



*Companies House*

— for the record —

**As modified by the Companies Act 2006**

# **Company Formation**

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**BERR**

**Department for Business  
Enterprise & Regulatory Reform**

This guidance is available in alternative formats which include Braille, large print and audio tape. For further details please see [our website](#), email our [enquiries section](#) or telephone our contact centre on 0303 1234 500

When reading these guidance notes, you need to be aware of the following:

Some (but not all) of the provisions in the Companies Act 2006 have come into force. Therefore, some provisions in the Companies Act 1985 remain relevant. We have tried as far as possible to make it clear throughout these notes which Act applies. If you would like to find out more you may wish to visit [our website](#) where you can find out which provisions in the respective Acts are in force. Our website also contains a link to the [BERR](#) (The Department for Business, Enterprise and Regulatory Reform) website where you can find further information. Some provisions in the new Act are subject to transitional arrangements. We will as far as possible explain these in this guidance and give details on our website.

There is one final stage in the implementation of the Companies Act 2006 scheduled for October 2009. We will update any guidance notes affected by those implementations at the time. You may wish also to keep an eye on our website where we will publish more information as the implementation process continues so you can access the most up to date information.

Until October 2009, these guidance notes apply only to companies formed in Great Britain (England, Wales and Scotland). The separate system in Northern Ireland is then scheduled to merge into a single system for the whole of the United Kingdom.

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*This is a guide only and should be read with the relevant legislation*

- Companies Act 1985
- Companies Act 2006
- The Companies Act 2006 (Commencement No. 6, Saving and Commencement No. 3 and No. 5 (Amendment)) Order 2008 – SI 2008/674
- The Companies (Trading Disclosures) Regulations - 2008 SI 2008/495

## Introduction

This guidance sets out the requirements for the formation of private companies limited by shares, private companies limited by guarantee, public limited companies and unlimited companies. It also explains the difference between these types of company and provides information and advice about formation documents, membership, share capital and company officers.

The guidance does not explain in any detail the controls that apply to the use of certain company names. For further information on this, please read our '[Company Names](#)' guidance. All companies must disclose certain information to Companies House for entry on the public record and also to the people they deal with. This booklet provides guidance on notifying Companies House of changes in the company's circumstances and particulars:

- Publication of company name and details to be shown on company communications;
- Filing of accounts and annual returns; and
- Failure to deliver information to Companies House on time.

This guidance provides limited information about a company's continuing filing obligations. For more detailed information on specific subjects please read the individual guidance booklets referred to in this guidance.

Setting up a company brings many obligations. You may wish to obtain advice from a solicitor or accountant to help you decide if forming a company is the best way for you to run your business.

## Chapter 1 New companies

A company is a legal entity formed to conduct business or other activities in the name of the association. Because it is incorporated, it has a legal personality distinct from those of its members

### 1. Is there more than one type of company?

There are four main types of company:

- **Private company limited by shares** – this type of company has a share capital and the liability of each member is limited to the amount unpaid on shares that a member holds. A private company cannot offer its shares for sale to the general public.
- **Private company limited by guarantee** – in this type of company, members do not make any contribution to the capital during its lifetime as they do not purchase shares. The members' liability is limited to the amount that they each agree to contribute to the company's assets if it is wound up.
- **Private unlimited company** – this type of company may or may not have a share capital and there is no limit to the members' liability. Because there is no limitation on members' liability, the company has to disclose less information than other types of company.
- **Public limited company** – this type of company has a share capital and, the liability of each member is limited to the amount unpaid on shares that a member holds. A public limited company may offer its shares for sale to the general public and may also be quoted on the stock exchange.

The first three company types described above are forms of private company. There are still a few “companies limited by guarantee with a share capital”. It has not been possible to form these since 1981 and this guidance does not deal with them.

### 2. Who can form a company?

Companies' legislation generally allows one or more persons to form a company for any lawful purpose by subscribing to its memorandum of association. However, a public company or an unlimited company must have at least two subscribers (this rule will disappear when the Companies Act 2006 comes fully into force on 1 October 2009). You can find information about companies formed by a single person in [chapter 3](#). (In law, 'person' includes individuals and companies).

### 3. How do I form a company?

Ready-made companies are available from company formation agents whose names and addresses appear in business directories. If you form a company yourself, you will

need to send the following documents, together with the registration fee to Companies House:

- A memorandum of association;
- Articles of association (except where Table A is adopted without modification)
- A completed Form 10; and
- A completed Form 12.

Information about each of these documents is set out below. If you want the company's registered office (see [question 8](#) below) to be in England or Wales, you should send them to Companies House in Cardiff. If you want it to be in Scotland, you should send them to Companies House in Edinburgh. (See addresses at the end of this guidance).

#### **4. What is a memorandum of association?**

This is a written document, which sets out:

- the company's name;
- whether the registered office of the company is to be situated in England and Wales (i.e. it may be situated in either), in Wales (i.e. it may be situated only in Wales) or in Scotland;
- what the company will do (its objects). The object of a company may simply be to carry on business as a general commercial company;
- where applicable, that the liability of its members is limited;
- where applicable, the amount of share capital with which the company proposes to be registered and details of the division of those shares into fixed amounts; and
- in the case of a public limited company, a statement that it is to be a public company .

Each subscriber must sign the company's memorandum in front of a witness who must also sign this document before sending it to Companies House. In the case of a company limited by shares, each subscriber must take at least one share in the company and the number of shares that each subscriber takes must be written against the relevant subscriber's name.

The form a memorandum should take is set out in Regulations which we explain below.

#### **5. What are articles of association?**

This document sets out the rules for the running and regulation of the company's internal affairs.

Each subscriber must sign the company's articles of association in front of a witness who must also sign the document. A complete set of articles of association is provided for in Regulations. The articles for companies limited by shares are referred to as 'Table A' and there are separate versions in the Regulations for private and public companies.

