

## DRAFT MODEL ARTICLES OF ASSOCIATION FOR PUBLIC COMPANIES

### PART 1: DEFINITIONS AND INTERPRETATION

#### 1 Defined terms

- (1) The special meanings given to certain words and phrases in the articles are set out in the index of defined terms.
- (2) Where a word or phrase is defined in the index of defined terms, other grammatical forms of that word or phrase used in the articles shall have a meaning which corresponds to that definition.

### PART 2: DIRECTORS

#### DIRECTORS' POWERS AND RESPONSIBILITIES

#### 2 Directors' general authority

Subject to the Companies Acts and the articles, the directors:

- (a) shall manage the company's business; and
- (b) may exercise all the powers of the company for any purpose connected with the company's business.

#### 3 Members' reserve power

- (1) The members may, by special resolution, order the directors to act, or refrain from acting, in a particular way
- (2) No such special resolution shall invalidate anything which the directors have already done.

#### DELEGATION OF DIRECTORS' POWERS AND RESPONSIBILITIES

#### 4 Directors may delegate

- (1) Subject to the articles, the directors may delegate any of their powers and responsibilities:
  - (a) to such persons;
  - (b) by such means;
  - (c) to such an extent;
  - (d) in relation to such matters or territories; and
  - (e) on such conditions or subject to such restrictions,as they think fit.

- (2) Unless the directors specify otherwise, any such delegation authorises further delegation of the directors' powers and responsibilities by any person to whom they are delegated, whether expressly or by virtue of this paragraph.
- (3) The directors must not delegate to any person who is not a director any decision connected with:
  - (a) how the directors (or a committee of directors) take decisions;
  - (b) a director's appointment or the termination of a director's appointment; or
  - (c) the payment or declaration of a dividend.
- (4) The directors may at any time withdraw or revoke any delegation in whole or part, or alter its terms.

## **5 Committees of directors**

- (1) If the directors:
  - (a) delegate powers or responsibilities to two or more persons, at least one of whom is a director; and
  - (b) indicate that they should act together in respect of those powers or responsibilities,those persons are a "committee" for the purposes of the articles.
- (2) The provisions of the articles about how the directors take decisions shall apply, as far as possible, to the taking of decisions by committees, but the directors may make rules of procedure which are binding on a committee.

## **DECISION-MAKING BY DIRECTORS**

### **6 Directors to take decisions collectively**

- (1) This article applies to any matter in respect of which the directors have not delegated their powers and responsibilities to a single director.
- (2) Subject to the articles, the directors must not act in relation to any such matter unless they have taken a decision about it:
  - (a) at a directors' meeting, or
  - (b) in the form of a directors' written resolution,in accordance with the articles.

### **7 Calling directors' meetings**

- (1) Any director may call a directors' meeting.
- (2) The company secretary shall call a directors' meeting if a director so requests.
- (3) A meeting is not called unless reasonable notice of it has been given, indicating its proposed date, time, place and subject matter.
- (4) Notice must be given to all the directors, except those:

- (a) to whom it is not possible to give reasonable notice; or
  - (b) who waive their entitlement to notice, prospectively or retrospectively.
- (5) Notice of a directors' meeting need not be given in writing.
- (6) The reasonableness of any notice period shall be determined by reference to:
- (a) the urgency and importance of the meeting's subject matter; and
  - (b) individual directors' ability to receive notice of or participate in the meeting.

## **8 Participation in directors' meetings**

- (1) Subject to the articles, directors participate in a directors' meeting, or part of a director's meeting, when:
- (a) the meeting has been called and takes place in accordance with the articles;
  - (b) they are engaged, together, exclusively in the business of the meeting, or of that part of the meeting;
  - (c) no other directors are engaged on that business separately from them; and
  - (d) they can each communicate to the others any information or opinions they have on any particular item of that business.
- (2) In determining whether directors are participating in a directors' meeting, it is irrelevant where any director is or how they communicate with each other.

## **9 Quorum for directors' meetings**

- (1) At a directors' meeting, unless a quorum is participating, no proposal shall be voted on, except a proposal to call another meeting.
- (2) The quorum for directors' meetings may be fixed from time to time by:
- (a) a decision of the directors, or
  - (b) an ordinary resolution,
- but it shall never be less than two, and unless otherwise fixed it shall be two.
- (3) Subject to the articles, a director who is interested in an actual or proposed transaction or arrangement with the company shall not be counted as participating in any directors' meeting, or part of a directors' meeting, relating to that transaction or arrangement.
- (4) A person who is an alternate director but not a director shall be counted as participating for the purposes of determining whether a quorum is participating, but only if that person's appointor is not participating. No alternate shall be counted as more than one director for such purposes.

## **10 Total number of directors less than quorum**

If the total number of directors for the time being is less than the quorum for directors' meetings, then:

- (a) all the directors, or

- (b) as many of them as are not incapable of doing so by reason of illness or accident,

may agree in writing either to appoint sufficient new directors to make up a quorum or to call a general meeting of the company to vote on a resolution that will appoint further directors or alter the quorum.

