

Contents

Introduction	1
What is the purpose of the book?	3
Important note concerning terms	5
one	
Company fundamentals 1-36	7
Basic questions	9
1 What is a company?	9
2 What are the different types of company?	10
3 What are the differences between public companies and private companies?	10
4 Are there any more differences between public companies and private companies?	11
5 What are the minimum and maximum possible amounts for a company's share capital?	11
6 Can a company start trading (or operating) as soon as it has been registered?	11
7 What exactly is meant when it is said that a company has a separate legal personality?	12
8 Exactly what does limited liability mean?	12
9 Would you please give me some figures to show the expansion in the number of registered companies?	12
10 What are the alternatives to a company?	13

Registration of companies	13
11 How is a company registered?	13
12 Is there a quick, cheap and easy way of getting my own company?	14
13 Is it possible to change a company's form of registration?	14
14 Can a company registered in England and Wales change its place of registration to Scotland?	14
Companies limited by shares	15
15 What are the essential features of a company limited by shares?	15
Unlimited companies	15
16 What are the essential features of an unlimited company?	15
17 What sort of organisation might suit being an unlimited company?	16
18 Why would anyone in their right mind agree to be a member of an unlimited company?	16
Companies limited by guarantee	16
19 What are the essential features of a company limited by guarantee?	16
20 Are there minimum or maximum amounts for the guarantees in a company limited by guarantee?	17
21 What sort of organisation might suit being a company limited by guarantee?	17
Community interest companies	17
22 What is a community interest company?	17
23 Please tell me more about community interest companies?	17
24 What sort of companies might be community interest companies?	18

Shareholder agreements	19
25 Is it possible to have a shareholder agreement separate from the articles?	19
26 What is the point of shareholder agreements?	19
27 What sort of things might be suitable for inclusion in a shareholder agreement?	19
Company seal	20
28 What is the company seal?	20
29 Is it compulsory for a company to have a company seal?	20
30 What is a suitable form of words when the company seal is not used?	21
31 What records should be kept of the use of the company seal?	21
32 Are the articles relevant?	21
Officers of the company	22
33 Who is an officer of the company?	22
34 What are the consequences of being an officer of the company?	22
35 Can all officers commit all the offences?	23
36 I am an officer of the company and it all sounds rather worrying. How worried should I be?	23
two	
Company constitution 37-92	25
MEMORANDUM OF ASSOCIATION	
Basic questions	27
37 Just what is the memorandum?	27
38 What are the requirements concerning the form and layout of the memorandum?	27
39 What must be included in the memorandum of a company limited by shares?	28
40 What must be included in the memorandum of a company limited by guarantee?	28

41	What are the consequences of stating that the company is a public limited company?	29
42	Who has the right to see the memorandum?	29
Changes to the memorandum		30
43	May the memorandum be changed after incorporation and, if so, how is it done?	30
44	May certain parts of the memorandum be entrenched so that they cannot be altered?	30
45	Are there any provisions for a dissatisfied member to object to a change in the memorandum that has been agreed by the required resolution of the members?	31
Company name		31
46	What are the requirements that the company name should correctly designate the type of company?	31
47	Are there any exceptions to the requirement for a private company to include 'Limited' or 'Ltd' in its name?	32
48	What stops a company having a name that is the same as, or similar to, the name of another company?	33
49	Are there any other limitations on the choice of name?	33
50	Can a company be ordered to change its name?	33
51	Are there any other circumstances in which a company may be ordered to change its name?	34
52	Can I ask the Registrar of Companies to order a company to change its name?	34
53	How can I easily check all the requirements concerning company names?	34
Place of registration and the registered office		35
54	What are the options for the location of the registered office?	35
55	What are the consequences of the location of the registered office?	35
56	Are there any more consequences of the location of the registered office?	36
57	Can a PO Box Number be used as the registered office?	36

58	Must the registered office be an actual office of the company?	36
59	How is the address of the registered office changed?	37
60	What are the consequences if the memorandum stipulates that the registered office will be in Wales?	37
Objects clause		38
61	What is the purpose of the objects clause?	38
62	I have noticed that many objects clauses seem very long. Why is this?	38
63	I have heard that some companies have the object 'to carry on the business of a general commercial company'. What exactly does this mean?	38
64	What are the possible consequences if the directors pursue objects not permitted by the objects clause?	39
65	What is the future of the objects clause?	39
Authorised share capital and the guarantee		39
66	What is meant by the term 'authorised share capital'?	39
67	What does the Companies Act say about the guarantee?	40
Subscription clause		40
68	What goes into the subscription clause?	40
Disclosure of statutory information		41
69	Why is it necessary to disclose and publicise certain statutory information?	41
70	What is the requirement to display the company name outside its business premises?	42
71	What information must be given on company business letters and order forms?	42
72	With reference to the last question – what exactly is meant by 'order form'?	43
73	Are there other requirements concerning the disclosure of information on business letters?	43