A company limited by shares can choose whether to:

- adopt Table A in whole or in part as its own articles of association;
- adopt Table A with modifications; or
- adopt their own articles.

The requirement for a new company to send a copy of its articles of association to Companies House does not apply to a company limited by shares that decides to adopt Table A without any modification. However, this decision must be confirmed in a letter attached to the application to form a company.

A public company must appoint at least two directors. A private company can appoint one director provided this is set out in its articles. If a company's articles allow the appointment of one director it is adopting a modified version of Table A and in these circumstances it would need to deliver the articles with the application to form the company.

The Regulations also set out other forms of articles of association, which a company limited by guarantee (Table C) and an unlimited company (Table E) must adopt. These types of company must adopt the articles of association in those forms, or as close to those forms as possible. They cannot adopt totally different articles.

**Please note**, there are specific requirements relating to Memoranda and Association for Community Interest Companies (CICS), Right to Manage (RTM) Companies and Commonhold Associations. These can be found:

- For Community Interest Companies (CICS) in 'The Community Interest Companies Regulations 2005' (Statutory Instrument 2005/1788). [Sample Community Interest Companies' memoranda and articles of association can be found on the CIC regulator's website.](#)
- For Right to Manage (RTM) Companies which must be limited by guarantee in 'The RTM Companies (Memorandum and Articles of Association (England) Regulations 2003' (Statutory Instrument 2003/2120) or 'The RTM Companies (Memorandum and Articles of Association (Wales) Regulations 2004' (Statutory Instrument 2004/675 (W.64));
- For Commonhold Associations, which must be limited by guarantee in the relevant source of memorandum and articles for RTM companies set out in 'The Commonhold Regulations 2004' (Statutory Instrument 2004/1829)

## 6. How do I find copies of the relevant form of memorandum and articles of association for my company?

Companies House cannot supply memorandum and articles but you can purchase them from a law stationer or company formation agent. Alternatively, you may prepare them yourself from the Regulations referred below. However, if the company is limited by guarantee or an unlimited company it must use those Regulations.

Although this guidance should not be seen as a comprehensive guide to this subject, the key regulations dealing with memorandum and articles of association and the companies to whom they apply are summarised below:

- The Companies (Tables A to F) Regulations 1985 (Statutory Instrument 1985/805), which contain the following information:
  - (a) Table A - Articles of association for a company (in two versions, public and private) limited by shares;
  - (b) Table B - A memorandum of association for a private limited company;
  - (c) Table C - A memorandum and articles of association for a company limited by guarantee without a share capital;
  - (d) Table D - A memorandum and articles of association for a company limited by guarantee with a share capital; (please note companies of this sort can no longer be formed);
  - (e) Table E - A memorandum and articles of association for an unlimited company with a share capital; and
  - (f) Table F - A memorandum of association for a Public Limited Company; -Table F

These regulations have been amended by:

- The Companies (Tables A to F) (Amendment) Regulations 1985, (Statutory Instrument 1985/1052);
- The Companies Act 1985 (Electronic Communications) Order 2000 (Statutory Instrument 2000/3373);
- The Companies (Tables A to F) (Amendment) Regulations 2007 (Statutory Instrument 2007/2541);
- The Companies (Tables A to F) (Amendment) (No.2) Regulations 2007(Statutory Instrument 2007/2826); and
- The Companies (Tables A to F) (Amendment) Regulations 2008 (Statutory Instrument 2008/739).

Tables A, C and E as recently amended can be found in the [BERR website](#).

Amendments to the Tables in the Regulations apply only to companies formed on or after the date on which the changes come into force. They do not affect the articles of association of companies formed before these dates even if those articles are Table A, C or E without modification. If an existing company decides to adopt some or all of the provisions in an amended Table it will need to pass a resolution to make these changes and file a copy of the resolution at Companies House along with the revised articles.

## **7. What is Form 10?**

Form 10 gives details of the first director(s), secretary and the intended registered office address. The company's directors must provide their names and addresses, date of birth, nationality, occupation and details of other directorships they hold or have held within the last 5 years. Each officer appointed and each subscriber (or their agent) must sign and date the form.

Private companies no longer need to have a company secretary, although they can insert a provision requiring a secretary in their articles of association. If you are forming a private company and you do have this requirement you should complete the secretary details on the Form 10.

All public companies must continue to have a qualified company secretary.

## **8. What is a registered office?**

This is the official address of the company and the address to which Companies House will send notices, letters and reminders. The registered office must be:

- in England and Wales (if your company is registered there);
- in Scotland (if your company is registered there) ; or
- in Wales if your memorandum of association says that the registered office must be there (see question 4 above).

The registered office must always be an effective address for delivering correspondence and documents to the company. To avoid delays or other problems we strongly advise you to deal with all correspondence sent to this address promptly. If your company wishes to change its registered office address after formation, you must notify Companies House of the new address on Form 287. Until Companies House has entered this form onto its database the change does not take effect.

Companies House uses the Post Office address database to verify addresses. To avoid delays please ensure you are using the correct address including full post code on all forms and documents sent for registration.

## **9. What is the minimum number of officers a company requires?**

All private companies must appoint at least 1 director unless the company's articles of association require more than 1 director.

A private company does not have to appoint a company secretary unless the company's articles of association expressly require the company to have one.

A public company must have at least 2 directors and 1 secretary who must be formally qualified.

From 1 October 2008 all companies, whether private or public, must on formation have at least one director who is a natural person, i.e. an individual.

All company officers have important responsibilities in law. The key requirements are set out in our ['Directors and Secretaries Guide'](#) available on our website.

After the company has been formed, you must notify Companies House about:

- the appointment of a new officer ([Form 288a](#));
- the termination of an appointment of an officer of the company ([Form 288b](#));
- changes in an officer's name or address or any of the other personal details originally registered on Form 10 ([Form 288c](#)); and/or
- any change in the registered office address ([Form 287](#)).

