

Title: Procedure for resolving disputes about the directors that companies name on the public register of companies. IA No: Lead department or agency: Department for Business Innovation and Skills Other departments or agencies: Companies House	Impact Assessment		
	Date: 02/02/2016		
	Stage: Fast Track Validation		
	Source of intervention: Domestic		
	Type of measure: Secondary legislation		
Contact for enquiries: Rob Cottam@bis.gsi.gov.uk 02072150169			
Summary: Intervention and Options		RPC Opinion: Green	

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2014 prices)	In scope of Business Impact Target?	Measure qualifies as
£ - 0.06 m	£ - 0.06 m	£0.01m	Yes	IN

What is the problem under consideration? Why is government intervention necessary?

Details of companies' directors are made available through Companies House's public register. There are 500-600 reported cases a year where companies wrongly list people as directors and their name appears on the register. Incorrect information on the register may have adverse consequences for those involved and reduces the integrity of the register. Under the existing statutory procedure companies can stop an application by a person to have their name taken off the register as a director merely by objecting. The proposed regulations seek to provide an expedient process to enable the Registrar of Companies to remove details of a director's appointment from the register where there is no evidence that the person consented to being a director. The identified problem is the result of regulatory failure in the design of the existing statutory process provided under the Companies Act 2006, so requires legislative change to address it.

What are the policy objectives and the intended effects?

The aim of the regulations is to provide an expedient process to enable the Registrar to remove details of a director's appointment from the register where there is no evidence that the person consented to be a director. Incorrect information on the register may have adverse consequences for those involved with companies. For example, directors may be liable to prosecution for failures by the company to comply with company law requirements, such as the requirement for companies to file annual returns and accounts with the Registrar. The policy should improve the integrity of the public register.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Option 0: Do Nothing. This is undesirable because regulatory failure (described above) will persist

Option 1: Change the existing director dispute procedure. Under this altered procedure an individual's application for removal from the register, for false appointment as a director, can only be stopped where the company provides sufficient evidence to the Registrar that demonstrates that the individual did in fact consent to be a director. Alternatives to regulation are not considered appropriate to achieve the policy objectives as the identified problem results from the existing statutory procedure provided by the Companies Act 2006, and therefore can only be satisfactorily addressed legislatively.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: Before April 2021						
Does implementation go beyond minimum EU requirements?				N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.		Micro Yes	< 20 Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)				Traded: N/A		Non-traded: N/A

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

Signed by the responsible Minister:

Baroness Neville-Rolfe Date: 3 February 2016

Summary: Analysis & Evidence

Policy Option 1

Description: Change the existing director dispute procedure (preferred option)

FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
2014	2015	10	Low: -0.06	High: -0.05	Best Estimate: -0.06

COSTS (£m)	Total (Constant Price)	Transition Years	Average (excl. Transition Price)	Annual (Constant Price)	Total (Present Value)	Cost
Low		£0.0m		£0.0m		£0.1m
High		£0.0m		£0.0m		£0.1m
Best Estimate		£0.0m		£0.0m		£0.1m

Description and scale of key monetised costs by 'main affected groups'

As a best estimate we estimate there will be 570 director disputes per annum. Our best estimate of the average annual total cost to business is £6,900. This comprises: 1) total annual familiarisation costs of £4,700 for businesses subject to a dispute (based on a director in each of the companies subject to a director dispute taking 20 minutes to familiarise themselves with the adjusted procedure); and 2) £2,200 total annual costs for the subset of companies (23 per annum) providing evidence to the Registrar in the event of a director dispute (we estimate this will take 3.75 hours of director time).

Other key non-monetised costs by 'main affected groups'

Companies House administration costs are unquantified but are expected to be minimal, as 1) this is an adjustment to an existing procedure; and 2) the volume of cases each year is expected to be small.

BENEFITS (£m)	Total (Constant Price)	Transition Years	Average (excl. Transition Price)	Annual (Constant Price)	Total (Present Value)	Benefit
Low		£0.0m		£0.0m		£0.0m
High		£0.0m		£0.0m		£0.0m
Best Estimate		£0.0m		£0.0m		£0.0m

Description and scale of key monetised benefits by 'main affected groups'

We have not been able to quantify or monetise any of the identified benefits of the regulations (see below).

Other key non-monetised benefits by 'main affected groups'

The main benefit of the policy is avoiding the negative consequences for individuals that can arise if companies incorrectly name them as a director (e.g. these range from nuisance/distress to individuals being held liable for prosecution for a company's actions). The change should also improve the quality of information available to users of the register. The change could potentially have a deterrent effect on any fraudulent or illicit activity involving wrongful director appointments.

