

## CorporateBites

Updating you on company and commercial issues



1 October 2009 is a landmark date for UK companies – the final implementation phase of the Companies Act 2006 will take place. After three years of build up and numerous transitional provisions (too many to count), the 2006 Act will, more or less, replace the provisions of the Companies Act 1985.

A number of significant provisions will come into force on 1 October 2009 and a briefing note titled *What you need to know...* will be available on the [Companies Act page](#) of our [website](#) shortly. If you would like to receive a copy of this briefing note by email, please contact [me](#) or your usual Mills & Reeve contact.

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### Enhanced shareholder rights

The Companies (Shareholders' Rights) Regulations 2009 came into force on 3 August 2009 to improve corporate governance in EU companies, allowing shareholders to exercise their rights cross-border and to correct certain anomalies that had already become apparent in the Companies Act 2006.

The Regulations implement the EU Shareholders' Rights Directive. The bulk of the Regulations apply to traded companies (ie, those admitted to trading on a regulated market in an EEA state, but not AIM) and the key changes include:

- the default minimum notice period for calling general meetings moves from 14 to 21 clear days (unless two conditions are satisfied);
- companies must include additional specified information in notices of general meetings and on their websites in respect of such meetings;
- shareholders have an express right to have their questions about the business conducted at a general meeting answered



For further information, contact [Stephen Hamilton](#).

(subject to certain limitations); and

- shareholders can request that the company to include in the business to be dealt with, matters that may properly be included in the business of that meeting.

Certain provisions however apply to all companies. These include:

- clarifying the ability of proxies and corporate representatives to vote at company meetings, how votes are undertaken on a show of hands and the ability to cast votes attaching to different shares in different ways; and
- reducing the percentage of voting rights held by shareholders needed to requisition a general meeting from 10 per cent to 5 per cent.

### **Government challenges VCs with £1 billion technology innovation fund**

The Government has announced the creation of one of Europe's largest technology funds to invest in promising small businesses, start-ups and spin-out companies.

The UK Innovation Investment Fund will be kick-started by a cornerstone investment of £150 million by the Government and it is hoped that the fund will grow to £1 billion over the next 10 years through private investment. Business Secretary Lord Mandelson described the fund as "a challenge to UK venture capitalists to follow the Government's lead in backing British entrepreneurs."

The new fund will invest in specialist technology funds with the track record and expertise to make direct investments, rather than investing directly in technology businesses itself. The fund is expected to invest heavily in large funds with a strong investment record, rather than supporting the smaller early stage seed and challenge funds.

Although some VCs have welcomed the announcement, others are concerned that it is just another headline grabbing initiative that, in reality, will be of little help to those that need it the most. Additionally, as a fund manager has yet to be appointed, it is likely to be some time before the first investments are made.



For further information, contact [Pippa Pearce](#).

### **Effect of the Companies Act 2006 on LLPs**

There are now nearly 40,000 LLPs registered in the UK with approximately 8,000 new LLPs incorporated annually. From 1 October 2009, the Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 will replace the existing regulations applicable to LLPs and apply (with modifications) the provisions of the Companies Act 2006 to LLPs.

The Regulations should be much easier to follow as they set out in full those provisions of the Companies Act 2006 (as modified) that apply to LLPs. The changes are largely administrative.

The key provisions of the 2006 Act that will apply (as modified) to LLPs include:

- names and trading disclosures;



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- members' details;
- execution of deeds and documents;
- registered office; and
- dissolution.

## Help is at hand!

For any budding company secretary, Companies House has recently put new filing forms (in draft form only at this stage) for the 2006 Act, along with guidance, on its website. Many of the forms are substantially longer and more complex than their predecessors and, despite the guidance, are expected to present a number of practical difficulties for the draftsman. These forms can be accessed [here](#).

Similarly, the Department for Business, Innovation and Skills (BIS) has recently issued draft guidance on the model articles of the 2006 Act.

The guidance highlights the key changes for existing companies and explains the differences between the model articles and their equivalent from the 1985 Act, Table A. The model articles will constitute the default position for all private and public companies limited by shares and private companies limited by guarantee incorporated on or after 1 October 2009. However, as is currently the case with Table A, companies will still be free to adopt, vary or exclude some or all of the model articles, subject to the provisions of the 2006 Act.



For further information, contact [Ben Turner](#).

## Shortcut - encouraging company rescue

The Insolvency Service has recently launched a consultation paper, *Encouraging Company Rescue* to improve the UK's corporate rescue culture. The consultation runs until 7 September 2009 and focuses on six core proposals, including the development of new moratoria and encouraging financing in administrations and CVAs.

For further information, click [here](#).



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