You can notify Companies House of any of the above changes online via Software Filing (requires software package) or WebFiling. You can also send documents to us by post. Please note, we do not accept documents or forms sent by fax.

## **10. Can anyone be a company director?**

Generally it is up to the members to appoint the people they believe will run the company well on their behalf. The only restrictions that prevent anyone becoming a director are:

- they must not have been disqualified from acting as a company director (unless the court has given them permission to act for a particular company);
- they must not be an un-discharged bankrupt (unless they have been given permission by the court to act for a particular company);
- they must not be under the age of 16 (from 1 October 2008); and
- at least one director must be a natural person, i.e. an individual (from 1 October 2008).

From 1 October 2008 the minimum age requirement applies to the whole of the United Kingdom, and any person who has not reached the age of 16 will cease to be a director. Companies House will put a notice on the public register to show that the appointment has ceased. The company will have to amend its register of directors to show that the appointment has ceased. If the company is left without an eligible director it will be in default and will need to appoint at least one director.

Certain people who are not British or of other EEA nationality are restricted as to what work they may undertake while in this country. If you need more information about whether such a person can become a director of a UK registered company, contact:

Home Office Immigration and Nationality Department  
Lunar House  
Wellesley Road  
Croydon  
CR9 2BY  
(Tel: 0870 606 7766)

## **11. What is a Form 12?**

Form 12 is a statutory declaration of compliance which confirms that all the legal requirements relating to the formation of a company have been complied with. The form can be signed by the solicitor who is forming the company or one of the people named as a director or secretary of the company on Form 10, can sign it.

The requirements for completing Form 12 are:

- be signed by a director or show clearly that the person signing has signed on behalf of a corporate director. If this is unclear the form will be rejected;
- be signed in the presence of a suitably qualified person, for example a commissioner for oaths, a notary public, a justice of the peace or a solicitor;
- be signed and dated after all the other documents have been signed and dated.

## **12. What are Community Interest Companies?**

Community Interest Companies (CICs) are a type of limited company designed for people who want to conduct a business or other activity for community benefit and not purely for the benefit of the members of the company. The CIC Regulator must approve applications to form a CIC and has a continuing monitoring and enforcement role. A company cannot become a CIC if it is, or intends to be, a political party or a political campaigning organisation (or a subsidiary of either). In addition, a CIC cannot be a charity.

To apply to form a CIC you must complete Form 36 (in addition to the documents listed in question 3 above) which you can download from the [CIC website](#) . The CIC website provides comprehensive information about the benefits of forming a CIC as well as details of the tests required for approval to become a CIC.

## **13. Can I choose any name I want for my company?**

No. There are restrictions on your choice of company name.

Companies House will not register a name that:

- is the same name as another name on the register;
- contains a word or words, the use of which would constitute a criminal offence;  
or
- is likely to be considered offensive.

In addition, Companies House will not register names that imply a connection with national or local government without the support of the specific government department or local authority. Some words will require the permission of the Secretary of State or some other specified body before you can use them.

You should also check whether your chosen name is ‘too like’ any other names already on the register. If your chosen name is too like another name, the Secretary of State could direct you to change the company's name. For more information on names please refer to our ‘Company Names’ guidance.

Before you apply to form a company it is important to check that the name you want for your company is acceptable. Further information can be found in our ‘Company Names’ guidance.

From 1 October 2008 the Companies Act 2006 introduces new provisions allowing any person or company to object to a company name for “opportunistic registration” if the company's name:

- is the same as a name associated with the complainant in which he has goodwill;  
or
- is so similar that its use in the United Kingdom would likely to mislead by suggesting a connection between the company and the complainant.

**Please note**, Companies House cannot deal with any complaints about opportunistic registration. Objections and enquiries should be directed to “The Company Names Tribunal” (also known as “the Adjudicator”) which the UK Intellectual Property Office operates and administers.

If there is a trade mark registration which is identical or similar to the company name you have chosen and you are in the same type of business you may face legal action for a trade mark infringement. For further advice, including how to search the trade marks register, contact the UK Intellectual Property Office on 08459 500 505 or visit their website.

#### **14. Can I reserve the name once I have checked that it is available?**

No. You cannot reserve a name. We cannot guarantee to process formation applications in strict order of the time or date of their receipt. Please note that in general, formation applications sent via software filing are processed more quickly than paper applications.

## **15. How much does Companies House charge to form a company?**

### **Paper filing.**

Our standard registration fee is £20 and we aim to process documents within 5 days of receipt. You can also use our 'Same Day' service provided we receive the application before 3pm (Monday-Friday) and all the documents and any required supporting information are acceptable. The fee for a same day incorporation is £50. You should make cheques payable to Companies House.

When filing 'Same Day' applications by post, courier or by hand please ensure that you clearly mark the envelope "Same-Day Incorporation".

When forming a Community Interest Company an additional fee of £15 has to be paid to the Regulator for Community Interest Companies. Companies House will collect this fee on behalf of the Regulator. Please see [chapter 4, question 5](#) below or check on the CIC website .

Please note that the 'Same Day' service is not available for CIC formations.

### **Software Filing.**

The standard fee is £15 and the 'Same-Day' service is £30. To form a company via software filing you must use suitable software. A number of formation agents also provide this as a chargeable service. For more information about software and web filing please visit [our website](#). Please note you cannot file applications to form a CIC electronically.

## **16. Where can I obtain forms which I need to form a company?**

Forms [10](#) and [12](#) are available free of charge from Companies House and you can download them from our website. We cannot provide memorandum or articles of association but you can obtain specimens of these documents from company law stationers, accountants, solicitors or company formation agents who can also supply Forms 10 and 12. Names and addresses are available in business telephone directories. You can download Community Interest Company form CIC 36 from the [Regulator of Community Interest Companies' website](#).