Key assumptions/sensitivities/risks

Discount rate (%)

3.5

- The annual number of disputes is around 570 (the average of internal Companies House data).
- It takes directors of affected companies 20 minutes to familiarise themselves with the regulations.
- That the economy wide gross hourly median wage excluding overtime of a corporate manager or director from ASHE 2013 data is a good approximation of the wages of individuals who will familiarise their companies with the regulations and provide evidence to the Registrar on their companies' behalf.
- Wages are uprated by 19.8% for non-wage labour costs (Eurostat data) and to 2014 prices using HMT GDP deflators from July 2015.
- Directors will take half a day (3.75 hours, ASHE 2013 data) to provide evidence to the Registrar.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of B.I.T.?	Measure qualifies as
Costs: 0.0	Benefits: 0.0	Net: 0.0	Yes	IN

Evidence Base (for summary sheets)

Executive summary

1. Problem under consideration and rationale for intervention

Details of the directors of a company are made available on the public register of companies held by Companies House.¹ There are around 500-600 cases² reported annually where people complain to Companies House that they have been incorrectly described as a company director on the register. Incorrect information on the register may have adverse consequences for those involved. It also reduces the quality of information available to the public and those who trade with, lend to and invest in UK companies. Under the existing statutory procedure companies can stop an application by a person to have their name taken off the register as a director merely by objecting. The aim of the proposed regulations is to provide an effective process which will enable the Registrar of Companies³ at Companies House to remove details of a director's appointment from the register where there is no evidence that the person consented to being a director.

2. Options and policy objectives

The director disputes provisions of the Small Business, Enterprise and Employment Act 2015⁴ are intended to deal more effectively with cases where an individual alleges that they have been appointed as a director of a company without their consent, and provide an effective process which will enable the Registrar to remove details of a director's appointment from the register where there is no evidence that the person consented to be a director

The 'Do nothing' option is considered undesirable, as it will allow the current regulatory failure to continue. Alternatives to regulation are not considered appropriate to solve the identified policy problem, as it is a direct result of the design and operation of the existing statutory procedure provided under the Companies Act 2006.⁵

Incorrect information on the register may have adverse consequences for individuals. It also reduces the quality of information, about companies and their directors, available to users of the register. Therefore the policy objectives is to address situations where individuals are incorrectly listed as directors on the register (and avoid the attendant negative consequences for individuals), and to improve the accuracy of the information on the register for the benefit of its users, by providing an effective process to resolve director disputes.

3. Costs and Benefits

Our best estimate of the average annual cost to business is £6,900. This comprises: 1) total annual familiarisation costs of £4,700 for businesses that are the subject of a dispute; and 2) £2,200 total annual costs that businesses incur providing evidence to the Registrar in the event of a director dispute. The total net present value of the measure to business and society over a ten year period is estimated to be £ - 0.06m. The estimated equivalent annual net cost to business is £0.01m.

The measure is likely to give rise to unmonetised benefits to individuals, by allowing the resolution of situations that give rise to distress and undesirable consequences for individuals.

¹ Companies House is a partner organisation of BIS that operates in the UK to incorporate and dissolve limited companies, register the information companies are legally required to supply to them, and makes this information available to the public.

² See Companies House internal data in Table 1 of this Impact Assessment.

³ The UK has three Registrars of Companies who are part of Companies House. The Registrar of Companies for England and Wales, and Chief Executive of Companies House is Tim Moss. Helen Shilliday is the Registrar of Companies for Northern Ireland. Aoife Martin is the Registrar of Companies for Scotland.

⁴ This Impact Assessment assesses the impact of exercising a power in Section 102 of the SBEE Act 2015. For more details See http://www.legislation.gov.uk/ukpga/2015/26/pdfs/ukpga_20150026_en.pdf

⁵ See <http://www.legislation.gov.uk/ukpga/2006/46/contents>

The change could also potentially have a deterrent effect on future fraudulent or illicit activity that involves the wrongful director appointments. To the extent that the procedure is successful at removing from the register the names of people incorrectly appointed as directors, the proposal will improve the quality of information available to people who use the register to inform economic decisions. We believe that the small cost to business of the proposed measure is outweighed by the non-monetised benefits to affected individuals and users of the register.

4. Small and micro business assessment (SaMBA)

The Better Regulation Framework Manual⁶ states Departments 'must apply the SaMBA for all domestic measures that regulate business, except if they qualify for the Fast Track [Impact Assessment process]'. Therefore we have not conducted a SaMBA for the proposed regulations, because the measures outlined in this Impact Assessment were confirmed by the Regulatory Policy Committee to qualify for the Fast Track Validation Stage Impact Assessment process.

5. Conclusion

The measure is regulatory, but 'low cost' (i.e. less than a £1 million total gross cost to business per annum), with an expected average annual cost to business of £6,900. We believe that the non-monetised benefits of allowing them to seek redress from the Registrar, in a situation where they are wrongly shown as a director of a company, justify imposing a small cost on businesses. The equivalent annual net cost to business is £0.01m. The total net present value to business and society over a ten year period is £ - 0.06m.

