



Horton & Co Ltd
chartered accountants

Important Update from the Companies Registrar of New Zealand

Many of our clients have companies incorporated in New Zealand and/or hold company directorships in New Zealand companies. This information affects every company incorporated in New Zealand and each and every person holding a directorship of a New Zealand company.

Companies Act Amendments

New registration requirements have been introduced by the Companies Amendment Act 2014 (the Act) which will affect all **new** applications to incorporate a New Zealand limited liability company with the Companies Office as from 1 May 2015. **Existing** companies on the companies register will have **180 days** (i.e. **up to 28 October 2015**) to comply with the New Zealand 'resident director' requirement noted below, although additional disclosure obligations will apply to all company Annual Returns due to be filed after 1 July 2015.

These important changes require:

- All New Zealand incorporated companies to have at least one director who either :-
 - lives in New Zealand; or
 - lives in Australia and who **is also** a director of an Australian incorporated company.
- All directors to provide their **place of birth and date of birth** (due diligence information).
- All companies to supply their ultimate holding company details (if applicable).

The aim of these changes is to prevent the misuse of New Zealand companies by ensuring that a known, responsible person, can be held accountable for actions undertaken by New Zealand registered companies.

The Act will also enhance the powers of the Registrar of Companies to investigate non-compliance of companies by:

- Introducing offences for very serious misconduct by directors that results in serious losses to the company or its creditors;
- Aligning the company reconstruction provisions in the Companies Act with the Takeovers Code.

What you need to do to comply

Here are the matters which will need to be addressed to comply with the new legislation:

- All existing company directors who are New Zealand resident will have to provide the Registrar with their date and place of birth.
- All existing company directors who are Australian resident and who hold a directorship in at least one Australian company, will have to provide the Registrar with the Australian Company Number, its name and the address of its registered office. Where the director holds multiple Australian directorships, they can choose any one of these as their company of reference.

- At this stage, the Registrar will not require proof of a director's date and place of birth, nor will the information be publicly available.
- The following information will also need to be provided regarding the ultimate holding company (if any):
 1. the ultimate holding company's country of registration;
 2. the ultimate holding company's registration number (or code), if any;
 3. the registered office of the ultimate holding company.
- For company incorporations on or after 1 May 2015, providing this additional information at the time of application will be compulsory. For existing companies, the additional information will need to be submitted with all company Annual Returns filed after 1 July 2015.
- The Companies Office website does not have the capability to enter director and ultimate holding company information across all companies within a group, nor in respect of which a common director holds office. This means that the information will need to be entered for each company Annual Return submitted. Where Horton & Co Limited looks after your company secretarial affairs and lodgements, we can generally do this on your behalf once you have supplied us with your information.

Similar additional disclosure obligations relating to a General Partner's place of birth, have also been legislated by the Limited Partnership Amendment Act 2014. Where a General Partner is a company, the additional requirements for companies (as noted above) will apply.

There will be some cases where our clients may face a challenge to find a New Zealand-based (or Australian) director to appoint. Please contact us about how we can assist with providing New Zealand Directorship services.

If you require more detailed information on the Companies Amendment Act 2014 and key dates for its implementation, please go to:

<http://www.business.govt.nz/companies/news-updates/news/article-22-august-2014>

<http://www.business.govt.nz/companies/news-updates/companies-and-limited-partnerships-amendment-acts>

If you require more detailed information on Ultimate Holding Companies, please go to:

<http://www.business.govt.nz/companies/learn-about/companies/shares-and-shareholders/ultimate-holding-company-uhc?searchterm=ultimate+holding+company>