

Preparation, registration, etc. of new constitution by directors

60. (1) The directors of an existing private company shall do each of the things specified in subsection (2) before the expiry of the transition period, unless the company—

(a) has already adopted a constitution in accordance with section 59 (1); or

(b) is required, under section 56 (2) or (3), to re-register as a designated activity company; or

(c) is proceeding, in accordance with a resolution passed pursuant to section 56 (1), to re-register as such a company or is proceeding, in accordance with section 56 (4) and Part 20, to re-register as another type of company; or

(d) is required by an order made under section 57 to re-register as a designated activity company or proceedings under that section are pending in relation to it.

(2) The things referred to in subsection (1) are—

(a) prepare a constitution for the company in the form provided under section 19;

(b) deliver a copy of such constitution to each member; and

(c) deliver, in the prescribed form, the constitution to the Registrar for registration,

and, where the things in the foregoing paragraphs are done (including the delivery of the constitution to the Registrar for registration), the company shall, on the constitution's registration, become a private company limited by shares to which this Part and Parts 1 and 3 to 15 apply, and the Registrar shall issue to it a certificate of incorporation in respect of it stating that it is a private company limited by shares registered under this Part.

(3) The provisions of that constitution of the company, to be prepared by the directors as mentioned in subsection (2)(a), shall consist solely of—

(a) 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

(b) the provisions of its existing articles,

but, despite any exemption of the kind referred to in section 61 (3) that had been enjoyed by the company under the prior Companies Acts, nothing in this subsection shall be read as overriding the requirements of sections 19 and 26 (1) relating to a company's name.

(4) If, by reason of the company not having registered articles, the regulations in Table A are deemed to be the articles of the company, the constitution prepared under subsection (2)(a) shall state that the articles of the company comprise those regulations.

(5) If the existing articles do not exclude or modify the regulations contained in the Table A, those regulations shall, so far as applicable, be the regulations of the existing private company in the same manner and to the same extent as if they were contained in the constitution prepared under subsection (2)(a).

(6) For the purposes of subsections (4) and (5) and without prejudice to their application otherwise by a provision of this Chapter, the regulations contained in Table A shall, despite the repeal of the Act of 1963, continue in force but, as regards the company continuing, by virtue of subsection (4) or (5), to be governed (in whole or in part) by the foregoing regulations—

(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.

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