

<b>Title:</b> The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2015 <b>PIR No:</b> BEIS036(PIR)-20-BF <b>Original IA/RPC No:</b> RPC-3050(1)-BIS <b>Lead department or agency:</b> BEIS <b>Other departments or agencies:</b> N/A Click here to enter text.  Contact for enquiries: <a href="mailto:Zenaida.anim@beis.gov.uk">Zenaida.anim@beis.gov.uk</a>	<b>Post Implementation Review</b>
	<b>Date:</b> 27/11/2020
	<b>Type of regulation:</b> Domestic
	<b>Type of review:</b> <u>Statutory</u>
	<b>Date measure came into force:</b> <u>17/09/2015</u>
	<b>Recommendation:</b> Keep
	<b>RPC Opinion:</b> N/A Choose an item.

**1. What were the policy objectives of the measure? (Maximum 5 lines)**

This policy intended to ensure that corporate entity filing requirements do not impose undue administrative burdens on companies and limited liability partnerships; to improve the accuracy of information about corporate entities on the public register; and to reduce the risk that directors are the victims of identity theft and fraud.

**2. What evidence has informed the PIR? (Maximum 5 lines)**

The PIR has used internal data from Companies House on the number of registrations and director appointments of limited liability partnerships (LLPs), European Economic Interest Groupings (EEIGs), Societas Europaea (SEs), and unregistered companies (UCs). Companies House correspondence is analysed. Data on the fraudulent use of director information is also used as evidence.

**3. To what extent have the policy objectives been achieved? (Maximum 5 lines)**

Evidence used to inform the review suggests that the policy objectives have been achieved. The legislation reduced the amount of time it takes corporate entities to file at Companies House (though less than anticipated in the Impact Assessment), improved the accuracy of the register, kept new directors aware of their legal duties and helped reduced the risk of identity theft and fraud for directors.

Sign-off for Post Implementation Review: Chief economist/Head of Analysis and Minister

***I have read the PIR and I am satisfied that it represents a fair and proportionate assessment of the impact of the measure.***

Signed: 

Date: 02/12/2020

## Further information sheet

Please provide additional evidence in subsequent sheets, as required.

### **4. What were the original assumptions?** (Maximum 5 lines)

The Impact Assessment assumed that it takes ten minutes to complete a director “consent to act” for 21,900 appointments a year. This proved to be an overestimate with appointments and time saving less than anticipated.

### **5. Were there any unintended consequences?** (Maximum 5 lines)

We identified no unintended consequences.

### **6. Has the evidence identified any opportunities for reducing the burden on business?** (Maximum 5 lines)

The evidence suggests that the removal of the consent to act form reduced the administrative burden for LLPs, EEIGs, SEs, and UCs. The removal of this form has given secretarial and administrative staff of the affected entities more time to work on other productive tasks.

### **7. For EU measures, how does the UK’s implementation compare with that in other EU member states in terms of costs to business?** (Maximum 5 lines)

Not applicable as this was not an EU measure.

## **Evidence base**

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## Section 1: Scope of the Review

1. The purpose of the post-implementation review (PIR) for The Company and Limited Liability Partnerships (Filing Requirements) Regulations 2015 is to:
  - Set out the objectives of the regulations;
  - Review whether the regulation has achieved its original objectives and if those objectives remain appropriate; and
  - To assess whether the regulation is still appropriate and remains the best option for achieving those objectives.<sup>1</sup>

## Section 2: Background

2. In February 2013, the Government published the Company and Business Names Consultation: Red Tape Challenge<sup>2</sup>. Responses to the consultation raised concerns about certain filing requirements and wider problems associated with inaccurate information on the public register. The coalition Government at the time proposed the following changes to address these concerns:
  - To reduce the time taken to strike off and dissolve a Limited Liability Partnership (LLP) from the public register to improve the accuracy of the public register.
  - Simplification of the filing requirements for LLPs, European Economic Interest Groupings (EEIGs), Societas Europaea (SE) and unregistered companies (UCs) for newly appointed directors, members and company secretaries. This involves changing the “consent to act” to a statement from the company that the person has consented to act as a director (or secretary).
  - Introduction of a new process where Companies House write to newly appointed directors of UCs following their appointment providing information about their duties as a director.
  - Changes to information shown on the public register, where, the day element of a director’s date of birth is no longer shown on the public register.
3. Companies and limited liability partnerships (LLPs) provide a way of conducting business that allow an entity to be legally distinct from its owner(s). One main advantage is that the liability of the owners and managers for the corporate entity’s debts is limited, usually by the amount of the shares owned by a person (for a company limited by shares) or the amount of the guarantee given by a person (for a company limited by guarantee).
4. Limited liability is seen as a privilege and there are corresponding responsibilities. The foremost is that UK corporate bodies are required to file information on a public register held by the Registrar of Companies at Companies House. This allows others with an interest in the corporate entity to access information about the corporate entity and make more informed decisions about its financial health.