## **17. What happens to the documents sent to Companies House?**

All company formation documents are subject to certain checks including those necessary to ensure prospective officers are not on the [Disqualified Directors' Register](#) maintained by Companies House.

If the documents satisfy all the appropriate examination and name acceptance tests we will incorporate the company, issue a certificate of incorporation and the documents will appear on the public record for public inspection.

## 18. Can Companies House help me to form my company?

Companies House staff can provide you with guidance on company names and the forms required to form a company as well as advice on filing requirements. However, they cannot advise you about the content of your company's memorandum and articles, or whether a company is the best vehicle for your business. If you are unsure about any aspect of forming a company, you should consider seeking professional advice from a solicitor, accountant or company formation agent.

## Chapter 2 Public Companies

### 1. What is a public company?

A limited company with a share capital is a public company if:

- it has been registered or re-registered as a public company on or after 22 December 1980;
- its memorandum states that it is a public company;
- its name ends with 'Public Limited Company' or 'PLC' or if it is a Welsh company, – that is, a company the memorandum of which says that its registered office must be in Wales – it may use the Welsh equivalents, namely 'Cwmni Cyfyngedig Cyhoeddus' or 'CCC'; and
- it has an authorised share capital of at least £50,000 **or** at least €65,600 and states this in its memorandum.

A public company's articles may be as set out in Table A. For more information on articles of association see chapter 1, [questions 5](#) and [6](#).

The following additional points apply to a Community Interest Public Limited Company:

- its name must end with 'community interest public limited company' or 'community interest p.l.c.' (or, if it is a Welsh company, it may use the Welsh equivalents, namely 'cwmni buddiant cymunedol cyhoeddus cyfyngedig' or 'cwmni buddiant cymunedol c.c.c');
- sample memoranda and articles of association for such companies can be found on the [Regulator of Community Interest Companies' website](#) .

### 2. When can a public company start business?

A newly formed public company cannot commence business activities or exercise any borrowing powers until Companies House has issued a trading certificate under section 761 of the Companies Act 2006 (previously under section 117 of the Companies Act 1985).

Companies House will issue a Trading Certificate to a public company if the value of the company's allotted share capital is not less than £50,000 or €65,600. This requirement must be wholly satisfied either in sterling or in euros, as a mixture of both will not be sufficient to meet the legal requirements. (This does not prevent the rest of the company's capital being in a mixture of sterling, euros and even other currencies).

You can apply for a trading certificate by submitting an application to Companies House on a Form 117 modified to take account of changes made by the Companies Act 2006. To assist applicants, Companies House has produced a modified version of Form 117 ('Revised Form 117'), which takes account of the changes. You may wish to take legal advice on the modifications needed to be able to continue to use the previous Form 117 ('Form 117 Current'), which is available on our website.

Once issued, the trading certificate is proof that the company is entitled to do business and to exercise borrowing powers. Companies House will normally post you the certificate, but we can fax a copy for collection at any Companies House office if you request this when you deliver your application form.

Further information about share capital is available in our 'Share Capital' guidance on our website.

### **3. Can a public company issue shares in another currency?**

Yes, a public company may issue shares in a currency other than sterling (or euros) provided that it is part of its authorised share capital. A company may use as many currencies as it wishes for its share capital.

However, this does not alter the initial requirement relating to the minimum allotted share capital a public company must have. We explain that requirement above and it can only be satisfied in sterling, or, if a company makes a specific election to that effect, in euros. No other currency will be taken into account for that purpose.

### **4. Are there any other restrictions on a public company?**

Yes. There are several key restrictions:

- A public company must have at least two members and at least two directors (who could also be members of the company);
- At least one director must be a natural person, i.e. an individual (from 1 October 2008);
- Individual directors must not be under the age of 16 (from 1 October 2008);
- A public company must have at least one secretary who appears to the directors to have the necessary knowledge and ability to fulfil the functions and who meets at least one of the following qualifications;

(a) has held the office of secretary of a public company for at least three of the five years before their appointment; or

(b), is a barrister, advocate or solicitor called or admitted in any part of the United Kingdom; or

(c) is a person who, by virtue of his or her previous experience or membership of another body, appears to the directors to be capable of discharging the functions of secretary; or

(d) is a member of any of the following bodies:

- the Institute of Chartered Accountants in England and Wales;

- the Institute of Chartered Accountants of Scotland;

- the Institute of Chartered Accountants in Ireland;

- the Institute of Chartered Secretaries and Administrators;

- the Association of Chartered Certified Accountants;

- the Chartered Institute of Management Accountants (formerly known as the Institute of Cost and Management Accountants); or

- the Chartered Institute of Public Finance and Accountancy.

- A public company cannot take advantage of many of the provisions and exceptions applying to private companies under the Companies Acts, such as audit exemptions for small private companies;
- A public company cannot apply for voluntary strike-off under section 652A, Companies Act 1985. Further information about this is available in our ['Strike-Off, Dissolution and Restoration guidance.'](#); and
- A public company normally has 6 months after the end of its 'accounting reference period' (7 months for financial years which begin before 6 April 2008) to deliver its accounts and reports to Companies House. Accounts that are filed late will incur a late filing penalty. Please see our ['Late Filing Penalty'](#) guidance.

## **5. What is the advantage of forming a public company?**

A public company has access to capital markets and can offer its shares for sale to the public (usually, although not exclusively), through a recognised [stock exchange](#). It can also issue advertisements offering any of its securities for sale to the public. In contrast, a private company with a share capital cannot offer its shares to the public.

## **6. Do these rules apply to an overseas public company?**

Most of the above rules do not apply to a company formed overseas. On establishing a branch or place of business in Great Britain, companies formed outside the United Kingdom and Gibraltar must comply with the rules in Part XXIII of the Companies Act 1985.

