

Deemed constitution

61. (1) Where there has not been delivered to the Registrar a constitution) in respect of an existing private company for registration within the transition period then, subject to subsection (4), from the expiry of that period—

(a) the existing private company shall be deemed to have, in place of its existing memorandum and articles, a constitution that comprises—

(i) the provisions of its existing memorandum, other than provisions that—

(I) contain its objects; or

(II) provide for, or prohibit, the alteration of all or any of the provisions of its memorandum or articles;

and

(ii) the provisions of its existing articles;

and

(b) its constitution, as so constituted of those provisions, shall be deemed to satisfy the requirements of section 19 as to the form of a company's constitution,

and the company shall be deemed to have become a private company limited by shares to which this Part and Parts 1 and 3 to 15 apply.

(2) In those circumstances the Registrar shall issue to the company a certificate of incorporation in respect of it stating that the company is a private company limited by shares registered under this Part.

(3) Notwithstanding—

(a) section 24, as originally enacted, of the Act of 1963; or

(b) section 24, inserted in the Act of 1963 by section 88 (1) of the Company Law Enforcement Act 2001 , in place of the first-mentioned section,

and the continuing effect, for certain other types of company, provided elsewhere by this Act of an exemption conferred by or under either such section, any such exemption (whatever its basis) enjoyed, immediately before the expiry of the transition period, by an existing private company to which subsection (1) applies shall cease on that expiry; accordingly subsection (1)(a) shall be read as requiring such a company's name to end with “limited” or “teoranta”, as appropriate, and subsection (2) shall have effect

subject to this subsection.

(4) Subsection (1) shall not apply if—

(a) the existing company has re-registered before the expiry of the transition period as a designated activity company in accordance with section 56 (1) or as another type of company in accordance with section 56 (4) and Part 20;

(b) the existing company is required under section 56 (2) or (3) to re-register as such a company and has so re-registered; or

(c) its operation would be inconsistent with an order of the court made under section 57 or otherwise.

(5) If, by reason of section 58, an existing private company was, immediately before the expiry of the transition period or, if later, the end of the interregnum referred to in section 58 (8), governed (in whole or in part) by the regulations contained in Table A, then for the purposes of this section and without prejudice to their application otherwise by a provision of this Chapter, those regulations shall, despite the repeal of the Act of 1963, continue in force and the existing articles of the company shall be deemed to comprise the whole of those regulations or, as the case may be, to include the parts concerned of those regulations, but—

(a) this is save to the extent that those regulations are inconsistent with a mandatory provision;

(b) those regulations may be altered or added to under and in accordance with the conditions under which the company's constitution is permitted by section 32 to be altered or added to; and

(c) references in those regulations to any provision of the prior Companies Acts shall be read as references to the corresponding provision of this Act.

(6) Subject to paragraphs (b) and (c) of that subsection, the regulations referred to in subsection (5) shall be interpreted according to the form in which they existed on the date of repeal of the Act of 1963.