

## Could you benefit from updating your constitution?

Now that the Companies Act 2006 is fully implemented, it is a good time to take a close look at your company's memorandum and articles of association, and consider carefully the potential benefits of making changes.

A company formed before 1 October 2009 can continue with its existing constitution, the only compulsory change being that its memorandum of association will become part of its articles of association.

However, there will be provisions that will no longer be relevant under the new law, such as articles referring to change of authorised share capital. Any restrictions on the company's objects would remain in place. It is also quite possible that there will be an increased risk of unintended breaches of the new statutory requirements.

Rather than making piecemeal amendments it may well be worth considering adopting one of the new sets of model articles, in particular the Model Articles for Private Companies Limited by Shares, which cover the following matters:

- Interpretation and limitation of liability
- Directors - Powers and Responsibilities, Decision Making and Appointment
- Shares, Dividends and Other Distributions
- Decision-Making by Shareholders, General Meetings
- Administrative Arrangements, including Directors' Indemnity and Insurance

There are no set provisions for annual general meetings, which are now optional for private companies. Also, there is no compulsion for resolutions to be passed at a general meeting, since the use of written resolutions is being encouraged as part of the general deregulation of small companies.

Removal of restrictive Articles will lift any prevention of the company making greater use of the internet and other electronic means to send notices and documents to members and others.

Changes to the Articles should be made by special resolution. This can be passed as a written resolution, but a copy should be filed at Companies House within 15 days of it being passed.