

A COMPANY HEALTH-CHECK COULD SAVE YOU THOUSANDS

FORMING A COMPANY CREATES A RAFT OF RESPONSIBILITIES AND POTENTIAL PENALTIES.

Last month Cabinet Minister David Parker resigned as Attorney General and as Minister of Transport, Energy and Climate Change, after it was revealed that he had filed false returns with the Companies Office.

He had incorrectly stated in annual returns for Queens Park Mews Limited, of which he is one of three shareholders, that shareholders had passed a unanimous resolution not to appoint an auditor. The maximum penalty for filing a false return is a fine of \$200,000 or five years' imprisonment.

To help its clients avoid this sort of trouble, Cairns Slane is offering company health-checks. These cover requirements such as:

FILING ANNUAL RETURNS

The annual return is an update of the registered office, directors' names and addresses, shareholders, the date of the last annual meeting, and whether or not shareholders unanimously agreed not to have accounts audited. (It was the latter clause which tripped up David Parker.)

In the last couple of years the Companies Office has become very attuned to clearing dormant companies off the register. Failure to file an annual return is the first signal to the Companies Office that a company is dormant. Property held by companies when they are removed from the register is vested in the Crown.

The Companies Office contacts companies to remind them the month before their annual returns are due, but if the email or postal address you have given them is no longer current, you won't receive it. At the end of the month following the due date, the Companies Office emails final reminder notices to the main email address given and posts them to each director. The following month, if the annual return has still not been received, the company will be removed from the register.

COMPANY RECORDS

A number of documents, including the company's constitution, share register, directors' register and the last

seven years of director and shareholder minutes of meetings and resolutions, must be kept at a company's registered office. Maximum penalty: \$10,000 fine for the company and \$10,000 for every director.

NOTICE OF CHANGE OF DIRECTORS' ADDRESSES

It is quite common for the Companies Office not to be informed when a director has a change of address: many directors are unaware that they might be liable for a \$10,000 fine for not updating that information within 20 working days of the change.

MAINTAIN SHARE REGISTER

Your company share register is required to state the names and last-known addresses of everyone who is now or has in the past 10 years been a shareholder, the number of shares they hold, and the date of share transactions. Maximum penalty: \$10,000 fine for the company and \$10,000 for every director.

Although their stories are more likely to spend days in the news media, high-profile MPs are not the only ones who face penalties for breaching the Companies Act.

Last year a New Zealand couple established a company whose sole purpose for existing was its \$10,000 investment in a winery. When the couple moved to Australia the company technically had international shareholders, which meant they needed to file audited accounts. They didn't do so quickly enough and were fined a total of \$14,000. That's for a \$10,000 investment, remember, and doesn't include legal fees.

CONTACT US

for a vital health-check on your company.

Janice Ulrich

DDI: +64 9 307 9660

Email: janice.urlich@cairnsslane.co.nz

Ian Gordon

DDI: +64 9 306 7368

Email: ian.gordon@cairnsslane.co.nz

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