1. Problem under consideration

1.1 The Companies Act 2006 requires all UK companies to have at least one director.⁷ Companies must notify the Registrar of Companies at Companies House within 14 days of a director's appointment. Details of the company's directors are made publicly available by Companies House through its public register of companies.

1.2 In the majority of cases, directors are appointed with their knowledge and consent. However, there are around 500-600 reported complaints to Companies House each year that people have been wrongly appointed as directors and their name appears on the register as a director. Incorrect information on the register may have adverse consequences for those involved with companies. For example, being wrongly appointed as a director can be a nuisance or distressing for individuals involved. However consequences can be more serious e.g. individuals named as a director may be liable to prosecution for failures of the company to comply with company law, such as the requirement to file annual returns and accounts with the Registrar.

1.3 At present, a person can apply to the Registrar to have their name taken off the register as a director of a company on the grounds that they were falsely appointed. However, under the existing statutory procedure, the company can stop an application merely by objecting, without having to provide any evidence to support their objection (i.e. companies can make invalid objections to applications where individuals have been incorrectly or falsely appointed).

⁶BIS (2015), 'Better Regulation Framework Manual: Practical Guidance for Government Officials', March 2015, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/421078/bis-13-1038-Better-regulation-framework-manual.pdf

⁷ <http://www.legislation.gov.uk/ukpga/2006/46/part/10/chapter/1/crossheading/requirement-to-have-directors>

1.4 Section 102 of the Small Business, Enterprise and Employment Act 2015 (the SBEE Act 2015) makes changes to the statutory procedure to ensure that an application to take a director's details off the register can only be stopped where the company provides sufficient evidence to show that a person did in fact consent to be a director (e.g. a signed director's service contract).

1.5 The regulations proposed here implement these changes to the current statutory procedure. Under the adjusted procedure, if a person objects to their appointment as a director, the Registrar will write to the company requiring them either to confirm the appointment or agree that the appointment is not valid. If the company asserts that the appointment is valid, it must also provide evidence that the director consented to become a director.

1.6 If the company supplies the satisfactory evidence to the Registrar the director's name will stay on the register. If the company agrees to the removal, or fails to respond or to produce the required evidence within a specified timeframe, the director's name will be removed from the register.

1.7 Cases which would involve a dispute about the company's evidence fall outside this procedure. These cases would need to be settled by the courts.

2. Rationale for intervention

2.1 There are around 500-600 reported complaints to Companies House each year that people whose name appears on the public register as a director have been wrongly appointed. As previously stated, incorrect information on the register may have adverse consequences for those involved. For example, it can cause nuisance or distress to individuals. Individuals may also, as directors named on the register be liable to prosecution for failures of the company to comply with company law, such as the requirement to file annual returns and accounts with the Registrar. Inaccurate information on the register also reduces the usefulness of the register for members of the public and those who may trade with, lend to or invest in UK companies.

2.2 Currently there is a regulatory failure in that, the design of the dispute procedure is such that it is not always possible for the person who is wrongly named as a director (and hence incurring negative consequences) to address the situation without the consent of the company against whom they are complaining. Under the existing statutory procedure, companies can stop an application by a person to have their name taken off the register as a director merely by objecting (i.e. they do not have to provide any evidence to substantiate their objection, and show that the complaint is invalid, to stop the complaint being acted upon).

2.3 The identified policy problem is a result of the existing statutory procedure provided under the Companies Act 2006 – and can only be addressed legislatively.

2.4 In October 2013 the 2010-2015 Conservative and Liberal Democrat Coalition Government consulted on company filing requirements.⁸ The Government response was

⁸ BIS (2013), Company Filing Requirements – Red Tape Challenge Consultation, October 2013 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/246020/URN_13-1219_Company_Filing_Requirements_Consultation_October_2013_1_.pdf

published in April 2014.⁹ 125 responses were received to a question which asked whether companies should be required to provide evidence of a director's appointment, in the event of a dispute. An overwhelming majority of respondents (108 responses or 86% of the respondents) supported this proposal.

3. Policy objective

3.1 The director disputes provisions of the SBEE Act 2015 (i.e. the power contained in Section 102) are intended to deal more effectively with cases where a person alleges that they have been appointed as a director of a company without their consent.

3.2 The policy aims to provide an expedient process that enables the Registrar to remove the details of a director's appointment from the register, where there is no evidence that the person consented to be a director. This will address situations where individuals are incorrectly listed as directors on the register (and avoid the attendant negative consequences for individuals), and improve the accuracy of the information on the register for the benefit of its users.

4. Description of options considered (including do nothing)

4.1 This section of the Impact Assessment outlines the policy options under consideration, including the Do Nothing option.

