

BLAKE-TURNER

COMPANY BULLETIN

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Companies Act 2006

The latter part of the last decade saw the lengthy implementation of the Companies Act 2006 and its changes to company law. Its final tranche has now been brought into force and the advent of 2010 may prove an opportune time to both iron out any inconsistencies the Act may have created with the constitutions of existing companies and also to take advantage of its intended aims of assisting directors and simplifying the running of private companies.

For practical purposes, the constitutions of existing companies, their Articles of Association, are not significantly changed by the implementation of the Act, except in a few instances as set out overleaf in which they are overridden.

New Opportunities

However, the most recently implemented sections of the Act in particular allow shareholders to amend existing Articles to take advantage of more streamlined processes as follows:

- The ability to change the name of a company by different methods, including by board meeting or upon nominated events taking place.
- Directors and Company Secretaries taking new appointments need only give a service address to Companies House, rather than their home addresses.
- Individual bespoke Articles can be entrenched, i.e. only capable of amendment by 100% of shareholders, rather than 75%, and can be made conditional, i.e. based on certain procedures or events taking place.
- Directors can now allot, with no reference to shareholders, any number of shares in private companies with only one class of shares. (Conversely, shareholders may wish to limit this authority.)
- A company can now purchase its own shares, and such purchases out of capital have been simplified.

Existing Articles overridden

In some instances existing Articles are overridden by the Act. These are few, but include matters relating to:

- The procedure for passing written shareholder resolutions.
- The appointment and powers of proxies.
- The procedure for shareholders to call a general meeting.

It may be sensible to amend existing Articles accordingly to avoid confusion.

Final implementation

Now that the entirety of the Act has been implemented, a review of your company's Articles may be appropriate to take full advantage of the full raft of changes applicable to private companies brought in since 2007 including, amongst many others, those set out in this Bulletin, the ability to communicate with shareholders via email and the internet, and the abolition of the requirements for a company to have a company secretary or to hold an AGM.

Further, directors and/or company secretaries should be aware of the following matters implemented over the last few years:

- The new statement of directors' duties.
- The changes to the rules surrounding their conflicts of interest with the company.
- The new shorter period for filing accounts.
- The new company forms in use at Companies House.

If you would like us to review your companies Articles or if you have any queries regarding the content of this Bulletin or, indeed, any corporate matters please do not hesitate to contact us.

Paul Cooper is a partner at Blake-Turner & Co who focuses on giving commercially driven advice to businesses, individuals and professionals with a view to efficiently obtaining the best solutions for his clients. He runs the corporate/commercial department with Peter Blake-Turner and is also an experienced commercial litigator.



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IMPORTANT: This update relates to private companies and is only intended as a general statement of the law. No action should be taken in reliance on it without specific legal advice.