

## SCHEDULES

### SCHEDULE 2

#### MODIFICATION OF COMPANIES ACT 1985, &c.

#### PART II

#### MODIFICATIONS ON AND AFTER REGISTRATION

##### *General*

- 2 (1) A reference to a company's incorporation shall be construed as a reference to the registration of the Corporation's memorandum and articles of association.
- (2) Sub-paragraph (1) shall not apply to any provision relating to taxation.
- 3 (1) A reference to the statement under [F1section 12 of the Companies Act 2006] shall be construed as a reference to the statement under paragraph 3 of Schedule 1 to this Act.
- (2) A reference to documents delivered under the Companies Acts shall be taken to include a reference to documents delivered under section 2(1) of this Act.

##### **Textual Amendments**

- F1** Words in [Sch. 2 para. 3\(1\)](#) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), [Sch. 1 para. 177\(4\)\(a\)](#) (with art. 10)

- 4 (1) A reference to a company's certificate of incorporation shall be construed as a reference to the certificate given under section 4(3).
- (2) A requirement for the registrar of companies to issue a certificate of incorporation to a company shall—
- (a) be construed as a requirement to issue a certificate of registration similar to the certificate under section 4(3), and
- (b) apply with such other modifications as the registrar considers necessary in consequence of paragraph (a).
- 5 In [F2section 1(1) of the Companies Act 2006] (definition of company), and in other legislation relating to companies, any reference to a company formed and registered under that Act shall have effect as if the reference to formation were omitted.

*Changes to legislation: There are currently no known outstanding effects for the  
 Commonwealth Development Corporation Act 1999, Part II. (See end of Document for details)*

#### Textual Amendments

- F2** Words in [Sch. 2 para. 5](#) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), [Sch. 1 para. 177\(4\)\(b\)](#) (with art. 10)

#### *Effect of registration*

- 6 <sup>F3</sup>Section 16 of the Companies Act 2006] (effect of registration) shall not apply.

#### Textual Amendments

- F3** Words in [Sch. 2 para. 6](#) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), [Sch. 1 para. 177\(4\)\(c\)](#) (with art. 10)

- 7 (1) This paragraph applies in place of <sup>F4</sup>section 112(1) of the Companies Act 2006] (members).
- (2) The persons to whom shares are allotted by virtue of section 6 of this Act are deemed to have agreed to become members of the Corporation, and shall be entered as such in its register of members on registration.

#### Textual Amendments

- F4** Words in [Sch. 2 para. 7](#) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), [Sch. 1 para. 177\(4\)\(d\)](#) (with art. 10)

#### *Use of “limited”*

- <sup>F5</sup>8 . . . . .

#### Textual Amendments

- F5** [Sch. 2 para. 8](#) omitted (1.10.2009) by virtue of [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), [Sch. 1 para. 177\(4\)\(e\)](#) (with art. 10)

#### *Certificate as to share capital*

- 9 The following provisions shall not apply—
- (a) <sup>F6</sup>section 761 of the Companies Act 2006] (public company share capital requirements), and
- (b) section 122(1)(b) of the <sup>M1</sup>Insolvency Act 1986 (winding up by the court: lack of certificate under <sup>F7</sup>section 761 of 2006 Act]).

*Changes to legislation:* There are currently no known outstanding effects for the  
Commonwealth Development Corporation Act 1999, Part II. (See end of Document for details)

#### Textual Amendments

- F6** Words in Sch. 2 para. 9(a) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), **Sch. 1 para. 209(2)** (with arts. 6, 11, 12)
- F7** Words in Sch. 2 para. 9(b) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 177(4)(f)** (with art. 10)

#### Marginal Citations

- M1** 1986 c. 45.

#### *Financial year*

- 10 (1) This paragraph applies in place of section 223(2) of the Companies Act 1985 (first financial year).
- (2) The Corporation shall have a financial year—
- (a) beginning with the day after the last financial year of the Corporation to end before registration, and
  - (b) ending with the accounting reference date or such other date, not more than seven days before or after that date, as the directors may determine.

#### *Accounting reference periods*

- 11 (1) This paragraph applies in place of [<sup>F8</sup>section 391(2) to (7) of the Companies Act 2006] (accounting reference periods, &c.).
- (2) The Corporation's accounting reference date shall be the date specified by the Secretary of State under section 1(3)(a) of this Act.
- (3) The Corporation shall have an accounting reference period consisting of the period of more than six months, but not more than 18 months—
- (a) beginning with the day after the last financial year of the Corporation to end before registration, and
  - (b) ending with the accounting reference date.
- (4) Each subsequent accounting reference period shall be a period of 12 months—
- (a) beginning immediately after the end of the previous accounting reference period, and
  - (b) ending with the accounting reference date.
- (5) This paragraph is subject to the provisions of [<sup>F9</sup>section 392 of the Companies Act 2006] relating to the alteration of accounting reference dates and the consequences of such alteration.

