



The Gibraltar Private Limited Company Handbook

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Foreword

This Handbook has been written to provide an overview of elements of the law affecting private limited companies in Gibraltar following the legislative changes resulting from the implementation of the Companies Act 2014 (the “Act”).

The law relating to companies in Gibraltar has undergone significant change and a thorough review of the previous Companies Act and related legislation has been under way for some time. The previous Act dated back to 1930 and was based on the original text of the English Companies Act 1929. Despite wholesale amendment and review over the years, there was a need for a major overhaul with a view to updating and modernising the legislation. The review involved consideration of proposals put forward by the Company Law Reform Committee set up by the Finance Centre Council. Jonathan Garcia of this firm sat on this committee. A consultation process then culminated in the creation of a consolidated piece of legislation.

The Act now controls the formation, operation and dissolution (otherwise than companies in compulsory liquidation - these provisions have been moved to the Insolvency Act) of Gibraltar companies. The Act does however, retain certain provisions of the previous Act. Additionally, some of the newly introduced provisions of the Act reflect provisions of both former English company law legislation as well as legislation currently in force. The Act also incorporates certain statutes relating to company accounts which are being repealed and set out in their entirety within the Act as part of its consolidation exercise. The Act also conforms to the provisions of the Income Tax Act 2010.

The main changes are:

- the need for an excessively long objects clause in the memorandum of association has been removed, giving companies unlimited capacity if they choose. This greatly reduces the applicability of the *ultra vires* doctrine.
- the electronic age being comprehensively embraced through companies becoming entitled to use electronic communication for notices and communications, as well as facilities for e-communications with the Registrar.
- shareholders (including minority shareholders) have been given certain statutory rights which they did not previously enjoy.
- transactions which would otherwise be void for financial assistance, can now be authorised under specific circumstances.
- companies re-domiciling into Gibraltar are now able to register mortgages and charges in Gibraltar, previously created whilst incorporated in their original jurisdiction.
- liquidators of companies in voluntary liquidation must be licensed as insolvency practitioners.
- collective investment schemes have been exempted from certain procedures under the Act.
- dates for filing documents with the Registrar have been standardised, as far as possible.

We have endeavoured to highlight within the margin of the document, these notable changes. It is hoped that the information contained within these pages will give you a flavour of what a Gibraltar company has to offer.



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COMPANY ACCOUNTS LEGISLATION

The Companies (Accounts) Act 1999 and the Companies (Consolidated Accounts) Act 1999 are repealed and set out within the text of the Act (Part VII of the Act).

1. INTRODUCTION

The Act provides for three types of companies: companies limited by shares, companies limited by guarantee and private unlimited companies.

Companies Limited by Shares

Companies which are limited by shares can be divided into private companies, public companies and private protected cell companies.

A private company is a company limited by shares or limited by guarantee (whether or not having a share capital) that is not a public company which by its articles of association (i) restricts the right to transfer its shares; and (ii) prohibits any invitation to the public to subscribe for any shares or debentures of the company.

A public company is a company limited by shares or limited by guarantee and having a share capital (i) whose certificate of incorporation states that it is a public company; and (ii) in relation to which the provisions of the Act applicable to a public company have been complied with. The main provisions applicable to a public company under the Act are that (i) the name of a public company must end with the words “Public Limited Company” or the abbreviation “plc”; (ii) the memorandum of association of a public company must also state the fact that it is a public company; (iii) a public company may not commence business unless the nominal value of its allotted share capital is not less than £20,500 or such other sum as may be published; (iv) the secretary of a public company must have specific knowledge and experience to discharge the functions of secretary of a public company; (v) a public company must issue a prospectus or a statement in lieu of a prospectus before issuing any of its shares or debentures to the public; and (vi) a public company must obtain a certificate from the Registrar of Companies (“Registrar”) before it can commence business.

A protected cell company (“PCC”) is established under the Protected Cell Companies Act 2001, although the provisions of the Act apply to PCCs in respect of registration and various other matters. This type of entity is made up of a single body corporate, consisting of a core company, with an internal “umbrella” structure consisting of any number of subdivisions (“Cells”). The number of Cells that can be created under Gibraltar law is unlimited. Provided that the Protected Cell Companies Act is complied with, the assets and liabilities attributable to a particular Cell can be legally segregated and “ring-fenced”, making the assets of a Cell available only to the creditors and shareholders of that particular Cell. This avoids the risk of cross-contamination between the Cells. The PCC is widely used within the captive insurance and investments funds industry. The Protected Cell Companies Act also allows for wider usage such as special purpose vehicles for securitisation transactions.

Companies Limited by Guarantee

A company limited by guarantee is a company whose respective shareholders are guarantors rather than shareholders. Their liability is limited to the amount they agree to contribute to the company’s assets if it is wound up. A company limited by guarantee may or may not have a share capital and it can be established as either a private company or a public company.

Unlimited Companies

An unlimited company may or may not have a share capital but every shareholder of an unlimited company is, in the event of its winding up, jointly and severally liable for all the obligations of the company. In this respect, such a shareholder is in the same position as a partner of a general partnership carrying on business under the Partnership Act. An unlimited company may be a useful vehicle, for example, where incorporation is necessary or desirable, if it is proposed that the company will operate in a field where limited liability is frowned upon or if the risk of insolvency

is minimal. The provisions of the Act regulating alteration of capital and capital maintenance do not apply to unlimited companies and a return of capital to shareholders may be made following the procedure laid down in the articles of association, usually authorised by special resolution.

The Act provides a company with the ability to re-register and change its legal status and provides various re-registration options, some of which are new introductions.

This Handbook is concerned only with private companies limited by shares.

2. PRE-INCORPORATION MATTERS

2.1 Incorporation

Any one or more persons associated for a lawful purpose may, by subscribing their names to a memorandum of association and otherwise complying with the requirements of the Act in respect of incorporation, form a company with limited liability. Incorporation makes the company a body corporate with separate legal personality and perpetual succession, distinct from those who own and manage it.

2.2 Company Name

The name of a company must include the word “Limited” or an abbreviation of the word “limited”, in either case, at the end of the name. Amongst other things, the name must not (i) be the same as one already registered; (ii) contain certain sensitive words without permission; (iii) suggest connection with the Government; and (iv) be offensive.

2.3 Capital Structure

A company must have a share capital and this must be divided into shares of a fixed amount. Each share in a company having a share capital shall be distinguished by its appropriate number.