74	Must the company's registered name be given in other documents?	44
75	Is there a requirement to show the statutory information on company business e-mails?	44
76	I have noted that quite a few companies seem not to fully comply. Am I right and does it matter?	44

ARTICLES OF ASSOCIATION

Basic questions		45
77	What are the articles of association?	45
78	Are the articles of association important? Why are there not more questions about them in this section of the book?	45
79	How much freedom do the members have concerning the articles?	45
80	Are there any requirements concerning format and presentation?	45
81	I have heard of model sets of articles in the form of tables. What does this mean?	46
82	My company was registered before 1st July 1985. What difference does it make and does it matter?	46
83	I notice that Table C is much shorter than Table A. Does this mean that it is easier to use and that there are fewer regulations governing a company limited by guarantee?	47
84	What are the basic choices concerning articles?	47
85	What issues are covered by the articles?	48
86	What does the term 'default provision' mean in relation to articles?	49
87	Can the articles override the provisions of the Companies Act or other Acts?	49
88	Does Table A allow the directors as a whole to terminate the appointment of a director?	50
89	What does Table A say about directors retiring by rotation?	50
90	Does Table A allow for a sole director?	50

Changes to the articles	51
91 Can the articles be changed and if so how is it done?	51
92 I act for a company limited by guarantee that is a registered charity. Are there any special requirements relating to an alteration to the articles?	51

three

Directors and Company Secretary 93-176	53
---	-----------

DIRECTORS

Basic questions	55
93 What is meant by the terms executive director and non-executive director, and what are the differences?	55
94 That's all very well but can you please give more details about the role of non-executive directors?	56
95 What is meant by the term 'unified board' and do we have them in Britain?	56
96 How are the chairman and managing director chosen and does a company have to have them?	57
97 Does a managing director have any extra powers recognised by law?	58
98 The number of directors has dropped below the number needed for a quorum. What can be done?	58
99 How can I find out if a particular person is banned from being a company director?	59
100 In practice how does a company operate as a director of another company?	59
101 Is there a prescribed minimum number of directors and is a sole director permitted?	59
102 Is there a maximum number of directors permitted?	59

Restrictions on who can be a Director	60
103 What groups of people are prevented by law from being a director?	60
104 What groups of people may be prevented by the articles from being a director?	60
105 Are there any age restrictions?	61
106 Can a bankrupt be a company director?	61
De facto and shadow Directors	61
107 What is a de facto director?	61
108 I use the word 'director' as a courtesy title. What are the possible consequences?	62
109 What is a shadow director?	62
110 Can you give me some examples of when a person is or is not, a shadow director?	63
111 What are the consequences of a company having a shadow director?	63
Alternative Directors	64
112 What is an alternate director and what are his powers and responsibilities?	64
113 Who can be an alternate director and what are the formalities of appointment and removal?	65
Nominee Directors	65
114 What is a nominee director?	65
115 Are there any special dangers for nominee directors?	66
116 Can you give a practical example of how a nominee director might get it wrong?	66
Appointment	67
117 How are directors appointed?	67
118 How are the first directors appointed?	68
119 What part does the law play in the appointment of directors?	68

120	What part do the articles play in the appointment of directors?	68
121	What does Table A say about how members appoint directors?	69
122	What else does Table A say about the appointment of directors by the members?	69
123	What does Table A say about notice to the members of a resolution to propose a director?	70
124	Can the directors appoint a director?	70
125	What steps should be taken on the appointment of a new director?	70
126	We forgot to notify Companies House of my appointment as director. What should we do and am I a director?	70
	Resignation, retirement and removal	71
127	What are the rules about a director's resignation?	71
128	I have resigned as a director but the other directors refuse to accept my resignation and they have just included me as a director on the annual return. Am I a director?	71
129	I have heard that a director must step down on reaching the age of 70. Is this correct?	71
130	Today is 7th September. I resigned as a director on 30th June with effect from 31st December. What are my rights and responsibilities until 31st December?	72
131	What are the rules about retirement of directors by rotation?	72
132	Is it possible for the articles to rule out retirement by rotation so that directors serve for life or until they resign, become disqualified or are removed?	73
133	Does Table A specify events which lead to loss of office by a director?	73
134	May company articles make other provisions for the removal of directors?	74
135	Can a director be removed from office by a vote of the directors?	74
136	What are the powers of the courts to ban a person from being a director?	75
137	Does the answer to the last question mean that some people convicted of very serious crimes cannot be banned from being a director?	76

