

Contents

Introduction	1
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 limited by shares?	10
4. Are there any more differences between public companies and private companies limited by shares?	11
5. Can a company start trading (or operating) as soon as it has been registered?	11
6. What exactly is meant when it is said that a company has a separate legal personality?	11
7. Exactly what does limited liability mean?	12
8. Would you please give me some figures to show the expansion in the number of registered companies?	12
9. What are the alternatives to a company?	13
Registration of companies	13
10. How is a company registered?	13

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

Execution of documents and the company seal	20
27. What documents must be executed?	20
28. How are documents executed?	20
29. What is a suitable form of words when a company seal is not used?	21
30. Is it compulsory for a company to have a company seal?	21
31. Who may sign when the company seal is used?	21
32. What records should be kept of the use of the company seal?	22
 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?	23
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?	24

two

Company registration and company constitution 37-95 **25**

Company registration	27
37. How is a company registered?	27
38. What are the contents of Form IN01 to register a company?	28
39. What is included in the Company details Part of the form 'Application to register a company'?	28
40. What is included in the Proposed officers Part of the form 'Application to register a company'?	28
41. What is included in the Statement of capital Part of the form 'Application to register a company'?	29
42. What is included in the Statement of guarantee Part of the form 'Application to register a company'?	30
43. What is the Statement of compliance in the form 'Application to register a company'?	30

Company constitution	31
44. What is the definition of a company's constitution?	31
Memorandum of association	32
45. What is in the memorandum of a company incorporated on or after 1st October 2009?	32
46. What was in the memorandum of a company with a share capital registered before 1st October 2009?	33
47. What was in the memorandum of a company limited by guarantee registered before 1st October 2009?	33
48. What has happened to the memorandum of a company registered before 1st October 2009?	34
49. Would you please explain what is meant by "entrenchment" as mentioned in the answer to the last question.	34
Company name	35
50. What are the requirements that the company name should correctly designate the type of company?	35
51. Are there any exceptions to the requirement for a private company to include 'Limited' or 'Ltd' in its name?	35
52. What stops a company having a name that is the same as, or similar to, the name of another company?	36
53. Are there any other limitations on the choice of name?	36
54. Can I apply to have a registered company ordered to change its name?	37
55. How can I easily check all the requirements concerning company names?	37
56. How can a company change its name?	37
Place of registration and the registered office	38
57. What are the options for the place of registration?	38
58. Must the registered office always be in the territory of incorporation?	38
59. What are the consequences of the location of the registered office?	38

60. Are there any more consequences of the location of the registered office?	39
61. Can a PO Box Number be used as the registered office?	40
62. Must the registered office be an actual office of the company?	40
63. How is the address of the registered office changed?	40
64. What are the consequences if the company is registered in Wales?	40
Objects clause and authorised share capital	41
65. What is (or was) the objects clause of a company registered before 1st October 2009?	41
66. What is the position concerning an objects clause for a company registered on or after 1st October 2009?	42
67. Must companies that are registered charities have an objects clause in their constitution?	42
68. Are directors (other than in a charitable company) totally free to pursue any object that they wish?	42
69. What is (or was) authorised share capital?	42
Basic questions about articles	43
70. What are the articles of association?	43
71. Are the articles of association important? Why are there not more questions about them in this section of the book?	43
72. How much freedom do the members have concerning the articles?	43
73. Are there any requirements concerning format and presentation?	43
74. I have heard of model articles. What does this mean?	43
75. My company was registered before 1st July 1985. What difference does it make and does it matter?	44
76. 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?	45
77. What are the basic choices concerning articles?	45
78. What does the term 'default provision' mean in relation to articles?	46
79. Is the answer to the last question true for a company limited by guarantee?	46