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<sup>1</sup> The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2015. Available at: <https://www.legislation.gov.uk/ukxi/2015/1695/regulation/11/made>

<sup>2</sup> Available at: <https://www.gov.uk/government/consultations/company-and-business-names-red-tape-challenge>

## Simplifying company law requirements

5. The 2013 consultation indicated that there were several areas where filing requirements could be simplified without reducing the wider benefits to society of making information publicly available. Where requirements placed on companies are overly complicated or onerous, they placed administrative burdens on companies, diverting company resources away from more productive uses. For example, in the BEIS (formerly BIS) 2013 consultation on company filing requirements there was support for the removal of “consent to act” as a director.

## Improving information on the public register

6. There were several wider problems associated with the information on the public register before the regulations were enacted. For example, there had been complaints that some individuals were being appointed as directors without their knowledge or consent. Incorrect information such as this on the register may have had adverse consequences for those involved with companies (i.e. investors, lenders, businesses who trade with them etc.). It was time-consuming and costly for individuals involved where a person had been registered as a director without their permission. The ability to remove a corporate entity from the public register (strike off) in a timely fashion when it is necessary to do so was aimed at ensuring the register is accurate thereby increasing the usefulness of the register as a source of information about UK corporate entities.

## Reducing the Risk of identity theft

7. The personal information of company directors is available to the public via the Register. It gives a company’s customers, investors, lenders, and businesses who trade with them information about who controls the company. This helps them to make better informed decisions about their transactions with the company. However, prior to enactment of the regulations this transparency opened the possibility that company directors would be subjected to increased risk of identity theft and fraud
8. The legislation aimed to strike the right balance between transparency and the protection of individuals from the risk of being the victim of criminal activity. In the 2013 consultation<sup>3</sup> a clear majority of respondents (105 responses out of 130, or 80%) were in favour of full or partial suppression of director dates of birth on the register.

## Which corporate entities were affected by the legislation?

9. The legislation affected the company filing requirements for different types of corporate entity, such as limited liability partnerships (LLPs)<sup>4</sup>, European Economic Interest

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<sup>3</sup>Available at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/304946/bis-14-635-company-filingrequirements-response.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/304946/bis-14-635-company-filingrequirements-response.pdf)

<sup>4</sup> An LLP is a legal partnership providing limited liability to the partners in the business. Two or more persons associated for carrying on a lawful business with a view to making a profit can incorporate as a LLP.

Groupings (EEIG)<sup>5</sup>, Societas Europaea (SE)<sup>6</sup>, and unregistered companies (UC)<sup>7</sup>. Table 1 shows which measures apply to which type of corporate entity. Table 2 then shows the latest available data on the numbers of each type of corporate entity that were active in the UK each since the implementation of the legislation.

Table 1: Which measures apply to which type of corporate entity?

<b>Measure</b>	<b>Corporate entity the measure applies to</b>
Accelerated strike off from the public register	Limited Liability Partnerships
Director's "consent to act"	Limited Liability Partnerships Societas Europaea European Economic Interest Groupings Unregistered companies
Information to newly appointed directors	Unregistered companies
Date of birth	Limited Liability Partnerships Unregistered companies Societas Europaea European Economic Interest Groupings

<sup>5</sup> An EEIG is a form of association between companies or other legal bodies, firms or individuals from different EU countries, who need to operate together across national frontiers. It carries out particular tasks for its member owners and is quite separate from its owners' businesses. Its aim is to facilitate or develop the economic activities of its members.

<sup>6</sup> An SE is a European public limited liability company. An SE may be created on registration in any one of the Member States of the European Economic Area (EEA). Article 10 of European Council Regulation 2001/2157 requires Member States to treat an SE as if it is a public limited company formed in accordance with the law of the Member State in which it has its registered office. UK national laws that apply to public limited companies also apply, in many respects, to SEs registered in the UK (this is applied by Article 9(1)(c)(ii) of European Council Regulation 2001/2157).