Except in so far as any provision of a company’s articles of association provide otherwise, a company may issue fractional shares. A fractional share has the corresponding fractional rights, obligations and liabilities of a whole share of the same class. This is now available under the Act to all companies and not only collective investment schemes, as was previously the case under the previous Act.

Shares may be allotted at their nominal value or at a premium. Shares allotted by a company and any premium payable on them (if any) may be paid up in money or money’s worth (including goodwill and know-how). Shares may be fully or partly paid (in the case of the latter, if permitted by the articles of association of the company). Money payable by a shareholder to the company under its memorandum of association or articles of association is a debt due from him to the company. Such a debt is of the nature of a specialty debt.

The shares of any shareholder in a company shall be personal estate, transferable in the manner provided by the articles of association of the company, and shall not be of the nature of real estate.

The capital of a company may be expressed in any currency.

The share capital of a company may be divided into different classes of shares. Although the share capital must be set out in the memorandum of association (see below), the types of shares and their respective rights are customarily set out in the articles of association.

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CHANGES IN STATUS

For example, Sections 38-40 of the Act set out a procedure for a limited company to re-register as a public company. Whilst this type of re-registration occurred in practice, it has now been codified.

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NAME OF LIMITED COMPANY

The name can now contain the abbreviation “ltd” (Section 2(1) of the Act).

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FRACTIONAL SHARES

All companies can now make use of fractional shares (Section 128 of the Act).

3. REQUIREMENTS OF GIBRALTAR LAW

3.1 Forms of Gibraltar Company

As set out above, three broad types of company are provided for under Gibraltar law, each having different characteristics.

3.2 Memorandum of Association and Articles of Association

Under the Act, a company's articles of association (and any relevant resolutions and agreements) are considered to be its main constitutional documents. Under the previous Act, the memorandum of association of a company was also considered a document which defined a company's constitution. This is now redundant under the Act, given that, as set out below, the requirement for object clauses to be contained in a company's memorandum of association has been abolished. This makes the memorandum of association a very different document to its predecessor.

Memorandum of Association

The memorandum of association is a memorandum stating that the subscribers wish to form a company under the Act and agree to become shareholders of the company and to take at least one share each. The memorandum of association must be in a prescribed form and must contain the name of the company and also set out that the registered office of the company is to be situated in Gibraltar. It must also state that the liability of its shareholders is limited, as well as the amount of the share capital with which the company proposes to be registered and the division of the share capital into shares of a fixed amount.

The memorandum of association is essentially a "snapshot" of the company at the point of registration and will have no continuing relevance. It cannot be amended or updated during the life of the company, except in the cases, in the manner and to the extent for which express provision is made by the Act (for example, resulting from a change of name or change of capital).

The memorandum of association does not contain the objects of the company but rather the objects are unrestricted unless otherwise restricted in the company's articles of association. The Act has introduced the concept of unlimited capacity, subject to any restrictions a company may wish to impose upon itself.

Articles of Association

The articles of association set out the rules for running the company. The provisions of a company's articles of association bind the company and its shareholders to the same extent as if there were covenants on the part of the company and of each shareholder to observe those provisions.

A company may either adopt its own articles of association or the model articles prescribed under the Act. These model articles will automatically apply on the incorporation of a company if either articles of association are not registered or if articles of association are registered, they do not exclude or modify the model articles. Any reference in this Handbook to specific provisions of articles of association shall be to the model articles prescribed under the Act, for private companies limited by shares.

3.3 Registered Office

A company must have a registered office in Gibraltar to which all communications and notices may be addressed.

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UNLIMITED CAPACITY

The requirement of objects clauses to be set out within the memorandum of association has been abolished. Companies now have unlimited capacity. Any restrictions can be included within the articles of association, should this be required (Section 16(4) of the Act).

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TABLE A

This has been abolished in its entirety, in favour of the model articles. The model articles are in line with the provisions of the Act and differ from Table A in content, as well as style (Companies Act (Model Articles) Regulations 2014).

Notice of any change of registered office, shall be given to the Registrar who shall record the same. The Act has introduced the ability for a company or undertaking which holds a licence under the Financial Services (Investment and Fiduciary Services) Act 1989 which enables that company or undertaking to provide company or corporate administration services by way of the provision of a registered office, to send a notice in the prescribed form to the Registrar stating that a company it provides services to, does not have authority to use its address as its registered office address.

NO PERMISSION TO USE REGISTERED OFFICE

This was allowed previously as a matter of practice, but has now been codified (Section 178(6) of the Act).

3.4 Directors

Directors are appointed to direct, control and supervise the activities and affairs of a company. Directors are a connecting line between the company and third parties. By definition, a director “includes any person occupying the position of director by whatever name called”. This definition is wide in order to include those who are effectively dealing with the affairs of the company but do not bear the title ‘director’. It also ensures that there is no legal distinction between executive directors and non-executive directors, although differences will usually be found in the roles they perform.

Every company must have at least one director. There is no statutory maximum number of directors, although a company may make provision for a maximum number of directors within its articles of association. A sole director of a company shall not also be the secretary of that company.

There are no formal requirements or qualifications to become a director and it is possible for both natural persons and corporate bodies to be appointed as directors. There is also no legal requirement for a company to appoint a natural person as its director so in effect, a company can be managed and controlled by a sole director that is constituted as a body corporate. The foregoing is subject to the company not being one which is licenced, authorised, recognised or registered by the Financial Services Commission to undertake a restricted or controlled activity. The auditor of a company cannot be a director or secretary of that company. Directors may but are not required to hold a share qualification so it is not a requirement to hold one or more shares in order to qualify as a director.

The conduct of board meetings is generally not covered by the Act. The main statutory provisions affecting board meetings concern minutes of board meetings being kept and disclosure by directors of interest in contracts. The rules for conducting board meetings depend on the company’s articles of association and this gives a company great flexibility. For example, Gibraltar law does not prevent board meetings from being held anywhere in the world and for directors to participate at board meetings through electronic means. However, there may be tax consequences for a company in doing so.

The first directors of a company are appointed by the subscribers to the memorandum of association and are named on the forms which are registered with the Registrar when the company is incorporated. They automatically take office on the date of incorporation. This is a new feature of the Act. Their names and other details should be entered in the register of directors once the company is incorporated.

Subsequent directors are appointed in accordance with the company’s articles of association. Under the model articles, any person willing to be appointed as a director, and permitted by law to do so can be appointed by ordinary resolution of a general meeting or by resolution of the directors. Removal is again a matter for the company’s articles of association but it would be expected that such a decision requires a resolution of a general meeting.