80. Can the articles override the provisions of the Companies Act or other Acts?	46
Some key points from the model articles	47
81. Do the model articles allow the directors as a whole to terminate the appointment of a director?	47
82. Do the model articles allow a company to have a sole director?	47
83. Do the model articles allow for partly paid shares?	47
84. Do the model articles allow for alternate directors?	48
85. Do the model articles give directors discretion to make further rules?	48
Changes to the articles	48
86. Can the articles be changed and if so how is it done?	48
87. Is it possible to entrench the articles?	48
Disclosure of statutory information	49
88. Why is it necessary to disclose certain statutory information?	49
89. What is the requirement to display the company name outside its business premises?	50
90. What information must be given on company business letters and order forms?	50
91. With reference to the last question – what exactly is meant by ‘order form’?	51
92. Are there other requirements concerning the disclosure of information on business letters?	51
93. Must the company’s registered name be given in other documents?	51
94. Must the statutory information be given when the relevant information is communicated electronically?	52
95. I have noticed that quite a few companies seem to not fully comply. Am I right and does it matter?	52

Directors and company secretary 96-184 **53**

Directors **55**

- 96. What is meant by the terms executive director and non-executive director, and what are the differences? 55
- 97. That's all very well but can you please give more details about the role of non-executive directors? 56
- 98. What is meant by the term 'unified board' and do we have them in Britain? 56
- 99. How are the chairman and managing director chosen and does a company have to have them? 57
- 100. Does a managing director have any extra powers recognised by law? 58
- 101. How can I find out if a particular person is banned from being a company director? 58
- 102. In practice how does a company operate as a director of another company? 58
- 103. Is there a prescribed minimum number of directors and is a sole director permitted? 59
- 104. Is there a maximum number of directors permitted? 59
- 105. The number of directors has dropped below the number needed for a quorum. What can be done? 59
- 106. Are all directors officers of the company? 60

Restrictions on who can be a director **60**

- 107. What groups of people are prevented by law from being a director? 60
- 108. What groups of people may be prevented by the articles from being a director? 61
- 109. Are there any age restrictions? 61
- 110. Can a bankrupt be a company director? 61

De facto and shadow directors **62**

- 111. What is a de facto director? 62

112. I use the word 'director' as a courtesy title. What are the possible consequences?	62
113. What is a shadow director?	63
114. Can you give me some examples of when a person is or is not a shadow director?	63
115. What are the consequences of a company having a shadow director?	63
Alternate directors	64
116. What is an alternate director and what are his powers and responsibilities?	64
117. Who can be an alternate director and what are the formalities of appointment and removal?	65
Nominee directors	65
118. What is a nominee director?	65
119. Are there any special dangers for nominee directors?	66
120. Can you give a practical example of how a nominee director might get it wrong?	67
Appointment	68
121. How are directors appointed?	68
122. How are the first directors appointed?	68
123. What part does the law play in the appointment of directors?	68
124. What part do the articles play in the appointment of directors?	69
125. What do the new model articles say about how directors are appointed?	69
126. How are directors appointed if the company has no living members or directors?	69
127. What do the model articles say about the appointment of directors by the members?	69
128. What does Table A say about notice to the members of a resolution to propose a director?	70
129. Can the directors appoint a director?	70

130. What steps should be taken on the appointment of a new director?	70
131. We forgot to notify Companies House of my appointment as director. What should we do and am I a director?	71
Resignation, retirement and removal	71
132. What are the rules about a director's resignation?	71
133. 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?	72
134. I have heard that a director must step down on reaching the age of 70. Is this correct?	72
135. 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
136. What are the rules about retirement by rotation?	72
137. Does that mean that in most private companies directors do not retire?	73
138. Does Table A specify events which lead to loss of office by a director?	73
139. What do the new model articles say about events which lead to loss of office by a director?	74
140. May company articles make other provisions for the removal of directors?	75
141. Can a director be removed from office by a vote of the directors?	75
142. What are the powers of the courts to ban a person from being a director?	75
143. Does the answer to the last question mean that some people convicted of very serious crimes cannot be banned from being a director?	76
144. What is the procedure for the removal of a director by the members at a general meeting?	77
145. Is it always one share one vote on an ordinary resolution of the members to remove a director?	77
146. Can a director be removed by means of a written resolution of the members?	78

