



Companies House

— for the record —



Companies Act 2006

**1st October 2007
implementations**
frequently asked
questions

BERR | Department for Business
Enterprise & Regulatory Reform

A BERR SERVICE

- **Who does this apply to?**

This restriction applies to all external requests, from outside the company to view the register of members.

- **As a result of a request to see the register of members what information can the company ask for?**

The requester's name and address, or if an organisation an individual's name, plus the purpose of the request and whether the information will be shared with anyone else and if so, to whom and for what purpose. It is an offence to make a false statement when providing the details required for disclosure.

- **What options do the company have with regards to disclosure of the register of members information?**

The company must, within 5 working days, either comply with the request or apply to the court to restrict the access to the Register.

- **When would the court allow the company not to comply with the request for access?**

The court would only allow the company not to comply if it is satisfied that the access is not being sought for a proper purpose.

- **What is the proper purpose for access to a company's register of members?**

It is for the court to determine whether any particular application is for a proper purpose.

The Business Review and Directors Report

All company accounts, with reporting periods beginning on or after 1st October 2007, will be expected to include a Business Review, apart from small company accounts.

- **Who does this apply to?**

This applies to all companies, except companies that file small company accounts.

- **When does this come into force?**

The Business Review will apply to all accounts with reporting periods beginning on or after 1st October 2007.

- **What is a Business Review?**

A Business Review is a fair review of the company's business within the reporting period. It must be a balanced and comprehensive analysis of the development and performance of the company, with a description of the principal risks. (See Section 417 of the Companies Act 2006).

- **What is Table A?**

All companies are required to adopt articles of association when they incorporate. Tables A to F of the Companies (Tables A to F) Regulations 1985 (more commonly known as Table A) set out standardised model articles, which companies can use as the basis for their own articles. If companies do not register their own articles of association, Table A applies by default.

- **Why has Table A been amended?**

Tables A to F have been amended to bring them in line with changes in company law. The Government made regulations in September 2007 making amendments to the Table A regulations to enable new companies formed on or after 1 October 2007 to take advantage of, and avoid conflict with the Parts of the Companies Act 2006 that came into effect by that date.

- **What has changed?**

The changes are set out in the Companies (Tables A to F) (Amendment) Regulations 2007 and the Companies (Tables A to F) (Amendment) (No2) Regulations 2007, which are available from the OPSI website and / or set out in a statement on the BERR website.

- **Who does the new Table A apply to?**

The new Table A applies to new companies incorporated on or after 1 October 2007 which do not register articles of their own when they apply to be incorporated. Companies are not obliged to use Table A, and can write their own articles or base them on the Table A articles. If companies do not register their own articles of association Table A applies by default.

- **When was the new Table A introduced?**

The new Table A came into force on Monday 1 October 2007.

- **I am about to register a new company – how does this affect me?**

The changes made by Government to Table A in September 2007 have ensured that the default articles which apply when a company does not register its own articles, are consistent with company law in force from 1 October 2007.

- **How do these changes affect an existing company?**

New Table A does not affect existing companies unless they choose to adopt it. Existing companies can choose to amend their current articles of association, by special resolution, to bring them in line with changes in the law as expressed in the revised Table A.

**Further detailed information is available on the Companies House website:
www.companieshouse.gov.uk**

- **How do these changes relate to the new draft model articles that come into effect on 1 October 2009?**

The regulations setting out the model articles are due to be made in December 2008 and will be commenced on 1 October 2009. The changes to Table A have no impact on the model articles or the timing of the introduction. When the model articles come into force in 2009, they will replace Table A as default articles; but a company which already has the revised Table A and its articles will not be affected by the model articles unless it chooses to switch to them.

- **Is Table A available on the Companies House website?**

Yes, the latest version of Table A is available on the Companies House website

Resolutions Part 13

- **When did Part 13 on resolutions come into force?**

1st October 2007

- **What is the required majority needed for written resolutions?**

The required majority will be similar to that for shareholders' meetings – a simple majority of eligible shares for ordinary resolutions, or 75% for special resolutions.

- **Do written resolutions need to be signed by each of the individuals named on the resolution?**

Written resolutions passed on or after 1 October 2007 (under the Companies Act 2006) require only one signature (but may have more).

- **Will proposed written resolutions have to be notified to the auditors?**

Yes, Section 390 of the Companies Act 85 will be amended so that auditors are still entitled to receive all communications that go to members in connection with written resolutions.