### **11 Chairing of directors' meetings**

- (1) The directors shall appoint a director to chair their meetings.
- (2) The person so appointed for the time being shall be known as the chairman.
- (3) The directors may terminate the chairman's appointment at any time.
- (4) If the chairman is not participating in a meeting within ten minutes of the time at which it is to start, the participating directors shall appoint one of themselves to chair it.

### **12 Voting at directors' meetings: general rules**

- (1) A decision is taken at a directors' meeting when a majority of the participating directors vote in favour of a proposal.
- (2) Subject to the articles:
  - (a) each director participating in such a decision shall have one vote; but
  - (b) if a director has an interest in an actual or proposed transaction or arrangement with the company, that director and that director's alternate may not vote on any proposal relating to it.

### **13 Chairman's casting vote at directors' meetings**

If the numbers of votes for and against a proposal are equal, the chairman or other director chairing the meeting shall have a casting vote.

### **14 Alternates voting at directors' meetings**

Directors who are also alternate directors each have an additional vote on behalf of each of their appointors when their appointors are:

- (a) not participating, and
- (b) would have been entitled to vote if they were participating.

### **15 Conflict of interests: relaxation of restrictions**

- (1) In any of the circumstances specified for the purposes of this article, a director who is interested in an actual or proposed transaction or arrangement with the company:
  - (a) shall be counted as participating in a decision at a directors' meeting, or part of a directors' meeting, relating to it; and
  - (b) is entitled to vote on a proposal relating to it.
- (2) The circumstances specified for the purposes of this article are when:

- (a) the company by ordinary resolution disapplies the provision of the articles which would otherwise prevent a director from being counted as participating in, or voting at, a directors' meeting;
- (b) the director's interest cannot reasonably be regarded as likely to give rise to a conflict of interest; or
- (c) the director's conflict of interest arises from a permitted cause.

(3) For the purposes of this article, the following are permitted causes:

- (a) a guarantee given, or to be given, by or to a director in respect of an obligation incurred by or on behalf of the company or any of its subsidiaries;
- (b) subscription, or an agreement to subscribe, for shares or other securities of the company or its subsidiaries, or to underwrite, sub-underwrite, or guarantee subscription for any such shares or securities; and
- (c) a contract about benefits for employees and directors or former employees and directors of the company or its subsidiaries generally which does not provide special benefits for directors or former directors.

#### **16 Directors' discretion to make further rules**

- (1) Subject to the articles, the directors may make any rule which they think fit about how they take decisions.
- (2) The directors must ensure that any such rule is communicated to all persons who are directors while it remains in force.

#### **17 Directors' written resolutions**

- (1) A directors' written resolution is adopted when all the directors (or their alternates) sign a document setting out a decision.
- (2) A directors' written resolution is also adopted when:
  - (a) fewer than all of the directors sign a document setting out a decision;
  - (b) it is impracticable to have the document signed by those who have not signed it; and
  - (c) the document records the names of the directors who have not signed it and the reasons why they have not signed it.
- (3) The practicability of a director signing such a document shall be determined by reference to:
  - (a) the urgency and importance of the decision to which it relates; and
  - (b) the director's ability to receive and sign the document and send it to the company by the time when it is necessary or expedient for the directors to take that decision.
- (4) References to a document in this article include copies of that document.
- (5) The directors are responsible for ensuring that the company keeps a written record of all directors' written resolutions for at least ten years from the date of their adoption.

## APPOINTMENT OF DIRECTORS

### 18 Minimum and maximum number of directors

Subject to the Companies Acts, the company may by ordinary resolution decide that it is to have:

- (a) not more than, or
- (b) not less than,

a specified number of directors.

### 19 Methods of appointing directors

Any person who is willing to act as a director, and is permitted by law to do so, may be appointed to be a director:

- (a) by ordinary resolution; or
- (b) by a decision of the directors.

### 20 Appointments by directors to be confirmed by members

- (1) Directors appointed by a decision of the directors must be confirmed in office by an ordinary resolution at the next annual general meeting following their appointment by the directors.
- (2) Subject to the articles, the appointment of directors whose appointment is not so confirmed terminates at the end of that annual general meeting.

### 21 Retirement of directors by rotation

- (1) At the first annual general meeting all the directors shall retire from office.
- (2) At every subsequent annual general meeting half of the directors (rounded up to the nearest whole number if there is an odd number of directors) shall retire from office and offer themselves for reappointment by the members.
- (3) The directors to retire by rotation shall be those who have been longest in office since their last appointment or reappointment by a general meeting, but as between persons who were last appointed or reappointed on the same day those to retire shall be decided by lot.
- (4) For the purposes of calculating which directors are required to retire by rotation, the following shall be disregarded:
  - (a) any directors whose appointment is required to be confirmed because they were appointed by the directors; and
  - (b) any directors who wish to retire and not be re-elected.