138	What is the procedure for the removal of a director by the members at an extraordinary general meeting?	76
139	What is the procedure if the resolution to remove a director is to be considered at an AGM?	76
140	Is it always one share one vote on an ordinary resolution of the members to remove a director?	77
141	Can a director be removed by means of a written resolution of the members?	77
142	Can the members be prevented from removing a director?	77
143	I control 51 per cent of the votes at a general meeting of the company. I think that women who wear trousers should not be company directors and a woman director will not heed my request to stop wearing trousers. Can I requisition an extraordinary meeting and vote her off the board?	78
	Payment, expenses and service contract	78
144	Must a director be paid?	78
145	Who determines the directors' fees (if any) and terms of their contracts (if any)?	78
146	Do the Inland Revenue and others treat the remuneration of executive directors and non-executive directors in the same way?	79
147	What part of a director's fee is payable to a director who resigns part-way through a year?	79
148	I am a director and the sole shareholder. Can I take as much money out of the company as I like?	80
149	As well as being a director I own all the shares. I want to pay out all the profits to myself as a salary or bonus. Will there be any problems if I do this rather than pay a dividend?	80
150	My company faces financial difficulties. How much should this be a factor in setting directors' pay?	81
151	I am a director. What are my rights concerning the reimbursement of expenses that I have incurred?	81
152	Must a director have a service contract?	82
153	I am an executive director and I do not have a service contract. Should I have one?	82

154	I am a non-executive director and I do not have a service contract. Should I have one?	82
155	Are there any limits on the directors' powers to agree the terms of directors' service contracts?	83
156	What things should be covered by a director's service contract?	83
157	I have heard that long periods of notice are frowned upon. Is this correct?	84
158	Is there a maximum period for which a director's service contract can run?	84
159	Who can inspect directors' service contracts?	85
160	Where must a director's service contract be kept and who can insist on seeing it?	85
COMPANY SECRETARY		
The position and the role		86
161	Is it compulsory for every company to have a company secretary and might the requirement soon change?	86
162	Who chooses the company secretary?	86
163	Who can be the secretary of a public company?	87
164	Are there any exceptions to the requirement for the secretary of a public company to be a member of one of the bodies specified in the answer to the last question?	87
165	Who can be the secretary of a private company?	88
166	How has the office of company secretary developed over the years?	89
167	What is the relationship between the company secretary and the directors?	89
168	Are joint secretaries permitted?	90
169	Can the directors appoint a deputy or assistant secretary?	90
170	Does a company secretary who is also a director have an enhanced role?	90
171	May the company secretary vote at a board meeting?	91
172	Can the company secretary insist on attending a board meeting?	91
173	What should the company secretary be paid?	91

174	What steps should be taken on the appointment of a new company secretary?	92
175	We forgot to notify Companies House of my appointment as company secretary. What should we do and am I the company secretary?	92
176	I have just taken over as company secretary and things were not in good order. What can I do to put things right?	93

four

Rights and duties of Directors 177-212 **95**

Rights **97**

177	Can directors delegate some or all of their duties?	97
178	Are there any limits to the number of directorships that I can hold?	97
179	As a director am I entitled to access to all the company's statutory records, minute books and accounting records?	98
180	What right does a director have to call a meeting of the members?	98
181	As a director I want to take independent advice on my responsibilities. Can I insist that it be paid for by the company?	98

Duty of care **99**

182	I hear quite a bit about the directors' duty of care. What does it mean?	99
183	Can you supply a sentence that best sums up a director's duty of care?	99
184	Would it be right to assume that the standards needed to fulfil the duty of care are the same for all directors in all companies?	99
185	Can the courts, when considering an alleged failure of the duty of care by a director, use hindsight and second-guess the actions of the directors?	100
186	Is it necessary that, in order to fulfil the duty of care, a director should possess or acquire special knowledge?	100
187	I have heard that the courts are requiring a higher standard of care than was formerly the case. Is this correct?	101

