

---

STATUTORY INSTRUMENTS

---

**2009 No. 1941**

**The Companies Act 2006 (Consequential Amendments,  
Transitional Provisions and Savings) Order 2009**

*Introductory*

**Citation and commencement**

- 1.—(1) This Order may be cited as the Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009.
- (2) The provisions of this Order come into force on 1st October 2009.

*Consequential amendments*

**Consequential amendments, repeals and revocations**

- 2.—(1) Schedule 1 to this Order contains consequential amendments.
- (2) Schedule 2 to this Order contains other consequential repeals and revocations.

**References to companies registered or re-registered under earlier legislation**

3. A reference in any enactment to—
- (a) a company formed and registered under the Companies Act 2006,
  - (b) a company registered but not formed under that Act, or
  - (c) a company re-registered under that Act,

includes a company treated as so formed and registered, registered or re-registered by virtue of section 1297(3) of that Act, including that provision as applied by paragraph 1(2) of Schedule 2 to the Companies Act 2006 (Commencement No. 8, Transitional Provisions and Savings) Order 2008(1).

**References to Northern Ireland directors disqualification orders**

4. A reference in any enactment to a disqualification order under the Company Directors Disqualification (Northern Ireland) Order 2002(2) includes a disqualification order made under Part 2 of the Companies (Northern Ireland) Order 1989(3) that by virtue of section 29(3)(a) of the Interpretation Act (Northern Ireland) 1954(4) has effect as if made under the 2002 Order.

---

(1) S.I. 2008/2860 (C.126).  
(2) S.I. 2002/3150 (N.I. 4).  
(3) S.I. 1989/2404 (N.I. 18).  
(4) 1954 c.33 (N.I.).

*Transitional provisions***Change of name by existing or transitional company**

- 5.—(1) This article applies where, in the case of an existing or transitional company—
- (a) the company’s articles are deemed to contain a statement of its name by virtue of section 28 of the Companies Act 2006 (provisions of memorandum treated as provisions of articles), and
  - (b) the company changes its name (by any means) on or after 1st October 2009.
- (2) The company is not required to amend its articles in order to effect the change of name.
- (3) The deemed statement in the company’s articles ceases to have effect when the change of name takes effect.
- (4) The company is not required to send a copy of its articles to the registrar in accordance with section 26 of the Companies Act 2006.
- (5) Where the company, in complying with any obligation to send a person a copy of its articles, relies on paragraph 9(1)(a) or (b) of Schedule 2 to the Companies Act 2006 (Commencement No. 8, Transitional Provisions and Savings) Order 2008, it must—
- (a) if it relies on paragraph 9(1)(a) (provisions of old-style memorandum appended to other provisions of articles), omit the provision stating the company’s former name;
  - (b) if it relies on paragraph 9(1)(b) (copy of old-style memorandum with indication of provisions deemed to be provisions of the articles), indicate that the provision stating the company’s former name is no longer effective.
- (6) In this article—
- “existing company” and “transitional company” have the same meaning as in the Companies Act 2006 (Commencement No. 8, Transitional Provisions and Savings) Order 2008 (see article 2 of that Order); and
- “old-style memorandum” has the same meaning as in paragraph 9(1) of Schedule 2 to that Order (see sub-paragraph (2) of that paragraph).

**Companies that are charities: requirement of consent for affirmation of certain transactions**

- 6.—(1) Section 42(4) of the Companies Act 2006 (companies that are charities: requirement of consent for affirmation of certain transactions with directors or their associates) applies where the request for consent is received on or after 1st October 2009.
- (2) Any request for consent under section 65(4) of the Charities Act 1993<sup>(5)</sup> or Article 9A(4) of the Charities (Northern Ireland) Order 1987<sup>(6)</sup> received but not determined before that date is treated as if made under section 42(4) of the Companies Act 2006.
- (3) In relation to a decision under section 65(4) of the Charities Act 1993 made before 1st October 2009 the provisions of that Act as to appeals continue to have effect without the amendments made by this Order.

**Functions of registrar of companies for Northern Ireland: contracting out**

- 7.—(1) On the coming into force in relation to the registrar of companies for Northern Ireland of an order under Part 2 of the Deregulation and Contracting Out Act 1994<sup>(7)</sup>, as amended by this

(5) 1993 c.10; section 65(4) was amended by the Charities Act 2006 (c.50), Schedule 8, paragraphs 96 and 152.

