

Section 20: Default application of model articles

69. Section 8 of the 1985 Act enables the Secretary of State to prescribe model forms of articles for companies registered under that Act (see the [Companies \(Tables A to F\) Regulations 1985 \(SI 1985/805\)](#)). Articles for certain special types of companies used in particular sectors, for example, commonhold associations, right to manage (“RTM”) companies, and right to enfranchise (“RTE”) companies are prescribed by regulations made under the Acts of Parliament that created these types of company.

70. Although sections 8 and 8A of the 1985 Act allow the Secretary of State to prescribe forms of articles (and memoranda) for a number of different types of company under section 8, he is only able to prescribe “default” model articles for companies limited by shares. “Default” model articles are model articles which apply to companies of a particular description where they have not registered any articles of their own, or have not made provision for a particular matter for which there is a corresponding model article. “Default” model articles apply to a company of the description for which they are prescribed only to the extent that it has not modified the default provision in question in its own registered articles or excluded it, or the model articles in their entirety, from the registered articles.

71. The rationale behind this is that the model articles should operate as a “safety net” which enables the members and directors of such companies to take decisions in circumstances where a company has failed to provide the appropriate authority in its registered articles (or failed to register articles at all).

72. These two sections replace section 8 of the 1985 Act. In line with the CLR’s recommendations (Company Formation and Capital Maintenance, paragraph 2.22), the Secretary of State will have the power to prescribe model articles, including “default” model articles, for different descriptions of companies formed under the Act.

73. For existing companies, there will be no change. The principle is maintained that the version of the model articles that was in force at the time that a particular company was originally registered will continue to apply to that company. For the majority of companies limited by shares on the register at the date that the Act comes into force, the “default” model articles will continue to be the Companies Act 1985 Table A (“Table A”).

74. Existing companies will be free to adopt, wholly or in part, the model articles prescribed for companies of a particular description formed under the Act (see *subsection (3)* of section 19). For example, an existing private company limited by shares may prefer to adopt the new model articles for private companies limited by shares, or indeed the new model articles for public companies formed under the

Act (with or without modification) in place of the current Table A articles, or previous articles of its own devising.

75. As with Table A, the adoption of model articles by companies formed under the Act will be entirely a matter for individual companies. They will be able to incorporate (with or without amendment) provisions from the model articles, and/or add to those provisions, and/or exclude such provisions as they think fit.

76. They will also be able to adopt the provisions of model articles by reference. This is a common practice, which enables a company that wishes to incorporate specific provisions of the model articles into its own registered articles to do this without having to copy out the provision in question. To take an example, a company's registered articles may say something to the following effect: "*the model articles apply except for articles x, y and z*", or "*the company's articles are A, B and C, plus model articles g, p and q. Model article n applies but is amended as follows: ...*". Companies have found such techniques useful in the past and they will continue to be permitted.

Section 21: Amendment of articles

77. Subsection (1) provides that, as now, a company's articles can in general be amended by special resolution. This restates section 9(1) of the 1985 Act.

78. Subsections (2) and (3) make it clear that this general principle is subject to certain rules in charities legislation about the ability of companies which are charities to change their constitutions and the effects which such changes have. There are separate but broadly similar rules for English and Welsh, Scottish and Northern Irish charities.

<https://www.legislation.gov.uk/ukpga/2006/46/notes>