



# Companies Act 1985

## 1985 CHAPTER 6

### PART XXII

BODIES CORPORATE SUBJECT, OR BECOMING SUBJECT, TO THIS  
ACT (OTHERWISE THAN BY ORIGINAL FORMATION UNDER PART I)

### CHAPTER II

COMPANIES NOT FORMED UNDER COMPANIES LEGISLATION, BUT AUTHORISED TO REGISTER

**Modifications etc. (not altering text)**

- C1** Pt. XXII Ch. II (ss. 680-690) modified (E.W.) (1.12.1991) by [Statutory Water Companies Act 1991](#) (c. 58, SIF 130), **ss. 11(1)**, 17(2)
- C2** Pt. XXII Ch. II (ss. 680-690) applied (30.9.2009) by [The Manchester Ship Canal Harbour Revision Order 2009](#) (S.I. 2009/2579), **art. 3** (with art. 4)
- C3** Pt. XXII Ch. II (ss. 680-690) applied (30.9.2009) by [The Mersey Docks and Harbour Revision Order 2009](#) (S.I. 2009/2604), **art. 3** (with art. 4)

**680 Companies capable of being registered under this Chapter.**

(1) With the exceptions and subject to the provisions contained in this section and the next—

- (a) any company consisting of two or more members, which was in existence on 2nd November 1862, including any company registered under the Joint Stock Companies Acts, and
- (b) any company formed after that date (whether before or after the commencement of this Act), in pursuance of any Act of Parliament (other than this Act), or of letters patent, or being otherwise duly constituted according to law, and consisting of two or more members,

may at any time, on making application in the prescribed form, register under this Act as an unlimited company, or as a company limited by shares, or as a company limited

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by guarantee; and the registration is not invalid by reason that it has taken place with a view to the company's being wound up.

[<sup>F1</sup>(1A) A company shall not be prevented from registering under this Act as a private company limited by shares or by guarantee solely because it has only one member.]

(2) A company registered in any part of the United Kingdom under the <sup>M1</sup>Companies Act 1862 the <sup>M2</sup> Companies (Consolidation) Act 1908 the <sup>M3</sup>Companies Act 1929 or the <sup>M4</sup>Companies Act 1948 shall not register under this section.

(3) A company having the liability of its members limited by Act of Parliament or letters patent, and not being a joint stock company, shall not register under this section.

(4) A company having the liability of its members limited by Act of Parliament or letters patent shall not register in pursuance of this section as an unlimited company or as a company limited by guarantee.

(5) A company that is not a joint stock company shall not register under this section as a company limited by shares.

#### Textual Amendments

**F1** S. 680(1A) inserted (15.7.1992) by S.I. 1992/1699, reg. 2, Sch. para.7.

#### Marginal Citations

**M1** 1862 25 & 26 Vict. c. 89

**M2** 1908 8 Edw. 7 c. 69

**M3** 1929 c. 23.

**M4** 1948 c. 38.

## 681 Procedural requirements for registration.

(1) A company shall not register under section 680 without the assent of a majority of such of its members as are present in person or by proxy (in cases where proxies are allowed) at a general meeting summoned for the purpose.

(2) Where a company not having the liability of its members limited by Act of Parliament or letters patent is about to register as a limited company, the majority required to assent as required by subsection (1) shall consist of not less than three-fourths of the members present in person or by proxy at the meeting.

(3) In computing any majority under this section when a poll is demanded, regard is to be had to the number of votes to which each member is entitled according to the company's regulations.

(4) Where a company is about to register (under section 680) as a company limited by guarantee, the assent to its being so registered shall be accompanied by a resolution declaring that each member undertakes to contribute to the company's assets, in the event of its being wound up while he is a member, or within one year after he ceases to be a member, for payment of the company's debts and liabilities contracted before he ceased to be a member, and of the costs and expenses of winding up and for the adjustment of the rights of the contributories among themselves, such amount as may be required, not exceeding a specified amount.

