

**EQUIFAX**<sup>®</sup>

**Commercial Information Solutions**

# **Companies Act 2006**

October 2009 Implementation

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## Companies Act 2006 – October 1<sup>st</sup> 2009 Implementations

1<sup>st</sup> October 2009 sees the final implementation of the Companies Act 2006 which received Royal Assent on 8<sup>th</sup> November 2006. With this revised legislation there are several significant changes to the data to be held and distributed from Companies House. At Equifax, we aim to assist businesses with understanding these changes and the implications they may have on a company's future financial stability if its decision-making and risk management processes are not updated.

### The changes to Companies House data

- Director's usual residential address (URA)
- Company directorships
- Northern Ireland Company Registry integration
- Limited Liability Partnership members integration

### What changes will Equifax business customers see in the data they receive?

#### Director's usual residential address (URA)

From 1st October 2009 every director must provide Companies House with both their usual residential address (URA), and for each directorship they hold, a service address.

The service address will be on the public register and will be provided in reports and data feeds from Equifax.

The residential address will be protected information, only kept on a restricted register and not available to Equifax customers unless they are a Specified Public Authority.

There will be no indicator as to whether the URA or service address is the same.

#### Company directorships

The Act also includes other changes to directorships. These are:

- a company must have at least one actual person as a director and cannot just have companies acting as directors
- a new minimum age of 16 is set for directors. Existing under age directors will cease to be directors when the age criteria comes into force.

The director details will be available to Equifax customers, as they currently are, but our customers will notice the above changes over time in line with the legislation change.



### Northern Ireland Company Registry integration

When the Companies Act 2006 is fully implemented in October 2009 it will provide for a single company law regime applying to the whole of the United Kingdom. Companies will be UK companies rather than Great Britain or Northern Ireland companies, and the same legislation will apply to all. As a consequence, Companies Registry Northern Ireland (CRNI) will be integrated with Companies House on this date. CRNI is currently part of the Department of Enterprise, Trade and Investment NI (DETINI); from October it will transfer to Companies House, under the Department for Business, Innovation and Skills (BIS).

Northern Ireland will retain a registry function and presence along similar lines to the Companies House Scotland model. This means that the office will remain in Belfast and there will be a Registrar for Northern Ireland.

There are approximately 38,000 live companies registered in Northern Ireland. At Equifax we are working to fully incorporate these companies into our usual processes and operations so that they are treated in exactly the same way as the rest of the UK, thereby keeping the information up-to-date upon latest accounts filings and including full director details and mortgage information. Previously with a separate register Equifax only provided updates on these companies upon customer request and directors and mortgage details were not always available.

### Limited Liability Partnership (LLP) members integration

Companies House provide us with details of the members of an LLP, some may be designated members who have a legal responsibility for the running of the business in the same way as directors of a limited company. To date there has been no correlation of LLP members and company directors by Companies House, i.e. where an individual was both a director and a member two separate records were kept in different databases. With the Companies Act changes, Companies House have taken the opportunity to merge the two databases.

Initially there will be no change within our systems; a director enquiry will continue to only show directorships and 'other directorships' within company and director reports and will not include memberships of LLP's.

Over time we intend to take advantage of this merging of the databases to effectively treat directorships and memberships as one – bringing together all the roles that an individual performs under one enquiry and incorporating LLP members into the current directors search functionality. In order to ensure this is completed with the minimum of disruption and as accurately as possible, individual stages will be put in place throughout 2010. We will keep customers informed of these changes as they occur so that they can make maximum benefit from them.



## How will these changes affect Equifax Commercial Information customers?

### Director's usual residential address (URA)

The important consideration for Equifax customers is whether they have enough information on a company or the people behind it to make an informed credit decision.

Without a URA an individual director credit check will not be possible. We recommend that our customers add a residential/home address request to their credit application forms where they notify directors that they will be undertaking an individual director credit check. Only Equifax customers who have access and consent to use our Blended service will be able to do this and there is already a facility to search directors at other known addresses.

If the Equifax customer is a Specified Public Authority then Equifax will be able to provide both the URA and the service address. This will be via a new report – Officer URA Report. This will be very similar to our current Enhanced Director Report, except for the two address provisions.

There may be occasions where Equifax will not be able to provide ANY address details. Credit Reference Agencies will not be able to obtain the address of any director who is the beneficiary of a valid Confidentiality Order as of 30 September 2009 or who has made a successful application to the Registrar on the grounds that he/she is:

- at serious risk of violence or intimidation as a result of the activities of a company of which he/she is a director
- or has been, employed by the police or security services
- providing, or has provided, goods or services to the police or security services.