#### Textual Amendments

- F8** Words in Sch. 2 para. 11(1) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), **Sch. 1 para. 209(3)(a)** (with arts. 6, 11, 12)
- F9** Words in Sch. 2 para. 11(5) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), **Sch. 1 para. 209(3)(b)** (with arts. 6, 11, 12)

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*Status as investment company*

- 12 (1) [<sup>F10</sup>Section 833 of the Companies Act 2006] (investment company) shall have effect with the omission of subsection (2)(d) in relation to any accounting reference period which—
- (a) falls within the exempt period, or
  - (b) begins before and ends within the exempt period.
- (2) [<sup>F11</sup>Section 834(2)(a) of the Companies Act 2006] (holdings in groups) shall not apply for the purposes of determining whether the Corporation complies with the requirement in [<sup>F12</sup>section 833(2)(b) of that Act] at any time during the exempt period.
- (3) Paragraph 73(a) of Schedule 4 to the Companies Act 1985 (company accounts: investment company) shall be taken to be satisfied in relation to the financial year of the Corporation during which it first becomes an investment company.
- (4) If at any time which falls within the exempt period and within the first period during which the Corporation is an investment company—
- (a) the Corporation is prohibited under section 265(4) of that Act from making a distribution by virtue of that section, and
  - (b) the prohibition arises by reason only that the condition in section 265(4)(a) is not satisfied,
- the prohibition shall be ignored for the purposes of paragraph 73(b) of Schedule 4 to that Act.
- (5) In this paragraph—
- “the exempt period” means the exempt period for the purposes of Schedule 3 to this Act, and
  - “investment company” has the meaning assigned by [<sup>F13</sup>section 833(1) of the Companies Act 2006].

**Textual Amendments**

- F10** Words in [Sch. 2 para. 12\(1\)](#) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), [Sch. 1 para. 209\(4\)\(a\)](#) (with arts. 6, 11, 12)
- F11** Words in [Sch. 2 para. 12\(2\)](#) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), [Sch. 1 para. 209\(4\)\(b\)\(i\)](#) (with arts. 6, 11, 12)
- F12** Words in [Sch. 2 para. 12\(2\)](#) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), [Sch. 1 para. 209\(4\)\(b\)\(ii\)](#) (with arts. 6, 11, 12)
- F13** Words in [Sch. 2 para. 12\(5\)](#) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), [Sch. 1 para. 209\(4\)\(c\)](#) (with arts. 6, 11, 12)

*Registration of charges*

- 13 (1) This paragraph applies to a charge which—
- (a) is created by the Corporation before registration, and
  - (b) is of a kind to which section 395 of the Companies Act 1985 applies (charges void if not registered).
- (2) Sections 395 to 409 of that Act shall apply to a charge to which this paragraph applies—
- (a) with the following modifications, and

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- (b) without prejudice to any action taken to enforce a charge before registration.
- (3) The reference in section 395(1) to the date of the charge's creation shall be construed as a reference to the date of registration.
- (4) The Corporation's duty under section 399(1) in relation to a charge to which this paragraph applies includes a duty to give notice of the effect of this paragraph as soon as practicable after registration to the person entitled to the charge.

### *Fees*

14 <sup>F14</sup>(1) . . . . .

- (2) In any regulations made under <sup>F15</sup>... [<sup>F16</sup> section 1063 of the Companies Act 2006 (fees payable to registrar)] a reference to a certificate of incorporation shall be construed as including a reference to—
  - (a) a certificate under section 4(3), and
  - (b) a certificate issued in accordance with paragraph 4(2).

#### **Textual Amendments**

- F14** Sch. 2 para. 14(1) omitted (1.10.2009) by virtue of [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009](#) (S.I. 2009/1941), art. 1(2), **Sch. 1 para. 177(4)(g)(i)** (with art. 10)
- F15** Words in Sch. 2 para. 14(2) omitted (1.10.2009) by virtue of [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009](#) (S.I. 2009/1941), art. 1(2), **Sch. 1 para. 177(4)(g)(ii)** (with art. 10)
- F16** Words in Sch. 2 para. 14(2) inserted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008](#) (S.I. 2008/948), **Sch. 1 para. 209(5)** (with arts. 6, 11, 12)

### *Shadow directors*

- 15 (1) For the purposes of the provisions [<sup>F17</sup> of the Companies Act 2006] listed in subparagraph (2), neither the Secretary of State nor the Treasury shall be regarded as a shadow director of the Corporation or of a company associated with the Corporation at any time while the Crown continues to hold any special share provided for under the Corporation's articles of association.

- [<sup>F18</sup>(2) The provisions are—
- (a) section 162 (register of directors);
  - (b) Chapter 3 of Part 10 (declaration of interest in existing transaction or arrangement);
  - (c) sections 190 to 196 (transactions requiring members' approval: substantial property transactions);
  - (d) sections 197 to 214 (transactions requiring members' approval: loans etc.).]

#### **Textual Amendments**

- F17** Words in Sch. 2 para. 15(1) inserted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009](#) (S.I. 2009/1941), art. 1(2), **Sch. 1 para. 177(4)(h)(i)** (with art. 10)

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**F18** Sch. 2 para. 15(2) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 177(4)(h)(ii)** (with art. 10)

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