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- (5) Before a company is registered under section 680, it shall deliver to the registrar of companies—
- (a) a statement that the registered office of the company is to be situated in England and Wales, or in Wales, or in Scotland (as the case may be).
  - (b) a statement specifying the intended situation of the company's registered office after registration, and
  - (c) in an appropriate case, if the company wishes to be registered with the Welsh equivalent of “public limited company” or, as the case may be, “limited” as the last words or word of its name, a statement to that effect.
- (6) Any statement delivered to the registrar under subsection (5) shall be made in the prescribed form.

**Modifications etc. (not altering text)**

- C4 S. 681 restricted (E.W.)(1.12.1991) by [Statutory Water Companies Act 1991 \(c. 58, SIF 130\)](#), **ss. 13(3), 17(2)**

**682 Change of name on registration.**

- (1) Where the name of a company seeking registration under section 680 is a name by which it is precluded from registration by section 26 of this Act, either because it falls within subsection (1) of that section or, if it falls within subsection (2), because the Secretary of State would not approve the company's being registered with that name, the company may change its name with effect from the date on which it is registered under this Chapter.
- (2) A change of name under this section requires the like assent of the company's members as is required by section 681 for registration.

**683 Definition of “joint stock company”.**

- (1) For purposes of this Chapter, as far as relates to registration of companies as companies limited by shares, “joint stock company” means a company—
- (a) having a permanent paid-up or nominal share capital of fixed amount divided into shares, also of fixed amount, or held and transferable as stock, or divided and held partly in one way and partly in the other, and
  - (b) formed on the principle of having for its members the holders of those shares or that stock, and no other persons.
- (2) Such a company when registered with limited liability under this Act is deemed a company limited by shares.

**684 Requirements for registration by joint stock companies.**

- (1) Before the registration under section 680 of a joint stock company, there shall be delivered to the registrar of companies the following documents—
- (a) a statement in the prescribed form specifying the name with which the company is proposed to be registered,
  - (b) a list in the prescribed form showing the names and addresses of all persons who on a day named in the list <sup>F2</sup>(not more than 28 clear days before the day

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- of registration)] were members of the company, with the addition of the shares or stock held by them respectively (distinguishing, in cases where the shares are numbered, each share by its number), and
- (c) a copy of any Act of Parliament, royal charter, letters patent, deed or settlement, contract of copartnership or other instrument constituting or regulating the company.
- (2) If the company is intended to be registered as a limited company, there shall also be delivered to the registrar of companies a statement in the prescribed form specifying the following particulars—
- (a) the nominal share capital of the company and the number of shares into which it is divided, or the amount of stock of which it consists, and
- (b) the number of shares taken and the amount paid on each share.

#### Textual Amendments

**F2** Words substituted by [Companies Act 1989 \(c. 40, SIF 27\)](#), ss. 145, 213(2), [Sch. 19 para. 12](#)

### 685 Registration of joint stock company as public company.

- (1) A joint stock company applying to be registered under section 680 as a company limited by shares may, subject to—
- (a) satisfying the conditions set out in section 44(2)(a) and (b) (where applicable) and section 45(2) to (4) as applied by this section, and
- (b) complying with subsection (4) below,
- apply to be so registered as a public company.
- (2) Sections 44 and 45 apply for this purpose as in the case of a private company applying to be re-registered under section 43, but as if a reference to the special resolution required by section 43 were to the joint stock company's resolution that it be a public company.
- (3) The resolution may change the company's name by deleting the word "company" or the words "and company", or its or their equivalent in Welsh ("cwmni", "a'r cwmni"), including any abbreviation of them.
- (4) The joint stock company's application shall be made in the form prescribed for the purpose, and shall be delivered to the registrar of companies together with the following documents (as well as those required by section 684), namely—
- (a) a copy of the resolution that the company be a public company,
- (b) a copy of a written statement by an accountant with the appropriate qualifications that in his opinion a relevant balance sheet shows that at the balance sheet date the amount of the company's net assets was not less than the aggregate of its called up share capital and undistributable reserves,
- (c) a copy of the relevant balance sheet, together with a copy of an unqualified report (by an accountant with such qualifications) in relation to that balance sheet,
- (d) a copy of any valuation report prepared under section 44(2)(b) as applied by this section, and
- (e) <sup>F3</sup>subject to subsection (4A), a statutory declaration in the prescribed form by a director or secretary of the company—

