

COMPANY LAW REFORM BILL: MODEL ARTICLES

DRAFT MODEL ARTICLES FOR PUBLIC COMPANIES

What are articles?

A company's articles of association are its internal rulebook. They typically deal with such matters as decision-making by the company's directors and members and the rights of its members to receive dividends on their shares. While the articles are always subject to rules of general company law, it is a characteristic of UK company law that companies are given considerable freedom to make their own rules in their articles.

What are model articles?

For 150 years, UK company law has balanced companies' freedom to make their own rules by providing model articles in legislation. No company is obliged to adopt the provisions of these model articles, but they provide useful guidance and, in some cases, a "safety net".

Where are model articles under the Companies Act 1985?

At present, model articles are prescribed for all companies limited by shares in "Table A" (contained in the Companies (Tables A to F) Regulations 1985). If a company limited by shares has not registered articles of its own devising with the registrar of companies, or if it has registered articles but they do not exclude all the provisions of Table A, the provisions of Table A will apply to the extent that the company's own registered articles do not exclude or modify them. This is known as "default application" of model articles.

How will model articles work under the Company Law Reform Bill?

The Bill does not change the principle of model articles, but it does give the Secretary of State power (in clause 19) to make regulations prescribing model articles for different descriptions of company. Instead of there just being one set of model articles for all companies limited by shares, it is proposed that there will be three sets of model articles: one for private companies limited by shares, one for private companies limited by guarantee, and one for public companies. The model articles prescribed for companies of each of these types will apply to any company of that type which is formed and registered under the Bill, to the extent that it does not choose to modify or exclude the provisions of the relevant model articles in its own registered articles.

What are the public company model articles?

Draft model articles for private companies limited by shares were published in the March 2005 White Paper, *Company Law Reform* (Cm 6456). The model articles for private companies limited by shares are much shorter than Table A and are intended to be suitable for use by small businesses and they have been kept as short and simple as possible.

The public company model articles take account of the differences between private and public companies and are intended to be much more comprehensive than the model articles for private companies limited by shares. They cover everything that is covered by Table A except matters which are now dealt with in the Bill itself. They also incorporate provisions dealing with a number of matters not dealt with in Table A, but which the articles of public companies commonly cover.

For these purposes, as well as analysing Table A and the Bill, we have examined a sample of some 20 public companies' currently published articles, including both larger and smaller companies in a number of different sectors.

It is expected that the public company model articles may be suitable for adoption, wholly or in part, by some larger private companies, as well as by any new public company which does not wish to go to the expense of having bespoke articles drafted for it.

Although the public company articles are necessarily longer and more complex than the model articles for private companies limited by shares, every effort has been made to draft the public company articles, as far as possible, in clear and simple language which those investing in and managing public companies will be readily able to understand without legal advice.

Why is this draft being published now?

This draft of the model articles for public companies is being published to give interested parties an opportunity to see the sort of document that we think the public company model articles should be, and to comment on aspects of their form and substance.

This is only a first draft. It will be further refined in the light of any comments received, and developments in the Bill. A formal consultation on a full set of draft model articles regulations (including all three sets of model articles) will follow later in the year.