4.2 **Option 0: Do Nothing.** This is undesirable because the existing regulatory failure (described in the previous sections of this Impact Assessment) will persist. This option provides the counterfactual against which the costs and benefits of Option 1 (the preferred policy option) are assessed in this Impact Assessment.

4.3 **Option 1: Change the existing director dispute procedure.** The Companies Act 2006 requires all UK companies to have at least one director (or two in the case of a public company). Companies must notify Companies House within 14 days of a director's appointment. Details of the company's directors are made publicly available on the Companies House's public register of companies. In the majority of cases, directors are appointed with their knowledge and consent. However, there are a small number of cases where people are wrongly appointed as directors. At present, a person can apply to the Registrar to remove material relating to their appointment from the register on the grounds that they were falsely appointed – although a company can stop an application merely by objecting, without having to provide any evidence to support this. The SBEE Act 2015 provides changes to the existing statutory procedure to ensure that such an application can only be stopped where the company provides sufficient evidence to show that a person did in fact consent to be a director. If they do not, the individual who makes the complaint will have their name removed from the register as a director of that company.

4.4 The identified policy problem is a result of the existing statutory procedure provided under the Companies Act 2006 – and can only be addressed legislatively.

⁹ BIS (2013), Company Filing Requirements – Red Tape Challenge Consultation Government Response, April 2014, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/304946/bis-14-635-company-filing-requirements-response.pdf

5. Monetised and non-monetised costs and benefits of each option (including administrative burden);

Timing

5.1 Subject to Parliamentary clearance it is planned that the regulations (Option 1) will be brought into force on 6 April 2016.

Option 0 - Do Nothing

Benefits

5.2 We do not expect taking no policy action to give rise to any benefits.

Costs

5.3 There will be no direct, monetised costs as a result of doing nothing. However, taking no action will mean that the benefits of the preferred option (Option 1) – described below – will be forgone.

Option 1 - Change the existing director dispute procedure (preferred option)

Which companies will be affected by the policy change?

5.4 The proposed regulations will only impact on UK companies where a person objects to the fact that they are shown as a director of a company on the register.

Table 1: Past Data on Director Disputes

Year	Number of Director Disputes
2012/13	595
2013/14	505
2014/15	598

5.5 The table above shows Companies House internal data from the past few years on the number of director disputes that have been raised with them. The data shows that in the past few years there have typically been around 500-600 director disputes a year reported to the Registrar. The number of complaints is very small when compared to the total number of director appointments (413,197 in 2013/14 and 390,611 in 2012/13)¹⁰ and the total number of directorships in the UK (5.6 million in 2013-14)¹¹.

5.6 As our best estimate of the number of director disputes in future years we use the average number of disputes between 2012/13 and 2014/15 – 566. As a low estimate we use 505 (the 2013/14 figure) and as a high estimate we use 598 (the 2014/15 figure). Given that the current procedure does not require companies to provide evidence that a director has consented to their appointment when making an objection to a complaint about appearing on the register as a director, it is not known how many of the current complaints raised with

¹⁰ Internal Companies House data provided to BIS

¹¹ Companies House (2013), 'Companies Register Activities 2013 – 2014 statistical release', published 31st July 2013, <https://www.gov.uk/government/statistics/companies-register-activities-statistical-release-2013-to-2014>

Companies House are legitimate. However, internal Companies House data shows that, under the current procedure, companies object to a director's name being removed from the register approximately 20-25 times a year. Therefore in the past few years in the majority of cases a director's name has been removed from the register by the Registrar when a complaint is made, without companies objecting. In a small percentage of cases individuals remain on the register despite their complaints.

Benefits

Monetised benefits

5.7 We have not been able to quantify and monetise any of the benefits of the proposed regulations, due to a lack of data on the number of legitimate complaints and given the non-quantifiable nature of the avoided negative consequences – i.e. the potential of nuisance/distress to individuals wrongly named as a director¹² and the impact of an inaccurate register.

Non-Monetised Benefits

5.8 The main benefit of the policy is avoiding the negative consequences for individuals that can arise if companies incorrectly name them as a director (e.g. these range from nuisance/distress to individuals being held liable for prosecution for a company's actions).

5.9 The change will also improve the quality of information available to users of the register – by ensuring that falsely appointed directors are removed from the register (e.g. individuals, businesses etc.). This should have a positive impact on their ability to make more fully informed economic decisions – e.g. about trading with, lending to, and investing in UK companies.

5.10 The change could potentially have a deterrent effect on any fraudulent or illicit activity involving wrongful director appointments.