FIRST DIRECTORS

A company is now required to identify its directors as a pre-requisite to incorporation. Previously, details of directors could be filed within 14 days of incorporation (Section 12 of the Act).

3.5 Secretary

Every company incorporated in Gibraltar must appoint a secretary. Both natural persons and corporate bodies are eligible to be appointed as a secretary. If a corporate body is undertaking this function, it would have to ensure that it is not required to be licensed by the Financial Services Commission in order to undertake such services. The first secretary of a company is named on the forms which are registered with the Registrar when the company is incorporated and automatically takes office on the date of incorporation. Again, this is a new feature of the Act. Its name and other details should be entered in the register of secretaries once the company is incorporated. The appointment and removal of the secretary would fall within the company's articles of association and would be a matter for the directors.

FIRST SECRETARY

A company is now required to identify its secretary as a pre-requisite to incorporation. Previously, details of secretaries could be filed within 14 days of incorporation (Section 12 of the Act).

3.6 Bankers

A company may open and operate bank accounts in or outside Gibraltar.

3.7 Books of Account

Every company is required to keep proper books of account with respect to (i) all sums of money received and expended by the company and the matters in respect of which the receipt and expenditure takes place; (ii) all sales and purchases of goods and services by the company; and (iii) the assets and liabilities of the company.

The books of account shall be kept at the registered office of the company or at such other place as the directors think fit, and shall at all times be open to inspection by the directors.

The books of account must exhibit and explain the transactions and financial position of the trade or business of the company and must include books containing entries from day to day of all cash received and cash paid and any contracts, invoices or other underlying documentation significant to the trade or business of the company. If the company's business involves dealing in goods, this must also include statements of annual stocktaking and, except in the case of goods sold by way of ordinary retail trade, statements of all goods sold and purchased showing sufficient detail to enable those goods, buyers and sellers to be identified.

3.8 Seal

A company may have a common seal, but need not have one.

A company which has a common seal shall have its name engraved in legible characters on the seal.

3.9 Financial Year-End

Every company must set its financial year-end. If the financial year-end is the company's first then the period allowed is the greater of 18 months from the first anniversary of the incorporation of the company or 13 months from the end of that financial year. The financial year-end may be changed under controlled circumstances.

The Act also prescribes the accounting principles to be observed in preparing the annual accounts, the layout of the balance sheet and profit and loss account and the content of the notes to the accounts.

Companies are classified as small, medium or large. Documents to be filed with the Registrar vary according to their classification;-

- Large companies — to file full accounts including the balance sheet, profit and loss account, notes, directors' report and auditors' report.
- Medium-sized companies — filing as for large companies except that the profit and loss account may be in abridged format.
- Small companies — required to file abridged balance sheet only.

The relevant documents must be filed within 13 months of the financial year end. If the financial year-end is the company's first then the period allowed is the greater of 18 months from the first anniversary of the incorporation of the company or 13 months from the end of that financial year.

Different rules apply to companies that opt to prepare accounts in accordance with international accounting standards.

Defective accounts and reports can now be revised on a voluntary basis.

3.10 Annual Return

Every company is required at least once in every calendar year to make an annual return to the Registrar setting out particulars relating to the company as specified in the Act. The annual return is a snapshot of certain information relating to a company to include (i) the name of the company; (ii) the company's registered number; (iii) the company's registered office address; (iv) details of the company's directors and secretary; and (v) details of the company's share capital, including its shareholders. The Act also introduces a requirement for a company to indicate in its annual return, details of its main activity. The new form of annual return sets out various activities with corresponding codes. There is a prescribed format for the annual return.

The Act makes a very important change insofar as collective investment schemes and the annual return are concerned. If a company notifies the Registrar that it is a collective investment scheme licensed, authorised or otherwise regulated under the Financial Services (Collective Investment Schemes) Act 2011, then in the case of such a collective investment scheme (not being a Private Scheme), the annual return can omit details of shareholders and shareholding and is only required to include the amount of authorised and issued share capital respectively. All other particulars required under the annual return would still need to be completed. An Experienced Investor Fund for instance, could take advantage of this exemption.

In both of the above cases, the annual return must be delivered within 30 days after the date the annual return it is made up to.

Private Schemes are required to deliver an annual return in the prescribed format although they can deliver the return within 6 months after the date the annual return is made up to. In addition, the Act includes a new section which requires Private Schemes to deliver a Statement of Allotments, Redemptions and Purchase of own shares, together with every annual return. This in turn substitutes the requirement for these types of collective investment schemes to deliver a return of allotment every time it makes an allotment of shares and to notify the Registrar every time it makes a redemption. A collective investment scheme which is not a Private Scheme (for instance an Experienced Investor Fund) is neither required to complete a Statement of Allotments, Redemptions and Purchase of own shares nor inform the Registrar of every occasion it allots or redeems shares.

It should be noted that these exemptions only apply to collective investment schemes which inform the Registrar of their specific status. A collective investment scheme may choose not to make such a disclosure and forfeit the rights to the exemptions now afforded under the Act.

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REVISION OF DEFECTIVE ACCOUNTS

Directors can now choose to revise defective accounts (Section 267 of the Act).

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FILINGS TO BE MADE BY COLLECTIVE INVESTMENT SCHEMES

The Act has created a separate regime in respect of the filing of annual returns by collective investment schemes. The collective investment scheme would have to notify the Registrar that it is a collective investment scheme. This is voluntary. If notification is not done, a collective investment scheme will not be able to take advantage of the new exemptions (Sections 18, 86, 131, 188 and 189 of the Act).

3.11 Auditors

Unless a company meets the conditions of being a small company, the shareholders of a company must, at each annual general meeting, appoint an auditor or auditors to hold office until the next annual general meeting. Prior to the first annual general meeting, the first auditors of the company may be appointed by the directors at any time before that meeting, and auditors so appointed shall hold office until that meeting. The auditors may be removed by the shareholders who may appoint a replacement auditor. If a company qualifies as a small company and certain other conditions prescribed under the Act are met, the requirements of the Act relating to the appointment of auditors and the audit of account in respect of the applicable financial year, shall not apply to the company.

3.12 Shareholders

A company must have at least one registered shareholder who may be both a natural person and a body corporate. Details of shareholders appear on the public file but nominee shareholders may be used. Bearer shares cannot be issued. A person, having agreed to become a shareholder, becomes a shareholder of a company upon its name being entered in the company's register of shareholders.

