

## Compulsory ID for companies in 2007

On 1 January 2007, the Companies (Registrar, Languages and Trading Disclosures) Regulations 2006 ("**Regulations**") came into force, which deal among other things with company identification requirements.

The Regulations extend the existing law under sections 349 and 351 of the Companies Act 1985, which specify certain information that companies must provide about themselves when they do business, and the means by which that information is to be provided. It is worth being reminded what the key requirements are, as a surprising number of companies and their directors get this wrong.

As the law previously stood, every company was required to mention its *full corporate name* (i.e. not merely the company's *trading name* or *brand name*, and including "Limited", "Ltd", "Plc" etc., as appropriate) in all of the following kinds of documents issued or published by it:

- business letters
- notices (which may include advertisements and announcements)
- official publications (e.g. price lists, catalogues, promotional brochures)
- orders for goods
- all cheques, invoices and receipts

Under the new Regulations, the kinds of document in which a company's name must appear have been extended to include:

- order forms (both for goods and for services)
- the company's website(s)

The Regulations make it clear that documents of any of the kinds described above include those in electronic or any other form, not just those in hard copy. This means that the company's name must appear in all external e-mails.

In addition to its *name*, every

company must – in the case of its business letters, order forms and websites – include the following additional information:

- its place of registration and registered number (e.g. "*registered in England and Wales under number* •")
- the address of its registered office

Admittedly, none of this sounds particularly exciting or ground-breaking, and although failure to comply with the legislation is a criminal offence, non-compliance is unlikely to result in significant fines or penalties (except in extreme circumstances).

However, it is not simply a matter of there being yet another bothersome piece of red tape to deal with, there are also some sound commercial reasons why it is important for companies clearly to establish their identities, for example:

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- **Presentation and credibility** – given the widespread use of the internet for business purposes, and increased awareness of the existence of disreputable businesses that operate using impressive-looking websites, failure to include identification details on your business website can unwittingly create a damaging impression. As well as the risk of portraying your business as "shady" or "fly-by-night", certain potential customers could interpret your ignorance of these simple legal obligations as evidence of a more deep-seated amateurishness or sloppiness.
- **Incorporating your business** – if you wish to benefit from the advantages of limited liability that can be gained from trading through a company, the people you do business with must be aware that they are dealing with the company, rather than with you personally. This is particularly important if you previously carried on business as a sole trader or in a partnership, but

have recently incorporated and use the same trading or brand name that you used previously.

- **Branding** – many businesses are made up of several companies (whether part of a corporate group or under common ownership) that operate under a single brand or trading name. It is often important for different aspects of the business to be dealt with by different companies with clear lines of demarcation between them (e.g. for the purpose of holding assets or ring-fencing liabilities). Careless use of brand names, without clearly identifying the relevant company, can cause the wrong company to end up having the wrong liabilities or assets.
- **Selling your business** – if or when you eventually come to sell your business, achieving the best price can be helped by "having your house in order". Sometimes a company's most valuable assets are its contracts. If your buyer's

lawyers have to spend significant time on due diligence to ascertain precisely in whose name the contracts are held, this may also prompt them to examine other aspects of your business more critically than they might otherwise have done. As well as increasing the costs for both parties, this may also give the buyers a pretext to negotiate a reduction in the purchase price.



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