188	One of our directors has behaved badly and is clearly in breach of his duty of care. Does this mean that all the directors are liable?	101
189	Should my company take out directors' and officers' liability insurance?	101
190	I was a director of a company that is now threatening to bring an action against me for negligence. Can they do that and what will happen if the case succeeds?	102
191	An action is being brought against me for an alleged failure in the course of my duties as a director of a company. Will I be indemnified by the company?	103
192	What is meant by relief granted by the courts?	103
193	The answers to the last two questions are quite worrying. Is there any evidence that people are refusing to be directors and is there any prospect of the law being changed?	104
194	Will you give an example of an old case concerning a director's duty of care?	104
195	The Dorchester Finance Case is often quoted in connection with the duty of care. What happened?	105
196	I am an unpaid non-executive director so presumably all this nonsense about the duty of care does not apply to me. I am right aren't I?	105
	Fiduciary duty	105
197	What is meant by the fiduciary duty of the directors?	105
	Duty to act within their powers	106
198	What are the possible consequences if directors act beyond the limit of their powers?	106
	Substantial property transactions	107
199	I have heard that the Act restricts substantial property transactions with directors. What does this mean?	107
200	Who and what are 'connected persons' in connection with substantial property transactions?	107

201	My company has breached the rules concerning substantial property transactions. What are the possible consequences and remedies?	108
202	Substantial property transactions sound rather complicated. Can you give some practical examples?	108
Conflict of interest		109
203	What must a director do when he faces a conflict of interest over a contract with the company?	109
204	What happens after a director has declared an interest?	109
205	I have just discovered that a director failed to disclose a material interest in a contract. What remedies does the company have and what might be the consequences for the director?	110
206	Will a disclosure to the board of a personal interest in a contract be kept confidential?	110
Loans		110
207	Can a company lend money to a director?	110
208	To what extent can a company make loans to persons connected to a director, and who is a connected person?	111
209	Are there ways round the restrictions on a company making a loan to a director?	112
210	What disclosure must a company make of loans to directors and connected persons?	112
211	Are there any restrictions on a director lending money to his company?	112
212	Is it allowed for directors to borrow company assets?	112

five

Statutory registers and Companies House 213-269 **113**

STATUTORY REGISTERS

General (including location and inspection) 115

- 213 How many statutory registers are there and what are they called? 115
- 214 In what form may the statutory registers be kept and, in particular, may they be computerised? 116
- 215 Must the company be supplied with information for the registers or is there an obligation to seek it out? 116
- 216 Are there any requirements concerning where the statutory registers must be kept? 117
- 217 Do nearly all companies strictly follow the rules about the location of the statutory registers? 118
- 218 What are the rules about inspection of the registers? 118
- 219 What are the rules about the requirement to provide copies of the registers? 120
- 220 I think that the rules about access to the registers and provision of copies and extracts amount to a charter for nosey-parkers. Why can't people get the information from Companies House? 121

Register of members 122

- 221 What details must be kept in the register of members? 122
- 222 Are there any other requirements concerning the content of the register of members? 122
- 223 What should I know about joint names appearing in the register of members and what about nominee names? 123

Register of directors and secretaries 123

- 224 What information must be recorded in the register of directors and secretaries? 123
- 225 I expect that I should know more about names and former names. Am I right? 124

226	I do not want to disclose my usual residential address. Must I do so?	124
227	What is a confidentiality order and could I get one?	124
Register of directors' interests in shares and debentures		125
228	What is the purpose of the register of directors' interests in shares and debentures?	125
229	Surely the register of directors' interests in shares and debentures is unnecessary. Why can't the information be obtained from the register of members?	125
230	I note that the obligations extend to shares and debentures (and options to acquire shares and debentures) held by spouses. What about partners?	126
231	There must be some rules about writing up the register of directors' interests in shares and debentures. What are they?	126
232	Is there anything else that I should know about the register of directors' interests in shares and debentures?	126
Register of interests in voting shares		127
233	What should I know about the register of interests in voting shares?	127
Register of charges		127
234	What should I know about the register of charges?	127
COMPANIES HOUSE		
General		128
235	What is the purpose of Companies House?	128
236	What types of organisation must register information at Companies House?	128
237	What does Companies House say that it does?	129
238	What is the precise meaning of 'deliver to Companies House'?	129
239	Is Companies House efficient and does it give value for money?	130
240	I am a director who failed to file on time at Companies House. Will I be prosecuted?	130

