



Companies Act 2006

2006 CHAPTER 46

PART 2

COMPANY FORMATION

General

7 Method of forming company

- (1) A company is formed under this Act by one or more persons—
 - (a) subscribing their names to a memorandum of association (see section 8), and
 - (b) complying with the requirements of this Act as to registration (see sections 9 to 13).
- (2) A company may not be so formed for an unlawful purpose.

8 Memorandum of association

- (1) A memorandum of association is a memorandum stating that the subscribers—
 - (a) wish to form a company under this Act, and
 - (b) agree to become members of the company and, in the case of a company that is to have a share capital, to take at least one share each.
- (2) The memorandum must be in the prescribed form and must be authenticated by each subscriber.

Requirements for registration

9 Registration documents

- (1) The memorandum of association must be delivered to the registrar together with an application for registration of the company, the documents required by this section and a statement of compliance.

Status: This is the original version (as it was originally enacted).

- (2) The application for registration must state—
 - (a) the company's proposed name,
 - (b) whether the company's registered office is to be situated in England and Wales (or in Wales), in Scotland or in Northern Ireland,
 - (c) whether the liability of the members of the company is to be limited, and if so whether it is to be limited by shares or by guarantee, and
 - (d) whether the company is to be a private or a public company.
- (3) If the application is delivered by a person as agent for the subscribers to the memorandum of association, it must state his name and address.
- (4) The application must contain—
 - (a) in the case of a company that is to have a share capital, a statement of capital and initial shareholdings (see section 10);
 - (b) in the case of a company that is to be limited by guarantee, a statement of guarantee (see section 11);
 - (c) a statement of the company's proposed officers (see section 12).
- (5) The application must also contain—
 - (a) a statement of the intended address of the company's registered office; and
 - (b) a copy of any proposed articles of association (to the extent that these are not supplied by the default application of model articles: see section 20).
- (6) The application must be delivered—
 - (a) to the registrar of companies for England and Wales, if the registered office of the company is to be situated in England and Wales (or in Wales);
 - (b) to the registrar of companies for Scotland, if the registered office of the company is to be situated in Scotland;
 - (c) to the registrar of companies for Northern Ireland, if the registered office of the company is to be situated in Northern Ireland.

10 Statement of capital and initial shareholdings

- (1) The statement of capital and initial shareholdings required to be delivered in the case of a company that is to have a share capital must comply with this section.
- (2) It must state—
 - (a) the total number of shares of the company to be taken on formation by the subscribers to the memorandum of association,
 - (b) the aggregate nominal value of those shares,
 - (c) for each class of shares—
 - (i) prescribed particulars of the rights attached to the shares,
 - (ii) the total number of shares of that class, and
 - (iii) the aggregate nominal value of shares of that class, and
 - (d) the amount to be paid up and the amount (if any) to be unpaid on each share (whether on account of the nominal value of the share or by way of premium).
- (3) It must contain such information as may be prescribed for the purpose of identifying the subscribers to the memorandum of association.
- (4) It must state, with respect to each subscriber to the memorandum—

- (a) the number, nominal value (of each share) and class of shares to be taken by him on formation, and
 - (b) the amount to be paid up and the amount (if any) to be unpaid on each share (whether on account of the nominal value of the share or by way of premium).
- (5) Where a subscriber to the memorandum is to take shares of more than one class, the information required under subsection (4)(a) is required for each class.

11 Statement of guarantee

- (1) The statement of guarantee required to be delivered in the case of a company that is to be limited by guarantee must comply with this section.
- (2) It must contain such information as may be prescribed for the purpose of identifying the subscribers to the memorandum of association.
- (3) It must state that each member undertakes that, if the company is wound up while he is a member, or within one year after he ceases to be a member, he will contribute to the assets of the company such amount as may be required for—
- (a) payment of the debts and liabilities of the company contracted before he ceases to be a member,
 - (b) payment of the costs, charges and expenses of winding up, and
 - (c) adjustment of the rights of the contributories among themselves,
- not exceeding a specified amount.

12 Statement of proposed officers

- (1) The statement of the company's proposed officers required to be delivered to the registrar must contain the required particulars of—
- (a) the person who is, or persons who are, to be the first director or directors of the company;
 - (b) in the case of a company that is to be a private company, any person who is (or any persons who are) to be the first secretary (or joint secretaries) of the company;
 - (c) in the case of a company that is to be a public company, the person who is (or the persons who are) to be the first secretary (or joint secretaries) of the company.
- (2) The required particulars are the particulars that will be required to be stated—
- (a) in the case of a director, in the company's register of directors and register of directors' residential addresses (see sections 162 to 166);
 - (b) in the case of a secretary, in the company's register of secretaries (see sections 277 to 279).
- (3) The statement must also contain a consent by each of the persons named as a director, as secretary or as one of joint secretaries, to act in the relevant capacity.

If all the partners in a firm are to be joint secretaries, consent may be given by one partner on behalf of all of them.

13 Statement of compliance

- (1) The statement of compliance required to be delivered to the registrar is a statement that the requirements of this Act as to registration have been complied with.
- (2) The registrar may accept the statement of compliance as sufficient evidence of compliance.

Registration and its effect

14 Registration

If the registrar is satisfied that the requirements of this Act as to registration are complied with, he shall register the documents delivered to him.

15 Issue of certificate of incorporation

- (1) On the registration of a company, the registrar of companies shall give a certificate that the company is incorporated.
- (2) The certificate must state—
 - (a) the name and registered number of the company,
 - (b) the date of its incorporation,
 - (c) whether it is a limited or unlimited company, and if it is limited whether it is limited by shares or limited by guarantee,
 - (d) whether it is a private or a public company, and
 - (e) whether the company's registered office is situated in England and Wales (or in Wales), in Scotland or in Northern Ireland.
- (3) The certificate must be signed by the registrar or authenticated by the registrar's official seal.
- (4) The certificate is conclusive evidence that the requirements of this Act as to registration have been complied with and that the company is duly registered under this Act.

16 Effect of registration

- (1) The registration of a company has the following effects as from the date of incorporation.
- (2) The subscribers to the memorandum, together with such other persons as may from time to time become members of the company, are a body corporate by the name stated in the certificate of incorporation.
- (3) That body corporate is capable of exercising all the functions of an incorporated company.
- (4) The status and registered office of the company are as stated in, or in connection with, the application for registration.
- (5) In the case of a company having a share capital, the subscribers to the memorandum become holders of the shares specified in the statement of capital and initial shareholdings.

Status: This is the original version (as it was originally enacted).

- (6) The persons named in the statement of proposed officers—
- (a) as director, or
 - (b) as secretary or joint secretary of the company,
- are deemed to have been appointed to that office.