

Covid-19 : FAQs to provide advice for company directors

In light of the Covid-19 pandemic, company directors are facing uncertainty and new difficulties in relation to the day to day running of their companies.

We have put together some FAQs to help you navigate some of the common issues which might arise as a result of the current outbreak.

This article offers insight as at the date of publication. You should always check the latest Scottish and UK government guidance and seek advice on specific situations.

1. Directors' Duties

1.1. Has COVID-19 affected the duties I have as a director?

As a company director, you are required by law to:

- act within the powers of the company's constitution,
- promote the success of the company,
- use independent judgement,
- exercise reasonable skill, care and diligence,
- avoid conflicts of interest,
- refuse benefits from third parties, and
- declare any interests in proposed transactions.

These directors' duties have not changed and you should continue to always act in the best interests of your company. If you have any Directors and Officers Insurance policies, you should familiarise yourself with the terms.

If your company is facing insolvency, these duties have shifted slightly, and new measures have been introduced to help directors in these difficult times. You can read more about these new measures [here](#).

2. Filing Documents

2.1. How do I file documents with Companies House

Although Companies House have closed their offices to the public, paper documents can still be submitted by post but may take longer than usual to process.

For most routine filing, the best approach is to use the Companies House WebFiling system. You will need to register an account and you will need your company's Authentication Code. Please contact us if you need any help with WebFiling.

Please note, Companies House have also currently suspended all same-day services (including same-day name change and same-day incorporation).

2.2. What do I do if I'm struggling to file my accounts with Companies House due to the current outbreak?

If your company has been affected by COVID-19 and you are worried your accounts will be late, you can apply to Companies House for an extension to your accounts filing deadline. This is a fast-track online process which can be found [here](#).

The extension will be automatically and immediately granted for a 3-month period where the delay is due to the current outbreak.

You must apply for the extension before your accounts filing deadline passes. You will not be granted an extension if your accounts are already overdue and you will be given an automatic late filing penalty.

Please note, if you have already extended or shortened the accounting period, you may not be eligible for a further extension.

2.3. How do I pay the stamp duty?

The Stamp Office has temporarily changed how it deals with stamp duty.

If you have transferred shares, or if your company has purchased its own shares, you should:

- pay the stamp duty electronically (click [here](#) for the Stamp Office payment guidance),
- email a scanned PDF of the signed stock transfer form(s) or signed Form(s) SH03 to stampdutymailbox@hmrc.gov.uk, and
- remember to include any supporting documents (e.g. share purchase agreement, share buyback agreement, power of attorney etc.)

You should not post any documents to the Stamp Office at the moment. If you have posted any documents to the Stamp Office (including stock transfer form(s), Form(s) SH03 or cheques), these will not be returned to you until the current COVID-19 measures end.

If you need help with share transfers, share buybacks or paying stamp duty, please contact us.

3. Making Decisions

3.1. Can we still hold a board meeting and make decisions in relation to the company in the current climate?

Yes – most companies will be able to hold board meetings by telephone or video conference, as long as the directors receive proper notice and can properly communicate with one another.

Before you call a virtual board meeting, you must check the company's Articles of Association and ensure you comply with any specific decision-making procedures that might be stipulated.

Even with a virtual meeting, you will need to comply with the usual rules around giving proper notice, ensuring the meeting is quorate and declaring and managing any conflicts of interest.

3.2. We need shareholder consent to make a decision. How do we obtain this?

The directors must firstly approve the terms of a written resolution and authorised distribution to the shareholders. It must be sent to every eligible shareholder without undue delay and should include notes to explain how the shareholders approve and return the written resolution before it lapses. Once the written resolution has been circulated, it cannot be withdrawn.

Once passed, special resolutions (and some ordinary resolutions) will need to be filed with Companies House – see above. If you need any assistance regarding the processes and procedure in approving and passing written resolutions, please get in touch.

3.3. How do we hold our Annual General Meeting (AGM) given social distancing measures?

The first step is to check your Articles of Association.

Private limited companies do not need to hold an AGM, unless specifically required by their Articles of Association. If you are required to hold an AGM, you should check for any provisions which allow you to postpone or adjourn your AGM until social distancing measures are eased. Alternatively, you may wish to consider amending your Articles to avoid the need to hold an AGM.

The Government has proposed a flexible approach to holding AGMs in line with social distancing measures. This might include postponing or extending the deadline for AGMs or holding meetings electronically by telephone or video conference. Emergency legislation on this point has still to be passed.

If you would like support or guidance regarding your specific situation, please get in touch with your usual contact at [Lindsays](#) or a member of our Corporate & Technology team.

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