

# Amendments to the Estonian Commercial Code and the Entry Into Force of the Commercial Register Act

May 2023

On the 1st of February 2023, amendments to the Estonian Commercial Code and the new Commercial Register Act both entered into force. The amendments that were made to the Commercial Code primarily involved the regulations related to the commercial register. Since the commercial register in its current form is extremely divided and fragmented, the main purpose of the changes is to clarify its rules for private legal persons. The most important changes for business owners in Estonia will be presented in this article.

## Changes regarding the minimum capital requirement for limited liability companies

The minimum capital requirement for limited liability companies has existed since the adoption of the Commercial Code in Estonia in 1995. Some time later, in 2011, after amendments were made to the Commercial Code, it was sometimes possible to entirely avoid paying the minimum capital requirement, but the amount of share capital had to be agreed upon when establishing the company and it had to be at least 2,500 euros.

In a positive step, that minimum capital requirement for limited liability companies has now been abolished in Estonia. The previous minimum share capital requirement of 2,500 euros did not really force business owners to think much about how much they paid as initial share capital for their newly founded companies. Now they can decide themselves how much capital their newly founded businesses might require. The previous requirement that net assets at least equal the minimum share capital laid down by law has also been removed.

## Deletion from the commercial register

There are now two new different ways in which companies can be deleted from the register. A simple way is for legal persons

with a foreign address who do not have a contact person in Estonia assigned in the register. If a foreign company does not have a legal Estonian address, then a contact person must be appointed. Foreign legal persons who fail to observe this requirement may be fined, or may have their companies removed from the commercial register entirely.

The other way to have a company deleted from the commercial register is by not submitting the annual report that is prescribed by law. If a person has not submitted the annual report then the registrar may impose a fine. In addition, now, if that legal person fails to submit the annual report in the timeframe set by the registrar and at least 3 months have passed from the deadline set by law, the legal person may be deleted from the register.

Since deletion from the register is an extreme measure, in both situations it is possible to be restored in the register within 3 years from the deletion. However, restoration is possible only if the legal person has been deleted from the register after 1st of February 2023 either due to the failure to submit an annual report or failure to designate a mandatory contact person.

It is also possible for legal persons that have not started operations and for which the usual termination and liquidation process is not necessary to be deleted from the register on the basis of an application. The prerequisite is that the legal person has not acted, and that this be confirmed by the board and, in the case of a limited company, all shareholders.



## Actions in the commercial register

It is now possible to reserve a business name, which is good news for foreign companies that are planning to expand their reach to Estonia. The activity for which the business name will be used and the legal form of the company must be specified. When the business name is reserved, the eligibility of a business name is checked and a final decision is made. It is possible to reserve a business name for six months - and to extend it for another 3 months if there is good cause. The same person may not reserve the same name a second time.

Another interesting development is that it is now possible to request a specific date for making an entry in the commercial register, where a valid reason exists. This could be, for example, the need for a merger to take effect on a specific date and to determine in advance whether there are deficiencies in the application and whether the entry can be made on the desired date. An initial application can not be entered on a specific date.

## The shareholder list will be kept by the commercial register

Finally, one of the biggest changes that will take place is that as of September 1, 2023, the list of shareholders will be kept in the commercial register. Before the amendments the data of the shareholders did not have any meaning and was just informative data from the business files in the commercial register. The purpose of the commercial register is to provide legal certainty and protection for third parties. In order to give public credibility to the list of shareholders the status of the shareholder list will have the same standing as a commercial register entry. The registrar will keep the list of shareholders and the validity of the disposition will be further checked by notaries.