The Act has removed the upper limit of the number of shareholders which a company could have (previously limited at 50) so a company can now consist of an unlimited number of shareholders without the need to be registered as a public company.

The company must record the details of the new shareholders in the register of shareholders.

4. INCORPORATION

4.1 Application for Incorporation

The memorandum of association and the articles of association (to the extent that bespoke articles of association will be adopted) require delivery to the Registrar alongside the relevant application form and other required documents concerning details of the directors, secretary and share capital. On incorporation, the Registrar issues a certificate that the company is incorporated and shows its name and registration number. Standard incorporation takes around three working days. However, the Registrar offers a same day incorporation service for an additional premium fee.

5. OPERATION OF A GIBRALTAR COMPANY

5.1 General

The responsibility for managing a company's business is vested in the directors but the extent of their authority depends on the provisions of a company's articles of association and any overriding provisions of the Act, which reserve specific corporate action only for shareholders. The model articles state that "the directors are responsible for the management of the company's business, for which purpose they may exercise all the powers of the company". The reality is that in most companies, the directors can make any decision unless the Act requires a resolution of the shareholders.

The Act has abolished the objects clause in the memorandum of association and a company's objects are unrestricted unless any restrictions on a company's objects are specifically set out in the company's articles of association. This applies to new and existing companies. Existing companies will not have to change their objects as the Act treats the existing objects clauses in the memorandum of association as part of the company's articles of association. Any existing company that wishes to amend its objects to make them unrestricted going forward, will be able to do so by amending its articles of association and removing the restrictions on its objects.

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SMALL COMPANIES

Previously all companies, including small companies, were required to appoint an auditor, even if their accounts did not require auditing (Section 259 of the Act).

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PRIVATE COMPANY SHAREHOLDER LIMIT

There is now no limit.

5.2 Directors' Meetings

Any meetings of directors are governed by the company's articles of association and by any rules made by the directors themselves by virtue of powers given to them by the articles of association. The model articles regulate the notice period to be followed in respect of a directors' meeting and the process to be followed in cases where not all directors are present physically at the meeting. Also dealt with in the model articles are the quorum requirements for meetings. Ultimately, it is the responsibility of each company to make its articles of association fit for purpose as the model articles would only be suitable for the most straightforward of companies.

5.3 Authority to Bind the Company

Under the doctrine of constructive notice, anyone dealing with a company is deemed to have had notice of its articles of association. The doctrine of constructive notice has been effectively abolished by both the Act and its predecessor. The Act provides:

"In favour of a person dealing with a company in good faith, the power of the board of directors to bind the company, or authorise others to do so, shall be deemed to be free of any limitations under the company's constitution."

A person "deals with" a company if he is a party to any transaction or other act to which the company is a party. Such a person is not bound to enquire as to any limitation on the powers of the directors to bind the company or authorise others to do so. Good faith is presumed unless the contrary is proved, and a person will not be regarded as acting in bad faith simply because the person knows that the transaction is beyond the powers of the directors under the company's constitution. The references to limitations on the director's powers under the company's constitution include limitations deriving from a resolution of the company in a general meeting or a meeting of any class of shareholders, or deriving from any agreement between the shareholders of the company or any class of shareholders.

5.4 Execution of Documents by a Company

The Act deals with, and in some cases introduces various changes to, the rules according to which a company should execute documents. The Act confirms the existing position that a single signatory can sign an agreement on behalf of a company, provided that person has the necessary express or implied authority.

The Act now clarifies that a deed is validly executed by a company if it is signed on behalf of the company by two directors or a director and secretary and also provides a new option for the execution of deeds which is the signature of one director, in the presence of a witness, who attests the director's signature.

5.5 Shareholders' Meetings

There are two types of meetings of shareholders of a company, namely; (i) annual general meetings, and (ii) extraordinary general meetings.

In each year, every company shall hold a general meeting as its annual general meeting in addition to any other meetings in that year, and shall specify the meeting as that in the notices calling it. Not more than 15 months shall elapse between the date of one annual general meeting of a company and that of the next. However, so long as a company holds its first annual general meeting within 18 months of its incorporation, it need not hold it in the year of its incorporation or in the following year.

A company, by special resolution may dispense with the holding of its annual general meeting. Therefore, the provisions of the Act requiring that a company appoint an auditor or auditors at

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EXECUTION OF A DEED

A single director can now enter into a deed provided the signature is witnessed (Section 73(2)(b) of the Act).

each general meeting shall be deemed to have no effect in respect of that company for such time and in respect of such years as the resolution shall have effect. This does not however circumvent the requirement placed on a company to appoint an auditor but rather allows it to make a single appointment, without the requirement to review the appointment on a yearly basis.

There are three types of resolutions which shareholders could validly pass (i) an extraordinary resolution; (ii) a special resolution; and (iii) an ordinary resolution.

An extraordinary resolution is a resolution that has been passed by a majority of not less than 75% of those shareholders who, being entitled to do so, vote in person or, where proxies are allowed, by proxy, at a general meeting of which 7 days' notice (unless the articles of association require otherwise) specifying the terms of the resolution and the intention to propose the resolution as an extraordinary resolution has been given. A special resolution is a resolution which has been passed by such a majority as is required for the passing of an extraordinary resolution of which not less than twenty-one days' notice has been given.

The Act has made ordinary resolutions a creation of statute and clarifies that this is a resolution which is passed by a simple majority, even though this was the understanding as a matter of practice.

It should be noted that under the Act, anything that can be done by a resolution of the shareholders of a company in a general meeting, can be done without a meeting by means of a written resolution signed by all the shareholders of a company, provided the articles of association allow this. However, written resolutions must be passed by the unanimous consent of shareholders, rather than the specific majority that would ordinarily be required at a general meeting.

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ORDINARY RESOLUTION

This had no previous definition in law (Section 200 of the Act).

6. TRANSACTIONS INVOLVING SHARES OF A GIBRALTAR COMPANY

6.1 Issue of Shares

The subscribers of a memorandum, on registration of a company, will be entered as shareholders in its register of shareholders.

Subject to the provisions of a company's articles of association, all unissued shares are at the disposal of the directors who may offer, allot, issue, grant options over or otherwise dispose of them to such persons, at such time, and on such terms as they think proper. Shares may be allotted for cash or non-cash consideration (or a combination of both) and may be issued as fully or partly paid.