However, in addition to the regulations imposed in the country in which it was formed and the requirements of Part XXIII of the 1985 Act, an overseas public company is also governed by certain parts of the Financial Services and Markets Act 2000 and by the City Code on Take-overs and Mergers.

## **Chapter 3 Single member companies**

### **1. What is a single member company?**

A single member company is a private company, limited by shares or by guarantee, which is formed with one member, or whose membership is reduced to one.

### **2. How can a sole member hold general meetings?**

A single member - present in person or by proxy - constitutes a quorum in these circumstances. If you hold such a meeting you must record it in the minutes.

If, as a sole member you take a decision, except by written resolution of the company, you must give a written record of the decision to the company. (This is to ensure continuity of records if you sell some or all of your interest in the company).

### **3. How should a company record an unwritten contract with a sole member?**

If the company enters into an unwritten contract with the sole member who is also a director of the company (and the contract is not in the ordinary course of the company's business), the company must ensure that the terms of the contract are set out in a memorandum or are recorded in the minutes of the next director's meeting.

### **4. What about the register of members?**

A company's register of members must accurately record its members. The register of members of a single member company must contain an express statement to the effect that the company has only one member and state the date upon which the company became a single member company.

If the company originally had more than one member and the membership reduces to one, then the register must contain an express statement to the effect that the company has only one member and state the date upon which the company became a single member company.

If the membership of a single member company later increases, you must record the details of the new member in the register of members. You should enter an express statement to the effect that the company is no longer a single member company and the date on which that event occurred.

## Chapter 4

### Re-registration of a company and conversion of a company to a Community Interest Company (CIC)

#### 1. Can a private company convert to a public company?

Yes. A private company limited by shares and an unlimited company with a share capital may re-register as a public company. However, a company without a share capital cannot do so. A private company wishing to become a public company must pass a special resolution stating that it is to be re-registered as a public company and deliver a copy of the resolution together with an application form to Companies House. The resolution must also:

- alter the company's memorandum so that it states that the company is to be a public company;
- make any other alterations to the memorandum as are necessary so as to ensure it conforms with the requirements that relate to a public limited company; and
- make any necessary alterations to the articles of association of the company.

Further information about resolutions is available in our ['Resolutions'](#) guidance.

A director or secretary of the company must sign the application which must be on [Form 43\(3\)](#), and be accompanied by the following:

- a copy of the memorandum and articles of association of the company altered in accordance with the special resolution discussed above;
- a copy of a balance sheet prepared not more than 7 months before the application date, together with a copy of an unqualified report by the company's auditors;
- a copy of a written statement by the company's auditors stating that in their opinion the net assets of the company at the balance sheet date were not less than the company's called-up share capital and its undistributable reserves;
- a copy of a valuation report relating to any shares that are allotted as fully or partly paid up other than in cash, after the balance sheet date but before the passing of the special resolution;
- a statutory declaration made by a director or secretary of the company on [Form 43\(3\)\(e\)](#) confirming that the company has passed the resolution, and that

there has been no change in the company's financial position causing its net assets to be reduced to less than the aggregate of its called-up share capital and undistributable reserves; and

- an appointment Form 288a if the company does not have an appointed secretary, as a public company requires a qualified company secretary.

In addition to the above requirements, a private company seeking re-registration as a public company must, at the time of passing the special resolution to re-register, have an allotted share capital with a nominal value of not less than £50,000 or €65,600. Each of the allotted shares must be paid up to at least a quarter of the nominal value and the whole of any premium.

If you wish to re-register as a public company and elect to satisfy the minimum share capital requirement in euros rather than in sterling, this election needs to be made by adopting Form 43(3). To assist applicants, Companies House has produced a modified version of Form 43(3) (available online) which complies with the requirement to make a specific election to use euros. If you wish, you can continue to use the prescribed Form 43(3) but you will need to adapt it when electing to use euros.

The unmodified and prescribed Form 43(3) continues to be the proper form to use for companies satisfying the minimum share capital requirement in sterling.

An unlimited company, in addition to the above, must:

- include a statement in its special resolution that the liability of the members is to be limited and what the company's share capital is to be; and
- make such alterations to the memorandum and articles of association as are necessary for them to conform to those of a company limited by shares.

## **2. Can a public company convert to a private company?**

Yes. A public company may re-register as a private company limited by shares or by guarantee by passing a special resolution to do so. However, if enough members object to the passing of the resolution, they may apply to the Court (under section 54 of the Companies Act 1985) to cancel the resolution. They must make the application within 28 days of the resolution being passed. The Court can either cancel or confirm the special resolution upon hearing such an application.

The application submitted to Companies House for re-registration must be on a Form 53 accompanied by copies of the resolution and copies of the company's memorandum and articles of association, as modified to meet the company's new circumstances.

The Court may also order a public company to re-register as private on approving a 'minute of reduction' of share capital which results in the issued share capital falling below the statutory minimum. In such a case the Court will also specify alterations to the company's memorandum and articles of association. A special resolution to re-register is not required in these circumstances.

Alternatively, a public company may have to re-register as private if its allotted share capital falls below the statutory minimum by means other than a Court Order. These include the forfeiture surrender or acquisition of shares.

In all cases (except where a court has specified in an order the alterations to be made) the company will need to pass a resolution to alter the memorandum and articles of association to meet the requirements of a private company.

### **3. What is the cost of re-registration (for companies excluding Community Interest Companies)?**

The standard fee for re-registration is £20, or £50 for the premium same-day service. If the company is re-registering and changing its name at the same time, an additional change of name fee of £10 is also payable, so the total fee is £30 (or £100 for the premium same-day service). In summary the fees are:

- Re-registration £20;
- Same-day re-registration £50;
- Simultaneous re-registration and change of name £30; and
- Same-day simultaneous re-registration and change of name £100.

