

Information Released under Freedom of Information Act

Subject: Statistics relating to Breaches of sections 82-84 of the Companies Act 2006

Date Released: 8 September 2014

Summary of request: The enquirer requested statistics relating to Breaches of sections 82-84 of the Companies Act 2006

Information released

I have made enquiries with our Technical Offences (Breaches) Team in Companies House, who deal with complaints concerning Trading Disclosures (section 82) and I believe it would be beneficial if I explain Companies House process for dealing with this type of complaint.

If a company is in breach of section 82 - 84 of the Companies Act 2006, Companies House aim is to educate and gain compliance with the legislation. There is a process of communication between Companies House and the company in breach and generally compliance is gained by letters sent by our Breaches Team or the Companies House Legal Team. If the company fail to comply then the case is referred to BIS for further consideration.

Companies House does not routinely collate statistics on how many cases are referred to BIS specifically for breaches of section 82-84. The statistics we hold will include all types of breaches of the Act.

1) How many incidents of breaches of section 82-84 of the Companies Act 2006 (including Statutory Instrument 2008/495) have been reported to you in the past 5 years? Please break these down by year (i.e. 2010, 2011, 2012, 2013, 2014 to date).

Please find listed below the number of incidents of potential breaches of section 82-84 that have been brought to Companies House attention for further investigation.

| Year | No. of incidents |
|------|------------------|
| 2010 | 345 |
| 2011 | 417 |
| 2012 | 451 |
| 2013 | 328 |
| 2014 | 269 |

2) How many incidents were not resolved by a warning letter?

Historically we have not held statistics against the resolution of cases following receipt of a warning letter. However following a recent review in June 2014 we now record the

final outcome of each case. Since June 2014 we have received 43 cases regarding section 82-84 and we have not achieved compliance for 2 of these.

3) How many incidents resulted in prosecution?

According to our records 2 companies were prosecuted during 2011, for breaches under section 82-84, following referral to BIS by the Companies House Legal Team.

4) Please provide the following details of any companies that did not comply with an initial warning letter where the date of the reported breach occurred after 1st January 2010:-

- a) Company name
- b) Company number
- c) Date of reported breach
- d) Eventual resolution
- e) Resolution date

We do not record statistics where companies have not complied with an 'initial' warning letter. There may be a variety of reasons why a company does not comply to our initial letter but as our aim is to achieve compliance our Breaches Team may issue several letters to a company, depending on the complexity of each case.

5) Please provide any guidance issued to staff regarding penalties and prosecution of section 82-84 of the Companies Act 2003 (including Statutory Instrument 2008/495).

I have attached an extract from our Technical Offences (Breaches) Manual. It includes the introduction and the process for dealing with breaches of section 82-84 Companies Act 2006.

INTRODUCTION

This manual is a guide to the breaches of the Companies Act which this team investigates and tries to resolve. It is also a guide to the discretionary powers that it operates on behalf of the Secretary of State for Business Innovation and Skills.

Breaches of the Companies Act

A breach of the Act is where a company fails to comply with one or more of the obligations imposed on it by the Act. They are generally brought to our attention by members of the public, company members and other organisations: Trading Standards and other areas of Companies House for example.

This manual is a summary of the individual breaches and includes a brief explanation of each along with a note of the general procedure to be followed, at least in the initial stages of dealing with the complaint. After the opening approaches have been made to the company, the conduct of the case from that point will vary according to the circumstances, i.e. the nature of replies received, or even where all our attempts to contact the company are ignored.

There are standard letters available (on Lynx and CHIPS) which can be used in the early stages of the breach. However, it is up to the individual case manager to choose the initial method of contact. For example, an email sent to a company's website will often result in a swift response.

The general approach is to persuade the company to comply with whatever requirement of the Act they are failing to observe. Prosecution is very much a last resort not only because of the amount of resources it requires, (i.e. investigation officers, solicitors etc), but also because prosecution itself may not always result in the Act being complied with.

It is not our policy to reveal the identity of the complainant, however in cases regarding members, we have to, as long as we have their consent. Consideration must be given to the Freedom of Information Act 2000. If in doubt, our FOI team should be contacted.

In almost all of the cases we deal with prosecution is an option but very often the threat of it will be enough to gain compliance. However in extreme circumstances it may be necessary to refer the papers to BIS solicitors for consideration as to what further action should be taken. (The referral process involves the use of a CAG form which is completed and sent to BIS solicitors via our Legal Team – CAG is an acronym for 'Case Acceptance Group'.)

Discretionary Powers of Secretary of State

These are powers available to the Secretary of State which he can use to vary the requirements of the Act in certain specific circumstances. Applications for the exercise of

these discretions must all be judged on their individual merit. The applications are referred to in sections 15, 16 and 17 of this manual.

1.

The Breaches – *(In order of most commonly seen cases)*

2. Sections 82 to 84 Companies Act 2006 – Trading Disclosures (in conjunction with Statutory Instrument 2008/495)

Background

This section requires that a company must clearly display its name at every office and place of business unless that place of business is also a residential address. The purpose of this requirement is to ensure that people wishing to visit the premises, for example to serve a writ or summons etc., can readily identify them. A company must also show its name on its business stationery, websites and electronic communication including email. The reason for the requirement is for purpose of identification of the company for people dealing with it. The complaint may be either that the company is not showing its full name (this may also be a S1197 issue) or that it is not showing the company name at all. There are additional requirements for letter-headed paper, order forms, websites and electronic communication. The extra information is required so that people dealing with the company in writing or via the internet can have full information about the company, i.e. its registered number, registered office address and place of registration.

Objective

To ensure that the company is made aware of the requirement and that it complies with it in the future.

Procedure

A letter or email is sent, as appropriate, followed by reminder letters as required.