

EXPLANATORY MEMORANDUM TO
THE COMPANIES (COMPANY RECORDS) REGULATIONS 2008

2008 No. 3006

1. This explanatory memorandum has been prepared by the Department for Business, Enterprise and Regulatory Reform and is laid before Parliament by Command of Her Majesty.

2. Description

This instrument deals with inspection locations for company records. It also deals with the obligations of a company to keep available for inspection certain company records or provide copies of its company records.

3. Matters of special interest to the Joint Committee on Statutory Instruments

None.

4. Legislative Background

4.1 This instrument revokes and replaces the Companies (Inspection and Copying of Registers, Indices and Documents) Regulations 1991 (SI 1991/1998) and the Companies (Inspection and Copying of Registers, Indices and Documents) Regulations (Northern Ireland) 1993 (S.R. (N.I.) 1993 No.66) subject to transitional savings.

4.2 Sections 169, 190, 211, 215, 309C, 325 (and Schedule 13), 318, 353, 354, 383, 406, 407, 421 and 422 of the Companies Act 1985 (the “1985 Act”) had different requirements for where a company must keep various records and registers. Sections 114, 162, 228, 237, 275, 358, 702, 720, 743, 805, 809, 877 and 892 of the Companies Act 2006 (the “2006 Act”) all require that a company keep the specified records and registers available for inspection at either its registered office or a place specified in regulations under section 1136.

4.3 The 2006 Act provides for fees to be prescribed for inspection and the provision of copies of certain records. These are provided by the Companies (Fees for Inspection and Copying of Company Records) Regulations 2007 (SI 2007/2612) and the Companies (Fees for Inspection and Copying of Company Records) (No.2) Regulations 2007 (SI2007/3535), and, in respect of provisions to be commenced on 1 October 2009, will be provided by the Companies (Fees for Inspection of Company Records) Regulations 2008.

5. Territorial Extent and Application

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 Companies are required to make key records available for inspection by certain groups of people e.g. company members, creditors, debenture-holders or the general public, depending on the type of record. These records are of two types:

- key records which must be kept for long periods or indefinitely (e.g. register of members, register of directors, register of secretaries, directors' service contracts, register of charges and instruments creating charges); and
- ephemeral records relating to a future decision by the company, e.g. a memorandum setting out a proposed long-term service contract for a director which must be made available for inspection by members not only at the meeting at which the resolution approving the provision is to be considered but also for at least 15 days beforehand at the registered office.

These Regulations relate to the places where the key records must be made available for inspection. They also provide the rules governing the inspection of all records to which there is a statutory right of inspection.

Places of Inspection for key records

7.2 Some of the key records must be filed at Companies House. In any event, the only way to be certain that the record being inspected is up-to-date is to visit the place where it is kept. At present, some of these records may be kept only at the company's registered office. These are:

- the register of directors and secretaries;
- copies of all resolutions of members passed otherwise than at general meetings and minutes of all proceedings of general meetings (for single member companies, a record of equivalent decisions);
- contracts etc for purchase of own shares; and
- instruments of charges and registers of charges.

For other records, companies currently have an alternative. The register of members and its index may be kept where the register is made up, provided that this place is in the same jurisdiction as the registered office. A similar requirement applies to any register of

debenture holders and its index. The register of directors' interests and register of interests disclosed and its index may be kept either at the registered office or with the register of members. There is a further option for copies of directors' service contracts and any qualifying indemnity provision for company directors (or, if the provision is not in writing, a written memorandum setting out its terms): these may be kept at the company's principal office provided this is in the same jurisdiction as the registered office. Therefore those who wish to inspect such a company's records may have to visit three, or more, places. It is possible that a company might seek to thwart inspection by keeping its records in different far-flung places. In any event, the place or places for registers need to be in the same jurisdiction as the company's registered office to ensure that this is the jurisdiction for any proceedings relating to the validity of entries in the registers.

7.3 The 2006 Act retains the statutory right to inspect all these records except for the register of directors' interests (which will no longer be required). It also introduces a statutory right to inspect copies of documents relating to the redemption or purchase of own shares out of capital by private companies. In all cases where the Act does not require the inspection to be allowed free of charge, the prescribed fee is £3.50 for each hour or part thereof.

