

THE COMPANIES ACT 2006

This is a comprehensive Act which sets out to provide a simple, efficient and cost-effective framework for the operation of companies. It replaces most of the provisions contained in the 1985 and 1989 Companies Acts.

The main points of the Act are as follows:

- The requirement for authorised share capital is abolished, but shares must still have a nominal value. (Public companies must have an authorised minimum share capital – currently £50,000).
- Use can be made of electronic methods – email and websites – to communicate with shareholders (subject to shareholder agreement).
- A Memorandum of Association is no longer needed – the Articles of Association set out the way in which the company conducts its business. There is no longer a requirement for companies to have an objects clause – although they can do so if they wish. For private companies the Act provides a ‘model’ Articles of Association which the company can adopt if it wishes.
- For a quoted company the Act expands the business review in the annual directors’ report to include:
 - the main trends and factors likely to affect the future development, performance and position of the company’s business
 - information about environmental matters, the company’s employees, and social and community issues
 - information about contractual arrangements entered into by the company
- The duties of directors are set out in law (see below).
- There are a number of points which apply to private companies only (see below).

Duties of directors

- Directors have a duty to ‘promote the success of the company.’ The Act sets out various factors that directors must take into account in the decision-making process. Such factors include:
 - the interests of employees
 - the business relationships with suppliers and customers
 - the impact on the community and the environment
 - the need to maintain a reputation for high standards of business conduct
 - the need to act fairly as between the shareholders of the company
- Directors have a duty:
 - to act within their powers (normally derived from the company’s constitution – eg the Articles of Association)
 - to exercise independent judgement
 - to exercise reasonable care, skill and diligence
 - to avoid conflicts of interest
 - not to accept benefits from third parties
 - to declare interest in any proposed transactions or arrangements with the company

Private companies

Much of the Act is concerned with simplifying and deregulating the legal requirements for running private companies – defined by the Act as “any company that is not a public company”. These measures for private companies include:

- no requirement to have a company secretary
- all private companies must have at least one director (who must be at least 16 years of age)
- no longer a requirement to hold annual general meetings (unless at least 10% of shareholders demand a meeting)
- the deadline to file annual accounts and reports with the Registrar of Companies is nine months (previously ten months)
- new ‘model’ Articles of Association, which the company can adopt if it wishes
- simplified procedures under which share capital can be reduced by a special resolution of the members
- financial assistance can be given in connection with the purchase of the company’s own shares