

Is one Director enough?

All limited companies must have articles of association, a set of rules to be followed in running the company, effectively they are the company's constitution.

A company's articles will often contain (amongst other matters) provisions about minimum and maximum numbers of directors, and the quorum (the quorum is the number of directors required to be present at a meeting for the proceedings at the meeting to be valid).

“Model Form” articles are in a standard format (prescribed by the Companies Act) and that Model Form will apply if the company does not choose to have a set of articles specifically prepared for it. There are a number of reasons why the Model Form articles may not be suitable, and a recent *Court case has highlighted on such issue, the number of directors needed to form a quorate meeting.

Model Article 11 (2) says that the quorum for directors' meetings may be fixed, from time to time, by a decision of the directors, but it must never be less than two, and unless otherwise fixed, it is two.

Model Article 7 says that any decision of the directors must be either a majority decision at a meeting, or a unanimous decision (taken in accordance with **Model Article 8**). Model Article 7 then goes on to say that if (a) the company only has one director, and (b) no provision of the articles requires it to have more than one director, then certain formalities which would otherwise apply to making director decisions do not apply

There has been some doubt about the way these two Model Articles work together – some people thought that Model Article 7 meant that just one director (a sole director) was always able to act and able to make all decisions.

However, the judgment in the recent case was that Model Article 11(2) actually amounts to a requirement for a quorum of two directors. So two directors must be present for the meeting to be quorate. Effectively this means that a company which uses the Model Articles (unamended) must have at least two directors to manage its business and make decisions about the company.

Under the Companies Act 2006 a company can choose not to use the Model Articles at all, or to use some of the Model Form articles and to amend others. If a private company wants to have a sole director it may do so, but will need to have specially prepared articles, or at least to amend these provisions of the Model Articles.