147. Can the members be prevented from removing a director? 78
148. I control 51 per cent of the votes at a general meeting of the company. I think that people who ride motorcycles should not be company directors and a director will not heed my request to stop riding motorcycles. Can I requisition an extraordinary meeting and vote him off the board? 78

Payment, expenses and service contract 78

149. Must a director be paid? 78
150. Who determines the directors' fees (if any) and terms of their contracts (if any)? 79
151. Does HMRC treat the remuneration of executive directors and non-executive directors in the same way? 79
152. What part of a director's fee is payable to a director who resigns part-way through a year? 79
153. I am a director and the sole shareholder. Can I take as much money out of the company as I like? 80
154. 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
155. My company faces financial difficulties. How much should this be a factor in setting directors' pay? 81
156. I am a director. What are my rights concerning the reimbursement of expenses that I have incurred? 81
157. Must a director have a service contract? 82
158. I am an executive director and I do not have a service contract. Should I have one? 82
159. I am a non-executive director and I do not have a service contract. Should I have one? 82
160. Are there any limits on the directors' powers to agree the terms of directors' service contracts? 83
161. What things should be covered by a director's service contract? 83
162. I have heard that long periods of notice are frowned upon. Is this correct? 84
163. Is there a maximum period for which a director's service contract can run? 84

164. Who can inspect directors' service contracts?	84
165. Can I get a copy of a director's service contract?	85
166. Where must a director's service contract be kept?	85
Company secretary	85
167. Is it compulsory for every company to have a company secretary?	85
168. Who decides whether or not there will be a company secretary of a private company?	85
169. Is the last answer really true in all private companies?	86
170. Who chooses the company secretary?	86
171. Who can be the secretary of a public company?	86
172. 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
173. Who can be the secretary of a private company?	87
174. How has the office of company secretary developed over the years?	88
175. What is the relationship between the company secretary and the directors?	88
176. Are joint secretaries permitted?	89
177. Can the directors appoint a deputy or assistant secretary?	89
178. Does a company secretary who is also a director have an enhanced role?	90
179. May the company secretary vote at a board meeting?	90
180. Can the company secretary insist on attending a board meeting?	90
181. What should the company secretary be paid?	90
182. What steps should be taken on the appointment of a new company secretary?	91
183. We forgot to notify Companies House of my appointment as company secretary. What should we do and am I the company secretary?	92
184. I have just taken over as company secretary and things were not in good order. What can I do to put things right?	92

Rights and duties of directors 185-233 **93**

Rights **95**

- 185. Can directors delegate some or all of their duties? 95
- 186. Are there any limits to the number of directorships that I can hold? 95
- 187. As a director am I entitled to access to all the company's
statutory records, minute books and accounting records? 96
- 188. What right does a director have to call a meeting of the members? 96
- 189. As a director I want to take independent advice on my
responsibilities. Can I insist that it be paid for by the company? 96
- 190. Do directors have the right to be indemnified out of
company assets? 97
- 191. What does the Act say on the subject of indemnification? 98
- 192. May directors have the benefit of directors' liability insurance? 98

Directors' general duties **99**

- 193. How did directors' general duties develop? 99
- 194. Have directors' general duties now been codified? 100
- 195. Can members ratify a breach of duty? 100
- 196. To whom are the directors' general duties owed? 100
- 197. How are the duties enforced? 100
- 198. Would you please explain what is meant by a derivative claim 101
- 199. Derivative claims sound like a licence for anarchy. Am I right? 101
- 200. Are there criminal sanctions for breach of the general duties? 102
- 201. What are the remedies if an action is successful? 102
- 202. Can a director be exempted from the consequences of
a claim for breach of duty? 102
- 203. Do the general duties apply to shadow directors? 102
- 204. What are the general duties? 102
- 205. What are the powers that directors must act within? 103
- 206. What is the main thrust of the duty to promote the success
of the company? 103