(6) S.I. 1987/2048 (N.I. 19); Article 9A was inserted by S.I. 1990/1504 (N.I. 10), Article 47.

(7) 1994 c.40; Part 2 is amended by paragraph 148 of Schedule 1 to this Order.

Order, the provisions of the Deregulation and Contracting Out (Northern Ireland) Order 1996<sup>(8)</sup> relating to that registrar shall cease to have effect.

- (2) Those provisions are—
- (a) in Article 2(2), the definition of “registrar of companies”;
  - (b) Article 11; and
  - (c) Part 1 of Schedule 2.

### **Amendments of insolvency legislation**

**8.**—(1) The amendments by this Order of the Insolvency Act 1986<sup>(9)</sup> (“the 1986 Act”) and the Insolvency (Northern Ireland) Order 1989<sup>(10)</sup> (“the 1989 Order”) apply as follows.

(2) They apply where, in a company voluntary arrangement, a moratorium comes into force in relation to a company on or after 1st October 2009.

(3) They apply where a company enters administration on or after 1st October 2009, except where—

- (a) it enters administration by virtue of an administration order under paragraph 10 of Schedule B1<sup>(11)</sup> to the 1986 Act (or paragraph 11 of Schedule B1<sup>(12)</sup> to the 1989 Order) on an application made before 1st October 2009,
- (b) the administration is immediately preceded by a voluntary liquidation in respect of which the resolution to wind up was passed before 1st October 2009, or
- (c) the administration is immediately preceded by a liquidation on the making of a winding-up order on a petition which was presented before 1st October 2009.

(4) They apply where, in a receivership, a receiver or manager is appointed in respect of a company on or after 1st October 2009.

(5) They apply where a company goes into liquidation upon the passing on or after 1st October 2009 of a resolution to wind up.

(6) They apply where a company goes into voluntary liquidation under paragraph 83 of Schedule B1 to the 1986 Act (or paragraph 84 of Schedule B1 to the 1989 Order), except where the preceding administration—

- (a) commenced before 1st October 2009, or
- (b) is an administration which commenced by virtue of an administration order under paragraph 10 of Schedule B1 to the 1986 Act (or paragraph 11 of Schedule B1 to the 1989 Order) on an application which was made before 1st October 2009.

(7) They apply where a company goes into liquidation on the making of a winding-up order on a petition presented on or after 1st October 2009, except where the liquidation is immediately preceded by—

- (a) an administration under paragraph 10 of Schedule B1 to the 1986 Act (or paragraph 11 of Schedule B1 to the 1989 Order) where the administration order was made on an application made before 1st October 2009,
- (b) an administration in respect of which the appointment of an administrator under paragraph 14 or 22 of Schedule B1 to the 1986 Act (or paragraph 15 or 23 of Schedule B1 to the 1989 Order) took effect before 1st October 2009, or

---

<sup>(8)</sup> [S.I. 1996/1632 \(N.I. 11\)](#); the Order is amended by paragraph 166 of Schedule 1 to this Order.

<sup>(9)</sup> 1986 c.45.

<sup>(10)</sup> [S.I. 1989/2405 \(N.I. 19\)](#).

<sup>(11)</sup> Schedule B1 was inserted by the Enterprise Act 2002 (c.40), Schedule 16.

<sup>(12)</sup> Schedule B1 was inserted by [S.I. 2005/1455 \(N.I. 10\)](#), Schedule 1.

- (c) a voluntary liquidation in respect of which the resolution to wind up was passed before 1st October 2009.

### *Savings*

#### **Saving for unlimited liabilities of directors etc**

- 9.** The repeal of the provisions relating to unlimited liability of directors and others, that is—
- (a) sections 306 and 307 of the Companies Act 1985<sup>(13)</sup> and section 75 of the Insolvency Act 1986, or
  - (b) Articles 314 and 315 of the Companies (Northern Ireland) Order 1986<sup>(14)</sup> and Article 62 of the Insolvency (Northern Ireland) Order 1989,

does not affect the operation of those provisions in relation to liabilities arising before 1st October 2009 or in connection with the holding of an office to which a person was appointed before that date on the understanding that their liability would be unlimited.

