to Date

In order to keep the law up to date and ensure it meets users' needs, the Government proposes to put those elements which are likely to need regular amendment into secondary legislation, and to devolve some detailed rule-making to specialist bodies.

Other areas

We will simplify and update the law on company formation and capital maintenance, particularly for private companies. We will also abolish the requirement for private companies to appoint company secretaries (though they will of course be free to do so voluntarily).

We would welcome your views on a range of issues, such as the disclosure of convictions under companies legislation.

The Government wishes all companies to be able to take advantage of the changes proposed as easily as possible. We would like your views on how this could best be achieved.

Costs and Benefits

The Government has prepared a draft Regulatory Impact Assessment on its proposals. While this is still being developed, it shows yearly potential savings for small private companies of around £168 million.

Timing

The Government plans to introduce legislation into Parliament. Companies will have plenty of time to consider how best to implement any changes.

More Information

Further copies of this summary can be obtained by calling 0870 1502 500. The full text of the *Modernising Company Law* White Paper is available from The Stationery Office. Both are also available on the DTI website; the address is: www.dti.gov.uk/companiesbill. The website also explains how you can get in touch with the Companies Bill Team if you wish.