
STATUTORY INSTRUMENTS

2009 No. 2437

**The Companies (Companies Authorised
to Register) Regulations 2009**

PART 3

EFFECT OF REGISTRATION

Introduction

Interpretation of this Part

13. In this Part—

“registration” means registration under the Companies Act 2006 in pursuance of section 1040 of that Act; and

“instrument” includes a deed of settlement, a contract of partnership or letters patent.

Transfer of property, rights and liabilities

Transfer of property, rights and liabilities

14.—(1) All property belonging to or vested in the company at the date of its registration passes to and vests in the company on registration for all the estate and interest of the company in the property.

(2) Registration does not affect the company’s rights or liabilities in respect of any debt or obligation incurred, or contract entered into, by, to, with or on behalf of the company before registration.

Pending legal proceedings

15.—(1) All actions and other legal proceedings which at the time of the company’s registration are pending by or against the company, or the public officer or any member of it, may be continued in the same manner as if the registration had not taken place.

(2) Execution shall not issue against the effects of any individual member of the company on any judgment, decree or order obtained in such an action or proceeding; but in the event of the company’s property and effects being insufficient to satisfy the judgment, decree or order, an order may be obtained for winding up the company.

The company’s constitution

Constitutional provisions to have effect as if contained in articles of association

16.—(1) All provisions contained in any enactment or other instrument constituting or regulating the company are deemed to be conditions and regulations of the company, in the same manner

and with the same incidents as if so much of them as would, if the company had been formed and registered under the Companies Act 2006, be contained in registered articles of association.

(2) The provisions brought in by paragraph (1) include, in the case of a company registered as a company limited by guarantee, those of the resolution declaring the amount of the guarantee.

Power to substitute articles of association

17. A registered company may by special resolution alter the form of its constitution by substituting articles of association for any instrument constituting or regulating the company, other than an enactment, a royal charter or letters patent.

Application of the Companies Acts

General application of the Companies Acts

18.—(1) Subject to the following regulations, the provisions of the Companies Acts apply to a registered company, and to its members and contributories, in the same manner as if it had been formed and registered under the Companies Act 2006.

(2) References in this and the following regulations to the Companies Acts—

- (a) include the Companies (Cross-Border Mergers) Regulations 2007(1), and
- (b) do not include Part 2 of the Companies (Audit, Investigation and Community Enterprise) Act 2004(2) (community interest companies).

Exclusions

19.—(1) The model articles of association prescribed by the Secretary of State under section 19 of the Companies Act 2006 do not apply unless adopted by special resolution.

(2) Provisions relating to the numbering of shares do not apply to a joint stock company whose shares are not numbered.

Restrictions on power to alter company's constitution

20.—(1) Subject to the provisions of this Part, the company does not have power—

- (a) to alter any provision contained in an enactment relating to the company,
- (b) without the consent of the Secretary of State, to alter any provision contained in letters patent relating to the company.

(2) The company does not have power to alter any provision contained in a royal charter or letters patent with respect to the company's objects.

(3) Where by virtue of paragraph (1) or (2) a company does not have power to alter a provision, it does not have power to ratify acts of the directors in contravention of the provision.

Provisions as to capital structure

21. The provisions with respect to—

- (a) the re-registration of an unlimited company as limited,

(1) S.I. 2007/2974, as amended by S.I. 2008/583.

(2) 2004 c.27.

- (b) the powers of an unlimited company on re-registration as a limited company to provide that a portion of its share capital shall not be capable of being called up except in the event of winding up, and
- (c) the power of a limited company to determine that a portion of its share capital shall not be capable of being called up except in that event,

apply notwithstanding any provisions contained in any enactment, royal charter or other instrument constituting or regulating the company.

Saving for other powers to alter company's constitution

22.—(1) Except as mentioned in paragraph (2), none of the provisions of this Part or of the Companies Acts affects any power of altering the company's constitution or regulations vested in the company by virtue of any enactment or other instrument constituting or regulating it.

(2) Paragraph (1) does not apply to the power of the court under section 996(2) of the Companies Act 2006 (protection of members against unfair prejudice: power of court to regulate the conduct of the company's affairs).

Status of banking company in Scotland

23. A banking company in Scotland that is incorporated by virtue of registration under these Regulations is deemed a bank incorporated, constituted or established by or under an Act of Parliament.