



## **Legal Brief: Calling all Companies**

by Gill Brown, June 2009

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### Are you ready for the October 2009 changes?

The 1985 Companies Act is due to be repealed on 1<sup>st</sup> October 2009 when the last section of the new Companies Act 2006 comes into force. The 2006 Act contains a considerable number of changes which have implications for the Articles of Association of your company. The 2006 Act introduces 3 different forms of suggested standard Articles to fit different types of company and which replace the old Table A. These are much simpler than previous Articles as many provisions are now incorporated directly into the 2006 Act.

Phillips recommends that, in light of the new provisions, you review and revise your company's Articles of Association over the coming weeks. The purpose is to remove unnecessary restrictions and obligations, remove out of date references to sections of the 1985 Act and to take advantage of the new provisions of the 2006 Act. It is also important to ensure that the implementation of the 2006 Act on 1<sup>st</sup> October this year does not affect the validity of any of the existing provisions of your Articles of Association.

The 2006 Act has already brought in numerous changes and the rest will be following shortly. Some of these are:

- Private companies do not need to have a company secretary unless the Articles require this
- Extraordinary General Meetings are no longer recognised and reference to them should be removed from the Articles
- Private companies no longer need to hold an Annual General Meeting unless the Articles require this
- Directors of a private limited company with only one class of shares will not need the authority of the members to allot new shares
- A company will no longer be required to have a maximum authorised share capital nor reserve capital
- There is significant change and codification of directors duties and radical changes to the rules relating to loans
- If a company refuses to register any share transfer then reasons must now be given within a maximum of 2 months.

Whilst there is no legal requirement for a company to change its Articles of Association in line with the 1<sup>st</sup> October 2009 changes, except in limited circumstances the 2006 Act will override certain provisions of Articles which are subject to earlier Companies Acts. However, where this does not occur, companies will be prevented from taking advantage of the new 2006 provisions if prohibited from doing so by old Articles. This will inevitably lead to uncertainty and confusion going forward which is why Phillips is recommending that you review and revise your company's Articles of Association in good time for them to be implemented on or before 1<sup>st</sup> October 2009. For assistance with this please contact Gill Brown on [gbrown@phillips-law.co.uk](mailto:gbrown@phillips-law.co.uk) or call Gill on 01256 854605.