207. There is more to it than that isn't there?	103
208. How can that possibly be enforced?	104
209. How does Section 172 affect the directors of a company that is a charity?	105
210. And how does Section 172 affect the directors of a company that is experiencing financial difficulties?	105
211. What is meant by the duty to exercise independent judgment?	105
212. What is meant by the duty to exercise reasonable care, skill and diligence?	106
213. With reference to the last answer, is the same standard required of all directors in all companies?	106
214. Will you give an example of an old case concerning a director's duty of care?	107
215. The Dorchester Finance Case is often quoted in connection with the duty of care. What happened?	107
216. 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?	108
217. What is the duty to avoid conflicts of interest?	108
218. Does it make a difference if the conflict of interest is trivial?	108
219. Can a director's conflict of interest be authorised by the directors?	109
220. What is the duty not to accept benefits from third parties?	109
221. Does it make a difference if the benefit is trivial?	109
222. Can the directors authorise a director to accept a benefit from a third party?	110
223. What is the duty to declare interest in proposed transaction or arrangement?	110
224. Is an action for 'Unfair Prejudice' connected with directors' general duties?	110

Substantial property transactions **111**

225. I have heard that the Act restricts substantial property transactions with directors. What does this mean?	111
---	-----

226. Who and what are 'connected persons' in connection with substantial property transactions?	112
227. My company has breached the rules concerning substantial property transactions. What are the possible consequences and remedies?	112
228. Substantial property transactions sound rather complicated. Can you give some practical examples?	113
229. Is it allowed for directors to borrow company assets?	113

Loans 114

230. Can a company loan money to a director?	114
231. Are there ways round the restrictions on a company making a loan to a director?	114
232. What disclosure must a company make of loans to directors and connected persons?	115
233. Are there any restrictions on a director lending money to his company?	115

five

Statutory registers and Companies House 234-288 117

Statutory registers 119

234. How many statutory registers are there and what are they called?	119
235. In what form may the statutory registers be kept and, in particular, may they be computerised?	120
236. Must the company be supplied with information for the registers or is there an obligation to seek it out?	120
237. Are there any requirements concerning where the statutory registers must be kept?	121
238. Do nearly all companies strictly follow the rules about the location of the statutory registers?	121
239. What are the rules about inspection of the registers?	121
240. Are there measures in place to prevent improper use of the register of members?	122

241. I think that the rules about access to the registers and provision of copies and extracts amount to a charter for nosey-parkers.
Why cannot people get the information from Companies House? 122

Register of members 123

242. What details must be kept in the register of members? 123
243. Are there any other requirements concerning the content of the register of members? 124
244. What should I know about joint names appearing in the register of members and what about nominee names? 124

Register of directors 124

245. What information must be recorded in the register of directors if the director is an individual? 124
246. How much freedom do I have in nominating my service address? 125
247. I do not want to disclose my date of birth. Must I really do so? 125
248. What information must be recorded in the register of directors if the director is a corporate director or a firm? 125

Register of directors' residential addresses 126

249. What information must be recorded in the register of directors' residential addresses? 126

Register of secretaries 126

250. What information must be recorded in the register of secretaries if the secretary is an individual? 126
251. What information must be recorded in the register of secretaries if the secretary is a corporate director or firm? 127