Costs

Monetised costs

Business costs

Familiarisation Costs

5.11 In line with other analysis of regulatory policy, we believe it is likely that, as a result of the introduction of the proposed regulations, affected businesses will incur costs familiarising themselves with the regulations. Although guidance on the adjusted procedure will be made available, not all companies in the UK will be required to read the guidance in order to become familiar with the regulations. Only companies that are the subject of a dispute that will need to become familiar with the dispute process in order to comply with it.

5.12 As noted in Table 1, only a very small number of companies are subject to director disputes each year. The vast majority of UK companies have never been subject to (and are

¹² We did not believe it proportionate to attempt to identify and gather evidence of impact from individuals who have previously been wrongly named as directors – or who have live complaints with the Registrar. There are also sensitivities with engaging directly with these individuals to try to gather evidence of this kind.

not likely to be subject to) such disputes. Therefore, the regulations around the dispute process will only be relevant to a small minority of companies.

5.13 Our best estimate of the number of companies in future years that need to familiarise themselves with the regulations is 566 (the average of 2012/13 to 2014/15 dispute numbers). As a low estimate we use 505 (the 2013/14 figure) and as a high estimate we use 598 (the 2014/15 figure). These estimates assume that each year a completely new set of companies will be affected by disputes and need to familiarise themselves with the regulations. If some companies repeatedly incorrectly, or without authorisation, name individuals as directors, then the annual familiarisation costs in future years will be lower than our estimate suggests. However it was considered disproportionate with the time and resources available for Companies House to identify the frequency of companies being subject to more than one director dispute, in order to adjust the Impact Assessment analysis.

5.14 When gathering evidence to prepare the (unpublished) Regulatory Triage Assessment, we spoke to five stakeholders to gather further information on the potential costs to business of the proposed policy on director disputes. When asked about which staff would be involved in familiarisation with the proposed regulatory change, stakeholders expressed a range of views:

- 'Managerial or above'
- 'There is no general need for staff to be familiar with the new procedures, especially if guidance is produced by Companies House, when writing to the company'
- 'The company secretary would do this'

5.15 Given these responses, we chose to keep in line with the 2014 BIS company filing requirements - Red Tape Challenge Validation Stage Impact Assessment¹³ and assume that a director will be the person who would need to familiarise the affected companies with the regulations. This is a conservative assumption in terms of estimating the overall impact on business, because it is possible that staff in less senior positions, whose time has a lower value, familiarise their companies with the regulations. If this were the case then the costs to business would be lower than we have estimated. It is also possible, as one consultee stated, that there could be no familiarisation cost, because companies do not feel the need to familiarise themselves with the change.

5.16 When asked about familiarisation with the proposed regulatory change, stakeholders did not provide specific details about the amount of time it would take staff familiarise themselves with the procedure. Stakeholders expressed a range of qualitative views in terms of how long this familiarisation may take:

- 'I think that it will take companies a while to familiarise themselves with the new procedures; whilst it might be taken on board when the procedures come into effect I do not think that it will be until such time that a company is involved in such a dispute that they will really look into the procedures'.

¹³BIS (2014), 'Company Filing Requirements - Red Tape Challenge' Validation Stage Impact Assessment, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/327259/bis-14-909-impact-assessment-company-filing-requirements.pdf

- 'It would be useful for Companies House to issue a guidance leaflet/refer applicants/companies to the relevant guidance on its website. This should rapidly bring a company up to speed with the procedures and the requirements'.
- 'They could be briefed by the company secretary at a board meeting so not long'.
- 'We do not have an estimate for the cost and burden involved but believe it would be minimal and that the benefits, particularly in the fight against fraud, more than outweigh any costs'.

5.17 Therefore, we keep in line with the previous company filing Impact Assessment, and assume that it will take 20 minutes (or 0.33 hours) for the relevant staff to familiarise themselves with the regulatory change. This is a conservative estimate of the familiarisation costs of the director dispute change – as the filing reforms covered by that Impact Assessment were wider in their scope than the director dispute change, and therefore familiarisation with this change should take a slightly shorter amount of time. This would reduce the cost to business below our estimates.

5.18 We use data from the Office for National Statistics (ONS) Annual Survey of Hours and Earnings (ASHE) 2013 to estimate the cost of directors' wages.¹⁴ The gross hourly median wage excluding overtime of a corporate director or manager was £20.56. We use gross hourly wages excluding overtime as we assume regulatory tasks will occur in 'normal working hours' displacing existing activities and this wage rate acts as the best proxy for this. Our estimate of familiarisation costs is conservative in that the actual costs could be lower in reality, if less senior staff undertakes familiarisation in some or all of the affected companies.

5.19 We uplift the wage rate to account for non-wage labour costs (such as National Insurance and pension contributions). Eurostat data suggest that this uplift should be 19.8%.¹⁵ Applying that to the ASHE wage data gives a best estimate of the value of an hour of a director's time of £24.62. We also uprate these data to 2014 prices using HMT GDP deflators¹⁶, giving a wage rate of £25.01.

