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## STATUTORY INSTRUMENTS

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# 1986 No. 1032

## The Companies (Northern Ireland) Order 1986 (revoked)

### PART XXII

#### BODIES CORPORATE SUBJECT, OR BECOMING SUBJECT, TO THIS ORDER (OTHERWISE THAN BY ORIGINAL FORMATION UNDER PART II)

**F1** Order repealed (prosp.) by [Companies Act 2006 \(c. 46\)](#), ss. 1284(2), 1295, 1300(2), [Sch. 16](#) and the repeal being partly in force, as to which see individual Articles (with savings (with adaptations) by Companies Act 2006 (Commencement No. 6, Saving and Commencement Nos. 3 and 5 (Amendment)) Order 2008 (S.I. 2008/674), arts. 2(3), {4}, Sch. 2) and subject to amendments (6.4.2008) by [Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), arts. 2(2), 3(1)(b)(2), [Sch. 1 paras. 135, 147, 148](#) {Sch. 2 Note 1} (with arts. 6, 11, 12) and subject to amendments (6.4.2008) by [S.R. 2008/133](#), {regs. 2, 3}

#### CHAPTER I

#### COMPANIES FORMED OR REGISTERED UNDER FORMER COMPANIES ACTS

##### *Companies formed and registered under former Companies Acts*

- 625.**—(1) In its application to existing companies, this Order applies in the same manner—
- (a) in the case of a limited company (other than a company limited by guarantee) as if the company had been formed and registered under Part II as a company limited by shares,
  - (b) in the case of a company limited by guarantee, as if the company had been formed and registered under that Part as a company limited by guarantee, and
  - (c) in the case of a company other than a limited company, as if the company had been formed and registered under that Part as an unlimited company.
- (2) But reference, express or implied, to the date of registration is to be read as the date at which the company was registered under the former Companies Acts.

##### *Companies registered but not formed under former Companies Acts*

- 626.**—(1) This Order applies to every company registered but not formed under the former Companies Acts, in the same manner as it is in Chapter II declared to apply to companies registered but not formed under this Order.
- (2) But reference, express or implied, to the date of registration is to be read as referring to the date at which the company was registered under the former Companies Acts.

##### *Companies re-registered with altered status under former Companies Acts*

- 627.**—(1) This Order applies to every unlimited company registered or re-registered as limited in pursuance of the Companies Act 1879, section 57 of the Companies (Consolidation) Act 1908,

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section 16 of the Companies Act (Northern Ireland) 1932, section 16 of the Act of 1960 or Article 119 of the Order of 1978 as it (this Order) applies to an unlimited company re-registered as limited in pursuance of Part III.

(2) But reference, express or implied, to the date of registration or re-registration is to be read as referring to the date at which the company was registered or re-registered as a limited company under the relevant statutory provision.

### ***Companies registered under Joint Stock Companies Acts***

**628.**—(1) A company registered under the Joint Stock Companies Acts may cause its shares to be transferred in manner hitherto in use, or in such other manner as the company may direct.

(2) The power of altering a company's articles under Article 20 extends, in the case of an unlimited company formed and registered under the Joint Stock Companies Acts, to altering any regulations relating to the amount of capital or to its distribution into shares, notwithstanding that those regulations are contained in the memorandum.

## CHAPTER II

### COMPANIES NOT FORMED UNDER COMPANIES LEGISLATION, BUT AUTHORISED TO REGISTER

### ***Companies capable of being registered under this Chapter***

**629.**—(1) With the exceptions and subject to the provisions contained in this Article and Article 630—

- (a) any company consisting of 2 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 Order), in pursuance of any statutory provision (other than this Order), or of letters patent, or being otherwise duly constituted according to law, and consisting of 2 or more members,

may at any time, on making application in the prescribed form, register under this Order as an unlimited company, or as a company limited by shares, or as a company limited by gurarantee; 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 Order as a private company limited by shares or by guarantee solely because it has only one member.]

(2) A company registered under the Companies Act 1862, the Companies (Consolidation) Act 1908, the Companies Act (Northern Ireland) 1932 or the Act of 1960 shall not register under this Article.

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

(4) A company having the liability of its members limited by a statutory provision or letters patent shall not register under this Article 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 Article as a company limited by shares.

<b>F1</b> SR 1992/405
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### ***Procedural requirements for registration***

**630.**—(1) A company shall not register under Article 629 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 a statutory provision or letters patent is about to register as a limited company, the majority required to assent as required by paragraph (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 Article 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 Article 629) 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.

(5) Before a company is registered under Article 629, it shall deliver to the registrar a statement in the prescribed form—

- (a) that the registered office of the company is to be situated in Northern Ireland, and
- (b) specifying the intended situation of the company's registered office after registration.