Where a company issues shares at a premium (that is, for more than their nominal value) then, the premium element (whether comprised cash or otherwise) must be credited to a separate account known as the "the share premium account".

The share premium account forms part of a company's non-distributable reserves and can only be used (i) in paying up unissued shares of the company to be allotted to shareholders of the company as fully paid bonus shares; (ii) in writing of the preliminary expenses of the company or the expenses of, or the commission paid or discount allowed on, any issue of shares or debentures of the company; and (iii) in providing for the premium payable on redemption of any redeemable shares or of any debentures of the company. In any other case, the provisions of the Act relating to the reduction of the share capital of a company shall apply as if the share premium account were paid up share capital of the company.

Every company shall, within 2 months after the allotment of any of its shares, complete and have ready for delivery the certificates of all shares, unless the conditions of issue of the shares otherwise provide.

6.2 Transfer of Shares

Subject to any restrictions contained in the articles of association of the company, the shares of a company are transferrable in the manner provided for by the articles of association of the company. Typically, in order to transfer shares in a company, any rights of pre-emption from the current shareholders of a company need to be waived. The seller and the buyer would enter into an agreement for the sale and transfer of the shares (not a legal requirement although desirable) and the seller delivers to the buyer an instrument of transfer in respect of the shares and this would be approved by the company and the buyer would be entered in its register of shareholders as the holder of the shares. The previous share certificate issued to the seller would need to be returned for cancellation in order to facilitate the issuing of a share certificate to the buyer. Where the old share certificate has been lost, stolen or destroyed, the seller would need to comply with such conditions as to evidence and indemnity as the company may think fit.

The Registrar must be informed of any transfer of shares but not in the case of a collective investment scheme (other than a Private Scheme) which has followed the notification process detailed in Section 14 below.

6.3 Redemption, Acquisition of Own Shares and Financial Assistance

Redemption

The Act contains provisions which enable a company to issue redeemable preference shares liable to be redeemed. Any such shares would have to be fully paid-up.

Under the Act, the redemption of redeemable preference shares may be effected on such terms and in such manner as may be provided by the company's articles of association. Therefore, provided the articles of association make this clear, redemption can occur at the option of either the company or the shareholder.

As set out above, any amount standing to the credit of the share premium account of a company may only be applied for certain limited purposes, one of which is to pay up any premium on the redemption of redeemable preference shares. A redeemable preference share may be redeemed either out of distributable profits or, from the proceeds of a fresh issue of shares. Once a redeemable preference share is redeemed, it is cancelled. If a company has no distributable reserves, the company would be required to redeem the shares from the proceeds of a fresh issue of shares. This means that the redeeming shareholder (or any other person) would need to subscribe for an amount of shares equal to the number of shares being redeemed. In practice, redeemable shares are issued at a very low nominal value, in the event that a fresh issue of shares is required to fund a redemption, it can take place at nominal cost. Subscribing for such shares would preserve the total nominal value of the issued shares in the company and this is required for maintenance of capital principles.

Upon redemption, redeemable preference shares, are cancelled and the company repays the redeeming shareholder the nominal value of the redeemed shares as well as such amount standing to the credit of the share premium account of the company as the directors of the company would determine. In addition the person subscribing for the fresh issue of shares would be obliged to pay up the nominal value of the fresh issue.

If it is the redeeming shareholder who is subscribing for the fresh issue of shares, as the nominal value of the shares being redeemed and the nominal value of the freshly issued shares are the same, these payments would be set-off against each other so no cash movements would need to be made between the company and the redeeming shareholder and, all that remains is for the company to satisfy the payment of the share premium to the redeeming shareholder by transferring this and following the process for payment set out in the articles of association.

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TRANSFER OF SHARES

Previously, transfer of shares were either reported on a voluntary basis, or on a yearly basis at the time of filing of the annual return. This is now a mandatory requirement. This does not apply to collective investment schemes which have followed the notification process (Section 154 of the Act).

Acquisition of Own Shares

The Act has specific provisions relating to the ability of a company to buy back its own shares and the same conditions set out directly above relating to the maintenance of capital should be observed.

Financial Assistance

Until the coming into effect of the Act, there was an absolute prohibition (subject to limited exceptions) on financial assistance being given by a company whether directly or indirectly, and whether by means of a loan, guarantee, the provision of security or otherwise, for the purpose of or in connection with a purchase made or to be made by any person of any shares in the company. Whilst a general prohibition continues to exist, the Act has introduced a “whitewash” procedure. Broadly, a company can now only give financial assistance if the company has net assets which are not thereby reduced or, to the extent that they are reduced, if the assistance is provided out of distributable profits.

6.4 Dividends and Profits

The general rule is that dividends must not be paid out of capital and they can only be paid out of profits. A company may declare either a yearly dividend or an interim dividend. This is stated in most articles of association including the model articles.

7. REGISTRATION OF CHARGES

The Act sets out the charges (which include mortgages) that need to be registered with the Registrar. If there is a failure to do so, the charge created by the company shall be void against the liquidator and any creditor of the company. Notably, the money secured by the charge becomes immediately payable.

The charge is registered by the prescribed particulars of the charge and the instrument (if any) by which the charge is created or evidenced being delivered to or received by the Registrar for registration in the manner required by the Act within the period of 30 days beginning with the date of creation of the charge. The Act extends this period from 21 days which was the time for delivery under the previous Act.

In the case of a charge created outside Gibraltar which comprises solely property which is situated outside Gibraltar, the period of registration is 30 days after the date on which the instrument or copy could, in due course of post and if despatched with due diligence, have been received in Gibraltar. In other words, for a charge executed outside Gibraltar and comprising property situated outside of Gibraltar, the period of registration is extended.

The Act now contains a process to facilitate companies wishing to re-domicile into Gibraltar, with existing charges registered against their name in the territory of their incorporation, to be able to record such charges in Gibraltar, once the re-domiciliation takes effect. In these circumstances, the company has an obligation to register the charge under the Act as if the charge were created on the day following the date of re-domiciliation. As this is a new provision, any existing re-domiciled company to which this provision of the Act applies is required to take such action as may be prescribed in order to ensure compliance with the Act in this respect.

The Act also clarifies the position concerning the ‘Slavenburg’ register presently maintained by the Registrar. Under the previous Act, a charge on property in Gibraltar granted by a company incorporated outside Gibraltar which has an established place of business in Gibraltar was registrable if such company had a Gibraltar “place of business”. In order to avoid the need to analyse whether or not a company had established a Gibraltar place of business, it became standard practice to present for registration security created by all overseas companies over

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FINANCIAL ASSISTANCE

This can now be “whitewashed” (Section 101-104 of the Act).

