

EXPLANATORY MEMORANDUM TO
THE COMPANIES (TABLES A TO F) (AMENDMENT) (NO. 2) REGULATIONS 2007

2007 No. 2826

1. Description

1.1 The Companies (Tables A to F) (Amendment) (No. 2) Regulations 2007 further amend the existing regulations made under the Companies Act 1985 which set out default articles of association for the management of a company limited by shares. The amendments further enable new companies formed on or after 1 October 2007 to take advantage of the Parts of the Companies Act 2006 that have already come into effect, and the changes are in the form of the deletion of one regulation and slight text changes to another regulation to avoid conflict with those Parts. This is in addition to amendments that have already been made by the Companies (Tables A to F) (Amendment) Regulations 2007.

2. Matters of special interest to the Joint Committee on Statutory Instruments

2.1 The Department regrets that the Regulations come into force less than 21 days after being laid. This is necessary because their purpose is to provide for default articles of association to apply for companies incorporated on or after 1 October 2007: if they did not come into force until after that date, the default articles association applying for companies incorporated between that date and coming into force would be in conflict with the Companies Act 2006 and thus to that extent of doubtful legal effect. The need for the Regulations was recognised only in the last week of September, despite public consultation on the content of the default articles over several months. Because one set of Regulations amending the default articles had already been made and the content of these Regulations could have been included in those earlier Regulations had the need been recognised earlier, these Regulations are being made available free of charge to all known recipients of those earlier Regulations.

3. Legislative Background

3.1 The Companies (Tables A to F) (Amendment) (No. 2) Regulations 2007 further amend the Companies (Tables A to F) Regulations 1985 (SI 1985/805). This is in addition to the amendment made to the Companies (Tables A to F) Regulation 1985 (SI 1985/805) by the Companies (Tables A to F) (Amendment) Regulations 2007 (SI 2007/2541). Regulation 50 of Table A (the default articles of association) is in conflict with sections 281 and 282 of the Companies Act 2006 and should be deleted. Regulation 54 is inconsistent with section 284(2)(b) and in conflict with section 324(1) of the 2006 Act and should be amended.

4. Territorial Extent and Application

4.1 This instrument only applies to Great Britain.

5. European Convention on Human Rights

5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Policy background

6.1 As set out in the Explanatory Memorandum to the Companies (Tables A to F) (Amendment) Regulations 2007 (2007 No. 2541), all companies are required to have a memorandum and a set of articles of association setting out the regulations by which a company will be managed. Companies may write and adopt their own articles of association, but by and large are guided by (or adopt by default) a prescribed format of articles as prescribed by Company Law legislation.

6.2 The Companies (Tables A to F) (Amendment) Regulations 2007 (SI 2007/2541) updated the current Tables A – F to reflect the provisions on resolutions and meetings of the Companies Act 2006 that are being commenced on 1 October, as well as to reflect other provisions already commenced. Further representations have revealed that further changes are needed to be consistent with the 2006 Act. It has therefore been necessary to make this further set of amendment regulations.

6.3 The approach taken in SI 2007/2541 not to change the numbering of the existing regulations has been repeated in these amendment regulations, even though regulation 50 has been deleted in its entirety. This approach is deliberate so as to aid end-users who are familiar with the numbers currently in use. An informal Keeling Schedule has been prepared by the Department to make it clear to the end-user how the amended prescribed articles of association will appear and is available on the BERR website.

6.4 These regulations will apply to companies incorporating on or after 1st October 2007. It is possible, although unlikely, that there will be a further amendment in April 2008 to reflect other provisions of the Companies Act 2006 brought into force at that point. Until amended by special resolution, a company's articles of association remain as adopted upon formation.

6.5 These changes have been approved by BERR lawyers.

7. Commencement date

7.1 The amendment regulations come into force on 1 October 2007 in line with the parts of the Companies Act 2006 coming into force on that date.

8. Impact

8.1 The BERR Better Regulation team are satisfied that an impact assessment is not required for these amendment regulations. This is because the amendment causes no change in the administration burden for new companies using the regulations – all companies are required to have articles of association and may apply these default

articles. The amendment slightly changes the content but not the process of application. Existing companies can choose to amend their own articles of association to reflect the amended regulations by special resolution. They are not however required to do this and no burden is imposed.

9. Contact

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