



The Companies Act

The Companies Act 2006 received Royal Assent on 8 November 2006, and has been introduced in a series of stages. 1 October 2009 sees the coming into force of the final 500 or so sections of the Act.

Many features of company law date back more than 100 years, and are not necessarily suitable for regulating modern companies. The Act acknowledges that a vast proportion of companies registered in the UK are small owner-managed private companies and introduces significant measures designed to modernise and simplify company law and thereby reduce the regulatory burden.

The main features of the final set of changes are detailed below.



New Company formation

From 1 October 2009 the documentation required for forming a new company will be very different.

The Memorandum of Association will be a short document, serving the limited purpose of evidencing the intention of each subscriber to form a company and become a member of that company. Companies will no longer be required to specify their objects, and the concept of authorised share capital will be abolished.

New Model Articles will be introduced. There will be three types, as follows:

- Private company limited by shares
- Private company limited by guarantee
- Public limited company

Existing Companies

Companies formed before 1 October 2009 will have constitutions which were designed under 'old' law, so there will be a need for *transitional provisions*.

For instance, provisions contained in their memorandum which go beyond the newly required limited information (such as objects clauses and authorised share capital) will

automatically be regarded as provisions of their Articles of Association.

Where the Articles contain matters which are not required under the specific provisions of the Companies Act 2006, the company may consider them to be unduly restrictive. For example they may cover matters such as rules about annual general meetings and proxies, company secretary, extraordinary resolutions and the chairman's casting vote.

They are written in plain English and are shorter and simpler than 'Table A' (which has been around in various forms for the last 150 years). In practice, companies will be formed using either Model Articles, Model Articles with amended provisions, or bespoke Articles.

The Statement of Capital is a new document required as part of the formation documentation. It is a 'snapshot' of a limited company's issued share capital at a given time. It will need to be provided in various other circumstances, including as part of the application to incorporate and with each annual return made up on or after 1 October 2009.

Companies would be well advised to examine their Memorandum and Articles of Association with a view to adopting the new Model Articles, or to changing some of their current provisions. Changes to Articles should be made by a special resolution, requiring a majority of 75% of the voting rights of those eligible to vote. Special resolutions can be passed by written resolution, but a copy should be filed at Companies House within 15 days of its being passed.



Did You Know?

At more than 700 pages in length, the Companies Act 2006 is the longest Act ever to be passed by Parliament. One of the reasons for this length is that the Act replaces the majority of existing companies legislation, in particular the Companies Acts 1985 and 1989.