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EXISTING CHARGES OF COMPANIES RE-DOMICILED INTO GIBRALTAR

There is now a procedure to allow companies that have re-domiciled into Gibraltar, to register charges which had been created whilst the company was registered in its original territory of incorporation (Section 168(9) of the Act).

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‘SLAVENBURG’ REGISTER

This has been abolished (Section 168(11) of the Act).

present or future property in Gibraltar. The Act now makes clear that the requirement to register a charge (including a charge on property situated in Gibraltar) created by a company formed outside Gibraltar shall not apply unless such company has registered particulars of a place of business or a branch with the Registrar in accordance with the Act.

The EU Directive on financial collateral arrangements has been transposed into Gibraltar law through the enactment of the Financial Collateral Arrangements Act 2004 which does not require the performance of any formal act in respect of the creation, validity, perfection, enforceability or admissibility in evidence of a financial collateral arrangement or the provision of financial collateral under a financial collateral arrangement. Whilst it does not expressly exempt financial collateral arrangements from the Registrar's registration requirements, it could well be argued that this action is not necessary. However, as the Registrar's registration requirements are not expressly exempt, the practice is to continue registration as a matter of routine.

8. PUBLIC RECORDS OF A GIBRALTAR COMPANY

Amongst other records, the following are held in the custody of the Registrar and available for inspection at the office of the Registrar in respect of every company (i) its memorandum of association and articles of association (if bespoke articles of association are adopted) and any amendments thereto; (ii) its authorised and issued capital; (iii) its registered shareholders (this does not apply to a collective investment scheme, other than a Private Scheme, which has followed the notification process); (iv) its directors and the secretary; (v) the address of its registered office; (vi) any charges over any of its assets; (vii) accounting records; and (viii) whether the company is a collective investment scheme (if such disclosure has been made).

Most of the above records will need to be updated on an event driven basis.

The above details of shareholders appear on the public file but nominee shareholders can be used, and will therefore appear on the record as the registered shareholders. It should be noted that no notice of any trust, express, implied or constructive, shall be entered on the register, or be receivable by the Registrar. The object of this is (i) to relieve the company from taking notice of equitable interests in shares, and (ii) to preclude persons claiming under equitable titles from converting the company into a trustee for them.

9. CHANGES TO A COMPANY'S MEMORANDUM OF ASSOCIATION AND ARTICLES OF ASSOCIATION

9.1 Name of Company and Memorandum of Association

As set out above, the memorandum of association of a company cannot be amended or updated during the life of the company (now that the memorandum of association no longer contains an objects clause) otherwise than through alterations made through specific statutory provisions. A change of name is an example of this (as well as the events relating to share capital set out directly below). Under the Act, a company may change its name by special resolution or notably, by other means provided by the company's articles of association. This now opens the possibility for changes in a company's name to be approved by the directors themselves.

9.2 Alteration of Capital

A company may, if authorised by its articles of association, through a resolution of its shareholders at a general meeting (i) increase its share capital by new shares of such amount as it thinks expedient; (ii) consolidate and divide all or any of its share capital into shares of larger amounts than its existing shares; (iii) re-classify all or any of its share capital as it thinks expedient; (iv) convert all or any of its paid-up shares into stock, and reconvert that stock into paid-up shares of

any denomination; (v) subdivide its shares, or any of them, into shares of smaller amounts than is fixed by its constitution; and (vi) cancel shares which, at the date of the passing of the resolution to do so, have not been taken or agreed to be taken by any person, and diminish the amount of its share capital by the amount of the shares so cancelled.

Whilst in the past companies have redenominated their share capital from one currency to another as a matter of practice, the Act now specifically permits this (unless the company's articles of association otherwise restrict) and a process has been set out. A special resolution is required. Notably, the Act also introduces a procedure allowing the company to cancel part of its share capital by special resolution following a redenomination for the purposes of rounding share values to a more suitable value, without this constituting a reduction of share capital, requiring the sanction of the Court.

9.3 Reduction of Capital

Companies can reduce their share capital, through a Court approved reduction of capital.

This must be authorised by the company's articles of association and the model articles permit this.

Applications to Court for a reduction of capital must comply with the provisions of the Act. In general, it involves following two steps (i) approval of shareholders by special resolution; and (ii) confirmation of the reduction by the Court.

If a reduction of share capital involves a reduction in the share premium account of a company, no amendments should be necessary to the memorandum of association and the articles of association.

The rules of the Court would also apply to this process and the company would be required to file certain documentation with the Court.

The Court will not confirm a proposed reduction of capital unless it is satisfied that the interests of the company's creditors are not adversely affected by the proposal and, to this end, the company is required to settle a list of creditors. However, the Court has discretion to disapply the requirement to settle a list of creditors if, having regard to any special circumstances of the case, it thinks it is proper to do so. In practice, most reductions of capital avoid this time-consuming procedural requirement by adopting one or more of the accepted methods of protecting creditors (although creditor consent is the most common method). The Court will usually dispense with the settlement of a list of creditors if the company can show that all of its creditors have consented to the proposed reduction.

Once the Court has confirmed the reduction of capital and produced the Court order and a minute approved by the Registrar of the Court, the company must then file with the Registrar a copy of the Court order and minute.

The reduction of share capital, as confirmed by the Court order, becomes effective on registration of the Court order with the Registrar.

In addition to the above, there are other ways in which a return of capital can be made to shareholders. For instance, a company may under certain conditions, purchase back its own shares or redeem shares.

9.4 Articles of Association

Subject to any conditions contained in a company's articles of association, a company may amend its articles of association by special resolution.

10. DISSOLUTION

10.1 Voluntary Liquidation

A voluntary liquidation is instigated by the company's shareholders and requires the directors of the company to swear a statutory declaration of solvency.

A statutory declaration of solvency is a statement made by the majority of the directors to the effect that having made a full inquiry into the affairs of the company, and that, having done so, they have formed the opinion that the company will be able to pay its debts in full, together with interest at the judgement rate, within such period, not exceeding 12 months from the commencement of the voluntary liquidation as may be specified in the declaration. The declaration of solvency is to be made within the 5 weeks immediately preceding the date of the passing of the resolution for the appointment of a voluntary liquidator, or on that date but before the passing of the resolution.