### ***Change of name on registration***

**631.**—(1) Where the name of a company seeking registration under Article 629 is a name by which it is precluded from registration by Article 36, either because it falls within paragraph (1) of that Article or, if it falls within paragraph (2) of that Article, because the Department would not approve the company 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 Article requires the like assent of the company's members as is required by Article 630 for registration.

### ***Definition of “joint stock company”***

**632.**—(1) For the 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 Order is deemed a company limited by shares.

### ***Requirements for registration by joint stock companies***

**633.**—(1) Before the registration under Article 629 of a joint stock company, there shall be delivered to the registrar the following documents—

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- (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 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 statutory provision, royal charter, letters patent, deed of 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 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.

**F2** 1990 NI 10

### **Registration of joint stock company as public company**

**634.**—(1) A joint stock company applying to be registered under Article 629 as a company limited by shares may, subject to—

- (a) satisfying the conditions set out in Article 54(2)(a) and (b) (where applicable) and Article 55(2) to (4) as applied by this Article, and
- (b) complying with paragraph (4),

apply to be so registered as a public company.

(2) Articles 54 and 55 apply for this purpose as in the case of a private company applying to be re-registered under Article 53, but as if a reference to the special resolution required by Article 53 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”, 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 together with the following documents (as well as those required by Article 633), 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 Article 54(2)(b) as applied by this Article, and
- (e) <sup>[F3]</sup>subject to paragraph (4A),] a statutory declaration in the prescribed form by a director or secretary of the company—
  - (i) that the conditions set out in Article 54(2)(a) and (b) (where applicable) and Article 55(2) to (4) have been satisfied, and

- (ii) that, between the balance sheet date referred to in sub-paragraph (b) 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>F3</sup>(4A) In place of the statutory declaration referred to in sub-paragraph (e) of paragraph (4), there may be delivered to the registrar using electronic communications a statement made by a director or secretary of the company as to the matters set out in heads (i) and (ii) of that sub-paragraph.]

(5) The registrar may accept a declaration under paragraph (4)(e)[<sup>F3</sup> or statement under paragraph (4A)] as sufficient evidence that the conditions referred to in that paragraph have been satisfied.

(6) In this Article—

“accountant with the appropriate qualifications” means[<sup>F4</sup> a person who would be eligible] for appointment as the company's auditor, if it were a company registered under this Order,

“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 gives by Article 272(3);

and Article 56 applies (with the necessary modifications) for the interpretation of the reference in paragraph (4)(c) to an unqualified report by the accountant.

[<sup>F3</sup>(7) Any person who makes a false statement under paragraph (4A) which he knows to be false or does not believe to be true is liable to imprisonment or a fine, or both.]

**F3** SR 2003/3

**F4** SR 1993/67

### **Other requirements for registration**

**635.**—(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—

(a) a statement in the prescribed form specifying the name with which the company is proposed to be registered,

[<sup>F5</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,

(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 statutory provision, letters patent, deed of settlement, contract of copartnership, 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>F5</sup>(1A) For the purposes of paragraph (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>F6</sup>Subject to paragraph (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

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verified by a statutory declaration in the prescribed form made by any 2 or more directors or other principal officers of the company.

[<sup>F6</sup>(2A) In place of the statutory declaration referred to in paragraph (2), there may be delivered to the registrar 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 paragraph.]

(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 Article 632.

[<sup>F6</sup>(4) Any person who makes a false statement under paragraph (2A) which he knows to be false or does not believe to be true is liable to imprisonment or a fine, or both.]

**F5** 1990 NI 10

**F6** SR 2003/3

### ***Name of company registering***

**636.**—(1) This Article applies with respect to 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”; and those words may not be preceded by the words “limited”.

(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' but this is subject to Article 40 (exempting a company, in certain circumstances, from having “limited” as part of its name).

(4) If the company is registered with limited liability, then any additions to the company's name set out in the statements delivered under Article 633(1)(a) or 635(1)(a) shall form and be registered as the last part of the company's name.

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

**637.**—(1) On compliance with the requirements of this Chapter with respect to registration, the registrar shall certify under his hand that the company applying for registration is incorporated as a company under this Order 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.

(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 is satisfied that the company may be registered as a public company so limited, the certificate of incorporation given under this Article shall state that the company is a public company; and that statement is conclusive evidence that the requirements of Article 634 have been complied with and that the company is a public company so limited.

### ***Effect of registration***

**638.** Schedule 20 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.

***Power to substitute memorandum and articles for deed of settlement***

**639.**—(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 Articles 15 to 17 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 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 II with that memorandum and those articles, and
  - (ii) the company's deed of settlement ceases to apply to the company.

(3) An alteration under this Article may be made either with or without alteration of the company's objects.

(4) In this Article “deed of settlement” includes any contract of copartnership or other instrument constituting or regulating the company, not being a statutory provision, a royal charter or letters patent.

**Status:**

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