

SCHEDULE

Regulation 2

AMENDMENTS TO THE 1986 ORDER AND THE INSOLVENCY ORDER

Formation

1. In Article 12 of the 1986 Order (mode of forming incorporated company), after paragraph (3) insert—

“3A) Notwithstanding paragraph (1), one person may, for a lawful purpose, by subscribing his name to a memorandum of association and otherwise complying with the requirements of this Order in respect of registration, form an incorporated company being a private company limited by shares or by guarantee.”

Minimum membership for carrying on business

2. In Article 34 of the 1986 Order (minimum membership for carrying on business), after “company” where it first occurs insert “, other than a private company limited by shares or by guarantee,”.

Contracts with sole members

3.—(1) In Part XI of the 1986 Order, after Article 330A(1) insert—

“Contracts with sole members who are directors

330B.—(1) Subject to paragraph (2), where a private company limited by shares or by guarantee having only one member enters into a contract with the sole member of the company and the sole member is also a director of the company, the company shall, unless the contract is in writing, ensure that the terms of the contract are either set out in a written memorandum or are recorded in the minutes of the first meeting of the directors of the company following the making of the contract.

(2) Paragraph (1) shall not apply to contracts entered into the ordinary course of the company’s business.

(3) For the purposes of this Article a sole member who is a shadow director is treated as a director.

(4) If a company fails to comply with paragraph (1), the company and every officer of it who is in default is liable to a fine.

(5) Subject to paragraph (6), nothing in this Article shall be construed as excluding the operation of any other statutory provision or rule of law applying to contracts between a company and a director of that company.

(6) Failure to comply with paragraph (1) with respect to a contract shall not affect the validity of that contract.”

(2) In Article 9 of the 1986 Order (“director” and “shadow director”), in paragraph (3) after “Article 328 to 330 (substantial property transactions involving directors),” delete “and” and insert “Article 330B (contracts with sole members who are directors); and”.

(3) In Schedule 23 to the 1986 Order (punishment of offences), after the entry relating to Article 326(8) insert—

(1) Article 330A was inserted into the 1986 Order by Article 45 of the Companies (No. 2) (Northern Ireland) Order 1990 (S.I. 1990/1504 (N.I. 10))

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

“330B(4)	Terms of unwritten contract between sole member of a private company limited by shares or by guarantee and the company not set out in a written memorandum or recorded in minutes of a directors' meeting.	Summary.	A fine of £2,000.”.
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Statement that company has only one member

4.—(1) In Chapter II of Part XII of the 1986 Order, after Article 360 insert—

“Statement that company has only one member

360A.—(1) If the number of members of a private company limited by shares or by guarantee falls to one there shall upon the occurrence of that event be entered in the company’s register of members with the name and address of the sole member—

- (i) a statement that the company has only one member; and
- (ii) the date on which the company became a company having only one member.

(2) If the membership of a private company limited by shares or by guarantee increases from one to two or more members there shall upon the occurrence of that event be entered in the company’s register of members, with the name and address of the person who was formerly the sole member, a statement that the company has ceased to have only one member together with the date on which that event occurred.

(3) If a company makes default in complying with this Article, the company and every officer of it who is in default is liable to a fine and, for continued contravention, to a daily default fine.”.

(2) In Schedule 23 to the 1986 Order (punishment of offences), after the entry relating to Article 360(5) insert—

“360A(3)	Company default in complying with Article 360A (statement that company has only one member).	Summary.	A fine of £10. £100.”.
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Meetings

5. In Chapter IV of Part XII of the 1986 Order, after Article 378 insert

“Quorum at meetings of the sole member

378A. Notwithstanding any provision to the contrary in the articles of a private company limited by shares or by guarantee having only one member, one member present in person or by proxy shall be a quorum.”.

Recording of decisions by the sole member

6.—(1) In Chapter IV of Part XII of the 1986 Order, after Article 390A(2) insert—

“Recording of decisions by the sole member

390B.—(1) Where a private company limited by shares or by guarantee has only one member and he takes any decision which may be taken by the company in general meeting and which has effect as if agreed by the company in general meeting, he shall (unless that decision is taken by way of a written resolution) provide the company with a written record of that decision.

(2) If the sole member fails to comply with paragraph (1) he shall be liable to a fine.

(3) Failure by the sole member to comply with paragraph (1) shall not affect the validity of any decision referred to in that paragraph.”.

(2) In Schedule 23 to the 1986 Order (punishment of offences), after the entry relating to Article 390(5) insert—

“390B(2)	Failure of sole member to provide the company with a written record of decision.	Summary.	A fine of £100.”.
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Registration of single member companies

7. In Article 629 of the 1986 Order (companies capable of being registered under Chapter II of Part XXII), after paragraph (1) insert—

“(IA) A company shall not be prevented from registering under this Order as a private company limited by shares or by guarantee solely because it has only one member.”.

Amendment of the Insolvency Order

8. In Article 102 of the Insolvency Order (circumstances in which company may be wound up by the High Court), in paragraph (1)(e) at the beginning insert “except in the case of a private company limited by shares or by guarantee,”.