Register of charges 128

252. What should I know about the register of charges? 128

Register of interests disclosed 128

253. What should I know about the register of interests disclosed? 128

Companies house	129
254. What is the purpose of Companies House?	129
255. What types of organisation must register information at Companies House?	130
256. What does Companies House say that it does?	130
257. What is the precise meaning of 'deliver to Companies House'?	131
258. Is Companies House efficient and does it give value for money?	131
259. I am a director who failed to file on time at Companies House. Will I be prosecuted?	131
260. I am not too worried about filing late at Companies House. Should I be?	131
261. What are the compliance rates for filing on time at Companies House?	132
262. Our accountant looks after most things. Is it his responsibility to get everything necessary to Companies House?	132
263. To what extent does Companies House verify information supplied to it?	132
264. What is the relationship between the Registrar of Companies and Companies House?	133
265. Which are the most commonly used forms?	133
266. What is the logic of the numbering system of the Companies House forms?	133
267. How can I contact Companies House?	135
Filing	135
268. What are the different ways of filing at Companies House?	135
269. Please give a summary of everything that a company must file at Companies House.	136
270. What are the time limits for filing at Companies House?	137
271. Please give details of how electronic filing works.	137
272. How is consent to act evidenced when a document is filed electronically?	138
273. The answer to the last question seems bizarre. Are you serious?	139
274. Will electronic filing become compulsory?	139

275. I hate filling in forms so I plan to send all notifications to Companies House by letter. Is this acceptable?	139
276. Companies House forms include a box for contact details. Is it essential that this information be given?	139
277. How can I get hold of blank Companies House forms?	140
278. Exactly how are resolutions registered at Companies House?	140
279. What is the requirement to give details of members with the annual return?	141
280. What are the rules about the quality of paper documents to be registered at Companies House?	141
281. Must the existence of a shadow director be reported to Companies House?	142
282. Are machine-generated or facsimile signatures on documents accepted by Companies House?	142
283. How can I be certain that Companies House has received something that I have sent to it by post?	142
284. What is the Companies House Anti-Hijacking Service (PROOF)?	142

Access to information 143

285. How can I use Companies House to obtain information?	143
286. What are the advantages of the monitor service?	144
287. Is on-line access expensive?	144
288. I am interested in a company registered in the Channel Islands. Can I get a copy of its accounts from Companies House?	144

six

Shares, debentures and dividends 289-321 145

Shares 147

289. My company is limited by guarantee. Can I safely ignore the questions about share capital and dividends?	147
290. What is the significance of different classes of share?	147
291. How do preference shares differ from ordinary shares?	148

292. What is the difference between cumulative preference shares and non-cumulative preference shares?	149
293. What is meant by the term 'partly paid shares'?	149
294. Can I buy shares using a nominee name?	150
295. What is meant by the term 'pre-emption rights'?	150
296. Are there some circumstances in which pre-emption rights do not apply?	151
297. May shares be issued at a premium and may they be issued at a discount?	151
298. What must happen in the event of a serious loss of capital by a public company?	152
299. In what circumstances may shares be forfeited or surrendered?	152
300. Is interest payable if calls are paid late?	152
301. Can stock be converted into shares?	152
302. Can a minor own shares in his own name?	153

Debentures 154

303. What is the essential difference between shares and debentures?	154
304. What charges must be registered?	154
305. What is the position if a charge is not registered?	155

Dividends 155

306. Out of what funds may dividends be paid?	155
307. Do the same restrictions apply to the payment of interest on loan stock and debentures?	156
308. What is the procedure for declaring and paying an interim dividend?	156
309. What is the procedure for declaring and paying a final dividend?	156
310. Please give me examples of resolutions for the declaration of an interim dividend and a final dividend.	157
311. My private company no longer holds annual general meetings. How can dividends be paid?	157
312. Shareholder A sold shares to Shareholder B at about the time that the dividend was declared. Which one gets the dividend?	157

313. Is it necessary to pass a resolution to pay a dividend on preference shares?	158
314. What is a scrip dividend?	158
315. Is it compulsory to provide a tax voucher?	159
316. Is the issue of a duplicate tax voucher permitted?	159
317. The shareholders want bigger dividends than the directors are willing to recommend. What happens?	159
318. Can a shareholder waive a dividend?	160
319. How should we respond to a request to issue a duplicate dividend warrant?	160
320. A dividend warrant has not been presented for payment. What should we do?	161
321. Do the owners of partly paid shares rank for the payment of a full dividend?	161

seven

Listed companies and corporate governance 322-342 **163**

Listed companies **165**

322. What is UKLA and who is responsible for it?	165
323. Can UKLA impose financial penalties?	165
324. What is the status of AIM?	165
325. How many quoted companies are there?	166
326. What is the SETS system of trading?	166