### 22 Appointment of directors at general meetings

- (1) A person is only eligible to be appointed a director by a general meeting if that person:
  - (a) is a director retiring by rotation at that meeting under the articles; or

- (b) has been nominated for appointment as a director at that meeting by the directors or by a member qualified to vote at that meeting.
- (2) Members wishing to nominate a person for appointment as a director must do so by giving notice in writing to the company not less than 14 or more than 35 days before the date of the meeting.
- (3) The company must notify all those who are entitled to receive notice of the meeting of who is eligible to be appointed a director at any general meeting not less than seven or more than 28 days before the date of that meeting.
- (4) Nominations or notices about the proposed appointment of a person as a director at a general meeting need not contain that person's address, but must otherwise include the same information as an entry in the register of directors in respect of that person would contain if that person were appointed a director.
- (5) Nominations of a person for appointment as a director at a general meeting must include a statement signed by the person nominated indicating that person's willingness to be appointed a director.
- (6) If, at the end of a general meeting, the company would otherwise have fewer than two directors, or such higher minimum number of directors as has been fixed in accordance with the articles, the persons who were directors at the start of the meeting shall be deemed to have been reappointed as directors, but they shall only act for the purposes of:
  - (a) calling general meetings; and
  - (b) performing such duties as are essential to maintain the company as a going concern.

### **23 Termination of director's appointment**

- (1) A person ceases to be a director as soon as:
  - (a) that person ceases to be a director by virtue of any provision of the Companies Acts, or is prohibited by law from being a director;
  - (b) that person becomes subject to a receiving order or compounds with that person's creditors generally;
  - (c) in the opinion of all the other directors, mental disorder makes that person incapable of discharging the duties of a director;
  - (d) that person fails, without the directors' permission, to participate in directors' meetings for more than three months, and is not prevented from doing so by illness, accident, or some other cause which the directors consider sufficient;
  - (e) a notification to the company that that person is resigning or retiring from office as director takes effect in accordance with its terms (but if a contract with the company specifies a longer notice period, that person's appointment shall not terminate until expiry of the contractual notice period);
  - (f) the directors decide to accept that person's offer to resign from the office of director;
  - (g) an ordinary resolution is passed removing that person from office;

- (h) a contract under which that person was appointed as a director of the company or undertakes personally to perform services for the company terminates, and the directors decide that that person should cease to be a director; or
- (i) the directors decide that that person should be removed from office, after having given that person a reasonable opportunity to be heard at a directors' meeting called on at least fourteen days notice.

(2) The termination of a person's appointment as a director under the articles:

- (a) terminates that person's membership of any committee and any other employment which that person may have with the company;
- (b) is without prejudice to any claim which that person may have for breach of contract.

## **24 Directors' terms of service**

(1) Directors may undertake any services for the company that the directors decide (except audit).

(2) Directors may undertake such services either as part of, or in addition to, their work as directors.

(3) Subject to the Companies Acts:

- (a) directors shall be entitled to be remunerated for their services to the company as the directors determine; and
- (b) the directors may decide any other terms of any contract relating to the services which a director undertakes personally to perform for the company.

(4) Subject to the articles, a director's remuneration may:

- (a) take any form;
- (b) be contingent on or otherwise calculated by reference to any aspect of the company's performance, however measured; and
- (c) include any arrangements in connection with the payment of a pension, allowance or gratuity, or any death, sickness or disability benefits, to or in respect of that director.

(5) Directors' remuneration which is determined by the directors must not include payments to or for the benefit of directors or former directors in connection with the cessation or the transfer to any person of the whole or part of the undertaking of the company or any of its subsidiaries.

(6) Unless the directors decide otherwise, directors' remuneration shall accrue from day to day.

(7) Unless the directors decide otherwise, directors shall not be accountable to the company for any remuneration which they receive as directors of the company's subsidiaries.

## **25 Directors' expenses**

Subject to the Companies Acts, the company shall meet any reasonable expenses which the directors properly incur in connection with anything they do for the company.

## ALTERNATE DIRECTORS

### 26 Appointment and removal of alternates

- (1) An alternate director (or “alternate”) is a person appointed by a director (the alternate’s “appointor”) to:
  - (a) exercise that director’s powers; and
  - (b) carry out that director’s responsibilities, at directors’ meetings as requested by that director.
- (2) Alternate directors must be:
  - (a) directors, or
  - (b) persons approved by the directors and willing to act as their appointors’ alternates.
- (3) Any director may appoint an alternate by notice in writing to the company specifying the duration of the alternate’s appointment.

### 27 Rights and responsibilities of alternate directors

- (1) Except as the articles specify otherwise, alternate directors shall, in relation to directors’ meetings:
  - (a) have the same rights, duties and liabilities under the articles as their appointors;
  - (b) be subject to the same restrictions as their appointors; and
  - (c) be deemed for all purposes to be directors.
- (2) Alternate directors shall not be entitled to receive any remuneration from the company for their services as alternate directors except such part of their appointors’ remuneration as their appointors may direct in writing.
- (3) Alternate directors are responsible for their own acts and omissions and shall not be deemed to be agents of or for their appointors.