The responsibility of assessing the company's position and its solvency is placed firmly on the directors (or a majority of them), they must make a declaration of solvency for the liquidation to come under the control of the shareholders and if not, the liquidation becomes an insolvent liquidation and the provisions of the Insolvency Act would apply.

A voluntary liquidation is commenced by the company passing a special resolution to appoint a voluntary liquidator. It should be noted that not everyone can now act as a voluntary liquidator. Under the Act, a person cannot be eligible to act as the voluntary liquidator of a company unless he holds a licence to act as an insolvency practitioner.

On the appointment of a voluntary liquidator, the company shall cease to carry on its business except so far as may be required for its beneficial liquidation. The voluntary liquidator takes custody and control of the assets of the company and whilst the directors and other officers of the company shall remain in office, their powers, functions or duties other than those required or permitted under the Act or authorised by the voluntary liquidator or the company in general meeting, shall cease.

The voluntary liquidator collects in the assets and distributes them in the required order. If the collection and distribution of assets takes more than one year, the liquidator must produce a progress report.

A final meeting of the shareholders is held prior to dissolution. At this meeting, the liquidator shows the shareholders how the company's affairs are fully wound up and how this has been conducted by laying an account before them with a full explanation. This meeting is called by advertisement in the Gazette at least one month before the meeting. The Gazette is the official publication of record in Gibraltar and is published weekly. Within one week of this meeting, the liquidator sends a copy of this account to the Registrar and makes a return to him of the holding of the final meeting and its date.

The company is dissolved three months later.

10.2 Strike-Off

A company may apply to the Registrar to be struck off the register and dissolved. The company can do this if it is no longer needed and provided it has no assets or liabilities.

This procedure is not an alternative to formal insolvency proceedings where these are appropriate. Even if the company is struck off and dissolved, creditors and others could apply for the company to be restored to the register.

The Registrar may strike off the register the name of any company, in respect of which no annual return has been filed in the previous 3 calendar years, irrespective of whether the company has assets or not. The Registrar will place an advert in the Gazette of the intention to strike off the name, but will not strike off before a period of 3 calendar months from date of publication.

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DECLARATION OF SOLVENCY

Previously there was no statutory guidance on the time period for swearing the statutory declaration and the Registrar accepted Declarations of Solvency made within the 10 weeks immediately preceding the date of the passing of the resolution. The Act reduces this timeframe to 5 weeks (Section 362(2)(a)).

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VOLUNTARY LIQUIDATOR

Must be a licenced insolvency practitioner (Section 360 of the Act).

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VOLUNTARY STRIKE-OFF

This is a new feature (Section 413 of the Act).

Before the expiry of 10 years from the publication notice a company or any member or creditor of a company may make an application to the Registrar to restore the company to the register. An application must be accompanied by (i) an affidavit of the applicant's interest in the matter, and a statement of facts; (ii) where relevant evidence of the consent of the competent authority; (iii) the relief sought; and (iv) the prescribed fee. The Supreme Court assumes jurisdiction over restorations after the expiry of 10 years or in cases where the Registrar has refused to consider the application and has required that the person by whom the application was made apply to the Court for an order to restore the company.

11. RE-DOMICILIATION IN AND OUT OF GIBRALTAR

11.1 Re-domiciliation into Gibraltar

Only companies domiciled in a country recognised by Gibraltar for the purposes of re-domiciliation ("relevant State") may make an application. The legislation allows for re-domiciliation from within the EEA and countries, which are members of the British Commonwealth as well as from most other finance centres.

An application to establish domicile in Gibraltar may be made by any company domiciled outside Gibraltar and domiciled in a relevant State, if permitted to do so by its constitution and by the applicable law in the jurisdiction of its incorporation.

An application must be completed and delivered to the Registrar with the prescribed fee and accompanying documents.

The Registrar will examine the prescribed form and accompanying documentation and, if it is acceptable, put it on the company's public record. It will also issue a certificate confirming the re-domiciliation of the company.

The Registrar will publish a notice in the Gazette stating the name and registered address of the company and the jurisdiction from which it has re-domiciled.

The company then has six months to satisfy the Registrar that the company has ceased to be a company domiciled in the jurisdiction under which it was incorporated.

The continuance of a company in Gibraltar does not create a new legal entity or prejudice its continuity, nor does it affect the assets or property originally held. Furthermore, the company will not be released from any contractual obligations, claims and/or actions.

11.2 Re-domiciliation out of Gibraltar

A company incorporated or domiciled in Gibraltar may, if permitted to do so by its articles of association and by the applicable law in the jurisdiction into which it proposes to establish domicile, apply to establish domicile outside Gibraltar in a relevant State.

The same relevant States applicable to the re-domiciliation into Gibraltar process apply equally in respect of a re-domiciliation out of Gibraltar.

An application must be completed and delivered to the Registrar with the prescribed fee and accompanying documents.

The Registrar will examine the prescribed form and accompanying documentation and, if it is acceptable, put it on the company's public record. It will also publish a notice in the Gazette stating that it has received the application. Not earlier than 30 days after the publication and assuming that no objections are received, the Registrar will issue its consent to the re-domiciliation.

At this point, ownership of the process, as well as time, is within the control of the relevant State where the company is re-domiciling to.

The company then has to satisfy the Registrar that the company has successfully continued under the laws of the territory it has re-domiciled to, so that it ceases its registration in Gibraltar.

12. OVERSEAS COMPANIES

A company incorporated outside Gibraltar may establish a place of business in Gibraltar. Such a company is defined by the Act as “an overseas company”.

Overseas companies must within one month of establishing a place of business in Gibraltar, deliver to the Registrar for registration (i) a certified copy of the any instrument which constitutes or defines to constitute the company i.e. memorandum and articles of association, and if not written in English a certified translation; (ii) a list of the directors of the company, as required by the Act with respect to directors in the register of the directors of a company; and (iii) the names and addresses of some one or more persons resident in Gibraltar authorised to accept on behalf of the company service of process and any notices required to be served on the company.

The Act has introduced certain execution formalities in respect of deeds and documents under Gibraltar law by overseas companies.

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EXECUTION OF DOCUMENTS BY OVERSEAS COMPANIES

Provides clarity which did not previously exist (Part XII of the Act).