7.4 As to the location of the records, the 2006 Act differs significantly from the Companies Act 1985 in that the required location is where the specified record must be "kept available for inspection", rather than simply kept. This difference is likely to be significant for records that are maintained electronically.

7.5 The 2006 Act provides the power to specify alternative locations to the registered office as the place where company records (except for indexes that must be kept with their registers) may be kept available for inspection. It would be most convenient for those wishing to inspect a company's records if all its records for which there is a statutory right of inspection could be inspected at a single place. On the other hand, companies generally want each record to be kept wherever it is most convenient for the company. This is likely to vary widely, both between companies and between different types of record. For example, companies with only a few members are likely to keep their registers of members in hard copy, possibly in bound books with their other registers. The Government are particularly concerned that the requirements of the present regime distort small companies' decision-making as to where to have their registered offices. By contrast, companies with many members generally employ commercial registrars to keep their registers of members electronically and, at present, these are then available for inspection at the commercial registrar's offices, possibly together with other statutory registers (but, under the 1985 Act, some registers and records must be kept at the registered office in all cases). These companies are likely to benefit from the Act's provision relating to the location where the records may be inspected, rather than to where they are kept: this will provide greater flexibility to companies whose records are kept electronically.

7.6 The instrument provides that a company may have a single alternative to its registered office as the place where it makes available for inspection any record that it is so required to make available for inspection by the Companies Act 2006. This place, referred to as the company's SAIL, must be in the same jurisdiction as the company's registered office. The company may use its SAIL provided only that all the records of a

single type (eg all the directors' service contracts) are available at a single alternative inspection location. As those wishing to inspect a record need to be able to discover where it can be inspected, a company must notify the Registrar of Companies of its SAIL, if any, and which records are kept there. The Companies (Trading Disclosures) Regulations 2008 (SI 2008/495) also require a company to disclose the address of any inspection place and the type of records kept there to any person who deals with it in the course of business who makes a written request for the information.

Inspection Rules

7.7 The rules for inspection apply to the records for which there is a statutory public right of inspection. They also apply to records which a company must make available to its members at its registered office. These are primarily papers relating to a meeting in the period immediately beforehand.

7.8 Under the 1985 Act, all companies must make the records available for inspection for at least 2 hours between 9am and 5pm on every weekday that is not a bank holiday. It seems likely that this pushes some small companies into making their registered offices that of their lawyers or accountants. It is unclear how otherwise many companies, for example management companies for residential flats, are able to comply with the current requirements throughout the year.

7.9 The Regulations retain the current requirements for public companies; for private companies, they provide that the person wishing to inspect the records must give the company notice, specifying a particular time between 9am and 3pm on a particular working day. At times when inspection is most likely to be needed, the notice period is at least 2 working days; at all other times, the notice period must be at least 10 working days.

7.10 At present, those inspecting a company's records often expect the company to select extracts, provide copies, rearrange the information, etc. The Regulations make clear that there is no obligation on a company to meet such a request but that the company must not prevent the person copying all or part of a record which they are entitled to inspect.

7.11 In the case of some records, there is also an obligation on the company to provide a copy if requested. At present, it is not clear whether either the company or the person requesting the copy can specify the form of the copy: some people prefer hard copy, others electronic. Those who prefer electronic copies often request that it is provided in a particular form. The Regulations make clear that the company must provide a copy:

- in hard copy form if so requested, regardless of how the record is kept; and
- in an electronic form if so requested only if the record is so maintained.

Where a copy of a record is provided electronically, the company may decide the electronic form.

Consultation

7.12 In February 2007, in the consultative document “Implementation of the Companies Act 2006”, the Government sought views on:

- where a company should be able provide for inspection of records for which there is a statutory right of inspection;
- the rules for inspection, in particular:
 - whether to retain the existing requirement to make records available for inspection for not less than 2 hours during periods between 9am and 5pm on each business day for public companies only, with different rules for private companies;
 - whether a company should be required to enable inspection by more than one person at a time; and
 - the rules about copying; and
- the requirements for companies to provide details of where their records are available for inspection.

BERR published draft regulations in July 2007 and revised draft regulations in April 2008.