### 28 Termination of alternate directorship

Alternate directors’ appointments as alternates terminate:

- (a) when their appointors revoke their appointments by notice to the company in writing specifying when their appointments are to terminate;
- (b) on the occurrence in relation to them of any event which, if it occurred in relation to their appointors, would result in the termination of their appointors’ appointments as directors;
- (c) when their appointors die; or
- (d) when their appointor’s appointments as directors terminate, except that alternate directors’ appointments as alternates do not terminate if their appointors retire by rotation at a general meeting at which they are re-appointed as directors.

## **PART 3: DECISION-MAKING BY MEMBERS**

### **ORGANISATION OF GENERAL MEETINGS**

#### **29 Directors to call general meetings**

Subject to the Companies Acts and the articles, the directors shall determine when and where any general meeting is to be held.

#### **30 Members can call general meeting if not enough directors**

If:

- (a) the company has no directors; or
- (b) the total number of directors for the time being is less than the quorum for directors' meetings and the directors are unable or unwilling to call a general meeting,

then two or more members may call a general meeting (or instruct the company secretary to do so).

#### **31 Voting record date**

- (1) A notice of a general meeting may specify a date on which a person must be a member if that person is to be entitled to attend and vote at that meeting (a "voting record date").
- (2) Unless such a notice specifies otherwise, the voting record date for the meeting to which it relates is 48 hours before the time of the meeting.

#### **32 Participation in general meetings**

- (1) Two or more persons participate in a general meeting when:
  - (a) the meeting has been called and takes place in accordance with the Companies Acts and the articles;
  - (b) they are all engaged, simultaneously, in the business of the meeting; and
  - (c) they can each communicate to the others any information or opinions they have on any particular item of that business and exercise any voting rights they have in any way permitted under the Companies Acts or the articles.
- (2) In determining participation in a directors' meeting, it is irrelevant where any participant is or how participants communicate with each other.
- (3) Subject to the Companies Acts, any person who participates in a general meeting shall be treated as attending it.

#### **33 Access to meetings**

- (1) The directors may make whatever arrangements they consider appropriate to enable members and others entitled to attend a general meeting to participate in it, having regard to their respective rights and the legitimate interests of the company and individual members in the efficient despatch of the business of the meeting.

- (2) In particular, the directors may, subject to the articles, make arrangements for participants in a general meeting to participate in the same meeting while not all being in the same place. .
- (3) The validity of the proceedings at a general meeting shall not be affected by any failure of communication links between participants in different places.

#### **34 Quorum must participate**

- (1) No business shall be transacted at any general meeting unless a quorum is participating.
- (2) The quorum for general meetings shall be as provided under the Companies Acts unless the company decides by ordinary resolution to increase it.

#### **35 Chairing of general meetings**

- (1) The chairman shall chair general meetings.
- (2) If the chairman is not present within ten minutes of the time at which a meeting is to start, the meeting shall appoint a director or member to chair the meeting.
- (3) The person chairing a meeting in accordance with this article is referred to as “the chairman of the meeting”.

#### **36 Participation by directors and others**

- (1) Directors who are not members of the company may participate in general meetings.
- (2) The chairman of the meeting may permit other persons who are not:
  - (a) members of the company, or
  - (b) otherwise entitled to exercise the rights of members in relation to general meetings,to participate in a general meeting.

#### **37 Adjournment**

- (1) If a quorum is not present at a general meeting within half an hour from the time appointed for the meeting, it shall be adjourned:
  - (a) until such time as the directors participating determine; or
  - (b) if no directors are participating, until the same day in the next week at the same time and place.
- (2) The chairman of the meeting may adjourn a general meeting from time to time and from place to place if:
  - (a) the meeting consents to an adjournment;
  - (b) the meeting by ordinary resolution directs the chairman of the meeting to adjourn the meeting; or

- (c) it appears to the chairman of the meeting that an adjournment is necessary to protect the safety of the participants or ensure that the business of the meeting is properly conducted.
- (3) No business shall be transacted at an adjourned general meeting which could not properly have been transacted at the meeting if the adjournment had not taken place.

## **VOTING AT GENERAL MEETINGS**

### **38 Voting: general**

- (1) A resolution put to the vote of a general meeting shall be decided on a show of hands unless a poll is demanded.
- (2) If equal numbers of votes are cast for and against a resolution, whether on a show of hands or on a poll, the chairman of the meeting shall be entitled to a casting vote in addition to any other vote that the chairman of the meeting may have as a member.

### **39 Errors and disputes**

- (1) No objection shall be raised to the qualification of any person voting at a general meeting except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting shall be valid.
- (2) Any such objection shall be referred to the chairman of the meeting whose decision shall be final and binding.

### **40 Demanding a poll**

- (1) A poll on a resolution may be demanded:
  - (a) before a show of hands on that resolution; or
  - (b) immediately after the result of a show of hands on that resolution is declared.
- (2) A poll may be demanded by:
  - (a) the chair of the meeting;
  - (b) two or more persons having the right to vote on the resolution; or
  - (c) persons representing not less than one tenth of the total voting rights of all the members having the right to vote on the resolution.
- (3) A demand for a poll may be withdrawn if:
  - (a) the poll has not yet been taken, and
  - (b) the chairman of the meeting consents to the withdrawal.

