

Guide to: Statutory Books

A company's statutory books are very important and are therefore one of the most common items routinely investigated as part of a sale of a company. Despite this, many companies do not have nor maintain proper statutory books.

A company's statutory books are a number of key registers required to be maintained and updated by company law, including in relation to its shareholders and directors. They include:

- the register of members;
- the register of directors;
- the register of directors' usual residential addresses;
- the register of secretaries; and
- the register of people with significant.

Companies may also keep registers of allotments and transfers (to clearly highlight their share transaction history) and a register of charges (which is legally required to be kept for charges created before 6th April 2013).

The statutory books therefore evidence a company's current constitution and history. This collection of records may be located in a folder called the 'combined statutory registers' which were historically provided by company formation agents. However, they may now be maintained electronically, perhaps by law firms or accountants as part of any company secretarial functions performed on a company's behalf.

Many prudent companies will update their Companies House records regularly, for which they may even receive email reminders. However, the statutory books are often overlooked.

While notifications to Companies House are required by law to be filed, they should be made in addition to updating the key constitutional records. In failing to do so, directors in default (and the secretary, if there is one) commit an offence which is punishable by a fine. It is now possible for private companies to opt in (by way of a formal procedure) to simply maintain some of the registers at Companies House as its central store.

Arguably the most important register is the register of members. This is the definitive record of a company's shareholders and who is entitled to exercise the legal rights attaching to the shares. This is why the records will likely be required to be investigated as part of a sale of, or investment into, a company.

If you are thinking of selling your company shortly, it is pivotal to check that your statutory books are in order. Failure to have up-to-date statutory books is one of the most common issues in a company sale and could delay an already involved process and cost you money.

This is because an exercise to reconstitute the statutory books may be required to be undertaken and/or indemnities given in relation to any loss suffered as a result of the failure to maintain.

Routine errors found in statutory books include:

- the records not marrying up with the Companies House records following shareholder movements or changes in share classes or nominal values;
- shareholders being entered onto the register of members prior to a stock transfer form being duly stamped for payment of Stamp Duty; and
- the company being entered onto the register of members following a buyback of its shares when the shares potentially may have been immediately cancelled.

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