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- (i) that the conditions set out in section 44(2)(a) and (b) (where applicable) and section 45(2) to (4) have been satisfied, and
  - (ii) that, between the balance sheet date referred to in paragraph (b) of this subsection and the joint stock company's application, there has been no change in the company's financial position that has resulted in the amount of its net assets becoming less than the aggregate of its called up share capital and undistributable reserves.
- [<sup>F4</sup>(4A) In place of the statutory declaration referred to in paragraph (e) of subsection (4), there may be delivered to the registrar of companies using electronic communications a statement made by a director or secretary of the company as to the matters set out in sub-paragraphs (i) and (ii) of that paragraph.]
- (5) The registrar may accept a declaration under subsection (4)(e) [<sup>F5</sup>or statement under subsection (4A)] as sufficient evidence that the conditions referred to in that paragraph have been satisfied.
- (6) In this section—
- “accountant with the appropriate qualifications” means [<sup>F6</sup>a person who would be eligible] for appointment as the company's auditor, if it were a company registered under this Act,
  - “relevant balance sheet” means a balance sheet prepared as at a date not more than 7 months before the joint stock company's application to be registered as a public company limited by shares, and
  - “undistributable reserves” has the meaning given by [<sup>F7</sup>section 831(4) of the Companies Act 2006];
- and section 46 applies (with necessary modifications) for the interpretation of the reference in subsection (4)(c) above to an unqualified report by the accountant.
- [<sup>F8</sup>(6A) Any person who makes a false statement under subsection (4A) which he knows to be false or does not believe to be true is liable to imprisonment or a fine, or both.]

#### Textual Amendments

- F3** Words in s. 685(4)(e) inserted (22.12.2000) by S.I. 2000/3373, art. 24(1)(2)
- F4** S. 685(4A) inserted (22.12.2000) by S.I. 2000/3373, art. 24(1)(3)
- F5** Words in s. 685(5) inserted (22.12.2000) by S.I. 2000/3373, art. 24(1)(4)
- F6** Words in s. 685(6) substituted by S.I. 1991/1997, reg. 2, Sch. para. 53(2).
- F7** Words in s. 685(6) substituted (6.4.2008) by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), arts. 2(2), 3(1), Sch. 1 para. 83 (with arts. 6, 11, 12)
- F8** S. 685(6A) inserted (22.12.2000) by S.I. 2000/3373, art. 24(1)(5)

## 686 Other requirements for registration.

- (1) Before the registration in pursuance of this Chapter of any company (not being a joint stock company), there shall be delivered to the registrar of companies—
- (a) a statement in the prescribed form specifying the name with which the company is proposed to be registered,
  - [<sup>F9</sup>(b) a list showing with respect to each director or manager of the company—
    - (i) in the case of an individual, his name, address, occupation and date of birth,

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- (ii) in the case of a corporation or Scottish firm, its corporate or firm name and registered or principal office,]
- (c) a copy of any Act of Parliament, letters patent, deed of settlement, contract of copartnery or other instrument constituting or regulating the company, and
- (d) in the case of a company intended to be registered as a company limited by guarantee, a copy of the resolution declaring the amount of the guarantee.
- [<sup>F10</sup>(1A) For the purposes of subsection (1)(b)(i) a person’s “name” means his Christian name (or other forename) and surname, except that in the case of a peer, or an individual usually known by a title, the title may be stated instead of his Christian name (or other forename) and surname or in addition to either or both of them.]
- (2) [<sup>F11</sup>Subject to subsection (2A), the lists] of members and directors and any other particulars relating to the company which are required by this Chapter to be delivered to the registrar shall be verified by a statutory declaration in the prescribed form made by any two or more directors or other principal officers of the company.
- [<sup>F12</sup>(2A) In place of the statutory declaration referred to in subsection (2), there may be delivered to the registrar of companies using electronic communications a statement made by any two or more directors or other principal officers of the company verifying the matters set out in that subsection.]
- (3) The registrar may require such evidence as he thinks necessary for the purpose of satisfying himself whether a company proposing to be registered is or is not a joint stock company as defined by section 683.
- [<sup>F13</sup>(3A) Any person who makes a false statement under subsection (2A) which he knows to be false or does not believe to be true is liable to imprisonment or a fine, or both.]