### Company directorships

The data and reports supplied by Equifax are only as up-to-date as the supply we receive from Companies House, in this regard. Consequently if a company has not made the relevant changes and directors have not completed and returned forms to Companies House in a timely manner, this information will not appear in the data we supply to you at this time.

If you receive a credit application from or are currently trading on credit terms with a business that lists one or more directors as a company, or a person under the age of 16, it may be appropriate to request updated information directly from this customer and review the credit status you trade on.

### Northern Ireland Company Registry integration

Due to the automated processes and the additional full directors and mortgage information, you will be better and quicker informed on Northern Ireland companies. If you are currently trading with a business in Northern Ireland you may wish to take an updated report, to review your credit terms with the company and monitor them ongoing.



### Limited Liability Partnership members integration

Initially this change will have little effect on Equifax customers. But through 2010 when we upgrade to encompass this change you will find you have a more complete understanding of the structure of LLP's and a fuller picture on the business obligations of the individuals involved.

### **How will these changes affect directors?**

Every director must provide both their usual residential address and, for each directorship, a service address. The service address will be on the public record; the residential address will be protected information.

A director can choose any address as the service address including the registered office address of the company. The address must be where documents can be delivered and an acknowledgement or receipt can be provided if required. The address cannot be a PO Box or a DX number. If the director chooses to use his residential address as the service address the fact that the two addresses are the same would not be apparent from the public record.

The residential address will only be available to Specified Public Authorities. It will also be made available to Credit Reference Agencies who apply and satisfy the Registrar that they are a Credit Reference Agency within the meaning of section 243(7) of the Act.

There is a means for a director to avoid the publication of ANY address. This requires a valid Confidentiality Order as of 30 September 2009 or a successful application to the Registrar on the grounds that he/she is:

- at serious risk of violence or intimidation as a result of the activities of a company of which he/she is a director
- or has been, employed by the police or security services
- providing, or has provided, goods or services to the police or security services.



## Your Questions Answered

**Q** *What is the exact date that these changes take place?*

**A** 1<sup>st</sup> October 2009.

**Q** *Are there other changes in respect of the Act that may affect our business?*

**A** There are a number of implementations due on 1<sup>st</sup> October 2009, for more information on the Companies Act 2006 visit <http://companieshouse.gov.uk>.

**Q** *What percentage of directors have already complied with the URA/service address change so far?*

**A** None – this implementation only starts on 1<sup>st</sup> October 2009, so on that date it will appear that there are no URA addresses as all existing addresses will become service addresses.

**Q** *As of 1<sup>st</sup> October do we have to remove all current directors address details from our records?*

**A** The Act does not obligate anyone to remove data from existing records but any data provided by Companies House, or a provider of Companies House information, in relation to directors will only include the service address that the director provides (unless the data is going to a Specified Public Authority). If you have concerns over the data that you currently hold and how it can be used you should seek legal advice.

**Q** *What do companies have to do and by when to comply with the URA element of the Act?*

**A** All of the onus is on the directors. From 1<sup>st</sup> October 2009 every current director within the Companies House database will have two addresses – URA and service address. Only the service address will be available as public record. From then, directors will have the opportunity to file a different URA and service addresses with annual returns as they fall due or on the appropriate form if and when they wish. The data at Companies House will not indicate whether the URA and service address are the same.

**Q** *What happens if a director doesn't supply two different addresses?*

**A** Nothing, if a director does not provide a different service address then their current address listed will be on public record as their service address.

**Q** *We receive a bulk feed of data from you, will you be changing any coding around the directors address?*

**A** No. The address that already exists will become the service address as standard.



**Q** *We take a bulk data feed from Equifax, do we need to change how we handle this?*

**A** Unless you are a Specified Public Authority – No. The data you will receive from us will only list a service address for each director. If you want to perform checks on an individual you will need to ask them for their home address, for matching purposes, at the time of application alongside the notification that you will be running a check with a Credit Reference Agency.

If you are a Specified Public Authority you will need to implement changes to handle two addresses, if you need assistance with this please contact your Account Manager.

**Q** *If the public register can be purchased by anyone and used for any lawful purpose, what can the restricted register be used for?*

**A** The restricted register will consist of the directors' URA's and may only be supplied by Companies House to Specified Public Authorities as defined in Schedule 1 of the Companies (Disclosure of Address) Regulations 2008 and Credit Reference Agencies (CRAs) within the meaning of section 243(7) of the Act.

