

How to draft a company constitution

What is a company constitution?

The constitution is a formal document, drawn up by those applying to register the company, that sets out the rules for running the company. If a constitution has been adopted, it must be filed with the Companies Office in order for the company to be registered and incorporated with that constitution. Before the COMPANIES ACT 1993, the constitution was known as the "Articles of Association". (For more information on registering and incorporating a company, see [How to form a company](#)).

Is a company required to have its own constitution?

No, there is no requirement for a company to have a constitution. It is up to those forming the company to decide whether or not they will draw up a constitution for it.

If there is no constitution then the company is governed by the COMPANIES ACT 1993. This will determine the rights, powers, duties and obligations conferred on the company, its board of directors and its shareholders. If there is a constitution the rules contained in the Act will still apply, except to the extent that they are negated or modified by the constitution where the Act permits this; in general, however, the constitution cannot contravene or be inconsistent with the Act.

What should the constitution contain?

A company has a wide discretion as to what it may include in its constitution. The COMPANIES ACT 1993 says that a constitution may contain matters contemplated by the Act for inclusion, or any other matters that the company wishes to include.

However, in the interests of the company and those involved in it, it is strongly recommended that the constitution deal with the rights, powers and obligations of all people involved in the company, and that it set out clear guidelines as to what conduct and behaviour is acceptable and what is unacceptable.

The constitution cannot extend the legal capacity, rights, powers and privileges that the company would otherwise have – it can only restrict them.

One of the advantages of having a constitution is that there are a number of features that are permissible in a constitution that are not found in the Act.

What is the effect of the constitution?

As long as the company constitution does not contravene the COMPANIES ACT 1993, the effect of the document is that it will be binding between the company and each shareholder according to its terms.

Can a company adopt a constitution after the company's been formed?

Yes, it can do this by a special resolution of its shareholders.

How can a constitution be changed?

Once a company has adopted a constitution, there are ways in which shareholders and other associated people may either amend, modify or revoke it. However, you must notify the Registrar of the Companies Office within 10 working days of making any change to the constitution.

Articles Of Association Agreement Constituting The Connecticut Land Company

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