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New procedures at Court of Registration

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Part V of 'The New Companies Act - 'What you need to know' series

In the past, when criticism of the Hungarian legal system was expressed from the point of view of businesses, there was almost always mention of the overly bureaucratic procedures for registering companies at the Court of Registry.

This problem is addressed by the new Act on Publishing of Company Information, the Court of Registry and Voluntary Liquidation, which will come into force at the same time as the new Companies Act. Parliament's goal is to make faster procedures possible, and one of the important tools for reaching that goal will be introducing the use of electronic documents at the Court of Registry, and the possibility to submit data electronically.

Possibility to reserve company names

When a company is being founded, giving it the proper name is a crucial matter. For one, the name has to reflect the purpose and the form of the company, and it also has to be different to the names of any other companies in Hungary engaged in the same line of business.

It is already possible to have a prospective company name reviewed by the Company Registration and Information Service, a department of the Ministry of Justice. Upon request, this department can research whether or not another company has already been registered under the chosen name.

After July 1, the Court of Registry will take over this name reviewing task. There is a fee for this service, and the court must deliver the information within three days. A new possibility is being able to reserve the chosen company name for sixty days through an application, and thereby preventing other applicants from being granted that name when the court deems them qualified for entry in the Registry.

Founding through use of model Articles of Association

As we already mentioned in the last instalment, in the future founders of companies will be able to speed up the process through the use of model Articles of Association.

The applicable model articles, which can only be used by the Kkt., Bt., and Kft. company forms, are included in the text of the new Companies Act as an appendix. Even if a company is founded in this fashion, it is still necessary, as before, to have it countersigned by an attorney, to have it notarised, and to have qualified legal representation in the procedures at the Court of Registry.

Since these model articles only contain the bare minimum necessary to set up a company, they are unsuited to situations in which the shareholders have special wishes which would call for deviations from the standard line of company law or additional regulations not found in the standard model contracts.

New electronic procedures at the Court of Registry

In future, during the various procedures at the Court of Registry the court will distinguish between those applications that have been submitted in the traditional fashion (i.e. on paper) and those submitted electronically.

Let's look at the technical side of this. Electronic documents and certificates will have to be accompanied by electronic signatures and time stamps. In an electronic procedure, all of the company's documents are registered in the form of electronic documents. The legal representative of the company plays an essential role in the conversion of documents into electronic form, because attorneys have the authority to create the electronic documents which can be submitted to the court.

In electronic procedures, the founders' legal representative has to first submit the application and supporting documents to the Company Registration and Information Service, and not to the Court of Registry. The service then authenticates the application and the documents from a technical standpoint (the electronic signature, time stamp, etc.). If the Service approves them, then they are immediately passed on to the Court of Registry.

The court's allotted time to carry out the registration procedure begins on the day after the electronic application is properly entered with the court.

Completion deadline for registration procedure - simplified procedure

The court's completion deadline for the registry procedure depends on whether the application was made with model Articles of Association, and on whether a name has been reserved.

In a "normal" procedure, the court has to make a decision to enter a company in the registry (or not to), within fifteen working days after the submission of the application. If the application is made using model Articles of Association, the deadline is eight working days.

In a "simplified" procedure, the court has to decide within two working days. The simplified procedure has three conditions: model Articles are used (which means that only Kkt.s, Bt.s, and Kft.s can take advantage of this procedure); a name has been reserved, and; the application was made electronically.

The new Companies Act will theoretically make it possible to found companies very quickly - as quickly as two days. As of July 2006, the lives of companies and their shareholders will be made just a little easier.

For a lot of companies, even if amending their articles right now isn't compelled yet by necessity, it would make sense to go ahead and do it. Don't neglect dealing with this over the next year!