



# Companies Act 1985

## 1985 CHAPTER 6

### PART XXII

BODIES CORPORATE SUBJECT, OR BECOMING SUBJECT, TO THIS  
ACT (OTHERWISE THAN BY ORIGINAL FORMATION UNDER PART I)

### CHAPTER I

COMPANIES FORMED OR REGISTERED UNDER FORMER COMPANIES ACTS

#### **675 Companies formed and registered under former Companies Acts**

- (1) In its application to existing companies, this Act applies in the same manner—
- (a) in the case of a limited company (other than a company limited by guarantee), as if the company had been formed and registered under Part I of this Act as a company limited by shares,
  - (b) in the case of a company limited by guarantee, as if the company had been formed and registered under that Part as a company limited by guarantee, and
  - (c) in the case of a company other than a limited company, as if the company had been formed and registered under that Part as an unlimited company.
- (2) But reference, express or implied, to the date of registration is to be read as the date at which the company was registered under the Joint Stock Companies Acts, the Companies Act 1862, the Companies (Consolidation) Act 1908, the Companies Act 1929, or the Companies Act 1948.

#### **676 Companies registered but not formed under former Companies Acts**

- (1) This Act applies to every company registered but not formed under the Joint Stock Companies Acts, the Companies Act 1862, the Companies (Consolidation) Act 1908, the Companies Act 1929, or the Companies Act 1948, in the same manner as it is in Chapter II of this Part declared to apply to companies registered but not formed under this Act.

- (2) But reference, express or implied, to the date of registration is to be read as referring to the date at which the company was registered under the Joint Stock Companies Acts, the Companies Act 1862, the Companies (Consolidation) Act 1908, the Companies Act 1929, or the Companies Act 1948.

**677 Companies re-registered with altered status under former Companies Acts**

- (1) This Act applies to every unlimited company registered or re-registered as limited in pursuance of the Companies Act 1879, section 57 of the Companies (Consolidation) Act 1908, section 16 of the Companies Act 1929, section 16 of the Companies Act 1948 or section 44 of the Companies Act 1967 as it (this Act) applies to an unlimited company re-registered as limited in pursuance of Part II of this Act.
- (2) But reference, express or implied, to the date of registration or re-registration is to be read as referring to the date at which the company was registered or re-registered as a limited company under the relevant enactment.

**678 Companies registered under Joint Stock Companies Acts**

- (1) A company registered under the Joint Stock Companies Acts may cause its shares to be transferred in manner hitherto in use, or in such other manner as the company may direct
- (2) The power of altering articles under section 9 of this Act extends, in the case of an unlimited company formed and registered under the Joint Stock Companies Acts, to altering any regulations relating to the amount of capital or to its distribution into shares, notwithstanding that those regulations are contained in the memorandum.

**679 Northern Ireland and Irish companies**

Nothing in sections 675 to 678 applies to companies registered in Northern Ireland or the Republic of Ireland.

**CHAPTER II**

COMPANIES NOT FORMED UNDER COMPANIES LEGISLATION, BUT AUTHORISED TO REGISTER

**680 Companies capable of being registered under this Chapter**

- (1) With the exceptions and subject to the provisions contained in this section and the next—
- (a) any company consisting of two or more members, which was in existence on 2nd November 1862, including any company registered under the Joint Stock Companies Acts, and
  - (b) any company formed after that date (whether before or after the commencement of this Act), in pursuance of any Act of Parliament (other than this Act), or of letters patent, or being otherwise duly constituted according to law, and consisting of two or more members,
- may at any time, on making application in the prescribed form, register under this Act as an unlimited company, or as a company limited by shares, or as a company limited

by guarantee; and the registration is not invalid by reason that it has taken place with a view to the company's being wound up.

- (2) A company registered in any part of the United Kingdom under the Companies Act 1862, the Companies (Consolidation) Act 1908, the Companies Act 1929 or the Companies Act 1948 shall not register under this section.
- (3) A company having the liability of its members limited by Act of Parliament or letters patent, and not being a joint stock company, shall not register under this section.
- (4) A company having the liability of its members limited by Act of Parliament or letters patent shall not register in pursuance of this section as an unlimited company or as a company limited by guarantee.
- (5) A company that is not a joint stock company shall not register under this section as a company limited by shares.