### **41 Procedure on a poll**

- (1) Subject to the articles, polls at general meetings shall be taken as and when the chairman of the meeting directs.
- (2) The chairman of the meeting may appoint scrutineers (who need not be members) and decide how and when the result of the poll is to be declared.

- (3) The result of a poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
- (4) A poll on:
  - (a) the election of the chairman, or
  - (b) a question of adjournment,shall be taken immediately.
- (5) Other polls shall be taken within 30 days of their being demanded.
- (6) A demand for a poll shall not prevent a general meeting from continuing, except as regards the question on which the poll was demanded.
- (7) No notice need be given of a poll not taken immediately if the time and place at which it is to be taken are announced at the meeting at which it is demanded.
- (8) In any other case, at least seven days notice shall be given specifying the time and place at which the poll is to be taken.

#### **42 Content of proxy notices**

- (1) Proxies may only validly be appointed by a document (a "proxy notice") which:
  - (a) states the name and address of the member appointing the proxy as they appear in the register of members;
  - (b) identifies the person appointed to be that member's proxy and the general meeting in relation to which that person is appointed;
  - (c) is executed by the member appointing the proxy; and
  - (d) is delivered to the company in accordance with the articles.
- (2) The company may require proxy notices to be delivered in a particular form, and may specify different forms for different purposes.
- (3) Proxy notices may, but need not, specify how the proxy appointed under them is to vote on one or more resolutions.
- (4) Unless a proxy notice indicates otherwise, it shall be treated as appointing the person appointed under it as a proxy in relation to any adjournment of the general meeting to which it relates as well as the meeting itself.

#### **43 Delivery of proxy notices**

- (1) Any notice of a general meeting must specify the addresses at which the company will receive proxy notices relating to that meeting, or any adjournment of it, delivered in hard copy form and by electronic means.
- (2) If a proxy notice is given in relation to a general meeting or adjourned meeting, it must be delivered to the appropriate specified address not less than 48 hours before the general meeting or adjourned meeting to which it relates.
- (3) If a proxy notice is given in relation to a poll taken more than 48 hours after it was demanded, the notice must be delivered to the appropriate specified address not less than 24 hours before the time appointed for the taking of the poll.

- (4) If a proxy notice is given in relation to a poll taken not more than 48 hours after it was demanded, the notice must be delivered to the appropriate specified address before the end of the meeting at which it was demanded.

## **RESTRICTIONS ON MEMBERS' RIGHTS**

### **44 No voting of shares on which money owed to company**

If:

- (a) the voting record date specified for a general meeting coincides with, or is later than, the due date for payment of any amount payable to the company in respect of a share, and
- (b) that money has not been paid,

no voting rights attached to that share shall be exercised at that general meeting, at any adjournment of it, or on any poll called at it.

## **APPLICATION OF RULES TO CLASS MEETINGS**

### **45 Class meetings**

The provisions of the articles relating to general meetings apply, with any necessary modifications, in relation to meetings of the holders of any class of shares.

## **PART 4: SHARES AND DISTRIBUTIONS**

### **ISSUE OF SHARES**

#### **46 Powers to issue different classes of share**

- (1) Subject to the Companies Acts and the articles, but without prejudice to the rights attached to any existing share, the company may issue shares with such rights or restrictions (with regard to dividends, voting, return of capital or otherwise) as may be determined by ordinary resolution.
- (2) Subject to the Companies Acts, the company may issue shares which:
  - (a) are to be redeemed; or
  - (b) are liable to be redeemed at the option of the company or the holder,on such terms as the directors may decide.

#### **47 Payment of commissions on subscription for shares**

- (1) Subject to the Companies Acts, the company may pay any person a commission in consideration for that person's:
  - (a) subscribing, or agreeing to subscribe, for shares; or
  - (b) procuring, or agreeing to procure, subscriptions for shares.
- (2) Subject to the Companies Acts, any such commission may be paid:

- (a) wholly or partly in cash, or in fully paid or partly paid shares; and
- (b) in respect of a conditional or an absolute subscription.

## INTERESTS IN SHARES

### 48 Company not bound by less than absolute interests

Except as otherwise required by law or the articles, the company shall not in any way be bound by or recognise any interest in a share other than the holder's absolute ownership of it and all the rights attaching to it.

## SHARE CERTIFICATES

### 49 Certificates to be issued except in certain cases

- (1) The company shall issue members with certificates in respect of all shares which they hold.
- (2) This article does not apply to:
  - (a) uncertificated shares,
  - (b) shares in respect of which a share warrant has been issued, or
  - (c) shares in respect of which the Companies Acts permit the company not to issue a certificate.
- (3) Except as otherwise specified in the articles, all certificates shall be issued free of charge.
- (4) No certificate shall be issued in respect of shares of more than one class.
- (5) If more than one person holds a share, only one certificate shall be issued in respect of it.