#### **Saving for information obtained or report made under repealed NI provisions**

- 10.**—(1) The operation of any provision about the disclosure of information—
- (a) obtained under a repealed NI provision, or
  - (b) contained in a report made under a repealed NI provision,
- is not affected by the repeal of that provision (or the repeal of the NI provision).
- (2) So far as may be necessary for continuing the operation of any such provision—
- (a) information obtained as mentioned in paragraph (1)(a) is to be treated in the same way as information obtained under the corresponding GB provision, and
  - (b) information contained in any such report as is mentioned in paragraph (1)(b) is to be treated in the same way as information contained in a report made under the corresponding GB provision.
- (3) In this article—
- “repealed NI provision” means a provision of Northern Ireland legislation that is repealed in consequence of the extension to Northern Ireland, by any provision of Part 45 of the Companies Act 2006, of provisions applying in Great Britain; and
- “corresponding GB provision” means the corresponding provision so applied.

#### **Saving for provisions relating to nature of liability of member or contributory**

- 11.**—(1) The new provisions as to the nature of a member’s or contributory’s liability apply to liabilities arising on or after 1st October 2009 and the old provisions continue to apply to liabilities arising before that date.
- (2) The new provisions are section 33(2) of the Companies Act 2006 and (in England and Wales) section 80 of the Insolvency Act 1986 as amended by this Order.
- (3) The old provisions are—
- (a) in England and Wales, section 14(2) of the Companies Act 1985 and section 80 of the Insolvency Act 1986 as it has effect before that amendment;

<sup>(13)</sup> 1985 c.6.

<sup>(14)</sup> S.I. 1986/1032 (N.I. 6).

(b) in Northern Ireland, Articles 4(d)(ii) and 15(c) of the Limitation (Northern Ireland) Order 1989(15).

(4) For the purposes of this article a liability is treated as arising when the limitation period starts to run for the purposes of the Limitation Act 1980(16) or the Limitation (Northern Ireland) Order 1989.

### **Saving for earlier consequential amendments, transitional provisions and savings**

12.—(1) Schedule 3 to this Order contains provisions preserving the effect of the provisions of the Companies Consolidation (Consequential Provisions) Act 1985(17) and the Companies Consolidation (Consequential Provisions) (Northern Ireland) Order 1986(18) relating to old public companies.

(2) The repeal of the other provisions of that Act or Order does not affect the operation of—

- (a) any provision amending an enactment that remains in force;
- (b) any transitional provision that remains capable of having effect in relation to the corresponding provision of the Companies Act 2006;
- (c) any saving that remains capable of having effect in relation to the repeal of an enactment by that Act or Order.

### **Saving of power to order caution for expenses (in Scotland) or security for costs (in Northern Ireland)**

13.—(1) Schedule 1 to the Companies Act 2006 (Commencement No. 8, Transitional Provisions and Savings) Order 2008(19) (repeals coming into force on 1st October 2009) is amended as follows—

- (a) in Part 1 (Great Britain repeals), in the list of provisions of the Companies Act 1985, for “Sections 721 to 726” substitute “Sections 721 to 725 and 726(1)”;
- (b) in Part 2 (Northern Ireland repeals), in the list of provisions of the Companies (Northern Ireland) Order 1986, for “Articles 670 to 674” substitute “Articles 670 to 673”.

(2) In Article 674 of the Companies (Northern Ireland) Order 1986 (power to order security for costs in Northern Ireland) the expression “limited company” has the same meaning as in the Companies Acts (see section 3 of the Companies Act 2006).

(3) That Article and section 726(2) of the Companies Act 1985 (power to order caution for expenses in Scotland) apply to a limited liability partnership registered under the Limited Liability Partnerships Act 2000(20) as they apply to a limited company.

21st July 2009

*Ian Lucas*  
Minister for Business and Regulatory Reform,  
Department for Business, Innovation and Skills

---

(15) S.I. 1989/1339 (N.I. 11).

(16) 1980 c.58.

(17) 1985 c.9.

(18) S.I. 1986/1035 (N.I. 9).

(19) S.I. 2008/2860 (C.126).

(20) 2000 c.12.