### **681 Procedural requirements for registration**

- (1) A company shall not register under section 680 without the assent of a majority of such of its members as are present in person or by proxy (in cases where proxies are allowed) at a general meeting summoned for the purpose.
- (2) Where a company not having the liability of its members limited by Act of Parliament or letters patent is about to register as a limited company, the majority required to assent as required by subsection (1) shall consist of not less than three-fourths of the members present in person or by proxy at the meeting.
- (3) In computing any majority under this section when a poll is demanded, regard is to be had to the number of votes to which each member is entitled according to the company's regulations.
- (4) Where a company is about to register (under section 680) as a company limited by guarantee, the assent to its being so registered shall be accompanied by a resolution declaring that each member undertakes to contribute to the company's assets, in the event of its being wound up while he is a member, or within one year after he ceases to be a member, for payment of the company's debts and liabilities contracted before he ceased to be a member, and of the costs and expenses of winding up and for the adjustment of the rights of the contributories among themselves, such amount as may be required, not exceeding a specified amount.
- (5) Before a company is registered under section 680, it shall deliver to the registrar of companies—
  - (a) a statement that the registered office of the company is to be situated in England and Wales, or in Wales, or in Scotland (as the case may be),
  - (b) a statement specifying the intended situation of the company's registered office after registration, and
  - (c) in an appropriate case, if the company wishes to be registered with the Welsh equivalent of " public limited company " or, as the case may be, " limited " as the last words or word of its name, a statement to that effect
- (6) Any statement delivered to the registrar under subsection (5) shall be made in the prescribed form,

## **682 Change of name on registration**

- (1) Where the name of a company seeking registration under section 680 is a name by which it is precluded from registration by section 26 of this Act, either because it falls within subsection (1) of that section or, if it falls within subsection (2), because the Secretary of State would not approve the company's being registered with that name, the company may change its name with effect from the date on which it is registered under this Chapter.
- (2) A change of name under this section requires the like assent of the company's members as is required by section 681 for registration.

## **683 Definition of " joint stock company "**

- (1) For purposes of this Chapter, as far as relates to registration of companies as companies limited by shares, " joint stock company " means a company—
  - (a) having a permanent paid-up or nominal share capital of fixed amount divided into shares, also of fixed amount, or held and transferable as stock, or divided and held partly in one way and partly in the other, and
  - (b) formed on the principle of having for its members the holders of those shares or that stock, and no other persons.
- (2) Such a company when registered with limited liability under this Act is deemed a company limited by shares.

## **684 Requirements for registration by joint stock companies**

- (1) Before the registration under section 680 of a joint stock company, there shall be delivered to the registrar of companies the following documents—
  - (a) a statement in the prescribed form specifying the name with which the company is proposed to be registered,
  - (b) a list in the prescribed form showing the names and addresses of all persons who on a day named in the list (not more than 6 clear days before the day of registration) were members of the company, with the addition of the shares or stock held by them respectively (distinguishing, in cases where the shares are numbered, each share by its number), and
  - (c) a copy of any Act of Parliament, royal charter, letters patent, deed of settlement, contract of copartnership or other instrument constituting or regulating the company.
- (2) If the company is intended to be registered as a limited company, there shall also be delivered to the registrar of companies a statement in the prescribed form specifying the following particulars—
  - (a) the nominal share capital of the company and the number of shares into which it is divided, or the amount of stock of which it consists, and
  - (b) the number of shares taken and the amount paid on each share.

## **685 Registration of joint stock company as public company**

- (1) A joint stock company applying to be registered under section 680 as a company limited by shares may, subject to—

- (a) satisfying the conditions set out in section 44(2)(a) and (b) (where applicable) and section 45(2) to (4) as applied by this section, and
  - (b) complying with subsection (4) below,apply to be so registered as a public company.
- (2) Sections 44 and 45 apply for this purpose as in the case of a private company applying to be re-registered under section 43, but as if a reference to the special resolution required by section 43 were to the joint stock company's resolution that it be a public company.
- (3) The resolution may change the company's name by deleting the word " company " or the words " and company ", or its or their equivalent in Welsh (" cwmni ", " a'r cwmni "), including any abbreviation of them.
- (4) The joint stock company's application shall be made in the form prescribed for the purpose, and shall be delivered to the registrar of companies together with the following documents (as well as those required by section 684), namely—
  - (a) a copy of the resolution that the company be a public company,
  - (b) a copy of a written statement by an accountant with the appropriate qualifications that in his opinion a relevant balance sheet shows that at the balance sheet date the amount of the company's net assets was not less than the aggregate of its called up share capital and undistributable reserves,
  - (c) a copy of the relevant balance sheet, together with a copy of an unqualified report (by an accountant with such qualifications) in relation to that balance sheet,
  - (d) a copy of any valuation report prepared under section 44(2)(b) as applied by this section, and
  - (e) a statutory declaration in the prescribed form by a director or secretary of the company—
    - (i) that the conditions set out in section 44(2)(a) and (b) (where applicable) and section 45(2) to (4) have been satisfied, and
    - (ii) that, between the balance sheet date referred to in paragraph (b) of this subsection and the joint stock company's application, there has been no change in the company's financial position that has resulted in the amount of its net assets becoming less than the aggregate of its called up share capital and undistributable reserves.
- (5) The registrar may accept a declaration under subsection (4)(e) as sufficient evidence that the conditions referred to in that paragraph have been satisfied.
- (6) In this section—
  - " accountant with the appropriate qualifications " means a person who would be qualified under section 389(1) for appointment as the company's auditor, if it were a company registered under this Act,
  - " relevant balance sheet " means a balance sheet prepared as at a date not more than 7 months before the joint stock company's application to be registered as a public company limited by shares, and
  - " undistributable reserves " has the meaning given by section 264(3);and section 46 applies (with necessary modifications) for the interpretation of the reference in subsection (4)(c) above to an unqualified report by the accountant.