<sup>7</sup> Under the Unregistered Companies Regulations 2009, an 'unregistered company' is a body corporate incorporated in, and having a principal place of business in, the United Kingdom, other than: (i) a body incorporated by, or registered under, a public general enactment; (ii) a body not formed for the purpose of carrying on a business that has for its object the acquisition of gain by the body or its individual members; (iii) a body for the time being exempted from section 1043 of the Companies Act 2006 by a direction of the Secretary of State under subsection (1)(c) of that section; or (iv) an open-ended investment company. For more details see: [http://www.legislation.gov.uk/uksi/2009/2436/pdfs/uksiem\\_20092436\\_en.pdf](http://www.legislation.gov.uk/uksi/2009/2436/pdfs/uksiem_20092436_en.pdf)

Table 2: The number of different types of corporate entities in the UK

Type of Corporate entity	Number in the UK 2016	Number in the UK 2017	Number in the UK 2018	Number in the UK 2019	Number in the UK 2020	Data Source
Limited Liability Partnership	56,129	55,552	50,687	49,510	48,571	Taken from Companies House Official Statistics <sup>8</sup>
European Economic Interest Group	292	294	303	294	285	Taken from Companies House Official Statistics
Societas Europaea	53	50	40	47	32	Taken from Companies House Official Statistics
Unregistered Companies	43	43	42	39	41	Taken from Companies House Official Statistics
Total	56,517	55,939	51,072	49,890	48,929	BEIS Internal Calculation

NB: All data refers to 31<sup>st</sup> March

### Section 3: Policy Objectives

10. The aims of the interventions were:

- 1) to reduce the amount of time it takes corporate entities to interact with the Registrar; this would enable corporate entities to concentrate more on the day to day running of their business.
- 2) to improve the accuracy of the register, by making it quicker and easier for the Registrar to strike off; the proposals would also ensure that the register is more up to date by removing defunct entities more quickly; and ensure the filing requirements are consistent across different corporate forms.
- 3) to ensure that new directors are fully aware of their legal duties as directors, and thus able to properly fulfil their important role in managing corporate entities.
- 4) to reduce the risk of identity theft and fraud that may arise from the transparency about directors through the register.

### Section 4: Have the regulations met their original objectives?

11. This section assesses the extent to which the regulation has achieved their original objectives, as set out in Section 3.

<sup>8</sup> The number of effective LLPs partnership on the UK public register of companies. This is the total number of LLPs on the register minus the number of LLPs undergoing liquidation or in the course of being removed from the register. Companies House (2020), 'Companies register activities: statistical release 2019 to 2020', published 25<sup>th</sup> June 2020, see <https://www.gov.uk/government/statistics/companies-register-activities-statistical-release-2019-to-2020>



## Filing details of directors, members, and secretaries.

12. The filing requirements on Limited Liability Partnerships (LLPs), European Economic Interest Groupings (EEIGs), Societas Europaea (SE) and unregistered companies (UCs) for newly appointed directors, members and company secretaries have been simplified. The requirement for corporate entities to complete a “consent to act” within the form which notifies Companies House of the details of the director has been removed. The Government replaced the “consent to act” with a statement from the company that the person has consented to act as a director (or secretary).
13. This aspect of the legislation aimed to reduce the amount of time taken for corporate entities to interact with the Registrar, to enable corporate entities to concentrate more resources on the day to day functions of their business and grow their businesses.
14. The legislation removed the consent to act section of the AP01 and AP03 forms and replaced it with a simple confirmation tick box to the existing notification of director form stating that the new director has consented to act as a director/secretary for the entity. This led to the reduction in costs to corporate entities as they are no longer required to complete the “consent to act” section of the form notifying Companies House that a director has been appointed.
15. The original Impact Assessment (IA)<sup>9</sup> used a web analytical tool called Piwik to monitor the use of Companies House services. When electronic forms are being completed this tool works out average times taken for inputting data. BEIS has obtained the latest Piwik data to review the average amount of time taken to fill out the AP01 and AP03 equivalent forms after the introduction of the new filing regulations.
16. According to the IA the Piwik data showed that, before the legislation was put in place, the average time spent by those completing the electronic form on the Officer’s section of the form notifying a new director and secretary, was 7 minutes 40 seconds. Current Piwik data<sup>10</sup> shows that it now takes 4 minutes and 30 seconds in total to fill out the AP01 and 2 minutes to fill out the AP03 equivalent forms, i.e. an approximate saving of between 3-6 minutes depending on which form is completed.
17. However, the IA assumed that company secretaries would spend up to 3 minutes gathering the source information required for the “consent to act” section of the form, i.e. the total time taken to complete the consent to act section could have been 10 minutes in total. If this still applies, we estimate that the total amount of time saved by removing the consent to act section of the form is between 6-9 minutes, i.e. less than assumed in the IA.
18. Table 3 illustrates Companies House data on the total number of appointments in LLPs, EEIGs, SEs, and UCs from 2016-2020.