Deleting the words 'company' or 'and company' (or their abbreviations or their Welsh equivalents) from a company name would normally be classed as a change of name. However, this is not so on re-registration. If you are in any doubt about the appropriate fee, please contact us on 0303 1234 500.

### **4. Can an existing company convert to a Community Interest Company?**

Yes, an existing company can apply to the Regulator of Community Interest Companies if it wishes to convert to a Community Interest Companies. For further details, please refer to the [CIC website](#)

### **5. What are the fees for Community Interest Companies?**

Companies House collect fees on behalf of the Regulator of Community Interest Companies. The fees for CICS are:

- Conversion to a Community Interest Company: £25 (£15 is attributable to Companies House and £10 to the Regulator of Community Interest Companies);
- Change of name: £10 (solely attributable to Companies House); [www.cicregulator.gov.uk/guidance/Resolutions/SpecResToConvertCompanyToCIC.doc](http://www.cicregulator.gov.uk/guidance/Resolutions/SpecResToConvertCompanyToCIC.doc)
- Change of status (e.g. from private to public): £35 (£20 is attributable to Companies House and £15 to the Regulator of Community Interest Companies); and

- Simultaneous conversion to a Community Interest Company and a change of status (Re-registration): £35 (£20 is attributable to Companies House and £15 to the Regulator of Community Interest Companies).

Please note that the same day service is not available to Community Interest Companies.

## **Chapter 5 Publication of company name and details to be shown on company's communications.**

A company must disclose its name (as it appears in its memorandum of association) at its registered and sometimes other offices and on its communications. A company must also give other specified information on all its business letters, order forms and websites.

The Companies (Trading Disclosures) Regulations (Statutory Instrument 2008/495) introduced some changes to the existing trading disclosures requirements from 1 October 2008.

### **1. Where and how must I display the company name?**

A company must display its name:

- at its registered office and at the place where it keeps its company records for inspection. From 1 October 2008 this requirement will not apply to a dormant company if it has at all times since its incorporation been dormant i.e. it has “no significant accounting transactions” during a financial year or entries in the company's accounting records. Please refer to our Dormant Companies' guidance.
- at any other place at which it carries on business. From 1 October 2008 this requirement will not apply if the location is used primarily for living accommodation, for example, if it is the director's home;
- on all its business correspondence and documentation (in hard copy, electronic or any other form), including:
  - the company's business letters and order forms;
  - bills of exchange, promissory notes, endorsements, cheques and orders for money or goods purporting to be signed by, or on behalf of, the company;
  - bills of parcels, invoices, receipts and letters of credit; and
  - its websites.

Please refer to The Companies (Trading Disclosure) Regulations 2008 (Statutory Instrument 2008/495)

The name must be in characters that can be read with the naked eye and be displayed continuously. From 1 October 2008, where the office, place or location is shared by six or more companies, each company is only required to display its registered name for at least fifteen continuous seconds at least once in every three minutes (this is to allow electrical displays with alternating names).

## **2. Must I show any other company details?**

Yes. On all company's business letters, order forms (in hard copy, electronic or any other form) and its websites, the company must show in legible lettering:

(a) the part of the United Kingdom in which the company is registered which is:

For Companies registered in England and Wales either:

- Registered in England and Wales; or
- Registered in England; or
- Registered in Wales; or
- Registered in London; or
- Registered in Cardiff.

For Companies registered in Scotland either:

- Registered in Scotland; or
- Registered in Edinburgh.

(b) the company's registered number;

(c) the address of the company's registered office.

If a business letter, order form or any of the company's websites includes more than one address, you should state which address is the registered office.

## **3. Are there any additional requirements?**

Certain categories of company must state the following additional information on their business letters, order forms, (whether in hard copy, electronic or any other form) and websites:

- (a) in the case of a limited company exempt from using the word 'limited', the fact that it is a limited company;
- (b) in the case of a community interest company which is not a public company, the fact that it is a limited company;

- (c) if it is an investment company as defined by section 833 of the Companies Act 2006, the fact that it is this type of company;
- (d) for a company with share capital, it is not necessary to state the share capital on stationery but, if the company chooses to do so, it must state its paid-up capital.

#### **4. Do I have to display directors' names?**

A company does not have to state the directors' names on its business letters, however, if it chooses to do so, it must state the names of all its directors. In other words, a company cannot be selective about which directors' names it shows - it must show all of them or none of them.

#### **5. Are there special rules for charitable companies?**

Section 68 of the Charities Act 1993 provides that a charitable company whose name does not include the word 'charity' or 'charitable' must state that it is a charity on company documents, including business letters, notices, invoices, bills of exchange, promissory notes and on any conveyances it executes. The relevant legislation in Scotland is the Charities and Trustee Investment (Scotland) Act 2005.

#### **6. Do the rules apply to overseas companies?**

A company formed outside Great Britain which opens a branch or place of business in Great Britain must register with Companies House and must publicly display similar details to those set out in this chapter. Our ['Overseas Companies'](#) guidance gives full details.

#### **7. What if the company is being wound up?**

If the company is being wound up or is in administration or receivership or a moratorium is in force in respect of its debts, every invoice, order for goods, business letter or order form (in hard copy, electronic or any other form) must contain a statement that the company is being wound up.

#### **8. Does the published company name have to be exactly the same as the registered name?**

Minor variations in the form of a name will be permitted including the case of the letters, the use of punctuation, accents, etc and formatting. However, the differences must not result in there being a risk of confusion.

#### **9. What is a company required to disclose when receiving a written request?**

From 1 October 2008 any person dealing with the company may make a written request for the company to disclose the address of its registered office, the inspection place (any other place where it keeps its company records) and the type of company records

which are kept at that office or place. The company must send a written response to that person within five working days of the receipt of that request.