#### Textual Amendments

- F9** S. 686(1)(b) substituted by Companies Act 1989 (c. 40, SIF 27), ss. 145, 213(2), **Sch. 19 para. 5(2)**
- F10** S. 686(1A) inserted by Companies Act 1989 (c. 40, SIF 27), ss. 145, 213(2), **Sch. 19 para. 5(3)**
- F11** Words in s. 686(2) substituted (22.12.2000) by S.I. 2000/3373, **art. 25(1)(2)**
- F12** S. 686(2A) inserted (22.12.2000) by S.I. 2000/3373, **art. 25(1)(3)**
- F13** S. 686(3A) inserted (22.12.2000) by S.I. 2000/3373, **art. 25(1)(4)**

#### 687 Name of company registering.

- (1) The following applies with respect to the name of a company registering under this Chapter (whether a joint stock company or not).
- (2) If the company is to be registered as a public company, its name must end with the words “public limited company” or, if it is stated that the company’s registered office is to be situated in Wales, with those words or their equivalent in Welsh (“cwmni cyfyngedig cyhoeddus”); and those words or that equivalent may not be preceded by the word “limited” or its equivalent in Welsh (“cyfyngedig”).
- (3) In the case of a company limited by shares or by guarantee (not being a public company), the name must have “limited” as its last word (or, if the company’s registered office is to be situated in Wales, “cyfyngedig”); but this is subject to section 30 (exempting a company, in certain circumstances, from having “limited” as part of the name).

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- (4) If the company is registered with limited liability, then any additions to the company's name set out in the statements delivered under section 684(1)(a) or 686(1)(a) shall form and be registered as the last part of the company's name.

#### **688 Certificate of registration under this Chapter.**

- (1) On compliance with the requirements of this Chapter with respect to registration, the registrar of companies shall give a certificate (which may be signed by him, or authenticated by his official seal) that the company applying for registration is incorporated as a company under this Act and, in the case of a limited company, that it is limited.
- (2) On the issue of the certificate, the company shall be so incorporated; and a banking company in Scotland so incorporated is deemed a bank incorporated, constituted or established by or under Act of Parliament.
- (3) The certificate is conclusive evidence that the requirements of this Chapter in respect of registration, and of matters precedent and incidental to it, have been complied with.
- (4) Where on an application by a joint stock company to register as a public company limited by shares the registrar of companies is satisfied that the company may be registered as a public company so limited, the certificate of incorporation given under this section shall state that the company is a public company; and that statement is conclusive evidence that the requirements of section 685 have been complied with and that the company is a public company so limited.

#### **689 Effect of registration.**

Schedule 21 to this Act has effect with respect to the consequences of registration under this Chapter, the vesting of property, savings for existing liabilities, continuation of existing actions, status of the company following registration, and other connected matters.

#### **690 Power to substitute memorandum and articles for deed of settlement.**

- (1) Subject as follows, a company registered in pursuance of this Chapter may by special resolution alter the form of its constitution by substituting a memorandum and articles for a deed of settlement.
- (2) The provisions of sections 4 to 6 of this Act with respect to applications to the court for cancellation of alterations of the objects of a company and matters consequential on the passing of resolutions for such alterations (so far as applicable) apply, but with the following modifications—
  - (a) there is substituted for the printed copy of the altered memorandum required to be delivered to the registrar of companies a printed copy of the substituted memorandum and articles, and
  - (b) on the delivery to the registrar of the substituted memorandum and articles or the date when the alteration is no longer liable to be cancelled by order of the court (whichever is the later)—
    - (i) the substituted memorandum and articles apply to the company in the same manner as if it were a company registered under Part I with that memorandum and those articles, and

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- (ii) the company's deed of settlement ceases to apply to the company.
- (3) An alteration under this section may be made either with or without alteration of the company's objects.
- (4) In this section "deed of settlement" includes any contract of copartnership or other instrument constituting or regulating the company, not being an Act of Parliament, a royal charter or letters patent.



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