5.20 Our estimates of the familiarisation costs are shown in the table below.

¹⁴Office for National Statistics (ONS) Annual Survey of Hours and Earnings (ASHE) 2013 Table 14.6a <http://www.ons.gov.uk/ons/rel/ashe/annual-survey-of-hours-and-earnings/2013-revised-results/index.html>

¹⁵Eurostat (2014), http://ec.europa.eu/eurostat/statistics-explained/index.php/File:Labour_costs_per_hour_in_EUR,_2004-2014_whole_economy_excluding_agriculture_and_public_administration.png

¹⁶ HMT (2015), 'GDP deflators at market prices, and money GDP: July 2015 (Summer Budget 2015)', <https://www.gov.uk/government/statistics/gdp-deflators-at-market-prices-and-money-gdp-july-2015-summer-budget-2015>

Table 2: Estimated Annual Familiarisation Costs

Estimate	Calculation	Annual familiarisation costs	Familiarisation cost per company¹⁷	Total familiarisation costs over 10 years (undiscounted)
Low	505 disputes * 0.33 hours * £25.01	£4,200	£8	£42,000
Best	566 disputes * 0.33 hours * £25.01	£4,700	£8	£47,000
High	598 disputes * 0.33 hours * £25.01	£5,000	£8	£50,000

Costs involved in a dispute

5.21 On receipt of an objection, the Registrar will write to the company requesting satisfactory evidence that the person consented to act as a director of the company. If the company does not provide this evidence, the Registrar will remove the details of the person's appointment as a director from the register.

5.22 The table below shows the number of disputes each year in which we estimate that companies will provide evidence. Based on past data (described in paragraph 5.6), we do not expect all companies that are the subject of a dispute will provide evidence to the Registrar, and thus incur administrative costs complying with the procedure. We assume that in future years a similar proportion of companies will continue not to object to director disputes raised by individuals, and therefore will not need to provide evidence to the Registrar under the adjusted process. As a low estimate we assume 20 companies a year will object to a director dispute and provide evidence to the Registrar (the low end of figures provided to us by Companies House). As a high estimate we assume that 25 companies will provide evidence (the high end of the number of objections provided to us by Companies House). Our best estimate is the mid-point between these two figures (23). If, once the regulations come into force, some of these companies do not in fact provide evidence (e.g. because they have wrongly appointed a person as a director for fraudulent or illicit purposes), our estimates will over-estimate the costs to business of the adjusted procedure. However, due to the design of the current procedure (where all objections have to be accepted and there is no scope for the Registrar to investigate whether they are legitimate or not) we lack the evidence to quantify how many companies, who currently object, will not provide evidence under the adjusted procedure, because they have appointed an individual as a director for fraudulent or illicit purposes.

¹⁷ Rounded to the nearest pound

Table 3: Estimated annual number of companies subject to director disputes, and their estimated responses to the Registrar

Estimate	Estimated number of disputes	Number of disputes where evidence is provided	Number of disputes where no evidence is provided
Low	505 disputes	20	485 disputes (= 505 disputes – 20 disputes)
Best	566 disputes	23	543 disputes (= 566 disputes – 23 disputes)
High	598 disputes	25	573 disputes (= 598 disputes – 25 disputes)

5.23 We do not consider that it would be onerous or time consuming for companies which have evidence that the person consented to act as a director (e.g. a director’s service contract) to provide this to the Registrar.

5.24 While preparing the (unpublished) Regulatory Triage Assessment we asked the five stakeholders we consulted how much time it may take to provide this evidence, and who within companies would provide this to Companies House. The companies expressed a range of views on who within a company would be responsible for dealing with the request for evidence. Some respondents believed that the company’s board of directors would be ultimately responsible for providing the evidence to Companies House. One respondent suggested if the company had a company secretary, they would be responsible. Another suggested if companies viewed the matter as particularly sensitive they may seek external legal advice when providing evidence (at the cost of between £2,000 and £5,000).

5.25 Given the information received, we assume that a director/corporate manager would be responsible for dealing with any objections to the removal of the name of a person as a director from the public register. The best estimate of the value of an hour of their time is £25.01 (after adjusting for non-wage labour costs and adjusting into 2014 prices). This is a conservative assumption because, as some respondents suggested, lower paid staff rather than directors, could be involved in providing the evidence to Companies House.

5.26 We do not believe that it is likely that companies will routinely seek costly, external legal advice when dealing with such disputes. The question of whether or not a director has agreed to become a director of a company is a factual one that is straightforward for the Registrar to verify – and as such the regulations are unlikely to raise questions of legal interpretation that would usually prompt companies to seek expert legal advice. The guidance will provide examples of the types of evidence that the Registrar will consider in making a judgement – so companies subject to a dispute should be aware of the types of evidence which are acceptable. Also to the extent affected companies seek legal advice in the event of a director dispute this would be a voluntary cost they incur, rather than a direct cost imposed as a result of the regulations. Overall, we believe that it is unlikely that companies will seek legal advice as part of a director dispute, and consequently we have not included these costs in our equivalent annual net cost to business calculations. However if some companies did seek legal advice the costs to business will be higher than estimated in this Impact Assessment.