### 50 Contents and execution of share certificates

- (1) Every certificate shall specify:
  - (a) in respect of how many shares, of what class, it is issued;
  - (b) the nominal value of those shares;
  - (c) the amount paid up on them; and
  - (d) any distinguishing numbers assigned to them.
- (2) Certificates shall be:
  - (a) executed under seal, or
  - (b) authenticated in such other manner as the directors, having regard to the terms of issue and any applicable listing requirements, may decide.

### **51 Consolidated share certificates**

- (1) Members who so request shall be issued from time to time with a single certificate in respect of all the shares of each class that they hold.
- (2) When members are issued with such a certificate they must return to the company for cancellation any other certificates which they hold in respect of any shares in respect of which the new certificate is issued.

### **52 Separate share certificates**

- (1) Members who so request shall be issued with separate certificates for shares which they hold and in respect of which they have hitherto been issued with a single certificate.
- (2) The company may charge such reasonable fee as the directors may decide for issuing such separate certificates.

### **53 Replacement share certificates**

- (1) If a certificate issued in respect of a member's shares is:
  - (a) damaged or defaced; or
  - (b) said to be lost, stolen or destroyed,that member shall be entitled to be issued with a new certificate in respect of the same shares.
- (2) A member exercising the right to be issued with such a replacement certificate:
  - (a) may at the same time exercise the right to be issued with a single certificate or separate certificates;
  - (b) must return the certificate which is to be replaced to the company if it is damaged or defaced; and
  - (c) must comply with such conditions as to evidence, indemnity and the payment of out-of-pocket expenses as the directors decide.

## **SHARES NOT HELD IN CERTIFICATED FORM**

### **54 Uncertificated securities**

- (1) In this article, "the relevant rules" means:
  - (a) any applicable provision of the Companies Acts about the holding, evidencing of title to, or transfer of securities other than in certificated form; and
  - (b) any applicable legislation, rules or other arrangements made under or by virtue of such provision.
- (2) Subject to the relevant rules, any security or class of securities of the company may be issued or held on such terms, or in a such a way, that title to it or them is not, or must not be:
  - (a) evidenced by, or

- (b) transferred wholly or partly by means of,  
a certificate.
- (3) Any provision of the articles which is inconsistent with the relevant rules shall be disregarded.
- (4) Subject to the relevant rules and notwithstanding any provision of the articles, the directors shall have power to take such steps as they think fit in relation to:
  - (a) the evidencing and transfer of title to uncertificated securities (including any records relating to the holding of such securities);
  - (b) the conversion of certificated shares into uncertificated securities; or
  - (c) the conversion of uncertificated shares into certificated securities,with a view to enforcing any person's rights in relation to such securities, whether under the articles or otherwise.
- (5) Subject to the relevant rules, the company may by notice to the holder of an uncertificated security require that security to be converted into certificated form to enable it to be dealt with in accordance with the articles.
- (6) Subject to the relevant rules, if:
  - (a) a security is uncertificated; and
  - (b) the directors could, if that security was certificated, require its holder to execute an instrument of transfer, or appoint another person to do so,the directors may either by notice to the holder of the security require the holder within a specified period to give any instructions necessary to transfer title to it, or appoint any person to take any step necessary to effect such a transfer.
- (7) Subject to the relevant rules, the directors may take any other action which the directors consider appropriate to achieve the sale, transfer, disposal, forfeiture, re-allotment or surrender of an uncertificated security or otherwise to enforce a lien in respect of it.
- (8) Unless the directors otherwise determine, securities which a member holds in uncertificated form shall be treated as separate holdings from any securities which that member holds in certificated form.
- (9) A class of securities shall not be treated as two classes simply because some securities of that class are held in certificated form and others are held in uncertificated form.

## **55 Share warrants**

- (1) The directors may issue a share warrant in respect of any fully paid share.
- (2) Share warrants shall be:
  - (a) issued in such form, and
  - (b) executed in such manner,as the directors decide.

- (3) A share represented by a share warrant may be transferred by delivery of the warrant representing it.
- (4) The directors may make provision for the payment of dividends in respect of any share represented by a share warrant.
- (5) Subject to the Companies Acts and the articles, the directors may decide the conditions on which any share warrant is issued. In particular, they may:
  - (a) decide the conditions on which new warrants are to be issued in place of warrants which are damaged or defaced, or said to have been lost or destroyed;
  - (b) decide the conditions on which bearers of warrants are entitled to attend and vote at general meetings;
  - (c) decide the conditions subject to which bearers of warrants may surrender their warrant so as to hold their shares in certificated or uncertificated form instead; and
  - (d) vary the conditions of issue of any warrant from time to time,and the bearer of a warrant shall be subject to the conditions and procedures in force in relation to it, whether or not they were decided or specified before the warrant was issued.
- (6) Subject to the Companies Acts and the conditions on which the warrants are issued from time to time, bearers of share warrants shall have the same rights and privileges as they would if their names had been included in the register as holders of the shares represented by their warrants.
- (7) The company shall not in any way be bound by or recognise any interest in a share represented by a share warrant other than the absolute right of the bearer of that warrant to that warrant.

