

**EXPLANATORY MEMORANDUM TO
THE COMPANIES ACT 2006 (COMMENCEMENT NO.4 AND COMMENCEMENT
NO. 3 (AMENDMENT ORDER)) ORDER 2007**

2007 No. 2607 (C.101)

1. 1.1 This explanatory memorandum has been prepared by the Department for Business, Enterprise and Regulatory Reform and is laid before Parliament by Command of Her Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Description

2.1 The Companies Act 2006 is being commenced progressively in tranches between Royal Assent in November 2006 and October 2008. The Companies Act 2006 (Commencement No. 3, Consequential Amendments, Transitional Provisions and Savings) Order 2007 (SI 2007/2194), made on 25 July 2007, was the third Commencement Order, and its main purpose is to commence provisions of the Act with effect from 1 October 2007.

2.2 The present Order corrects various shortcomings that have come to light in the third Commencement Order. It makes three changes:

2.2.1 It commences the provisions in the Companies Act 2006 relating to the making of regulations on the fees companies can charge for copies of certain documents. These were omitted from the third Commencement order by oversight.

2.2.2 It removes from the third Commencement order (i) the commencement of the provision (section 247) allowing payments to a company's employees on cessation or transfer of a business even when the payments are not in the company's interests, and (ii) the corresponding repeal of the similar provision in the Companies Act 1985 (section 719). As the new provision is phrased in terms of the powers of directors of a company rather than the powers of a company, it should not be commenced until the commencement of Parts 3 and 4 of the 2006 Act dealing with a company's constitution and capacity. This is scheduled for October 2008.

2.2.3 It ensures that two types of company resolutions (elective and extraordinary) will continue to be required to be filed with the registrar of companies. These resolutions do not exist in the Companies Act 2006, and so are not covered by the filing requirement for resolutions and agreements in sections 29 and 30. But the effect of the third Commencement Order is to keep those types of resolutions available in certain limited circumstances, and they should be filed at Companies House.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 As this order is making corrections to the third Commencement Order, copies of this order will be provided free of charge to those who purchased the earlier order.

4. Legislative Background

4.1 This order makes various corrections to the previous order made under the Companies Act 2006, namely the Companies Act 2006 (Commencement No. 3, Consequential Amendments, Transitional Provisions and Savings) Order 2007 (SI 2007/2194).

4.2 It commences the powers required to make the Companies (Fees for Inspection and Copying of Company Records) Regulations 2007 which are to come into force on 1 October 2007.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 As explained above, this order corrects errors in the Companies Act 2006 (Commencement No. 3, Consequential Amendments, Transitional Provisions and Savings) Order 2007 (SI 2007/2194), and commences enabling provisions that were erroneously left out of that order.

8. Impact

8.1 The Regulatory Impact Assessment relating to the Companies Act 2006 (<http://www.berr.gov.uk/bbf/co-act-2006/clr-review/page22794.html>), provisions of which are commenced or applied by this Order, is available on the website of the Department for Business, Enterprise and Regulatory Reform.

9. Contact

9.1 Richard Grafen at the Department for Business, Enterprise and Regulatory Reform (Tel: 020 7215 5323 or e-mail: richard.grafen@berr.gsi.gov.uk) can answer any queries regarding the instrument.