Corporate governance **166**

327. How have corporate governance codes developed since 1992?	166
328. Does the Combined Code apply to all companies?	167
329. Are smaller listed companies exempted from some of the requirements of the Combined Code?	167
330. Does the Combined Code have the force of law behind it?	167
331. How is the Combined Code laid out?	167

332. What are the subject areas covered by the Combined Code?	168
333. How must a listed company disclose how it has complied with the Combined Code?	169
334. What exactly is meant by comply or explain?	169
335. 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?	169
336. I have looked at the Combined Code and some of its provisions seem bland and obvious. Do others think this?	169
337. What does the Combined Code say about combining the role of chairman and chief executive?	170
338. What does the Combined Code say about the balance on the board between executive and non-executive directors?	170
339. How does the Combined Code define an independent non-executive director?	170
340. Does the Combined Code allow directors to have lengthy periods of notice?	171
341. What does the Combined Code say about directors' remuneration?	172
342. 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"?	172

eight

Resolutions and notice 343-366 **175**

Resolutions **177**

343. What determines what type of resolution is required for a vote by the members?	177
344. How is a special resolution passed?	177
345. What types of business must be the subject of special resolutions?	178
346. Do we still have extraordinary resolutions?	178
347. What is an ordinary resolution and when is one needed?	178

348. When is special notice of an ordinary resolution required and what are the procedures?	179
349. Can a resolution of the members be passed as a written resolution?	179
350. What are the rules for a written resolution of the members in a private company?	180
351. I have heard that a decision may be taken as an informal corporate act rather than by passing a resolution. How does this happen?	180
352. Would you please summarise the required notice periods for the different resolutions and also the majority of votes cast in each?	181
353. Would you please explain what is meant by 'clear days'?	182
354. What resolutions must be registered with the Registrar of Companies?	182
Notice	183
General	183
355. Who has the authority to issue a notice convening a meeting of members?	183
356. To whom should notices be sent?	184
357. What is the consequence if a notice is not sent to someone entitled to receive a notice?	184
358. What is the position if there is an accidental failure in giving notice of a resolution or a meeting?	184
359. Is the notice that convenes a meeting relevant to establishing whether or not it is an annual general meeting?	185
Notice periods	185
360. What are the required periods of notice for the different types of meeting?	185
361. In what circumstances is short notice possible?	186
Content of notices	186
362. What must be included in a notice convening a meeting?	186
363. Are there any particular requirements concerning the date, place and time of a meeting?	187

364. What exactly is meant by the requirement that a notice should give a general description of the business to be transacted? 187
365. What information about the right to appoint a proxy (or proxies) must be included in the notice? 187
366. Is it essential that proxy forms accompany notices? 188

nine

Meetings 367-429 189

Members' meetings 191

367. Can the members insist that a general meeting be held? 191
368. Who has the right to attend a members' meeting? 191
369. Is it possible to amend special resolutions or ordinary resolutions requiring special notice? 192
370. Is it necessary to give notice of an adjourned meeting? 192
371. What business can be conducted at an adjourned meeting? 192
372. What rights does a proxy have at a members' meeting? 192
373. 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? 193

Quorum 193

374. What is the quorum for a members' meeting? 193
375. What happens if a quorum is not present or if a quorum ceases to be present? 193
376. What happens if it is not possible to obtain a quorum? 194

Annual general meeting 194

377. Must a company hold annual general meetings and, if so, what are the laws concerning timing? 194
378. We are getting close to the last permitted date for the annual general meeting and the accounts are not ready. What can we do? 195
379. Must certain business be conducted at an AGM and is there some business that cannot be conducted at an AGM? 195