## **10. What if the company fails to comply with these disclosure requirements?**

The company and every one of its officers in default will be committing an offence and they may be liable to a fine. However, from 1 October 2008 the personal civil liability of officers under the Companies Act 1985 will be removed. This means, for example, that if the officer signs a cheque on behalf of a company in breach of the disclosure requirements, he is no longer personally liable to the holder of the cheque for any money.

## **Chapter 6**

### **The new company - looking forward**

Company directors have a personal responsibility for making information about the capital structure, management and activities of their companies available to the members of the company and to the general public.

#### **1. Will I have to prepare company accounts?**

Yes. For all companies with limited liability, an important feature of company law is that every year the directors of the company must prepare accounts and send a copy to Companies House for entry on the public register.

There are different requirements (most of which are now found in the Companies Act 2006 and in regulations made under it) relating to the form a company's accounts must take. Companies House cannot advise on the contents of company accounts and advises companies to obtain professional advice when preparing accounts. All public and private limited companies must file accounts and in certain circumstances, unlimited companies are also required to file accounts. Further information can be found in our ['Accounts and Accounting Reference Dates'](#) guidance.

#### **2. What period should the accounts cover?**

A company's first accounts must start on the day on which it was formed. The first financial year must end on the 'accounting reference date' ('ARD') or a date up to 7 days either side of this date.. Subsequent accounts start on the day following the year-end date of the previous accounts. They end on the next 'accounting reference date' or a date up to 7 days either side.

#### **3. How is the accounting reference date set?**

The accounting reference date is the date in each year by reference to which the accounts will be drawn up for each financial year. For all new companies, the first accounting reference date is automatically set as the first anniversary of the last day in the month in which the company was formed. Subsequent accounting reference dates will automatically be on the same date each year. For example, if the company was

formed on 6 April 2008 its accounting reference date would be set at 30<sup>t</sup> April 2009 and 30 April for every year thereafter.

#### **4. Can I change the accounting reference date?**

Yes. The quickest and easiest way to change your ARD is to use our [Software Filing or WebFiling services](#). Alternatively, you can submit a change of ARD form ([Form 225](#)) to Companies House. You must do this during the accounting period affected by the change or during the period allowed for delivering the associated accounts to us.

For more information, please see our [‘Accounts and Accounting Reference Dates’](#) guidance.

#### **5. How long do I have to deliver accounts?**

This depends upon the “accounting reference period”, which is the period of twelve months ending on each accounting reference date. For accounts that start on or after 6 April 2008:

(a) A private company must deliver its accounts:

- within 9 months of the end of the accounting reference period; or
- if the first accounting reference period is more than 12 months, within 21 months of the date of on which it was formed, or 3 months from the end of the accounting reference period, whichever is longer.

(b) A public company must deliver its accounts:

- within 6 months of the end of the accounting reference period; or
- if the accounting reference period is more than 12 months, within 18 months of the date on which it was formed, or three months from the end of the accounting reference period, whichever is longer.

For accounting periods starting before 6 April 2008 please see our [‘Accounts & Accounting Reference Dates’](#) guidance.

#### **6. What about annual returns?**

Every company must deliver an annual return to Companies House at least once every 12 months. This document gives certain information about the company’s affairs as at a particular date in the year, known as its ‘legal return date’. A company has 28 days from its legal return date to deliver its annual return to Companies House. For further information please see our [Annual Returns](#) guidance.

#### **7. What else must I tell Companies House?**

Here are some of the important things that you must tell us about. In most cases there will be a time limit within which you must inform Companies House of the relevant

change and a specific form that you must use to inform us of those changes. These include:

**(a) Notification of Changes of director(s) and secretary, within 14 days for:**

Appointments (Form 288), terminations (Form 288b) and change of personal details of company officers (Form 288c). Filing these forms is much quicker if you use our Software Filing or WebFiling services.

**(b) Shares:**

Details of new shares being allotted, within 1 month. Use our Software Filing or WebFiling services (or [Form 88\(2\)](#)). For more information see our '[Share Capital and Prospectuses](#)' guidance.

**(c) Resolutions:**

Any special resolution and certain types of ordinary resolution (whether passed at a meeting or in writing), within 15 days of being passed by the company. There is no prescribed form for a resolution but you must send us a copy. More information about company resolutions is available in our 'Resolution' guidance. When a resolution alters the memorandum or articles of association of a company, you must also send a copy of the amended document in at the same time as the resolution.

**(d) Charges:**

Details of certain charges created by the company, within 21 days after the date of the charge's creation. See our '[Company Charges and Mortgages](#)' guidance or for Scottish companies our '[Company Charges \(Scotland\)](#)' guidance. An application to register a charge can be made by any interested persons other than the company that is subject to the charge, for example, a bank lending money that has the benefit of the charge.

**(e) Registered office address:**

A change of registered office. Use our Software Filing or WebFiling services (or [Form 287](#)). Please note that the change in address only becomes legally effective when Companies House has registered the notice confirming the change. Other people may continue to send correspondence and notices etc to the old address for up to 14 days after registration.

## 8. What is PROOF?

**Proof is the Registrar's PROOF (PROtected On-line Filing) Scheme. It provides additional security relating to the delivery of directors details and registered office address for documents delivered electronically:**

Company directors hold an important position in a company. They have power to make purchases and enter into credit arrangements on behalf of the company. Similarly, the registered office address is important because it is the address to which all official communications will be sent.

Records held at Companies House are sometimes used to check the legitimacy of a company and its directors before credit or loans are made. Therefore it is important that the records are correct. **Companies are vulnerable to fraud if the wrong people get themselves on record as company directors or a bogus registered office address is filed.**

In order to combat fraudsters posing as legitimate directors, Companies House offers companies a free, fully electronic and secure system for notifying changes of directors and changes to the registered office address. If you opt to only notify these electronically, they will be protected by electronic codes and we will not accept notices from your company delivered in any other format.