13. PROTECTION OF SHAREHOLDERS AGAINST UNFAIR PREJUDICE AND DERIVATIVE ACTION

13.1 Unfair Prejudice

The Act has introduced protection to minority shareholders. A shareholder of a company may apply to the court by petition for an order that (i) the company's affairs are being or have been conducted in a manner that is unfairly prejudicial to the interests of some or all of its shareholders or (ii) that an actual or proposed act or omission of the company is or would be so prejudicial. The court, if it feels that the petition is well-founded, may make an order granting relief in respect of the matters complained of. Such relief could include but would not be limited to (i) regulating the conduct of the company's future affairs; (ii) require the company to refrain from continuing an act or to omit from doing an act complained of; (iii) authorise civil proceedings to be brought in the name and on behalf of the company; (iv) stop the company from altering its articles except with the leave of the court; and (v) provide for the purchase of the shares of any shareholders of the company by other shareholders or by the company itself. The provisions apply equally to a person who is not a shareholder of a company but to whom shares in the company have been transferred or transmitted by operation of law.

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UNFAIR PREJUDICE

This creates a statutory remedy in Gibraltar law, for a shareholder who considers that a company's affairs are being conducted in an unfairly prejudicial manner (Sections 145-150 of the Act).

13.2 Derivative Action

The Act provides an exclusive regime for a shareholder of a company to bring a claim in respect of a cause of action vested in the company, and seeking relief on behalf of the company. This is an exception to the rule in *Foss v Harbottle* (1843) 2 Hare 461. This rule states that the proper claimant in wrongs committed against a company, whether by directors or by third parties, is the company itself. A derivative claim may be brought only in respect of a cause of action arising from an actual or proposed act or omission involving negligence, default, breach of duty or breach of trust by a director to the company.

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DERIVATIVE ACTION

This creates a statutory remedy in Gibraltar law, for a shareholder to take action on behalf of a company, under certain circumstances (Sections 232-236 of the Act).

14. COLLECTIVE INVESTMENT SCHEMES

The Act consolidates provisions of the previous Act relating to collective investment schemes yet introduces a number of new provisions which have been covered above. In summary, a collective investment scheme now has the option of notifying the Registrar that it has established itself as such. This is a voluntary notification although such a notification would be necessary in order for the collective investment scheme to take advantage of some of the exemptions now afforded to collective investment schemes under the Act. On the assumption that a notification is made, different notifications apply depending on the type of collective investment scheme involved.

In the case of a Private Scheme, it would be required to file an annual return in the prescribed form as well as a Statement of Allotments, Redemptions and Purchase of own shares, together with every annual return. The filing deadline is 6 months after the date to which it is made up. A Private Scheme, that has made the notification, would not be required to inform the Registrar every time it makes an allotment of shares or makes a redemption of shares.

In the case of a collective investment scheme that is not a Private Scheme (for instance, an Experienced Investor Fund), there is no requirement to inform the Registrar every time it makes an allotment of shares or makes a redemption of shares and delivery of a Statement of Allotments, Redemptions and Purchase of own shares is not a requirement. In respect of the annual return, the annual return can omit details of shareholders and shareholding and is only required to include the amount of authorised and issued share capital respectively. All other particulars required under the annual return would still need to be completed. The annual return must be delivered within 30 days after the date the annual return it is made up to.

15. LIABILITY OF OFFICERS

The previous Act provided that any provision in the articles of the company, in any contract with the company, or otherwise, exempting any director, manager or officer or auditor of the company, or indemnifying him against any liability which would otherwise attach to him in respect of any negligence, default, breach of duty or breach of trust of which he may be guilty in relation to the company, is void. The Act now clarifies that only indemnities provided by the company itself are void and further allows a company to purchase insurance for the director of the company.

16. FILING DATES

As was the case under the previous Act, certain information requires delivery to the Registrar when particular changes occur within a company. Under the previous Act, various filing days applied, depending on the event which triggered a filing requirement. Whilst some of these remain unchanged, the Act imposes in the majority of cases where filing of documentation is required, a 30 day filing period.

17. ELECTRONIC COMMUNICATION

Under the Act, a company is now able to use electronic and website communications with its shareholders. The Act sets out how communications which are authorised or required under the Act are to be sent by, or to, a company. This now notably allows for shareholder written resolutions to be circulated electronically and for the approval to also be received electronically.

The Act also introduces the ability to file documents electronically with the Registrar. In all cases, those delivering documents must meet the Registrar's requirements on the format of the documents, and the way in which they are delivered and signed; these are in addition to any other requirements determined by the Act.

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COLLECTIVE INVESTMENT SCHEMES

This is the first time that a distinction has been made under the laws affecting a Gibraltar company, between collective investment schemes and other companies.

Section 14

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OFFICER INSURANCE

A company is no longer prevented from purchasing and maintaining insurance against liability and third party indemnities are allowed (Section 231 of the Act).

Section 15

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FILING DATES

Filing dates standardised in most cases and 30 day filing requirement broadly applies.

Section 16

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ELECTRONIC COMMUNICATION

Ability for a company and shareholders to use electronic communications and introduction of electronic filing at Registry.

Section 17

18. TAXATION

18.1 Taxation

A company will be considered resident in Gibraltar if the management and control of its business is exercised from Gibraltar. Whilst management and control has not been judicially defined but based on established legal principles laid down in the United Kingdom (which although not binding, would be highly persuasive in Gibraltar), management and control is the place of the highest form of control and direction over a company's affairs. Irrespective of this, companies are subject to taxation on profits for the financial year, from income accrued in or derived from Gibraltar. The standard rate of Gibraltar corporation tax is 10%.

There is no charge to tax on the receipt by a Gibraltar company of dividends from any other company, regardless of where incorporated.

Interest paid or payable by a company to another company arising from a loan or advance between these companies is subject to tax. However, no interest is chargeable where (i) the interest received or receivable from any one company is less than £100,000 per annum; or (ii) the interest constitutes a trading receipt (as defined in the Income Tax Act 2010) and is taxed accordingly. Interest will be deemed to accrue and derive in Gibraltar where the company in receipt of the interest is a company registered in Gibraltar and for the purposes of determining the £100,000 threshold, interest received from different companies will be considered to be from the same company where such companies are connected persons.

There is no withholding tax on dividends paid by a company. Where a company declares a dividend in favour of a Gibraltar ordinarily resident individual or any other company incorporated in Gibraltar, it must submit a return of dividends.

No death duties, capital gains, gift, inheritance or capital transfer taxes are presently levied in Gibraltar.

18.2 Stamp Duty

Stamp duty of £10 is payable on the initial authorisation of capital or any subsequent increase thereto. There is no stamp duty payable on a transfer of shares relating to a company, unless the shares relate to a company which owns Gibraltar real estate.

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