



# Companies Act 1985

## 1985 CHAPTER 6

### PART II

#### RE-REGISTRATION AS A MEANS OF ALTERING A COMPANY'S STATUS

##### *Limited company becoming unlimited*

#### **49 Re-registration of limited company as unlimited.**

- (1) Subject as follows, a company which is registered as limited may be re-registered as unlimited in pursuance of an application in that behalf complying with the requirements of this section.
- (2) A company is excluded from re-registering under this section if it is limited by virtue of re-registration under section 44 of the <sup>M1</sup>Companies Act 1967 or section 51 of this Act.
- (3) A public company cannot be re-registered under this section; nor can a company which has previously been re-registered as unlimited.
- (4) An application under this section must be in the prescribed form and be signed by a director or the secretary of the company, and be lodged with the registrar of companies, together with the documents specified in subsection (8) below.
- (5) The application must set out such alterations in the company's memorandum as—
  - (a) if it is to have a share capital, are requisite to bring it (in substance and in form) into conformity with the requirements of this Act with respect to the memorandum of a company to be formed as an unlimited company having a share capital; or
  - (b) if it is not to have a share capital, are requisite in the circumstances.
- (6) If articles have been registered, the application must set out such alterations in them as—
  - (a) if the company is to have a share capital, are requisite to bring the articles (in substance and in form) into conformity with the requirements of this Act with

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- respect to the articles of a company to be formed as an unlimited company having a share capital; or
- (b) if the company is not to have a share capital, are requisite in the circumstances.
- (7) If articles have not been registered, the application must have annexed to it, and request the registration of, printed articles; and these must, if the company is to have a share capital, comply with the requirements mentioned in subsection (6)(a) and, if not, be articles appropriate to the circumstances.
- (8) The documents to be lodged with the registrar are—
- (a) the prescribed form of assent to the company's being registered as unlimited, subscribed by or on behalf of all the members of the company;
  - (b) a statutory declaration made by the directors of the company—
    - (i) that the persons by whom or on whose behalf the form of assent is subscribed constitute the whole membership of the company, and
    - (ii) if any of the members have not subscribed that form themselves, that the directors have taken all reasonable steps to satisfy themselves that each person who subscribed it on behalf of a member was lawfully empowered to do so;
  - (c) a printed copy of the memorandum incorporating the alterations in it set out in the application; and
  - (d) if articles have been registered, a printed copy of them incorporating the alterations set out in the application.
- (9) For purposes of this section—
- (a) subscription to a form of assent by the legal personal representative of a deceased member of a company is deemed subscription by him; and
  - (b) a trustee in bankruptcy of a member of a company is, to the exclusion of the latter, deemed a member of the company.

**Marginal Citations**

M1 1967 c. 81.

**50 Certificate of re-registration under s. 49.**

- (1) The registrar of companies shall retain the application and other documents lodged with him under section 49 and shall—
- (a) if articles are annexed to the application, register them; and
  - (b) issue to the company a certificate of incorporation appropriate to the status to be assumed by it by virtue of that section.
- (2) On the issue of the certificate—
- (a) the status of the company, by virtue of the issue, is changed from limited to unlimited; and
  - (b) the alterations in the memorandum set out in the application and (if articles have been previously registered) any alterations to the articles so set out take effect as if duly made by resolution of the company; and
  - (c) the provisions of this Act apply accordingly to the memorandum and articles as altered.

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- (3) The certificate is conclusive evidence that the requirements of section 49 in respect of re-registration and of matters precedent and incidental to it have been complied with, and that the company was authorised to be re-registered under this Act in pursuance of that section and was duly so re-registered.

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