5.27 When asked about how long providing such evidence to Companies House would take, two respondents believed that the costs would be minimal given the nature of the tasks involved. Another respondent suggested it may take half a day's worth of time to respond. Given these responses, in our analysis we make the conservative assumption that providing evidence to Companies House will take half a day of a director's time. Director's median weekly basic working hours, according to the ASHE 2013 data, are 37.5 hours a week. Therefore, assuming they work 5 days a week, a day's work equates to 7.5 hours and half a day equates to 3.75 hours.

5.28 Our estimates of the administrative costs companies incur providing evidence to the Registrar are described in the table below. Our figures assume that each dispute raised refers to a distinct company, rather than one or more companies being the subject of multiple disputes. It is possible that if a company that is subject to multiple disputes gains economies of scale in providing evidence to the Registrar (and thus the costs would be lower than estimated). However the available evidence does not allow us to identify whether companies are subject to multiple disputes, and thus reflect potential economies of scale in our analysis of the costs to business.

Table 4: Estimated annual costs companies incur providing evidence to the Registrar

Estimate	Calculation	Annual costs providing evidence	Cost per company of providing evidence¹⁸	Total costs providing evidence over 10 years (undiscounted)
Low	20 disputes * 3.75 hours * £25.01	£1,900	£94	£19,000
Best	23 disputes * 3.75 hours * £25.01	£2,200	£94	£22,000
High	25 disputes * 3.75 hours * £25.01	£2,300	£94	£23,000

5.29 Based upon available evidence we have no robust way to split these costs into costs that arise to companies found by the Registrar to have appointed directors with their authorisation, and companies who do not have approval to appoint directors.

Costs to business where a director needs to be changed

5.30 If a company provides satisfactory evidence then no further costs are expected beyond the costs described above. If a company does not provide satisfactory evidence that a director has been rightfully appointed, it may need to appoint a director to fill the role of the person who has been removed from the register as one of its directors. This is because all private companies must have at least one director, and all public companies must have at least two directors.

5.31 However, any additional costs incurred by companies as a result of the change to their directors would be a direct consequence of not gaining the required consent of the person in the first place and/or choosing not to provide the necessary evidence when requested to do so.

¹⁸ Rounded to the nearest pound

These are also indirect costs. Therefore, in line with other analysis of regulatory policy-making, these are not included in our estimates of the cost to business of this proposed regulatory change.

Total costs of Option 1

Table 5: Best estimate of gross total annual cost to business

Best estimate of gross total annual cost to business	£6,900
Best estimate of total annual familiarisation costs	£4,700
Best estimate of the total annual costs to businesses incurred providing evidence to the Registrar in the event of a director dispute	£2,200

Table 6: Estimates of gross total cost (undiscounted) to business over ten years

Estimate of gross total cost to business (undiscounted) over ten year appraisal period	Total Cost
Low	£61,000
Best	£69,000
High	£73,000

5.32 As previously stated we consider that this measure is likely to fall within scope of the Government's Business Impact Target. The measure is regulatory, but low cost, with an expected gross annual cost to business of £6,900. We believe that the non-monetised benefits to individuals of allowing them to seek redress from the Registrar in a situation where they are wrongly shown as a director of a company justify imposing a small cost on businesses. The equivalent annual net cost to business is £0.01m. The total net present value to business and society over a ten year period is £ -0.06m.

Non-Monetised Costs

Business Costs

5.33 We have not identified any other costs to business that could arise from the regulations that we have not been able to quantify and monetise.

Government Costs

5.34 Companies House administration costs are expected to be minimal – with Companies House incurring some additional administrative costs assessing the evidence that companies provide to them when they choose to object to a director's name being removed from the register. This is because: 1) the regulations adjust to an existing procedure rather than create a new procedure; and 2) (as described earlier in this Impact Assessment) the volume of cases each year is expected to be small. However it has not been possible to precisely quantify the costs associated with adjusting the director dispute procedure as outlined in this Impact Assessment.

6. Rationale and evidence that justify the level of analysis used in the Impact Assessment (proportionality approach)

6.1 This Fast Track Validation Stage Impact Assessment builds upon the (unpublished) Regulatory Triage Assessment that was approved by the Regulatory Policy Committee as qualifying the regulations for the Fast Track Impact Assessment process. This assessment has used a range of available data and evidence (e.g. official data and stakeholder information) to estimate the potential impact this regulatory change will have on business. Given the low cost and impact of the proposed change the level of analysis is considered to be proportionate.