## **686 Other requirements for registration**

- (1) Before the registration in pursuance of this Chapter of any company (not being a joint stock company), there shall be delivered to the registrar of companies—
  - (a) a statement in the prescribed form specifying the name with which the company is proposed to be registered,
  - (b) a list showing the names, addresses and occupations of the directors or other managers (if any) of the company,
  - (c) a copy of any Act of Parliament, letters patent, deed of settlement, contract of copartnery or other instrument constituting or regulating the company, and
  - (d) in the case of a company intended to be registered as a company limited by guarantee, a copy of the resolution declaring the amount of the guarantee.
- (2) The lists of members and directors and any other particulars relating to the company which are required by this Chapter to be delivered to the registrar shall be verified by a statutory declaration in the prescribed form made by any two or more directors or other principal officers of the company.
- (3) The registrar may require such evidence as he thinks necessary for the purpose of satisfying himself whether a company proposing to be registered is or is not a joint stock company as defined by section 683.

## **687 Name of company registering**

- (1) The following applies with respect to the name of a company registering under this Chapter (whether a joint stock company or not).
- (2) If the company is to be registered as a public company, its name must end with the words " public limited company " or, if it is stated that the company's registered office is to be situated in Wales, with those words or their equivalent in Welsh (" cwmni cyfyngedig cyhoeddus"); and those words or that equivalent may not be preceded by the word " limited " or its equivalent in Welsh (" cyfyngedig ").
- (3) In the case of a company limited by shares or by guarantee (not being a public company), the name must have " limited " as its last word (or, if the company's registered office is to be situated in Wales, " cyfyngedig "); but this is subject to section 30 (exempting a company, in certain circumstances, from having " limited " as part of the name).
- (4) If the company is registered with limited liability, then any additions to the company's name set out in the statements delivered under section 684(1)(a) or 686(1)(a) shall form and be registered as the last part of the company's name.

## **688 Certificate of registration under this Chapter**

- (1) On compliance with the requirements of this Chapter with respect to registration, the registrar of companies shall give a certificate (which may be signed by him, or authenticated by his official seal) that the company applying for registration is incorporated as a company under this Act and, in the case of a limited company, that it is limited.
- (2) On the issue of the certificate, the company shall be so incorporated ; and a banking company in Scotland so incorporated is deemed a bank incorporated, constituted or established by or under Act of Parliament.

- (3) The certificate is conclusive evidence that the requirements of this Chapter in respect of registration, and of matters precedent and incidental to it, have been complied with.
- (4) Where on an application by a joint stock company to register as a public company limited by shares the registrar of companies is satisfied that the company may be registered as a public company so limited, the certificate of incorporation given under this section shall state that the company is a public company; and that statement is conclusive evidence that the requirements of section 685 have been complied with and that the company is a public company so limited.

### **689 Effect of registration**

Schedule 21 to this Act has effect with respect to the consequences of registration under this Chapter, the vesting of property, savings for existing liabilities, continuation of existing actions, status of the company following registration, and other connected matters.

### **690 Power to substitute memorandum and articles for deed of settlement**

- (1) Subject as follows, a company registered in pursuance of this Chapter may by special resolution alter the form of its constitution by substituting a memorandum and articles for a deed of settlement.
- (2) The provisions of sections 4 to 6 of this Act with respect to applications to the court for cancellation of alterations of the objects of a company and matters consequential on the passing of resolutions for such alterations (so far as applicable) apply, but with the following modifications—
  - (a) there is substituted for the printed copy of the altered memorandum required to be delivered to the registrar of companies a printed copy of the substituted memorandum and articles, and
  - (b) on the delivery to the registrar of the substituted memorandum and articles or the date when the alteration is no longer liable to be cancelled by order of the court (whichever is the later)—
    - (i) the substituted memorandum and articles apply to the company in the same manner as if it were a company registered under Part I with that memorandum and those articles, and
    - (ii) the company's deed of settlement ceases to apply to the company.
- (3) An alteration under this section may be made either with or without alteration of the company's objects.
- (4) In this section " deed of settlement" includes any contract of copartnership or other instrument constituting or regulating the company, not being an Act of Parliament, a royal charter or letters patent.