241	I am not too worried about filing late at Companies House. Should I be?	130
242	What are the compliance rates for filing on time at Companies House?	131
243	Our accountant looks after most things. Is it his responsibility to get everything necessary to Companies House?	131
244	To what extent does Companies House verify information supplied to it?	131
245	What is the relationship between the Registrar of Companies and Companies House?	131
246	Which are the most commonly used forms?	132
247	What is the logic of the numbering system of Companies House forms?	132
248	How can I contact Companies House?	132
	Filing	133
249	What are the different ways of filing at Companies House?	133
250	Please give a summary of everything that a company must file at Companies House.	133
251	What are the time limits for filing at Companies House?	134
252	Please give details of how electronic filing works.	135
253	How is consent to act evidenced when a document is filed electronically?	135
254	The answer to the last question seems bizarre. Are you serious?	136
255	What is the future of electronic filing?	136
256	I hate filling in forms so I plan to send all notifications to Companies House by letter. Is this acceptable?	136
257	Companies House forms include a box for contact details. Is it essential that this information be given?	137
258	How can I get hold of blank Companies House forms?	137
259	Exactly how are resolutions registered at Companies House?	137
260	How does the annual return shuttle system work?	138
261	What is the requirement to give details of members with the annual return?	138

262	What are the rules about the quality of documents to be registered at Companies House?	139
263	Must the existence of a shadow director be reported to Companies House?	139
264	Are machine-generated or facsimile signatures on documents accepted by Companies House?	140
265	How can I be certain that Companies House has received something that I have sent to it?	140

Access to information 140

266	How can I use Companies House to obtain information?	140
267	What are the advantages of the monitor service?	141
268	Is on-line access expensive?	141
269	I am interested in a company registered in the Channel Islands. Can I get a copy of its accounts from Companies House?	141

six

Shares, debentures and dividends 270-302 143

Shares 145

270	My company is limited by guarantee. Can I safely ignore the questions about share capital and dividends?	145
271	What is the significance of different classes of share?	145
272	How do preference shares differ from ordinary shares?	146
273	What is the difference between cumulative preference shares and non-cumulative preference shares?	147
274	What is meant by the term 'partly paid shares'?	147
275	Can I buy shares using a nominee name?	148
276	What is meant by the term 'pre-emption rights'?	148
277	Are there some circumstances in which pre-emption rights do not apply?	149
278	May shares be issued at a premium and may they be issued at a discount?	149

279	What must happen in the event of a serious loss of capital by a public company?	149
280	In what circumstances may shares be forfeited or surrendered?	150
281	Is interest payable if calls are paid late?	150
282	Can stock be converted into shares?	150
283	Can a minor own shares in his own name?	150
Debentures		151
284	What is the essential difference between shares and debentures?	151
285	What charges must be registered?	152
286	What is the position if a charge is not registered?	152
Dividends		153
287	Out of what funds may dividends be paid?	153
288	Do the same restrictions apply to the payment of interest on loan stock and debentures?	153
289	What is the procedure for declaring and paying an interim dividend?	154
290	What is the procedure for declaring and paying a final dividend?	154
291	Please give me examples of resolutions for the declaration of an interim dividend and a final dividend.	154
292	My company has passed an elective resolution not to hold annual general meetings. How can dividends be paid?	155
293	Shareholder A sold shares to Shareholder B at about the time that the dividend was declared. Which one gets the dividend?	155
294	Is it necessary to pass a resolution to pay a dividend on preference shares?	155
295	What is a scrip dividend?	156
296	Is it compulsory to provide a tax voucher?	156
297	Is the issue of a duplicate tax voucher permitted?	157
298	The shareholders want bigger dividends than the directors are willing to recommend. What happens?	157
299	Can a shareholder waive a dividend?	157

300	How should we respond to a request to issue a duplicate dividend warrant?	158
301	A dividend warrant has not been presented for payment. What should we do?	158
302	Do the owners of partly paid shares rank for the payment of a full dividend?	159

seven

Listed companies and corporate governance 303-324 **161**

Listed companies **163**

303	What is UKLA and who is responsible for it?	163
304	Can UKLA impose financial penalties?	163
305	What is the status of AIM?	163
306	What are OFEX and Nasdaq Europe?	164
307	How many quoted companies are there?	164
308	What is the SETS system of trading?	164