380. What is the normal business of an annual general meeting?	195
381. Is it lawful to hold an annual general meeting at which no business is transacted?	196
382. Can the members require that a resolution be circulated in connection with a forthcoming annual general meeting?	196
Chairman and conduct of meetings	196
383. Who will be the chairman of a members' meeting?	196
384. Does the chairman have a casting vote?	197
385. Must the chairman's casting vote be exercised in a particular way?	197
386. From what does the chairman derive his powers?	197
387. What are the duties of the chairman?	198
388. Must the chairman allow everyone to speak, to say exactly what they want and to take as long as they wish?	198
389. What are the chairman's powers to adjourn the meeting?	198
Voting	199
390. In what circumstances is voting conducted by a show of hands?	199
391. Who can vote on a show of hands?	199
392. How is voting on a show of hands conducted?	200
393. How is a poll demanded?	200
394. Can articles require that all resolutions proceed directly to a poll without a show of hands first?	201
395. How long is allowed before a poll is taken?	201
396. How is voting on a poll conducted?	201
Board meetings	202
397. Are matters at a board meeting settled by a majority vote?	202
398. Who is the chairman of the board of directors?	203
399. Does the chairman have a casting vote at a board meeting?	203
400. What are the chairman's powers and duties at a board meeting?	203
401. Who or what determines the rules for the conduct of board meetings?	204

402. What number is a quorum for a board meeting?	205
403. What happens when the number of directors falls below the number needed for a quorum?	205
404. Can a board operate entirely by means of written resolutions?	206
405. What matters can a board delegate to a committee?	206
406. Can any director call a board meeting?	207
407. What period of notice is required for a board meeting and in what form must the notice be given?	207
408. May a person who is not a director be allowed to attend a board meeting?	207
409. Can a valid board meeting be held without all the directors being in the same place?	208
410. Can a board meeting be held without all the directors being informed?	208
411. How frequently should the board meet?	209
412. Can a formal board meeting ratify the business done at an informal meeting?	209
413. I am sure that there have been many interesting cases about board meetings. Would you tell me about one of them?	209
414. 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?	210
Good board meetings	211
415. Can you suggest a good system for the scheduling of a board meeting and preparation for it?	211
416. Have you any other suggestions that may help facilitate good board meetings?	211
417. We hardly ever have a formal vote at our board meetings. Have we got it wrong?	212
Minutes	213
418. Must minutes of meetings be taken?	213
419. For how long must minutes be kept?	213
420. Who has responsibility for the minutes?	213

421. What does Table A say about minutes?	214
422. What should be recorded in the minutes?	214
423. How can a mistake in the minutes be corrected after they have been signed?	215
424. Is it a requirement that minutes be kept in a bound book?	215
425. 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.	216
426. What are the legal requirements when there is a sole director or sole member?	216

Approval and afterwards **216**

427. What is the correct system for approving the minutes?	216
428. Are duly signed minutes conclusive evidence of what happened at a meeting?	217
429. Is it necessary to keep the minutes of directors' meetings separate from the minutes of members' meetings?	217

ten

Accounts and audit 430-460 **219**

Accounts **221**

430. Whose responsibility is it to prepare, lay (if required) and deliver the accounts?	221
431. What are the procedures for approving, signing, laying and delivering the accounts?	221
432. What are the requirements for a dormant company?	222
433. What is the composition of a set of accounts?	223
434. What are the special rules for the period of a company's first accounts?	223
435. Is it compulsory that accounts comply with accounting standards?	224
436. What are the definitions of small and medium-sized companies?	224
437. What are the benefits of being a small or medium-sized company?	225

438. What exemptions are available for abbreviated accounts?	225
439. What is the accounting reference date and what is its significance?	225
440. Can the accounting reference date be changed?	226
441. Is there a way round the restrictions on changing the accounting reference date?	226
442. What are the time limits for laying and delivering the accounts?	227
443. Is it possible for the time limits to be extended?	227
444. What are the penalties for late delivery of the accounts to Companies House?	227
445. For how long must accounting records be kept?	228

