



Department for
Business, Energy
& Industrial Strategy

Office of the Regulator of Community
Interest Companies: Information and
guidance notes

Chapter 5: Constitutional
Documents

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5.1. Articles of Association (constitution)

Every community interest company (CIC) must have up to date Articles, a copy of which must be delivered to the Registrar of Companies. This is the key document that establishes the company's constitution.

The Articles together with the Memorandum, application to register a company (form IN01) and community interest statement (form CIC36) provides the main evidence upon which the Regulator will determine whether the company is eligible to be formed as a CIC.

Given the importance of these documents great care should be taken over their preparation.

5.1.1. The Memorandum of Association

The Memorandum is a short document which confirms that the subscribers wish to form a company and agree to become a member of the company. If the company is limited by shares they agree to take at least one share in the company.

5.1.2. The Articles of Association

The Articles set out key information about the internal allocation of powers between the directors and members of the company, the rules which govern a company's internal affairs, such as, appointment and powers of directors, conduct of meetings and rules for the transfer of shares.

5.1.3. Articles of Association for a CIC

For a company to be eligible to be formed as, or converted to a CIC, the Articles must comply with the related legislation. These require CICs to include in their Articles certain specified provisions about the company's form, asset lock and governance (see 5.2. below).

Any provisions in a CIC's Articles, which are inconsistent with the legislation, will be of no effect.

5.2. Model Memorandum and Articles for CICs

To assist potential CICs and their advisers we have published models of suitable Memorandum and Articles for various types of CICs, which incorporate the statutory requirements. These are included on our website. It must be emphasised that these are provided for guidance and can be freely downloaded, but no CIC is obliged to use them.

5.3. Legislation specifying provisions required in the Articles of a CIC

For a company to be eligible to be formed or converted to a CIC the Articles must also comply with the requirements of the:

- [Companies \(Audit, Investigations and Community Enterprise\) Act 2004](#)
- [Community Interest Company Regulations 2005](#)

These are concerned with the preservation of the asset lock and other essential CIC features.

5.3.1. The specified provisions

There are three alternative schedules of specific provisions, which must be included in the Articles. Which schedule of provisions you include will depend on your CIC's capital structure and dividend intentions.

- A company limited by guarantee without a share capital must include the provisions in Schedule 1.
- A company limited by shares must include either the provisions in Schedule 2 or the provisions in Schedule 3.
- A company which adopts the Schedule 2 provisions will only be able to pay dividends, and otherwise transfer assets for less than full consideration, to other asset-locked bodies or otherwise for the benefit of the community.
- A company which adopts Schedule 3 has more freedom and can, for example, pay dividends (subject to the dividend cap) to shareholders who are not asset-locked bodies.

The subscribers (i.e. the first intended shareholders or the guarantors) must sign the Memorandum.

5.4. The effect of the Companies Act 2006 on an existing CIC

If the CIC was in existence immediately prior to 1st October 2009 it may instead continue to include in its Articles the provisions prescribed in Schedule 1, 2 or 3 (as applicable) as Schedule 1, 2 or 3 read immediately prior to that date.

5.5. The objects of a community interest company

Unless a company's Articles specifically restrict the objects of a company its objects are treated as unrestricted. This means that unless a company makes a deliberate choice to restrict its objects, the company is unrestricted in what it can do.

To show whether a company meets the community interest test we would regard it as best practice to clearly define in the CICs objects the nature of the proposed activities and the community, which it intends to benefit. For example, "to provide day care and transport facilities for the elderly and physically disadvantaged in North Essex".

The Regulator considers that if a CIC chose unrestricted objects, then the activities of the company, the community that will benefit, and the way in which they will benefit should be clearly defined in the community interest statement.

As it would be very difficult to conclude that the company satisfied the community interest test if the application you submitted was not clear.

The objects can be changed after incorporation, subject to the approval of the members and the Regulator. You need, however, to be clear for your own purposes just what you intend to do and whom you intend to benefit before you seek incorporation as a CIC. Clearly defined objects, which can for example be quoted in a business plan, are more likely to inspire confidence in potential investors, loan providers, the community, other stakeholders and the general public.

You may also feel that defining the objects fairly closely will help to ensure that the enterprise will stay within the original intentions of the founders and any change of direction will be the subject of proper discussion at the meeting of members required to alter the objects. On the other hand, you may wish to avoid too narrow a definition of the company's objects, as this could expose the directors to legal action from disgruntled members in cases where the company, while nevertheless benefiting the community, has strayed outside its original purposes.

5.6. Altering the object statement of the Articles of Association

5.6.1. Documents to be delivered to the Registrar

To change its object statement, a CIC must deliver to the Registrar of Companies the following documents:

- A Form CC04
- A copy of the special resolution changing the object statement of the Articles.
- A printed copy of the updated Articles, as altered.
- A completed Form CIC14, which contains the community interest statement and a statement of the steps that have been taken to bring the proposed alteration to the notice of the persons affected by the company's activities signed by each of the company's directors.

The Registrar will refer the documents to the CIC Office and will only register them if the Regulator gives approval. The change does not take effect until the documents are registered.

5.6.2. Approval by the Regulator

The Regulator will only approve the change if:

- sufficient steps have been taken to bring the change to the notice of those affected
- the Articles continue to comply with the CIC legislation;
- the CIC continues to satisfy the community interest test.

If the Regulator considers that the change should be refused, we will try to resolve the issue informally with the CIC before proceeding to formal refusal.

These requirements do not apply to the conversion of a CIC to a charity (see Chapter 10).

5.7. Altering the Articles of Association (excluding the objects).

As a CIC develops its constitutional needs may change, resulting in a CIC requiring an amendment to the rules under which it operates. This can be achieved by altering the Articles, by passing a special resolution of the company.

A copy of the resolution must be sent to the Registrar of Companies together with a printed copy of the Articles incorporating the amendments. All copies of the Articles subsequently issued by the company must incorporate the changes.

Providing it continues to comply with company law an ordinary company can (unless its Articles provide otherwise) make any changes it wishes to its Articles (other than to the clause stating where its registered office is to be situated).

A CIC, however, must in addition at all times meet the requirements of the CIC legislation. This means that there are statutory clauses that it cannot change. Any changes which is inconsistent with the legislation is of no effect.

5.8. Change of company name

Chapter 2 explains the requirements for CIC names. Providing the new name meets those requirements and the general requirements as to company names there is no restriction on a CIC changing its name by passing a special resolution. A signed copy of the resolution and articles as altered must be sent to the Registrar together with a form NM01 and the appropriate fee (See Chapter 4). The Registrar will issue a Certificate of Incorporation on Change of Name. The name change takes effect on issue of the new certificate.

5.9 Change to the company type and/or share capital

The form IN01 contains a statement that the liability of the members of the company is limited and details of whether it is limited by guarantee or a public or private company limited by shares together with details of the capital structure if it is limited by shares.

There is little scope to change the status of a CIC, although a CIC company limited by shares can change from a private to a public company and vice versa. In particular:

- A CIC cannot become an unlimited company.
- A CIC cannot change from a company limited by shares to a company limited by guarantee or vice versa.

A CIC may make changes to its capital structure (see Chapter 6).

For a private company to reregister as a public company or vice versa it must follow a detailed procedure prescribed by company legislation. These are complicated matters upon which early professional advice should be taken.



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