Corporate governance **164**

309	How have corporate governance codes developed since 1992?	164
310	Does the Combined Code apply to all companies?	165
311	Are smaller listed companies exempted from some of the requirements of the Combined Code?	165
312	Does the Combined Code have the force of law behind it?	166
313	How is the Combined Code laid out?	166
314	What are the subject areas covered by the Combined Code?	166
315	How must a listed company disclose how it has complied with the Combined Code?	167
316	What exactly is meant by comply or explain?	167
317	I invest in a company that does not comply with all the detailed provisions of the Combined Code. Am I right to be desperately worried?	168

318	I have looked at the Combined Code and some of its provisions seem bland and obvious. Do others think this?	168
319	What does the Combined Code say about combining the role of chairman and chief executive?	168
320	What does the Combined Code say about the balance on the board between executive and non-executive directors?	168
321	How does the Combined Code define an independent non-executive director?	169
322	Does the Combined Code allow directors to have lengthy periods of notice?	170
323	What does the Combined Code say about directors' remuneration?	170
324	The guidance in the Combined Code seems sensible but somehow directors' remuneration in listed companies goes up year after year. Why is this and is it 'fat cattery'?	171

eight

The elective regime, resolutions and notice 325-361

173

The elective regime		175
325	What is the elective regime?	175
326	What are the elective measures?	175
327	Is the elective regime likely to be relevant to my company?	176
328	How do the members pass an elective resolution, and how and when does it cease to have effect?	176
329	I am not in favour of the elective regime for my company. Can I block it?	177
330	I have heard that the elective regime will be the norm for all private companies and perhaps even made compulsory. Is this correct?	177
331	Does the elective regime make it impossible to pay a dividend?	178
332	How do we appoint the auditors when the elective regime applies?	178
333	How do we overcome the problem of directors retiring by rotation?	178

Resolutions	179
334 What determines what type of resolution is required for a vote by the members?	179
335 How is a special resolution passed?	179
336 What types of business must be the subject of special resolutions?	179
337 How is an extraordinary resolution passed?	180
338 What types of business must be the subject of extraordinary resolutions?	180
339 What is an ordinary resolution and when is one needed?	181
340 When is special notice of an ordinary resolution required and what are the procedures?	181
341 How is an elective resolution passed and how is a resolution to cancel an elective resolution passed?	182
342 What types of business may be the subject of elective resolutions?	182
343 Can a resolution of the members be passed as a written resolution?	183
344 I have heard that a decision may be taken as an informal corporate act rather than by passing a resolution. How does this happen?	183
345 Would you please summarise the required notice periods for the different resolutions and also the majority of votes cast in each?	184
346 Would you please explain what is meant by 'clear days'?	184
347 What resolutions of members must be registered with the Registrar of Companies?	185
NOTICE	
General	186
348 Who has the authority to issue a notice convening a meeting of members?	186
349 To whom should notices be sent?	186
350 What is the consequence if a notice is not sent to someone entitled to receive a notice?	187

351	What is the position if there is an innocent error in sending out the notices?	187
352	What are the requirements for notice to be given of an adjourned meeting?	187
353	Is the notice that convenes a meeting relevant to establishing whether or not it is an annual general meeting?	188
	Notice periods	188
354	What are the required periods of notice for the different types of meeting?	188
355	In what circumstances is short notice possible?	188
356	Would you please give an example of how short notice works?	189
	Content of notices	189
357	What must be included in a notice convening a meeting?	189
358	Are there any particular requirements concerning the date, place and time of a meeting?	190
359	What exactly is meant by the requirement that a notice should give a general description of the business to be transacted?	190
360	What is the minimum information about proxies that must be included in a notice?	190
361	Is it essential that proxy forms accompany notices?	191
	nine	
	Meetings 362-430	193
	MEMBERS' MEETINGS	
	General	195
362	Can the members insist that an extraordinary general meeting be held?	195
363	Who has the right to attend a members' meeting?	195
364	Is it possible to amend special, extraordinary or elective resolutions, resolutions to cancel elective resolutions and ordinary resolutions requiring special notice?	196
365	Is it necessary to give notice of an adjourned meeting?	196

