

Role and duties of a company secretary

Does every company need a secretary?

Yes. Section 19(1) of the Companies Act 1982 says every company must have a secretary.

Does a company secretary need any qualifications?

The company secretary of a public limited company needs to be qualified as explained below:-

Is a member of the following bodies:-

Institute of Chartered Secretaries and Administrators
Institute of Chartered Accountants in England and Wales
Institute of Chartered Accountants in Scotland
Institute of Chartered Accountants in Ireland
Chartered Association of Certified Accountants
Chartered Institute of Management Accountants
Chartered Institute of Public Finance and Accounting
Advocate or person called or admitted in England and Wales or Scotland as
a barrister, solicitor or advocate;
or

Held the office of secretary (or assistant or deputy secretary) of the company on the appointed day for section 19(1) of the Companies Act 1982; or

Held the office of company secretary of a company (except a private company) for at least 3 out of the 5 years immediately before his or her appointment as secretary; or

The company secretary of a private limited company needs no formal qualifications subject to having the proper knowledge and experience to carry out the functions of company secretary

What are the duties of a company secretary?

They are not specified by the Act, but are usually contained in an employment contract.

Special Duties

As the secretary is an officer of the company, they may be criminally liable for defaults committed by the company. For example failure to file – in the time allowed- any change in the details of the company's directors and secretary, and the company's annual return.

The secretary may also have to make out a statement of the company's affairs if an administrative receiver or provisional liquidator is appointed, or if a winding-up order is made.

Other Duties

The company secretary usually undertakes the following duties:-

Maintaining the statutory registers.

These are:-

The register of members (section 96 CA 1931);
The register of directors and secretaries (section 143 CA 1931);
The register of directors' interests (section 148 CA 1931);
The register of charges (section 88 CA 1931); and
The register of interests in shares (public companies only)

Ensuring that statutory forms are filed promptly.

Any changes to the company's records that are on public file must be notified to the Registrar of Companies in a prescribed format. Fees may be payable on filing subject to a filing timescale. Most forms are filed within 1 month of the change, annual returns, however, must be filed within 28 days.

- a) *Providing members and auditors with notice of meeting.* You must give them 21 days written notice of an annual general meeting. You must give them 14 days written notice of a meeting which is neither an annual general meeting or a meeting to pass a special resolution. If you are the secretary of an unlimited company, the written notice required is 7 days.
- b) *Sending the Registrar copies of resolutions and agreements.* You must send him copies of every resolution or agreement to which section 11 CA 1982 applies, for example special and extraordinary resolutions, within 1 month of them being passed.
- c) *Supplying a copy of the accounts to every member of the company, every debenture holder and every person who is entitled to receive notice of general meetings – also copies demanded by anyone under section 11 CA 1982.* You must send accounts at least 7 days before a meeting at which they are to be laid – see section 11 of the CA 1982.
- d) *Keeping, or arranging for the keeping of minutes of directors' meetings and general meetings.*

*Ensuring that people entitled to do so, can inspect the company
Custody and use of the company seal.*

Does a company secretary have any powers?

No, but the Acts allows them to sign the following re-registration applications:

The re-registration of a limited company as unlimited;
The re-registration of an unlimited company as limited;
The re-registration of a public company as a private company
The re-registration of a private company as a public company.

The secretary is also allowed to sign most of the forms prescribed under the Acts.

What rights does a company secretary have?

They depend on the terms of his or her contract with the company. The secretary has no special rights under the Acts.

What you have to send to the Companies Registry

Company directors and secretaries are responsible for delivering the information to the Registrar. There are many forms that companies needs to file

These notes are for general guidance only.

Please contact us or your legal advisor any further information.

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