## PARTLY PAID SHARES

### 56 Company's lien over partly paid shares

- (1) The company shall have a lien ("the company's lien") on every share which is partly paid for any amount which is:
  - (a) payable (whether the due date for payment of it has passed or not); or
  - (b) subject to a call notice,in respect of that share.
- (2) The company's lien on a share:
  - (a) takes priority over any third party's interest in that share;
  - (b) extends to any dividend or other money payable by the company in respect of, and the proceeds of sale of, that share; and
  - (c) is discharged if the company registers a transfer of that share without notifying the transferee of the lien.
- (3) The directors may:

- (a) exempt any share from the company's lien on it, or
- (b) waive the company's lien on any share,  
wholly or in part.

### **57 Enforcement of the company's lien**

(1) Subject to the provisions of this article, if:

- (a) a lien enforcement notice has been given in respect of a share; and
- (b) the person to whom the notice was given has failed to comply with it,  
the company may sell that share in such manner as the directors decide.

(2) A lien enforcement notice:

- (a) may only be given in respect of a share which is subject to the company's lien, in respect of which a sum is payable and the due date for payment of that sum has passed;
- (b) must specify a share in respect of which a sum is payable by the holder at the date of the notice;
- (c) must require payment of the sum payable within fourteen days of the notice;
- (d) must be addressed either to the holder of the share or to a person entitled to it by reason of the holder's death or bankruptcy; and
- (e) must state the company's intention to sell the share if the notice is not complied with.

(3) Where shares are sold under this article:

- (a) the directors may authorise any person to execute an instrument of transfer of the shares to the purchaser or a person nominated by the purchaser; and
- (b) the transferee's title shall not be affected by any irregularity in or invalidity of the proceedings in reference to the sale.

(4) The net proceeds of any such sale (after payment of the costs of sale and any other costs of enforcing the lien) shall be applied:

- (a) first, in payment of so much of the sum for which the lien exists as was payable at the date of the lien enforcement notice;
- (b) second, to the person entitled to the shares at the date of the sale, but only after the certificate for the shares sold has been surrendered to the company for cancellation or a suitable indemnity has been given for any lost certificates, and subject to a lien equivalent to the company's lien over the shares before the sale for any money payable in respect of the shares after the date of the lien enforcement notice.

(5) A statutory declaration by a director or the company secretary that the declarant is a director or the company secretary and that a share has been sold to satisfy a lien of the company on a specified date:

- (a) shall be conclusive evidence of the facts stated in it as against all persons claiming to be entitled to the share; and

- (b) shall (subject to compliance with any other formalities of transfer required by the articles or by law) constitute a good title to the share.

### **58 Call notices**

- (1) Subject to the articles and the terms on which shares are allotted, the directors may send a notice (a "call notice") to members requiring them to pay the company specified sums of money ("calls") which are payable in respect of their shares and the due date for payment of which has passed.
- (2) A call notice:
  - (a) may not require any member to pay a call which exceeds the total sum unpaid on that member's shares (whether as to the share's nominal value or any amount payable to the company by way of premium);
  - (b) must state when any call is payable and how it is to be paid; and
  - (c) may permit or require the call to be paid by instalments.
- (3) Members must comply with a call notice, but no member shall be obliged to pay any call before fourteen days have passed since the notice was sent.
- (4) The directors may revoke a call notice wholly or in part before the company has received any call due under it.
- (5) The directors may specify a later date than is stated in a call notice for the payment of any call due under it.

### **59 Liability to pay calls**

- (1) A person who did not hold a share at the date on which the directors decided to send a call notice in respect of it is not liable to pay any call in respect of that share.
- (2) Liability to pay a call is not extinguished or transferred by transferring the shares in respect of which it is required to be paid.
- (3) Joint holders of a share are jointly and severally liable to pay all calls in respect of that share.
- (4) Subject to the terms on which shares are allotted, the directors may, when issuing shares, arrange that call notices sent to the holders of those shares may require holders of the same number and class of shares:
  - (a) to pay calls which are not the same; or
  - (b) to pay calls at different times.

### **60 When call notice need not be issued**

- (1) A call notice need not be issued in respect of sums which are specified, in the terms on which a share is issued, as being payable to the company in respect of that share (whether in respect of nominal value or premium) on the occurrence of a particular event, or on a date fixed by or in accordance with the terms of issue.
- (2) But if the due date for payment of such a sum has passed and it has not been paid, the holder of the share concerned shall be treated in all respects as having failed to comply with a call notice in respect of that sum, and shall be liable to the same consequences as regards the payment of interest and forfeiture.

## **61 Failure to comply with call notice: automatic consequences**

- (1) If a person is liable to pay a call and fails to do so by the date by which a call notice required payment to be made:
  - (a) the directors may issue a notice of intended forfeiture to that person; and
  - (b) that person shall pay the company interest on the call from the day it becomes due and payable until it is paid at the relevant rate.
- (2) For the purposes of this article the “relevant rate” is:
  - (a) the rate fixed by the terms on which the share in respect of which the call is due was allotted;
  - (b) such other rate as was fixed in the call notice which required payment of the call, or has otherwise been determined by the directors; or
  - (c) if no rate is fixed in either of these ways, five per cent.
- (3) The relevant rate shall not exceed Bank of England base rate by more than five percentage points.
- (4) The directors may waive any obligation to pay interest on a call wholly or in part.