366	What business can be conducted at an adjourned meeting?	196
367	What rights does a proxy have at a members' meeting?	196
368	My company has 100 shares registered in joint names and the joint shareholders disagree about how the votes should be cast. Does each shareholder cast 50 votes as they wish?	196
369	Can votes be cast by a citizen of a country with which we are at war?	197
Quorum		197
370	What is the quorum for a members' meeting?	197
371	What happens if a quorum is not present or if a quorum ceases to be present?	197
372	What happens if it is not possible to obtain a quorum?	198
Annual general meeting		198
373	Must a company hold annual general meetings and, if so, what are the laws concerning timing?	198
374	We are getting close to the last permitted date for the annual general meeting and the accounts are not ready. What can we do?	199
375	Must certain business be conducted at an AGM and is there some business that cannot be conducted at an AGM?	199
376	What is the normal business of an annual general meeting?	199
377	Is it lawful to hold an annual general meeting at which no business is transacted?	200
378	Can the members require that a resolution be circulated in connection with a forthcoming annual general meeting?	200
Chairman and conduct of meetings		200
379	Who will be the chairman of a members' meeting?	200
380	Does the chairman have a casting vote?	201
381	Must the chairman's casting vote be exercised in a particular way?	201
382	From what does the chairman derive his powers?	201
383	What are the duties of the chairman?	202

384	Must the chairman allow everyone to speak, to say exactly what they want and to take as long as they wish?	202
385	What are the chairman's powers to adjourn the meeting?	203
Directors and auditors		203
386	Is there anything to stop the members springing a surprise nomination for director on the directors?	203
387	Does retirement by rotation apply in all companies?	204
388	How does retirement by rotation operate in detail?	204
389	I thought that the directors fixed the auditors' remuneration. Am I mistaken?	205
390	What should I know about the appointment or re-appointment of the auditors?	205
391	What are the special requirements where the auditor to be appointed is not the retiring auditor?	205
Voting		206
392	In what circumstances is voting conducted by a show of hands?	206
393	Who can vote on a show of hands?	206
394	How is voting on a show of hands conducted?	206
395	How is a poll demanded?	207
396	How long is allowed before a poll is taken?	208
397	How is voting on a poll conducted?	208
BOARD MEETINGS		
General		209
398	Are matters at a board meeting settled by a majority vote?	209
399	Who is the chairman of the board of directors?	209
400	Does the chairman have a casting vote at a board meeting?	209
401	What are the chairman's powers and duties at a board meeting?	210
402	Who or what determines the rules for the conduct of board meetings?	211
403	What number is a quorum for a board meeting?	211

404	What happens when the number of directors falls below the number needed for a quorum?	212
405	Can a board operate entirely by means of written resolutions?	212
406	What matters can a board delegate to a committee?	212
407	Can any director call a board meeting?	213
408	What period of notice is required for a board meeting and in what form must the notice be given?	213
409	May a person who is not a director be allowed to attend a board meeting?	213
410	Can a valid board meeting be held using the telephone?	214
411	Can a board meeting be held without all the directors being informed?	214
412	How frequently should the board meet?	215
413	What further part in a board meeting can a director play once he has declared a material interest in a matter under discussion?	215
414	Can a formal board meeting ratify the business done at an informal meeting?	215
415	I am sure that there have been many interesting cases about board meetings. Would you tell me about one of them?	216
416	I have read the questions and answers in this section about board meetings and in many respects my board does not operate in the required way. Does it matter?	216
	Good board meetings	217
417	Can you suggest a good system for the scheduling of a board meeting and preparation for it?	217
418	Have you any other suggestions that may help facilitate good board meetings?	217
419	We hardly ever have a formal vote at our board meetings. Have we got it wrong?	218
	MINUTES	
	General	219
420	Must minutes of meetings be taken and kept?	219
421	Who has responsibility for the minutes?	219

422	What does Table A say about minutes?	219
423	What should be recorded in the minutes?	220
424	How can a mistake in the minutes be corrected after they have been signed?	221
425	Is it a requirement that minutes be kept in a bound book?	221
426	Is it necessary to enter written resolutions of the members or directors in the minute book, and is it necessary to record informal corporate acts by the members in the minute book?	221
427	What are the legal requirements when there is a sole director or sole member?	222
Approval and afterwards		222
428	What is the correct system for approving the minutes?	222
429	Are duly signed minutes conclusive evidence of what happened at a meeting?	223
430	Is it necessary to keep the minutes of directors' meetings separate from the minutes of members' meetings?	223
ten		
Accounts and audit 431-460		225
Accounts		227
431	Whose responsibility is it to prepare, lay and deliver the accounts?	227
432	What are the procedures for approving, signing, laying and delivering the accounts?	227
433	What is the composition of a set of accounts?	228
434	What are the requirements for a dormant company?	228
435	What are the special rules for the period of a company's first accounts?	229
436	Is it compulsory that accounts comply with accounting standards?	229
437	What are the definitions of small and medium-sized companies?	230
438	What are the benefits of being a small or medium-sized company?	230

