



Right to manage (RTM) companies under the  
Commonhold and Leasehold Reform Act 2002:  
new form of constitutional document  
**Guidance**



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# Right to manage (RTM) companies under the Commonhold and Leasehold Reform Act 2002: New form of constitutional document

## **Background**

All companies including RTM companies are required to adopt certain constitutional documents when they incorporate. These have traditionally set out the purpose of the company (memorandum of association) and the internal rules governing how it is run (articles of association). Successive Companies Acts have provided standardised or model forms of these documents to be adopted by companies and which are updated periodically when changes are made to wider company law.

The right to manage (RTM) introduced by the Commonhold and Leasehold Reform Act 2002 (the 2002 Act) gave long leaseholders the right to join together to take over the management of the premises containing their flats. The 2002 Act required an RTM company to be formed in order to exercise this right and provided for regulations to be made about the content and form of its memorandum and articles of association.

The right to manage came into effect on 30 September 2003. At the same time the RTM Companies (Memorandum and Articles of Association) (England) Regulations 2003 came into force setting out the form and content of the memorandum and articles of association that were to be prescribed for RTM companies.

## **The changes**

The 2006 Companies Act (the 2006 Act) introduced a major reform of company law in order to make it more focused on the needs of smaller companies. This included replacing the memorandum and articles of association of new companies with a single document (the articles). New sets of model articles for particular types of company were introduced through regulations reflecting these changes including for private companies limited by guarantee.

## **Effective date**

The 2006 Act changes came fully into force on 1 October 2009. New prescribed articles for RTM companies reflecting these changes will come into force on 9 November. These articles are based upon the 2006 Act model articles for private companies limited by guarantee and will ensure consistency with these wider company law changes.

## **The new regulations**

The new regulations prescribe the form and content of articles of association of RTM companies whether or not they are adopted by those companies. They are known as 'The RTM Companies (Model Articles) (England) Regulations 2009' (the 2009 Regulations) and are available on the Office of Public Sector

Information website: [www.opsi.gov.uk](http://www.opsi.gov.uk)

These regulations revoke the RTM Companies (Memorandum and Articles of Association) (England) Regulations 2003 subject to transitional provisions.

### **Extent of the new regulations**

These particular regulations will apply to England only. Section 74(2) of the 2002 Act provides that the appropriate national authority shall make regulations about the content and form of articles of association of RTM companies, and Wales will be making its own regulations.

### **New RTM companies**

The new articles are being prescribed for RTM companies incorporating on or after commencement of the 2009 regulations. Any articles filed at Companies House must be compliant with the Companies Act 2006. This will broadly mean that documents filed will no longer contain a separate memorandum and any objects would need to be included in the articles.

In the circumstances and given the relatively short delay in commencement, those wishing to incorporate an RTM company should consider whether to wait until the new 2009 regulations come into force and file the new prescribed articles.

### **Existing RTM companies**

A transitional period has been provided for existing RTM companies running from the commencement of the 2009 regulations until 30 September 2010. During this period existing RTM companies can continue to operate under their existing constitutions until such time as they elect to adopt the new articles of association prescribed by the 2009 regulations. Once the transitional period is complete the new articles of association will apply to all RTM companies.

Existing RTM companies will need to file amended articles accompanied by the special resolution making the amendments at Companies House if they choose to become subject to the new articles of association during the transitional period.

If they do not do anything during the transitional period the new model articles prescribed by the 2009 regulations will apply to them automatically at the end of the transitional period. In this case the RTM company will not be required to file the new model articles.

If an existing RTM company has made additions to the model articles prescribed by the 2003 regulations before the commencement of the transitional period and they do not make any changes during the transitional period the additional articles will continue to apply alongside the new model articles from 1 October 2010. This is the case as long as they are consistent with the 2009 regulations. In the case of any inconsistency the 2009 regulations will apply.

**Further information and advice**

Further information and advice can be obtained from the Leasehold Advisory Service (LEASE). LEASE is a specialist body funded by Communities and local Government and the Welsh Assembly Government to provide initial advice and information on a wide range of residential leasehold issues. It can be contacted at 2nd Floor, 31 Worship Street, London, EC2A 2DX, by telephone on 020 7374 5380, by e-mail at [info@lease-advice.org](mailto:info@lease-advice.org) and their website is: [www.lease-advice.org](http://www.lease-advice.org)