- **Does my company still need to hold annual general meetings (AGM's)?**

A private company does not need to hold an AGM if there is no obligation to do so in their articles. An existing company must continue to hold an AGM unless a resolution is passed to change the articles to remove references to AGM's. Public companies must still hold AGM's.

- **Section 296 of the new Act refers to an 'authenticated document', what is this?**

An 'authenticated document' refers to the members' agreement to the resolution. Members can either sign a paper copy of the resolution or signify agreement to an electronic version. This is the reason for saying authenticated rather than signed.

- **Has the wording changed on special resolutions for company change of name?**

The special and written resolution formats were both updated on 1st October 2007 and are available on the Companies House website. The online version of the Companies Act 2006 is on the OPSI website (www.opsi.gov.uk/acts), and Chapter 5 sections 77-81 refer to change of name.

- **What is the notice period for shareholders meetings?**

Shareholder meetings for private companies can now all be on a 14 day notice period, unless different arrangements are specified in a company's articles.

- **Have elective resolutions been repealed?**

Under the Companies Act 2006 elective resolutions excluding section 80a (now section 549-55 of the 2006 Act) have been repealed.

As of 1 October 2007, four of the five elective resolution types are no longer necessary to be filed for private limited companies - these being:

Dispensing with the laying of accounts and reports before a general meeting (s252)

Dispensing with the holding of annual general meetings (s366a)

Reduction of majority required to authorise a meeting at short notice (s369(4) or 378(3))

Dispensing with the annual appointment of auditors (s386)

If they are filed at Companies House they will be placed on the public record.

- **What will happen to elective resolutions already passed by the company?**

If a company has already filed elective resolutions they will remain in force and the company will not need to amend the articles.

Elective resolutions circulated before 1 October 2007 will still be acceptable for filing.

- **As elective resolutions have been repealed, does company still have to present accounts to members etc?**

The responsibility to provide accounts to certain people remains. Every company must send a copy of its annual accounts and reports for each financial year to:

every member of the company

every holder of the company's debentures, and

every person who is entitled to receive notice of general meetings

- **Does a company have to pass a resolution to use a website as a way of members seeing accounts?**

Firstly, the company must check the current articles to see what is specified, and if they wish to take advantage of not having to present accounts at an AGM they must pass a resolution to remove that provision. However they may continue to present the accounts to members as they currently do.

- **If the company doesn't change its articles is this against company law?**
This is not compulsory. The company articles will only need to change if a company wants to take advantage of the new provisions which came into force on 1st October 2007, e.g. directors duties, resolutions and meetings.
- **Can a company adopt a completely new set of articles if a member does not agree with one part?**
If the company passes a special resolution to adopt a bespoke set of articles, 75% of the eligible votes are required. Therefore, it will depend of how many eligible votes that company has (i.e. how many members).

Form 318

Form 318 will continue to be used to notify the location of director's service contracts under new section 228, and directors indemnities under 237 until 30th September 2009. However the notification should only be used when the register is returning to the registered office, as regulations under 1136 SAIL (Single Alternative Inspection Location) are introduced on 1st October 2009.

- **What is the Form 318?**
Notification of the location of directors' service contracts.
- **Will companies continue to use Form 318?**
Yes, companies will use Form 318 to notify the location of the director's service contracts under new section 228, and directors' indemnities under 237 until 30th September 2009.
- **Are there any restrictions around the notification?**
Yes, the notification should only be when the register is returning to the registered office address as the regulations under Section 1136 SAIL (Single Alternative Inspection Location) do not come into force until 1st October 2009.

Directors Duties

- **What are the changes relating to directors duties?**
Directors' general duties to their companies are, for the first time, comprehensively set out in the Companies Act 2006. The general duties of directors have been developed as until now they were in case law. See the Department of Business, Enterprise & Regulatory Reform website www.berr.gov.uk, for further guidance.
- **What Part of the Directors Duties is being implemented on 1st October 2007?**
Chapter 2 of Part 10 of the Companies Act 2006 is being implemented on 1st October 2007, but this excludes 'Conflicts of Interest duties'.



For more information please visit the following websites:

BERR better regulations home page:
www.berr.gov.uk/bbf/better-regulations/index.html

BERR page on the Companies Act 2006
www.berr.gov.uk/bbf/co-act-2006/index.html

Companies House Website
www.companieshouse.gov.uk