You will need to complete an 'Opt-in' form (PR1) and agree to the terms and conditions so that any change of directors or change of registered office address are **only** accepted by Companies House if they are delivered by the secure electronic method and never on a paper form. The 'Opt-in'; form and terms and conditions are available from our web site or by calling 0303 123 4500. The completed form must be posted back to Companies House. This service is voluntary; you may opt-out at any time and Companies House will revert to accepting notices from your company delivered electronically or on paper forms.

From mid 2009 it is planned this paper based process will be replaced by an electronic system, so that once you have agreed to the terms and conditions of the scheme you can sign up or opt out electronically of Proof within the appropriate web pages of the WebFiling service.

## **9. What does Companies House do with the information my company sends?**

Companies House is required to make the information that it holds about registered companies available to anyone who wants to see it. Once the documents have been processed they will appear as an image on our database for searchers to inspect. However, some information will not be available for the public record, such as the usual residential address of individuals who are beneficiaries of a Confidentiality Order.

## **10. What happens if I don't send the information to Companies House on time?**

If you deliver your accounts late, there is an automatic penalty. More information about late filing penalties is available in our '[Late Filing Penalties](#)' guidance.

In addition, directors may be prosecuted for not filing certain documents. If convicted, they will have a criminal record and be liable for a fine of up to £5,000 for each offence. In some cases, they could also be disqualified from being a company director or taking part in the management of a company for a specified period.

It is easy to lose confidence in a company that doesn't meet its legal obligations. If you don't tell us about your company's financial state on time, and you don't send in details of changes, anyone wanting to do business with you will not have access to the most up-to-date information about your company.

## 11. What if the company doesn't take off or I no longer need it?

Private companies that have not traded or otherwise carried on business for at least three months may apply to the Registrar to be struck off the register. For more information please refer to our guidance on '[Strike-off, Dissolution and Restoration](#)' or for Scottish companies, '[Strike-off, Dissolution and Restoration](#)' (Scotland).

This procedure is not an alternative to formal insolvency proceedings where these are appropriate. Please see our '[Liquidation and Insolvency](#)' guidance or for Scottish companies, '[Liquidation and Insolvency](#)' (Scotland)..

## Chapter 7

### Further information

#### 1. Where can I go for help?

Our staff in Cardiff and Edinburgh can advise you on general matters but when you start a company it is important to get things right. To avoid potentially costly mistakes, it may be sensible to consult a solicitor, a company formation agent, a chartered secretary or an accountant as appropriate. Addresses will usually be found in the business telephone directories.

For enquiries about Community Interest Companies, please visit the [CIC website](#)

#### 2. How do I send information to Companies House?

The safest and most secure way to send statutory information to Companies House is to use our software filing or webfiling services. For more information and registration details please visit [our website](#).

You may deliver documents to Companies House by post, DX and in courier or personally (including outside office hours, bank holidays and weekends) to our offices in Cardiff, London and Edinburgh. You can also send documents to our Edinburgh office by Legal Post (LP). Please note out of hours receipts can only be obtained at our Cardiff office.

If you are sending documents by post, courier, DX or LP and would like a receipt, you must enclose a copy of your covering letter with a pre-paid addressed return envelope. We will barcode your copy letter with the date of receipt and return it to you in the envelope provided.

Please note that an acknowledgement of receipt does not mean that a document has been accepted for registration at Companies House. Companies House does not accept accounts or any other statutory documents via fax.

Companies House sends an automatic e-mail acknowledgement for every submission made via WebFiling and a later e-mail indicating whether the submission has been accepted or rejected.

### **3. Can I file documents in other languages?**

Generally documents sent to Companies House must be in English. However, you may draw up and deliver documents relating to Welsh companies (that is, companies the memoranda of which say that their registered offices must be in Wales) in Welsh.

Companies may deliver the following documents in other languages if the document is accompanied by a certified translation into English:

- Resolutions and agreements affecting a company's constitution;
- Contracts relating to the allotment of shares for consideration other than cash;
- For companies included in accounts of larger EEA or non-EEA groups, (your accountant will know what these are) the group accounts and parent undertaking annual report; and Charge instruments (or copy charge instruments).

Companies may also file voluntary certified translations of any document subject to the 1<sup>st</sup> Directive disclosure requirements. These include:

- Constitutional documents such as the memorandum and articles of association;
- Directors appointments, changes in particulars or terminations;
- Accounts, reports and annual returns;
- Notification of any change in a company's registered office;
- Winding up documents;
- Share capital documents (public companies only);
- Documents relating to mergers and divisions (public companies only); and
- Documents relating to overseas companies.

Voluntary translations can only be filed in an official language of the European Union and must be accompanied by Form 1106 which is available on our website

### **4. Where do I get forms and guidance?**

Statutory forms and guidance are available, free of charge from Companies House. The quickest way to get them is through our [website](#) or by telephoning 0303 1234 500. Forms can also be obtained from company law stationers, accountants, solicitors and company formation agents - addresses in business phone books.

### **How to contact us**

Contact Centre: 0303 1234 500\*  
Mini-com: 029 2038 1245  
[enquiries@companieshouse.gov.uk](mailto:enquiries@companieshouse.gov.uk)  
[www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)

\*For training and quality purposes  
your call may be monitored

#### **Cardiff:**

Companies House  
Crown Way, Cardiff CF14 3UZ  
Fax: 029 2038 0900

#### **Edinburgh:**

Companies House  
4th Floor  
Edinburgh Quay 2  
139 Fountainbridge  
Edinburgh EH3 9FF  
Fax: 0131 535 5820

#### **London:**

Companies House  
21 Bloomsbury Street, London WC1B 3XD  
Fax: 029 2038 0900