7.13 Over half the respondents considered a single alternative to the registered office to be too restrictive. Noting that commercial registrars generally keep only registers of members, many respondents considered that this alternative should be in addition to the place where the register of members is kept. As the explicit purpose of the amendment providing this power was to provide more freedom for the vast majority of small companies and as records will be able to be made available for inspection electronically, the Government decided to proceed as proposed in the consultation document.

7.14 Most respondents agreed that the existing rules for inspection should be retained for public companies; a few considered that all inspection should be by appointment only. Most respondents agreed generally there should be an appointment system for inspecting private companies’ records; several considered this should be at all times, with a shorter notice period during key periods. In the light of these comments, the Government decided to proceed on the basis of no change for public companies and an appointment system for private companies, with a 2 day notice period at times when it is most important for members to be able to check the company’s records and 10 days notice at other times. This is intended to make it easier for private companies to comply with the requirement.

7.15 The majority of respondents agreed with the proposal that any person exercising a statutory right to inspect a company’s record should be free to copy the record while the company should not be under any obligation to facilitate such copying. The Government decided to proceed on this basis.

8. Impact

8.1 An Impact Assessment is attached to this memorandum.

8.2 There is no impact on the public sector other than for Companies House to accept notification of companies' alternative inspection locations.

9. Contact

Anne Scrope at the Department for Business, Enterprise and Regulatory Reform (0207 215 2194 or e-mail: anne.scrope@berr.gsi.gov.uk) can answer any queries regarding the instrument.

Summary: Intervention & Options

Department /Agency: Business, Enterprise & Regulatory Reform	Title: Impact Assessment of The Companies (Company Records) Regulations	
Stage: final	Version:	Date: 18 November 2008
Related Publications: Implementation of Companies Act 2006, Consultative Document, February 2007 and July 2007 & April 2008 draft Regulations, all on BERR website		

Available to view or download at:

<http://www.berr.gov.uk/bbf/co-act-2006>

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What is the problem under consideration? Why is government intervention necessary?

The Companies Act 2006 provides a statutory obligation on companies to allow inspection of specified documents with the detailed rules being left to secondary legislation.

What are the policy objectives and the intended effects?

That the public right to inspect company records does not impose unacceptable costs on companies while ensuring companies cannot place obstacles in the way of those wishing to exercise their statutory rights.

What policy options have been considered? Please justify any preferred option.

Variants with companies being able to have more than one alternative inspection location and/or all inspection being by appointment and/or various advance notice requirements for appointments to inspect company records; and/or no requirement for electronic copies. The preferred option combines a single alternative inspection location (A.1); appointments to inspect private companies' records (B.2); and electronic copies if a record kept electronically (C.2) (see para 8). This package is expected to reduce costs for some companies and third parties.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? From 2011, as part of the Companies Act 2006 evaluation.

Ministerial Sign-off For SELECT STAGE Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

Ian Pearson

.....Date: 19 November 2008

Summary: Analysis & Evidence

Policy Option: package A.1, B.2 & C.2	Description:
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COSTS	ANNUAL COSTS	Description and scale of key monetised costs by 'main affected groups'
	One-off (Transition) Yrs	
	£	
	Average Annual Cost (excluding one-off)	
£	Total Cost (PV) £	

Other **key non-monetised costs** by 'main affected groups'

BENEFITS	ANNUAL BENEFITS	Description and scale of key monetised benefits by 'main affected groups' Admin burden savings due to increased flexibilities of how and where company records are kept available for inspection. On the basis of PWC figures savings expected to be 35% for register of directors/secretaries and 65% for register of members.
	One-off Yrs	
	£ 10	
	Average Annual Benefit (excluding one-off)	
£ 28.8 million	Total Benefit (PV) £ £239.52 million	

Other **key non-monetised benefits** by 'main affected groups' Removal of significant administrative burdens on companies. Inspection provisions will reduce costs for third parties and electronic copies of records will be cheaper for recipients to process.

Key Assumptions/Sensitivities/Risks Assumes savings of 30-40% for register of directors/secretaries and 60-70% for register of members on basis of PWC figures.

