



Shareholders' Agreement

A Shareholders' Agreement is a legally binding contract between a group of or all of the shareholders in a company. The Companies Act assumes that a majority shareholder should always have control in a company. This will not always be appropriate particularly if the nature of the company is more like a partnership or if special situations are anticipated such as a future sale of the business or rapid expansion.

The contents of a Shareholders' Agreement will always be tailor made to the particular circumstances and relationships. It can include things that would be inappropriate for the articles, it can confer specific rights and duties on individual shareholders and it can be changed without the formality of a special resolution by the company itself.



The following points are not exhaustive but help to illustrate the nature of a Shareholders' Agreement.

- It remains confidential whereas Articles are in the public domain.
- It can protect the rights of minority shareholders
 - ◇ By ensuring entitlement to a minimum dividend and a guaranteed method of selling shares.
 - ◇ By ensuring that a minority interest has a say in appointing directors, bankers, solicitors etc.
- As well as giving minorities extra influence in decisions, it can enable a shareholder to veto crucial decisions, examples being:
 - ◇ Creating, extending or altering a mortgage and security issues over company assets
 - ◇ Disposing of material parts of the company i.e. subsidiary, assets
 - ◇ Contracts involving capital commitments over a certain value in any one year
 - ◇ Acquiring or disposing of any asset including land over a value of a certain value
 - ◇ Issuing shares (anti dilution), repurchasing shares and redemption and issue of debentures etc.
- ◇ Converting share capital or altering class rights
- ◇ Entering into any other commercial agreements e.g. joint ventures and profit sharing
- ◇ Winding up the company
- ◇ Entering into exceptional transactions or contracts not within normal terms of business
- ◇ Altering Memorandum and Articles of Association
- ◇ Making or declaring any dividends
- The Agreement can provide specifically for pre-emption rights.
- It can ensure minority shareholders are not excluded from management and are given full accounts information (they are only legally entitled to see the statutory accounts).
- It can lock in key men, cover terms of expulsion, revoke the directors right to refuse share transfers, set procedures upon the death or chronic illness of a shareholder, cover the issue of share options, any rules on the sale of the company, etc.
- It can put a restraint of trade clause on any departing shareholder.
- It can state the terms upon which directors will be paid.
- It can set out terms of loans made by directors or shareholders to the company.

For further advice and assistance

Monahans can assist you in all the aspects of a Shareholders' Agreement.

Our specialist Corporate Finance Department will be pleased to help.

Please contact Peter Lugg on 01225 472800 or by e-mail on peterl@monahans.co.uk