Audit **228**

446. What is the requirement to have accounts audited?	228
447. Is the requirement different for companies that are charitable companies?	229
448. Can the members insist on having an audit?	229
449. What are the main duties of an auditor?	229
450. Does the auditor have any other duties?	230
451. Who and what can audit companies?	231
452. How are auditors of public companies appointed and how is their remuneration fixed?	231
453. How are the auditors of private companies appointed and how is their remuneration fixed?	232
454. Can the directors remove an auditor?	233
455. What rights does an auditor have in connection with members' meetings?	233
456. What rights do auditors have to see documents and have their questions answered?	234
457. Who is required to co-operate with an auditor?	234
458. What are the obligations of the directors to draw relevant matters to the attention of auditors?	235
459. What are the obligations of a resigning auditor?	235
460. How may an auditor be removed before the expiry of his term of office?	236

Financial difficulties, winding-up and striking-off 461-501 **237**

Financial difficulties **239**

- 461. What should the directors do when they believe that their company may have financial difficulties? 239
- 462. What should directors not do when they believe that their company may have financial difficulties? 240
- 463. What action might directors take after receiving suitable professional advice? 240
- 464. What personal risks might directors run when a company faces financial difficulties? 241

Administration **242**

- 465. Why was the concept of administration introduced in 1986? 242
- 466. Yes – but just what is administration? 242
- 467. What is a Licensed Insolvency Practitioner? 243
- 468. What are the permitted purposes of administration? 243
- 469. Who can apply to have a company put into administration? 244
- 470. Is it true that a company can only go into administration if it is unable to pay its debts? 244
- 471. What does ‘unable to pay its debts’ mean? 244
- 472. What powers does an administrator have? 245
- 473. What are the consequences of a company going into administration? 245
- 474. I am a director of a company that is going to go into administration. What will my powers be? 246
- 475. I am a director of a company in administration. Can I be dismissed by the administrator? 246
- 476. One of our customers is in administration. What powers do we have? 246
- 477. Is an administrator personally liable for contracts that he makes on behalf of the company? 247
- 478. What is a pre-pack administration? 247

Receivership	247
479. What is receivership?	247
480. Would you please define an administrative receiver?	248
481. What is the essential difference between administration and receivership?	248
482. I have heard that there are more administrations and less receiverships. Why is this?	248
Winding-up	249
483. What are the three ways in which a company may be wound up?	249
484. What are the stages in a winding-up?	249
485. What is the difference between a members' voluntary winding-up and a creditors' voluntary winding-up?	249
486. What are acceptable reasons for a members' voluntary winding-up?	250
487. In what circumstances can a company be wound up by the court?	250
488. In what circumstances might the court decide that it is just and equitable for a company to be wound up?	251
Order of priority in the distribution of funds	251
489. My company is insolvent and is being wound up. Who will get what money there is?	251
490. If a company is insolvent, what part of its money is ring-fenced for ordinary creditors?	252
491. Which debts rank as preferential?	252
Striking-off	252
492. We want to end the registration of a dormant company. Is there an alternative to a members' voluntary winding-up?	252
493. What are the steps leading to the voluntary striking-off of a company?	253
494. What are the possible pitfalls of a voluntary striking-off?	253
495. My company has been the subject of a voluntary striking-off. Could it be restored to the register?	254

At the instigation of the registrar	254
496. Can a company be struck-off without the knowledge of the members or directors?	254
497. What steps does the Registrar take before deciding to strike-off a company?	254
498. I am a director of an active company that has just been struck-off by the Registrar. Am I right to be angry?	255
499. I am (or was) a director of a company that was struck-off even though it is still trading. What should I do?	255
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?	256
501. My company has been struck-off. Are officers of the company released from their liabilities?	256