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<sup>9</sup> <https://www.legislation.gov.uk/ukxi/2015/1695/impacts>

<sup>10</sup> Piwik data obtained from Companies House on the average length of time taken to fill out AP01 and AP03 forms as of October 2020.

Table 3: Annual number of appointments

Corporate Body Type	Number of appointments 2020 <sup>11</sup>	Number of appointments 2019	Number of appointments 2018	Number of appointments 2017	Number of appointments 2016
Limited Liability Partnership	5101	13832	12678	18640	24196
European Economic Interest Group	15	29	17	18	20
Societas Europaea	2	3	6	3	23
Unregistered Companies	4	36	17	39	14
Total	5122	13900	12718	18700	24253

19. Another reason why benefits are likely to be somewhat less than assumed is that since the regulation the number of LLP appointments fell significantly<sup>12</sup>. The original IA assumed that the time saving would apply to 21,900 director appointments a year, whereas the total number has been substantially below this since 2016.

20. The evidence therefore shows that the legislation met its original aim to reduce the amount of time it takes for corporate entities to file at Companies House. However, the time saved for business of the reduction is smaller than predicted.

#### Accelerated strike off from the public register

21. The intended benefits were faster removals of defunct or fraudulent LLPs from the register, reducing the time from six months to three months<sup>13</sup> for compulsory dissolution. This was intended to improve the accuracy and integrity of the register for its users (i.e. individuals and businesses who search the register to obtain information about LLPs). The original IA stated that, at the time, there was insufficient information to quantify the benefits of improved integrity and accuracy of the register.

22. Table 4 shows the time taken for voluntary and compulsory dissolutions before and after the legislation change<sup>14</sup>. The compulsory dissolution process starts when an LLP is late filing its confirmation statement or accounts. For the analysis of compulsory dissolutions, we considered the start of dissolution to be the date at which Companies House began a compliance case against the LLP. While for voluntary dissolutions the start date was the accepted date for the LLDS01 form.

<sup>11</sup> This is the number of appointments counted by the amount of accepted AP01/AP03 equivalent forms by Companies House.

<sup>12</sup> Mirroring the reduction in the number of LLPs.

<sup>13</sup> 3 months includes the two, two-week periods where CH attempts to contact the LLP to see whether it remains in business, prior to notification in the Gazette. Once notified in the Gazette the LLP has two months to demonstrate that they are carrying out a business or operation.

<sup>14</sup> The year 2015 has been excluded, as the legislation change would have taken place part way through the year.

Table 4: Average time to dissolve LLPs, before and after change

<b>Dissolution Type</b>	<b>Average dissolution process time (months)</b>	
	<b>Pre-legislation (2011-14)</b>	<b>Post-legislation (2016-19)</b>
<b>Compulsory</b>	6.3	4.2
<b>Voluntary</b>	4.3	3.1

*Note: The information provided forms part of Companies House's management information and is unaudited. Therefore, it is subject to change and should be used for indicative purposes only. Companies House official statistics are produced on a quarterly and annual basis and this information may be included in future releases of our statistics. Please refer to our website for our official statistics using this link: <https://www.gov.uk/government/statistics?departments%5B%5D=companies-house>*

23. The changes that were introduced have led to a 2.1 month decrease in the average time for a compulsory dissolution. The time taken for voluntary dissolution has also fallen. The reasons why compulsory dissolutions still take more than 3 months include:

- Objections raised during the dissolution process, which delay the progression towards dissolution. Additionally, Gazette notices are only published on a certain day of the week, which introduces delays in the process, based on when an LLP enters the Gazette stage and when the second Gazette notice is published.
- There are also administrative processes, within Companies House, that extend the time for compulsory dissolutions.

24. The accelerated strike off policy option was not expected to result in savings for Companies House because the pre-existing and proposed strike off process were similar. There were no additional familiarisation costs associated with this measure for other involved parties (e.g. creditors, members of the LLP). Strike off is procedural and once an application is made to strike off an existing LLP, standard communication to interested parties clearly states the amount of time that third parties have to comment on the proposed strike off.

25. Accelerated strike off does not change the total amount of LLPs removed from the register, rather it just speeds the process up. Table 5 provides Companies House data on the total number of LLPs dissolutions in each year. Dissolution can happen in two ways - voluntary and involuntary. Data is not available on the proportions of dissolutions that are non-voluntary.

