

Key changes to Companies Act impacting Company Administrators

Topic	Current Provision/Requirements	Changes and Reasons
New requirement to retain financial statements or documents laid at AGMs for five years [New section 201AA]		<p>Every company is required to keep:</p> <p>(a) a copy of the documents laid at its annual general meeting for at least 5 years after the date of the meeting; or</p> <p>(b) if the company has dispensed with the holding of the annual general meeting, a copy of the financial statements or consolidated financial statements and balance sheet in the case of a parent company.</p> <p>The company is also required to keep a copy of the auditor's report, if applicable, sent to all persons entitled to receive notice of general meetings, for at least 5 years after the date on which the financial statements or consolidated financial statements were sent.</p> <p>The Registrar or an authorised officer may require the company to furnish the said documents.</p> <p>Non compliance with these requirements is a criminal offence by the company and every officer.</p> <p>Reasons for amendments</p> <ul style="list-style-type: none"> • Currently, every company, its directors and managers

		<p>are required to retain accounting and other records for a minimum of five years. However, there is no requirement for companies to retain financial statements or other documents laid before the company at its annual general meeting or sent to members.</p> <ul style="list-style-type: none"> • These changes facilitate ACRA in verifying the accuracy of financial information filed with ACRA.
Phasing out share warrants [Amended section 66]	<p>The bearer of a share warrant issued before 29 December 1967 shall be entitled on surrendering it for cancellation to have his name entered into the company's register of members. The company is responsible for loss incurred by a person by reason of it entering the said bearer into its register of members without surrender and cancellation of the share warrant.</p>	<p>Subsections (2) and (3) of section 66 are deleted and replaced with the following requirements:</p> <p>(a) The bearer of a share warrant issued before 29 December 1967 shall within 2 years after the commencement of the Act be entitled to surrender it for cancellation and for his name to be entered into the register of members;</p> <p>(b) The company is responsible for loss incurred by a person by reason of it entering the said bearer into its register of members without surrender and cancellation of the share warrant; and</p> <p>(c) The company shall cancel any said share warrant unaccounted</p>

		<p>for by the expiry of the 2 year period.</p> <p>Reasons for amendments</p> <ul style="list-style-type: none"> • It is the governmental policy to disallow the issuance of bearer equity instruments due to the risks in facilitating untracked transfer of financial assets. • As more than 40 years have passed, it is timely to end the transitional arrangement provided in the current section 66, and abolish outstanding share warrants completely.
<p>Directors, chief executive officers and secretaries will be allowed to report alternate address in place of their residential address</p> <p>[New section 173 and sections 173A to I, new section 36, new sections 368A and B, new section 370A, amended section 372 and amended section 12]</p>	<p>Currently, these individuals must report their residential addresses and changes to these with ACRA. Information on residential addresses is publicly available. Note that “manager” is the term for a “chief executive officer” in the current Companies Act.</p>	<p>These individuals will be allowed to report alternate addresses and changes to these with ACRA. At the same time they will also be required to report residential addresses with ACRA as well as changes to these, unless they have reported changes to the National Registration Office. If they report an alternate address, then ACRA’s public records will disclose this address, and their residential address will not be disclosed.</p> <p>An address must satisfy certain legal conditions in order to be an alternate address. For example, it must be an address where the</p>

	<p>individual can be located and must be in the same jurisdiction as his residential address. It also cannot be a post office address or the same as his residential address.</p> <p>If the individual cannot be located at his alternate address reported, ACRA will be empowered to investigate and after going through due process, replace his alternate address with his residential address. Such an individual may be subject to criminal sanctions for not being locatable at his alternate address. He will also not be allowed to report another alternate address for three years.</p> <p>For persons who have opted to report alternate addresses to replace their residential addresses reported before this new policy was introduced, the residential address would still be available in the extracts of the old records filed as these are historical records and it would not be cost effective to block them.</p> <p>Reasons for amendments</p> <p>Allowing the reporting of an alternate address, subject to necessary safeguards for cases where an individual cannot be located at the address, will protect the privacy of individuals.</p>
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<p>ACRA will maintain the electronic register of members for private companies</p> <p>[New section 189A, amended sections 190 to 196, new sections 190A to D, and amended section 12]</p>	<p>All companies are required to maintain and update physical registers of members.</p>	<p>Private companies will no longer be required to maintain and update physical registers of members. Instead, ACRA will maintain electronic registers of members for them. This electronic register will be publicly available (except for the register of gazetted exempt private companies), and will also be available to the company for inspection without charge.</p> <p>In order to update the information in the electronic register, the company will be required to register share ownership information and changes to it (for example, allotment of shares, transfer of shares, increase in amount of paid up share capital) with ACRA on a real time basis. The date of registration of such information with ACRA will be the dates of entry into the electronic register.</p> <p>As the electronic register will not contain all historical information kept in a private company's physical register of members, every private company will be required to keep its register of members containing information registered before the new policy commences operation, until 7 years after the last member on the company's register has ceased membership.</p> <p>Reasons for amendments</p>
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<p>ACRA will maintain the electronic registers of directors, chief executive officers, secretaries and auditors of all companies</p> <p>[New section 173 and sections 173A to I, and amended section 12]</p>	<p>All companies are required to maintain and update physical registers of directors, managers, secretaries and auditors.</p>	<p>Companies will no longer be required to maintain and update these registers. Instead, ACRA will maintain the electronic registers of directors, chief executive officers, secretaries and auditors for them. For the purpose of updating the registers, companies will be required to report to ACRA the information of these officers and changes to information within 14 days.</p> <p>The concept of “manager” will be replaced by “Chief Executive Officer” under the new Act. The definition of “Chief Executive Officer” remains substantially the same as that of “manager”. Hence the register of managers will be replaced by the register of CEOs. This means that a manager of a company incorporated before the commencement of the amendments will be treated as a chief executive officer under the amended Act. The name and particulars of such a manager already reported to us will be automatically entered into the register of chief executive officers,</p>