Price Base Year	Time Period Years	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £
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What is the geographic coverage of the policy/option?	UK
On what date will the policy be implemented?	1/10/09
Which organisation(s) will enforce the policy?	
What is the total annual cost of enforcement for these organisations?	£
Does enforcement comply with Hampton principles?	Yes/No
Will implementation go beyond minimum EU requirements?	Yes/No
What is the value of the proposed offsetting measure per year?	£ n/a
What is the value of changes in greenhouse gas emissions?	£ n/a
Will the proposal have a significant impact on competition?	No

Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	Yes/No	Yes/No	N/A	N/A
Impact on Admin Burdens Baseline (2005 Prices)			(Increase - Decrease)	
Increase	£	Decrease	£ 28.8M	Net Impact £ -28.8 M

Key:

Annual costs and benefits: Constant Prices

(Net) Present Value

Evidence Base (for summary)

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

1. These Regulations relate to the statutory right to inspect certain company records. The records are those listed in section 1136 of the Companies Act 2006 (the “2006 Act”), ie: registers of members, directors, secretaries, debenture holders, interests in shares (public companies only), and charges; directors’ service contracts and indemnities; records of resolutions, etc; contracts and other documents relating to redemption or purchase of own shares by a private company; reports to members of the outcome of an investigation by a public company into interests in its shares; and instruments creating charges. Some, but not all, of these records are required to be kept by all companies incorporated under the Companies Acts. The Regulations therefore affect all such companies: as at 3 September 2008, there were approximately 2.5 million UK companies on the register of companies.
2. In this Impact Assessment, the records that a company is required to make available for inspection are referred to as its “statutory records”. The Companies Act 2006 requires a company to make all statutory records of a particular type, eg all its directors’ service contracts, available for inspection at single place while providing power for regulations to specify:
 - any place for inspection other than the company’s registered office; and
 - the company’s obligations as regard inspection and copies of its statutory records.

This impact assessment addresses

- A. **where** and
- B. **when**

a company must make its statutory records available for inspection.

- C. It also addresses the requirements relating to **how** a company provides copies of its statutory records. (The fees for inspection and provision of statutory records were considered in the Impact Assessment for The Companies (Fees for Inspection of Records and Copying of Company Records) Regulations 2007.)

BACKGROUND

A. **Where a company must make certain records available for inspection**

3. The decision about the location of the company’s registered office, taken on its incorporation, determines the jurisdiction that applies to that company and its relations with its members. Under Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, the jurisdiction for any proceedings relating to validity of entries in a register is that of where the register is kept.
4. The 2006 Act differs significantly from the Companies Act 1985 (the “1985 Act”) as regards statutory rights to inspect company records:
 - under the 2006 Act, the rules on location relate to where the records are kept available for inspection; the existing rules on location, under the 1985 Act, relate to where the records are kept. This difference is likely to be significant for records that are kept electronically; and
 - the 2006 Act provides for the rules on location to be in Regulations; under the 1985 Act, some records must be kept at the registered office, while for others there is an alternative (see Table A).

Most private companies keep all the specified records at their registered offices. However it has been argued that the current requirement distorts their decision whether or not to make their registered office be their lawyer’s or accountant’s offices (see extract from Hansard of Standing Committee D’s consideration of the Companies Bill). Most public companies keep their register of members at the offices of the commercial registrar who maintains these registers, but this may be difficult for those companies whose registered offices are in Scotland. However, at

present, it is possible that those wishing to inspect all the records of a company to which they have a right of inspection would have to visit up to four different locations.

B. When a company must make certain records available for inspection

5. Under the regulations made under the 1985 Act, every company must make any specified company record available for inspection for not less than 2 hours between 9am and 5pm on each working day.

6. It seems likely that many companies are only able to comply with the current requirement if they make their registered office that of their professional advisers. It is likely that many companies do not comply with this requirement at all.

C. How a company provides copies of certain records

7. Companies are required, for a prescribed fee, to meet requests for copies of certain records. But, at present, there is no provision requiring a company to send information electronically. This is contentious for copies of registers of members with thousands of entries, particularly since October 2008 when companies were no longer required to file their complete registers of members at Companies House as part of their Annual Returns. Companies now have a monopoly over the supply of the information. The regulation is needed as past experience shows that otherwise a company wishing to discourage requests will choose to supply the information in a form that will impose maximum costs on the person receiving it.