7. Risks and assumptions

7.1 Below we provide a list of the key analytical assumptions that underlie this Impact Assessment's cost benefit analysis:

- As a best estimate we assume that in future there will be approximately 570 director disputes per annum, the average number of disputes between 2012/13 and 2014/15 based (internal Companies House data provided to BIS).
- It takes directors of companies that are the subject of a dispute 20 minutes to familiarise themselves with the adjusted procedure.
- That the economy wide gross hourly median wage excluding overtime of a corporate manager or director (£20.56) updated for non-wage labour costs is a good approximation of the wage of the individuals who will familiarise their companies with the regulations and will provide evidence to the Registrar.
- Wages are updated by 19.8% for non-wage labour costs of employment – based on annual Eurostat data – and updated to 2014 prices using HM Treasury GDP deflators.
- Directors whose companies are the subject to a dispute will take half a day (3.75 hours) to provide evidence to the Registrar.

8. Wider impacts

Statutory Equality Duties

8.1 An analysis of the equalities impact of the proposed regulations has not been conducted. We carried out an Equalities Impact Assessment screening exercise on the company filing measures in the SBEE Act in June 2014. This exercise covered the power to make regulations on director disputes. We did not consider that the policy would affect different people or groups in different ways. The measure relates to companies which are legally distinct from the people who own and run them.

Economic Impacts

Competition Impact Test:

8.2 The regulations are not expected to have any impacts competition between businesses within the UK.

Small and Micro Business Assessment (SaMBA):

8.3 The Better Regulation Framework Manual states Departments ‘must apply the SaMBA for all domestic measures that regulate business, except if they qualify for the Fast Track [Impact Assessment process]’. Therefore we have not conducted a SaMBA for the proposed regulations, because the measures outlined in this Impact Assessment were confirmed by the Regulatory Policy Committee to qualify for the Fast Track Impact Assessment process.

Environmental Impacts

8.4 The regulations are not expected to have an impact on the environment.

Social Impacts

Health and Well-Being:

8.5 Some individuals may find being named as a director without their authorisation – and any negative personal consequences this may lead to (described earlier in this Impact Assessment) – a nuisance or distressing. They could also be legally held liable as a director for a company’s failure to comply with UK company law – which could be more distressing. To the extent that this nuisance/distress reduces individual well-being and the regulations lead to quick and expedient resolution of director disputes (and their attendant consequences) the measure will lead to improved well-being. However the evidence base as it stands does not allow us robustly to quantify and monetise this possible well-being impact.

Human Rights:

8.6 The regulations are not expected to have any human rights impact.

Justice System:

8.7 We do not expect the regulations to give rise to any justice system impact.

Rural proofing:

8.8 The regulations are not expected to have any differential impact on individuals or businesses in rural areas of the UK.

Sustainable Development:

8.9 The regulations are not expected to have any impact on sustainable development.

Family Test:

8.10 The DWP Family Test¹⁹ sets out the following questions from officials to consider during policy-development.

- What kinds of impact might the policy have on family formation?

¹⁹ DWP (2014), The Family Test: Guidance for Government Departments, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/368894/family-test-guidance.pdf

- What kind of impact will the policy have on families going through key transitions such as becoming parents, getting married, fostering or adopting, bereavement, redundancy, new caring responsibilities or the onset of a long-term health condition?
- What impacts will the policy have on all family members' ability to play a full role in family life, including with respect to parenting and other caring responsibilities?
- How does the policy impact families before, during and after couple separation?
- How does the policy impact those families most at risk of deterioration of relationship quality and breakdown?

8.11 The regulations outlined in this impact assessment do not give rise to any direct or indirect impacts for families relating to any of the above questions.

9. Summary and preferred option with description of implementation plan

9.1 Our best estimate of the average annual total cost to business is £6,900. This comprises: 1) total annual familiarisation costs of £4,700 for affected businesses; and 2) £2,200 total annual costs that businesses incur providing evidence to the Registrar in the event of a director dispute.

9.2 The total net present value of the measure to business and society over a ten year period is estimated to be £ - 0.06m. The policy is in scope of the Government's Business Impact Target and is classified as an IN, as the regulatory measure has an estimated equivalent annual cost to business of £0.01m.

9.3 The measure is likely to give rise to unmonetised benefits to individuals, by allowing the resolution of situations that give rise to undesirable consequences for individuals. The measure will also improve the quality of information about directors available to the public and businesses via the register. The change could potentially have a deterrent effect on future fraudulent or illicit activity that involves the wrongful director appointments. We believe that the small cost to business of the proposed measure is outweighed by the non-monetised benefits to business and individuals

9.4 The regulations will, subject to Parliamentary clearance, will come into force on the 6th April 2016.