

# DCC Private Companies Regulations 2016

On 1 February 2017 Dubai Creative Cluster Authority (DCCA) issued the DCC Private Companies Regulations 2016 (New Regulations) which came into force on the date of issue. These Regulations repeal and substitute the Dubai Technology and Media Free Zone Private Companies Regulations issued on 9 April 2003 in its entirety (Previous Regulations).

The New Regulations require changes to the corporate governance policies and the constitutional documents of all companies and branches operating within DCCA free zones. All companies incorporated under the DCC free zone and any branch to which the New Regulations apply must, amongst other things, revise their constitutional documents by 31 January 2018.

## Revision of constitutional documents

Existing companies could adopt the new 'standard model' Articles of Association, or alternatively amend their existing Articles of Association in order to comply with the New Regulations.

The New Regulations require the Articles of Association to contain provisions relating to at least twenty-three areas as set out in the New Regulations. Many of these areas are new and did not require to be covered in the Articles of Association under the Previous Regulations. The new provisions have to meet the specific requirements of the New Regulations.

Existing companies and branches have a 12 months' transitional period within which to amend their constitution and bring their governance structure in compliance with the New Regulations.

## The Companies Register

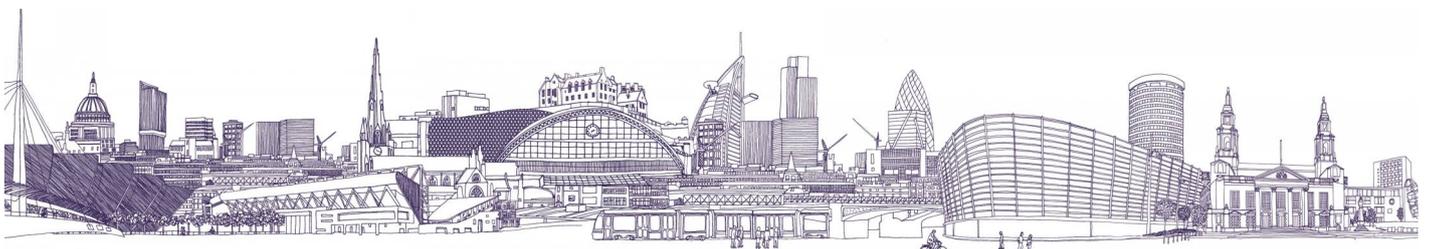
The Companies Registrar will now maintain a register of each DCC branch and company. The register shall contain, amongst other information, the names of current and former directors, company secretary, names of members and their respective shareholding. The register will be available for viewing by anyone during business hours at the DCCA's offices.

## Duties of directors

The New Regulations also impose extended duties on companies' directors *inter alia*:

1. Act honestly, in good faith and lawfully, with a view to the best interests of the company;
2. Exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances;
3. Act in accordance with these Regulations, the company's articles and the terms of any service contract entered into between the company and any officer (if any); and
4. Only exercise powers for the purposes for which they are conferred.

A director must also disclose any conflict of interests. If a director has any direct or indirect interest in any transaction being entered into by the company, that interest must be disclosed. The company appears to be free to proceed with the transaction after the interest is disclosed. If the interest is not disclosed, the transaction could be set aside through an order of the court. Alternatively, the transaction can be approved by an ordinary resolution of the members.



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## **Shares: purchase, pledge and classes**

Subject to the satisfaction of certain conditions, a member of a company may pledge some or all of his shares.

A company may apply to the registrar to divide its share capital into different classes of shares or to issue new shares of a different class to its existing share capital.

Furthermore, the New Regulations also authorise a company to purchase its own shares.

## **Conclusion**

The changes introduced by New Regulations adds transparency and flexibility to the operation of limited liability companies.

All existing companies should:

- i Re-evaluate their governance structure in light of the New Regulations;
- i Educate its directors as to their existing and new duties. Every director should be aware that they could be held personally liable for breach of their duties under the New Regulations; and
- i Amend the existing Articles of Association and other constitutional documents to comply with the New Regulations by and before 31 January 2018.

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