
EXPLANATORY NOTE

(This note is not part of the Regulations)

In accordance with Chapter 1 of Part 2 of the Commonhold and Leasehold Reform Act 2002 (“the 2002 Act”), a company, referred to in that Chapter as a RTM company, may acquire and exercise rights in relation to the management of premises. Section 73(2) of the 2002 Act provides that a company is a RTM company in relation to premises if it is a private company limited by guarantee and its articles of association state that its object, or one of its objects, is the acquisition and exercise of the right to manage those premises. Subsections (3) to (5) of that section describe companies that are not RTM companies and the circumstances in which a RTM company ceases to be a company of that description. Section 74(2) of the 2002 Act provides that “the appropriate national authority” shall make regulations about the content and form of articles of association of RTM companies. Section 179(1) of the 2002 Act provides for the Secretary of State to be “the appropriate national authority” as respects England.

These Regulations, which apply in England, prescribe, by reference to the Schedule to the Regulations, the form and content of the articles of association of RTM companies. They include provision, authorised by section 74(4) of the 2002 Act, to the effect that the articles have effect for a RTM company whether or not the company adopts the articles set out in the Schedule.

The Regulations revoke the RTM Companies (Memorandum and Articles of Association) (England) Regulations 2003, subject to transitional provisions. RTM companies incorporated before 9th November 2009 can continue to operate under their existing constitutions until 30th September 2010. Alternatively, such companies can choose to adopt the articles of association prescribed by these Regulations.

A full impact assessment of the effect that this instrument will have on business and the voluntary sector is available from the Department for Communities and Local Government, Leasehold and Park Homes Policy Team, Eland House, Bressenden Place, London SW1E 5DU and is annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website at www.opsi.gov.uk/stat.htm.