		<p>unless and until a notification of change is filed with ACRA.</p> <p>Reasons for amendments</p> <p>This will improve public accessibility to the various registers and removes the administrative need for companies to maintain physical registers.</p>
<p>Merging of memorandum and articles into a single document called the constitution</p> <p>[New section 4(12), amended section 22, and new sections 35 to 37 and 39]</p>	<p>A person incorporating a company must submit the memorandum and articles of the company to ACRA. The articles may adopt all or any of the regulations contained in Table A of the Fourth Schedule.</p>	<p>The memorandum and articles will be merged into a single document called the constitution and a person desiring to incorporate a company must submit the constitution of the company to ACRA.</p> <p>Companies do not need to take any steps or incur any costs to merge their current memorandum and articles. The law will deem these to be merged to form the constitution of the company.</p> <p>We will provide model constitutions for private companies and others (if applicable) in the secondary legislation and publish this publicly in due course. A company may choose to adopt a model constitution or draft its own. If it adopts a model constitution without amendments, it does not need to file the said document but can refer to the title chosen during registration. In addition, the model constitution adopted can be either</p>

		<p>the constitution as at the point of registration or whatever version of the constitution that is in force from time to time. Where the latter is chosen, there is no need for companies to amend its constitution whenever changes are made to the model constitution.</p> <p>Reasons for amendments</p> <p>These changes streamline the administrative process for companies and reduces their set-up cost if they choose to adopt the models constitutions.</p>
<p>Updating ACRA's striking off regime for local companies</p> <p>[Amended section 344 and new sections 344A to G]</p>	<p>Where the Registrar has reasonable cause to believe that a company is not carrying on business or is not in operation, he may send a letter to it that if an answer showing cause to the contrary is not received within one month a notice will be published in the Gazette with a view to striking the name of the company off the register.</p> <p>If the Registrar does not receive an answer within one month he may publish in the Gazette and send to the company a notice that at the</p>	<p>The period for show cause will be reduced from 3 months to 60 days. The period of time given to a person aggrieved by the striking off of a company to appeal to the court for restoration will be reduced from 15 years to 6 years.</p> <p>The legal provisions make a clear distinction between a company applying to the Registrar for striking itself off and striking-off initiated by the Registrar. Notwithstanding this, the procedures for notification/publication will however be similar.</p> <p>An application may be made to the Registrar to administratively restore a struck off company initiated by the Registrar, if no</p>

	<p>expiration of 3 months from the date of that notice the name of the company will unless cause is shown to the contrary be struck off the register and the company will be dissolved. At the expiry of 3 months, the company will be struck off the register if no cause to the contrary is shown. A person aggrieved by the striking off may appeal to the Court within 15 years after the striking off for restoration of the company.</p>	<p>appeal to the Court has been made. This application must be made within 6 years after the dissolution of the company. The Registrar will also be given new powers to restore a company struck off due to the Registrar's mistake. Such a mistake excludes one that is made on the basis of wrong, false or misleading information given by an applicant for the striking off of the company.</p> <p>Reasons for amendments</p> <ul style="list-style-type: none"> • A period of two months is a reasonably sufficient period for objections to be lodged. • A shortened six year period for restoration is appropriate as it is generally consistent with the limitation period for recovery of debts. • The new administrative restoration procedure by the Registrar will complement the current requirement that restoration can only be done by application to the court. This additional mechanism reduces costs for companies.
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