THE OPTIONS

8. The following options have been considered.

Where

A.1 Every company to be able to have a single alternative to its registered office as a place where it makes some or all of its statutory records available for inspection. (In this Impact Assessment, this place is referred to as the company's SAIL, ie its Single Alternative Inspection Location.) The SAIL will have to be in the same jurisdiction as the company's registered office. A company that opts to have a SAIL will be required:

- to notify its SAIL's address to Companies House; and
- for each type of statutory record, to notify Companies House whether it is kept available for inspection at its SAIL or at its Registered Office.

A.2 Every company to have up to three options for where its specified records are kept available for inspection:

- the registered office, or
- where the register of members is made up (provided that is in the same jurisdiction as the registered office), or
- a single other location in the same jurisdiction as the registered office.

When

B.1 Keeping the existing requirement that every company must make any specified document available for inspection for not less than 2 hours between 9am and 5pm on each working day.

B.2 A private company be required to make its statutory records available for inspection by appointment, for at least two hours between 9am and 5pm on a working day, specified by the person wishing to inspect. That person must give:

- 2 working days notice during any notice period for a meeting or during the notice period for a written resolution beginning with the date of its circulation by the company; and
- 10 working days notice at other times; and

a public company be required to make its statutory records available for inspection for not less than two hours between 9am and 5pm on each working day.

How

- C.1 Continuing to have no rules relating to how companies provide copies.
- C.2 Requiring a company that keeps a specified record in electronic form to provide a copy in either hard copy or electronic form as requested.
9. Noting the views expressed at Standing Committee D (see attached extract from Hansard), the following options were not considered:
- requiring all the specified records to be kept at the registered office;
 - to keep the current provision as regards registers of members, while requiring all the other specified records to be kept at the registered office; and
 - to place no restrictions on where the specified records are kept.

THE REGULATIONS

10. The Regulations provide for:
- A.1 every company to be able to have a single alternative to its registered office as a place where it makes some or all of its statutory records available for inspection;
- B.2 appointments for inspection of records of private companies;
- C.2 electronic copies to be provided if requested and the record is kept electronically.

CONSULTATION

11. The February 2007 consultative document, *Implementation of the Companies Act*, sought views on these issues. The questions asked and the responses were as follows.

2. 1	<p>Do you agree that every company should be able to have somewhere other than its registered offices for public inspection of records for which there is a statutory public right of inspection its statutory records?</p> <p>If so, do you also agree that every company should be required to provide details of the place other than its Registered Office where it enables inspection of any of its records for which there is a statutory right of inspection and also to provide details of which records can be inspected at that place:</p> <p>(a) in its Annual Return;</p> <p>(b) in its annual report and accounts;</p> <p>(c) on its website, if any; and</p> <p>(d) immediately, to anyone who asks for this information?</p>
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Over half the respondents considered a single alternative to the registered office to be too restrictive. Noting that commercial registrars generally keep only registers of members, many respondents considered that this alternative should be in addition to the place where the register of members is kept.

As to whether notice should be given in the Annual Return, the majority of respondents considered that this current procedure should be applied to any alternative location.

Several respondents were opposed to notice being required in the annual report and accounts or company websites.

Several respondents were concerned at what would be entailed by a requirement to provide details immediately.

2. 2	<p>Do you agree that</p> <ul style="list-style-type: none">(a) the existing requirement should be retained to make records available for inspection for not less than 2 hours during period between 9am and 5pm on each business day for all companies with an exemption for private companies.(b) the requirement for private companies should be that:<ul style="list-style-type: none">(i) during the notice period for a general meeting and immediately following the circulation of a special resolution by the company, for at least two hours between 9 and 5pm on every business day; and(ii) during all other periods, for at least two hours on a business day notified to a person seeking to exercise inspection rights where the notice must be given within 10 working days of receiving the request and the notified day must be within 20 days of that receipt.
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Most respondents agreed that the existing requirement should be retained for public companies; a few considered that all inspection should be by appointment only.

Most respondents agreed generally there should be an appointment system for inspecting private companies' records.

2. 3	A company should not be required to enable inspection by more than one person at a time?
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All respondents agreed with this proposal.