439	What exemptions are available for abbreviated accounts?	231
440	What is the accounting reference date and what is its significance?	231
441	Can the accounting reference date be changed?	231
442	Is there a way round the restrictions on changing the accounting reference date?	232
443	What are the time limits for laying and delivering the accounts?	232
444	Is it possible for the time limits to be extended?	233
445	What are the penalties for laying and delivering the accounts late?	233
Audit		234
446	What is the requirement to have accounts audited?	234
447	Is the requirement different for companies that are charitable companies?	234
448	Can the members insist on having an audit?	235
449	What are the main duties of an auditor?	235
450	Does the auditor have any other duties?	235
451	Who and what can audit companies?	236
452	Who appoints the auditor and fixes their remuneration, and how is it done?	236
453	Can the directors remove an auditor?	237
454	What rights does an auditor have in connection with members' meetings?	237
455	How can an auditor be removed?	237
456	What are the special formalities that must be followed when an auditor is removed?	238
457	Must a resigning auditor give reasons for the resignation?	238
458	What rights do auditors have to see documents and have their questions answered?	239
459	Who is required to co-operate with an auditor?	239
460	What are the obligations of the directors to draw relevant matters to the attention of auditors?	240

eleven

Financial difficulties, winding-up and striking off 461-501 **241**

FINANCIAL DIFFICULTIES

The position of the directors **243**

- 461 What should the directors do when they believe that their company may have financial difficulties? 243
- 462 What should directors not do when they believe that their company may have financial difficulties? 244
- 463 What action might directors take after receiving suitable professional advice? 244
- 464 What personal risks might directors run when a company faces financial difficulties? 245

Administration **246**

- 465 Why was the concept of administration introduced in 1986? 246
- 466 Yes – but just what is administration? 246
- 467 What is a Licensed Insolvency Practitioner? 247
- 468 What are the permitted purposes of administration? 247
- 469 Who can apply to have a company put into administration? 248
- 470 Is it true that a company can only go into administration if it is unable to pay its debts? 248
- 471 What does 'unable to pay its debts' mean? 248
- 472 What powers does an administrator have? 249
- 473 What are the consequences of a company going into administration? 249
- 474 I am a director of a company that is going to go into administration. What will my powers be? 250
- 475 I am a director of a company in administration. Can I be dismissed by the administrator? 250
- 476 One of our customers is in administration. What powers do we have? 250
- 477 Is an administrator personally liable for contracts that he makes on behalf of the company? 250

Receivership	251
478 What is receivership?	251
479 Would you please define an administrative receiver?	251
480 What is the essential difference between administration and receivership?	252
481 I have heard that there are more administrations and less receiverships. Why is this?	252
482 How can we stop a receiver being appointed?	252

WINDING-UP

General	253
483 What are the three ways in which a company may be wound up?	253
484 What are the stages in a winding-up?	253
485 What is the difference between a members' voluntary winding-up and a creditors' voluntary winding-up?	253
486 What are acceptable reasons for a members' voluntary winding-up?	254
487 In what circumstances can a company be wound up by the court?	254
488 In what circumstances might the court decide that it is just and equitable for a company to be wound up?	255

Order of priority in the distribution of funds **255**

489 My company is insolvent and is being wound up. Who will get what money there is?	255
490 If a company is insolvent, what part of its money is ring-fenced for ordinary creditors?	256
491 Which debts rank as preferential?	256

STRIKING-OFF

Following application by the directors	256
492 We want to end the registration of a dormant, private company. Is there an alternative to a members' voluntary winding-up?	256
493 What are the steps leading to a voluntary striking-off of a private company?	257

494	What are the possible pitfalls of a voluntary striking-off?	257
495	My company has been the subject of a voluntary striking-off. Could it be restored to the register?	258
	At the instigation of the registrar	258
496	Can a company be struck-off without the knowledge of the members or directors?	258
497	What steps does the Registrar take before deciding to strike-off a company?	258
498	I am a director of a company that has just been struck-off by the Registrar. Am I right to be angry?	259
499	I am (or was) a director of a company that was struck-off even though it is still trading. What should I do?	259
500	During what period may an application be made to have a company restored to the register that was struck-off at the instigation of the Registrar?	260
501	My company has been struck-off. Are officers of the company released from their liabilities?	260
	Index	261