A CRA may only use those addresses for authorised purposes which include:

- providing an assessment of the financial standing of a person
- meeting any obligations contained in the Money Laundering Regulations 2007
- conducting conflict of interest checks required or made necessary by any enactment
- conducting checks for the prevention and detection of crime and fraud.

Specified Public Authorities may only use those addresses for the purpose of facilitating the carrying out by that Specified Public Authority of a public function.

Neither of the groups may disclose the addresses to others at all (except CRA's can provide to Specified Public Authorities). They may disclose intelligence such as data obtained from those addresses if they do so for an authorised purpose.

**Q** *With all the credit accounts we open for small or newly incorporated companies, we check the people behind the company to see how they handle credit personally. Without a home address how will we match this person?*

**A** We advise you to ask directors for their home address as part of your application form/process, at the same time that you give them notification of your intent to perform a check with a Credit Reference Agency.

**Q** *Which are the Specified Public Authorities?*

**A** The following currently qualify to register but may not yet have done so:

- The Secretary of State (*i.e. all Whitehall government departments headed by a Secretary of State*)



- any Northern Ireland Department
- the Scottish Ministers
- the Welsh Ministers
- the Treasury
- the Commissioners for Her Majesty's Revenue and Customs
- the Bank of England
- the Director of Public Prosecutions
- the Director of Public Prosecutions for Northern Ireland
- the Serious Fraud Office
- the Secret Intelligence Service
- the Security Service
- the Government Communications Headquarters
- the Financial Services Authority
- the Competition Commission
- the Pensions Regulator
- the Panel on Takeovers and Mergers
- the Regulator of Community Interest Companies
- the Registrar of Credit Unions for Northern Ireland
- the Office of Fair Trading
- the Office of the Information Commissioner
- the Charity Commission
- the Charity Commission for Northern Ireland
- the Office of the Scottish Charity Regulator
- the Postal Services Commission
- the Gas and Electricity Markets Authority
- the Northern Ireland Authority for Utility Regulation
- the Gambling Commission
- the Serious Organised Crime Agency
- the Health and Safety Executive
- the Health and Safety Executive for Northern Ireland
- the Food Standards Agency
- the Gangmasters Licensing Authority
- the Security Industry Authority
- a local authority within the meaning of section 54(2) of the Act
- an official receiver appointed under section 399 of the Insolvency Act 1986(20) (appointment, etc, of official receivers)
- the Official Receiver for Northern Ireland
- the Crown Office and Procurator Fiscal Services
- a person acting as an insolvency practitioner within the meaning of section 388 of the Insolvency Act 1986(21) (meaning of "act as an insolvency practitioner") or Article 3 of the Insolvency (Northern Ireland) Order 1989(22) ("act as an insolvency practitioner")
- an inspector appointed under Part 14 of the 1985 Act (investigation of companies and their affairs: requisition of documents) or Part 15 of the 1986 Order or a person appointed under regulation 30 of the Open-Ended Investment Companies Regulations 2001(23) (power to investigate) or regulation 22 of the Open-Ended Investment Companies Regulations (Northern Ireland) 2004(24)



- any person authorised to exercise powers under section 447 of the 1985 Act(25) (power to require documents and information), or section 84 of the Companies Act 1989(26) (exercise of powers by officers, etc) or Article 440 of the 1986 Order
- any person exercising functions conferred by Part 6 of the Financial Services and Markets Act 2000(27) (official listing) or the competent authority under that Part
- a person appointed to make a report under section 166 (reports by skilled persons) of the Financial Services and Markets Act 2000
- a person appointed to conduct an investigation under section 167 (appointment of persons to carry out general investigations) or 168(3) or (5) (appointment of persons to carry out investigations in particular cases) of the Financial Services and Markets Act 2000(28)
- an inspector appointed under section 284 (power to investigate) of the Financial Services and Markets Act 2000
- an overseas regulatory authority within the meaning of section 82 of the Companies Act 1989(29) (request for assistance by overseas regulatory authority)
- a police force (i.e. means a police force within the meaning of section 101(1) of the Police Act 1996(8) (interpretation), section 50 of the Police (Scotland) Act 1967(9) (meaning of police area, etc) or section 1 of the Police (Northern Ireland) Act 2000(10) (name of the police in Northern Ireland).

### **For further information**

Please contact the Business Customer Service team on 0845 603 3000 or email [customerservice.uk@equifax.com](mailto:customerservice.uk@equifax.com)



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