2. 4	Those exercising their statutory right to inspect a company's record should be free to copy the record while the company should not be under any obligation to facilitate such copying?
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The majority of respondents agreed with this proposal but about a third disagreed or had reservations.

COSTS AND BENEFITS

12. These proposals are generally expected to reduce the costs of compliance with the Companies Act 2006 and its regulations in relation to the inspection of company records, especially for small companies. We have been unable to obtain any information on the number of requests received by companies for their company records to be inspected in order to make a more accurate estimate of the likely benefits. However, it is clear that there will be significant savings for companies in terms of the administrative burdens they face in relation to both maintaining and making available for inspection their company records. We have estimated on the basis of figures collected for the department by PWC that the savings from these regulations, together with those changes implemented as part of the primary legislation for the Companies Act 2006, are likely to be of the order of £12 million for maintaining a register of directors and secretaries and £17million for maintaining the register of members. This equates to an average saving of around £12 per company but with much larger savings for some companies than others. In addition, the Regulations will reduce costs for those wishing to exercise their rights either to inspect or to be provided with copies of company records.

A. Where a company must make certain records available for inspection

13. Some 95 per cent of private companies have fewer than 5 members. It was pointed out in Standing Committee D (see attached extract from Hansard) that it is common for these companies to have a single, combined register book containing not only the register of members but also the register of directors and secretaries. Both option A.1 and A.2 would be less likely to distort such a company's decision on the location of its registered office.

14. Option A.2 would appear to be of particular benefit to companies which employ commercial registrars: these registrars normally hold companies' registers of members but not records such as directors' service contracts or records of resolutions. Several respondents argued that option A.1 would remove such companies' ability to hold some records at the company's principal office, rather than the Registered Office. However this criticism does not take account of the change to the rules on location: under the 2006 Act, the rules apply to where records are kept available for inspection rather than, as under the 1985 Act, where the records are kept.

15. It has not been possible to estimate how many companies outsource their statutory work and whether the related accountants, solicitors and company secretaries would reduce the fee for those who do not require them to act as the registered office. The Institute of Chartered Secretaries and Administrators consider that this service is generally included in the general outsourcing costs rather than a separate fee being charged for maintaining a company's registered office but that firms might introduce a separate fee scale for maintaining a registered office. The Law Society's Company Law Committee consider the existing requirement to keep the register of directors at a company's registered office to have minimal financial implications but that it poses a significant and unnecessary administrative burden. Some of these companies may take advantage of the new rules to change their registered office to an address of their own, but that will not really reduce the cost of keeping the registers. We are not sure whether advisers charge a separate fee for maintaining a company's registered office. It is probably included in the general outsourcing costs. Firms may be planning (or already have) a separate fee scale for maintaining a registered office. In the light of this advice, neither option A.1 nor option A.2 is expected to affect the costs of the vast majority of companies; both options are likely to reduce slightly the costs of a few companies. Under Option A.2, it would be easier for a company to discourage people from exercising their statutory right of inspection by making them available for inspection in 3 widely separated places.

16. Both options A.1 and A.2 require a company to keep its statutory records in the same jurisdiction as its registered office. This is to ensure that the same law applies to any question relating to entries in its registers or the content of other statutory records as applies to its governance.

17. Option A.1 is preferred: it meets the needs of small companies while containing the risk that companies may obstruct those wishing to exercise the statutory right to inspect a company's records.

B. When a company must make certain records available for inspection

18. Option B.1 is no change, ie keeping the existing requirement that every company must make any specified document available for inspection for not less than 2 hours between 9am and 5pm on each business day. Option B.2 provides an appointment system for private companies with a notice period of 10 days except during:

- the notice period for a general meeting or a class meeting; and
- the period from the circulation of a written resolution until the resolution is either passed or lapses. Unless the company's articles provide otherwise, this is 28 days beginning with the circulation date.

During these periods, the required notice would be 2 days; there would be no change to the existing requirement for public companies.

19. Full compliance with Option B.1 is understood to impose considerable costs on those small companies whose registered office is not staffed at all times; no estimates are available. Option B.2 will make it practicable for all companies to comply with the requirement. It is not expected to increase costs for those wishing to exercise their inspection rights.

