

A guide to the reinstatement of a Jersey company

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Introduction

Under the Companies (Jersey) Law 1991 (the **Companies Law**) the Jersey Registrar of Companies has the power to strike a Jersey company off the register if, among other grounds, it has failed to submit its annual return and pay its annual filing fees.

A company that has been struck off may, in principle, be reinstated within 10 years of its striking off date. The Companies Law states that, where a company has been dissolved, the Royal Court (the **Court**) may, on the application of an interested party, make an order, on such terms as the Court thinks fit, declaring the dissolution to have been void. All property and liabilities that the company had before being struck off would be reinstated. The Court is further empowered to give such directions and make such provisions as it sees fit for placing a company and all other persons in the same position as if the company had not been dissolved.

Procedure

Applications to reinstate a Jersey company may be made to a Court official known as the Judicial Greffier (the **Greffier**) and no longer need to be brought before the Court itself. In practice, the Greffier will not re-instate a company unless all outstanding fees, interest, costs, taxes and any other amounts have been paid to the relevant Jersey authorities. Any outstanding annual returns and other outstanding documentary requirements must also be completed and filed.

The first step of reinstatement is to ascertain from the Jersey Financial Services Commission (the **JFSC**) what fees, interest and costs are outstanding and which annual returns need to be completed and filed and to ascertain from the Jersey tax authorities whether any outstanding taxes are owing and whether there are any outstanding tax returns.

These outstanding amounts and other matters must then be brought up to date and paid to the satisfaction of the relevant authorities.

A further issue that may need to be addressed is to determine if any outstanding fees are owing to the company's corporate administrator in Jersey (responsible for the provision of company officers, registered office and other administrative functions).

In addition, the JFSC may also require:

- details of the beneficial owner(s) of the company's shares with their full name, date of birth, specific occupation and residential address and details of the Company's activities;
- confirmation that none of the beneficial owners(s) has, in any part of the world, been declared bankrupt or *en désastre* (a Jersey form of bankruptcy) or been a director of, or otherwise concerned in the management of, a company which has been subject to an insolvent liquidation or been the subject of a Judicial enquiry; and
- confirmation that no change in the beneficial ownership of the shares in the company is contemplated and that no agreement has been entered into for the sale, transfer or disposal of any interest (whether

legal or equitable) in, or rights attached to, any shares in the company and no options have been granted over the shares.

The Ex Parte application

Once the steps referred to above are taken, an ex parte application can be brought before the Greffier. The application (known as a **Representation**) may be brought in the name of any interested person, who could, for example, be a person who was, at the moment of striking off, a nominee shareholder or a beneficial owner or a director of the company. A creditor may also be an interested person who is entitled to make an application.

The application needs to be supported by an affidavit sworn by the applicant which explains (a) why the company was struck off (for example, a shareholder dispute or a temporary loss of contact between the Jersey administrator and the beneficial owner) and (b) why it is necessary for the company to be reinstated (for example, that it had assets).

If the JFSC is satisfied that all outstanding amounts have been paid and all outstanding filings have been made, and that it is satisfied with the information and confirmations provided, it will confirm to the Judicial Greffier that it has no objection to the re-instatement which should then normally be a straightforward matter.

Conclusion

In order to commence drafting an application to reinstate the company, we would need details of the company, the information and confirmations referred to above and the applicant party or other representative of the dissolved company must arrange for outstanding payments and filings in respect of the company to be made to the Jersey authorities, indicating to them that an application for reinstatement is intended to be made.

Contacts

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