Table 5: LLP Dissolutions

<b>Register Activity</b>	<b>Q2 2015</b>	<b>Q2 2016</b>	<b>Q2 2017</b>	<b>Q2 2018</b>	<b>Q2 2019</b>	<b>Q2 2020</b>
Total number of LLPs on the register at start of period	60,181	60,208	60,772	53,842	52,427	51,153

In course of dissolution	3,457	2,940	4,513	2,306	2,177	1,851
Percentage of total Register	5.7%	4.9%	7.4%	4.3%	4.2%	3.6%

NB: During 2016/17, Companies House registered a one-off bulk filing of voluntary dissolutions from a single presenter, which dissolved in excess of 1,000 limited liability partnerships resulting in a higher proportion of companies in the course of dissolution as of 1st April 2017. This year will be viewed as an outlier.<sup>15</sup>

26. There have been reductions in both the number of LLPs which are in the process of being dissolved and the number of LLPs registered (Table 4). The number of dissolutions is below the 8000 in 2014/15 cited in the IA. It would be fair to say that the decline in the size of the Register and the decline in number of dissolutions means that the benefit from this measure is less than was expected at the time. Nevertheless, the high value placed on the Register by users (see para 33) means that speedy removal of defunct or fraudulent LLPs is still worthwhile.

#### Providing newly appointed directors with information on their duties

27. As a result of this measure, Companies House writes to newly appointed directors of unregistered companies, confirming that their appointment has been recorded on the register and directed them to information about their legal duties as a director. It also provides newly appointed directors with information on their duties. Companies House wrote to directors of unregistered companies (of which there are currently just 41 in the UK) following their appointment.

28. Companies House incurred some costs in distributing letters to newly appointed directors. While we were unable to obtain the cost of distributing those letters, the cost is suspected to be very small as the number of unregistered companies is very small.

Table 6: Number of letters issued to directors of Unregistered Companies by Companies House

Year	Number of letters issued <sup>16</sup>
2016	21
2017	19
2018	17
2019	29
2020	14

29. None of the letters issued have been sent back to Companies House nor has Companies House received correspondence from those who have received letters querying their duties. This is, we believe, a consequence of the information on director duties being available in more detail on the Companies House website.

30. Our judgement is that this measure has achieved its original objective of informing newly appointed directors of unregistered companies of their duties primarily through sending

<sup>15</sup> Available at: <https://www.gov.uk/search/research-and-statistics?organisations%5B%5D=companies-house&parent=companies-house>

<sup>16</sup> Companies House internal data on the number letters sent to directors in unincorporated companies

letters and using the letters to direct the intended recipients to more information on the Companies House website.

### Date of birth of directors on the register

31. To provide protection against identity theft, the day element of a director's date of birth is no longer shown on the public register. However, LLPs, EEIGs, SE and UCs still provide the full date of birth to Companies House and this is available on request to authorised organisations such as credit reference agencies and public enforcement bodies.
32. Identity theft and fraud can have a substantial negative impact on individuals, businesses, and public enforcement bodies. The quality of evidence available does not allow the benefits to be monetised. This is because there is a lack of evidence on: 1) the number of cases of identity theft and fraud that arose directly as a result of personal information about directors being made available on the register; and 2) the effect that suppression of the day element of a director's date of birth had on the incidence of identity theft and fraud.
33. The change brought about a small loss of transparency for users of the register, as information that was previously made available to the public (i.e. a director's day of birth) is no longer available. However, the change has not had a material impact for users of the Register. There is a significant amount of information about directors available which allows users of the Register to learn about who controls a corporate entity and to build up a picture of them. This information includes a director's name and any former name; service address; month and year of birth; usual country of residence; nationality; and business occupation (if they have an occupation). Research suggests that users place a high value on Companies House data. This is valued at between £1 billion-£3 billion a year, of which 41% is associated with basic company information which includes director details<sup>17</sup>.

## **Section 5: Conclusion and Recommendations**

34. The conclusion of this PIR is that the regulations have achieved their original objectives as:
  - The measures have reduced the administrative burden for companies even if less than the amount originally predicted.
  - The legislation increased the accuracy and integrity of the register whilst improving the security of the data of those on the register; and
  - Most of the costs associated with the measures were minimal or one-off costs and are therefore sunk.

We therefore recommend that the regulations are kept.

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<sup>17</sup> <https://www.gov.uk/government/publications/companies-house-data-valuing-the-user-benefits>