C. How a company provides copies of certain records

20. The two options considered are:

C.1 no rules, ie as now;

C.2 require a company that keeps a specified record in electronic form to provide a copy as requested in either hard copy or electronic form.

21. Option C.1 means that a company may decide whether or not to provide a record electronically. Option C.2 means that the decision is the recipient's for those records that are kept electronically. Electronic transmission is generally cheaper for both the sender and the recipient; and electronic copies are generally very much cheaper for the recipient for the process. Therefore the cost implications of the two options for the company are the same; they differ for the recipient, significantly for registers of members with thousands of entries. The benefit of option C.2, compared to option C.1, is that the company cannot use the cost to the recipient as a deterrent.

SPECIFIC IMPACT TESTS

22. We have considered the three mandatory impact tests (gender, race, disability) and the recommended options are unlikely to have any discriminatory effects.

TABLE A.

Register or longterm record -	A. Registered Office	B. Principal place of business in same jurisdiction as registered office	C. another place in same jurisdiction as registered office	D. With specified other record
Register of members	Or C		Where made up	
Register of directors and Secretaries	no alternative			
Directors' service contracts	Or B or D.	or A or D		register of members
Records of resolutions	no alternative			
Contracts etc purchase own shares	no alternative			
Register of debenture holders	or C		where made up	
Report on disclosed interests	no alternative			
Register of interests disclosed & index	or D.			Register of directors interests
Instruments of charges & registers of charges	no alternative			

Extract from Hansard - standing committee D, 6 July 2006 ,
Taken from cols.505-514 - Amendment 459 to Clause 147

Mr. Djanogly: “.....Whereas a company’s registers of members and debenture holders may be kept at an address other than its registered office, its register of directors must be kept at its registered office. It has been pointed out that it is common for a private company to employ a single, combined register book containing all those particulars. If that is maintained by a company’s professional advisers, the company is obliged to have its registered office at their address rather than at its head office. We have previously recommended that the register of directors should be permitted to be kept at another address, provided that it is within the jurisdiction in which a company is registered and that notice of the address is given to the registrar of companies. Clause 212(2) is a reasonable model and we suggest that clause 147 be amended in line with it.

Margaret Hodge (Minister of State for Industry): “.....On amendment No. 459, the hon. Gentleman makes a good case for companies having the option of keeping their registers of directors wherever their register of members is kept available for inspection, although he will agree that it must be in the same jurisdiction as the registered office and that it must be notified to the Registrar of Companies.

Any relaxation that the hon. Gentleman suggests should equally apply to matters such as plc registers of secretaries and registers of authorised signatories for those companies required to keep them. The requirement should not be considered in isolation; there is also a right for members to inspect records of resolutions and meetings under clause 341. There is a right for members to inspect directors’ service contracts and qualifying third-party indemnity provision under clauses 213 and 220. There is a right for members and creditors to inspect instruments creating charges and a public right to inspect registers of charges under part XII of the 1985 Act, which is to be restated.

The possible places for the inspection of the various records and registers vary. We must minimise the likelihood of records being sent all over the place, possibly discouraging inspection by those who want to exercise that right.

Mr. Djanogly: The Minister has just hit on the point. The procedure can be used to discourage inspections by having people go to different parts of the country to see different registers.

Margaret Hodge: The hon. Gentleman and the Law Society have made a sensible proposition. All that I would say to him is that we need some time and would like to table an amendment on Report that gives companies the option of keeping their register of directors either at the principal place of business or at the same place as their registers of members, but we want to include conditions that protect those who wish to inspect registers and other records and registers available. I hope on that basis that the hon. Gentleman will withdraw his amendment.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	Yes/No	Yes/No
Small Firms Impact Test	Yes	Yes/No
Legal Aid	Yes/No	Yes/No
Sustainable Development	Yes/No	Yes/No
Carbon Assessment	Yes/No	Yes/No
Other Environment	Yes/No	Yes/No
Health Impact Assessment	Yes/No	Yes/No
Race Equality	Yes	Yes/No
Disability Equality	Yes	Yes/No
Gender Equality	Yes	Yes/No
Human Rights	No	Yes/No
Rural Proofing	Yes/No	Yes/No

Annexes

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