## **62 Notice of intended forfeiture**

A notice of intended forfeiture:

- (a) may be sent in respect of any share in respect of which a call has not been paid as required by a call notice;
- (b) must be sent to the holder of that share;
- (c) must require payment of the call and any accrued interest by a date which is not less than fourteen days after the date of the notice;
- (d) must state how the payment is to be made; and
- (e) must state that if the notice is not complied with, the shares in respect of which the call is payable will be liable to be forfeited.

## **63 Directors' power to forfeit shares**

If a notice of intended forfeiture is not complied with, the directors may decide that any share in respect of which it was given is forfeited, together with all dividends or other sums payable and unpaid by the company in respect of that share.

## **64 Effect of forfeiture**

- (1) Subject to the Companies Acts and the articles, the forfeiture of a share extinguishes:
  - (a) all interests in that share, and all claims and demands against the company in respect of it; and
  - (b) all other rights and liabilities incidental to the share as between the person whose share it was prior to the forfeiture and the company,
- (2) Any share which is forfeited in accordance with the articles:

- (a) shall be deemed to have been forfeited when the directors decide that it is forfeited;
  - (b) shall be deemed to be the property of the company; and
  - (c) may be disposed of in such manner as the company thinks fit.
- (3) If a person's shares have been forfeited:
- (a) the company must send that person notice that forfeiture has occurred and record it in register;
  - (b) that person ceases to be a member in respect of those shares;
  - (c) that person must surrender the certificate for the shares forfeited to the company for cancellation;
  - (d) that person remains liable to the company for all sums which were payable by that person under the articles at the date of forfeiture in respect of those shares, including any interest (whether accrued before or after the date of forfeiture);
  - (e) the directors may waive payment of such sums wholly or in part or enforce payment without any allowance for the value of the shares at the time of forfeiture or for any consideration received on their disposal.
- (4) The directors may accept the surrender of a forfeited share, and references to forfeiture include surrender.
- (5) At any time before the company disposes of a forfeited share, the directors may decide to cancel the forfeiture on payment of all calls and interest due in respect of it and on such other terms as they think fit.

## **65 Procedure following forfeiture**

- (1) If a forfeited share is to be disposed of by being transferred, the company may receive the consideration for the transfer and the directors may authorise any person to execute the instrument of transfer.
- (2) A statutory declaration by a director or the company secretary that the declarant is a director or the company secretary and that a share has been forfeited on a specified date:
  - (a) shall be conclusive evidence of the facts stated in it as against all persons claiming to be entitled to the share; and
  - (b) shall (subject to compliance with any other formalities of transfer required by the articles or by law) constitute a good title to the share.
- (3) A person to whom a forfeited share is disposed of shall not be bound to see to the application of the consideration, if any, nor shall that person's title to the share be affected by any irregularity in or invalidity of the proceedings in reference to the forfeiture or disposal of the share.
- (4) If the company sells a forfeited share, the person who held it prior to its forfeiture shall be entitled to receive from the company the net proceeds of such sale. No interest shall be payable to such a person in respect of such proceeds and the company shall not be required to account for any money earned on them.

## **66 Advance payment of sums unpaid in respect of shares**

- (1) Members may pay, and the company may receive, all or part of any sum which:
  - (a) is unpaid, and
  - (b) may in the future be payable to the company,in respect of their shares.
- (2) Such a payment shall extinguish a member's liability on the share in respect of which it is made to the extent of the payment.
- (3) The company may pay interest on the amount of any such payment, but it shall not pay any interest in respect of any such amount:
  - (a) in respect of any period after the date on which it would have become payable if it had not already been paid; or
  - (b) at a rate which is more than five percentage points higher than Bank of England base rate.

## **TRANSFER AND TRANSMISSION OF SHARES**

### **67 Transfers of certificated shares**

- (1) Certificated shares may be transferred by means of an instrument of transfer in a form permitted by law.
- (2) Instruments by which partly paid certificated shares are transferred must be signed by the transferee as well as the transferor.
- (3) No fee shall be charged for registering any instrument of transfer or other document relating to or affecting the title to any share.
- (4) The company may retain any instrument of transfer which is registered.
- (5) The transferor remains the holder of a certificated share until the transferee's name is entered in the register as holder of it.
- (6) Subject to the Companies Acts, the directors may refuse to register the transfer of a certificated share if:
  - (a) the share is not fully paid and the refusal to register the transfer would not prevent dealings in shares from taking place on an open and proper basis;
  - (b) the transfer is not lodged duly stamped (if stampable) at the company's registered office or such other place as the directors have appointed;
  - (c) the transfer is not accompanied by the certificate for the shares to which it relates, or such other evidence as the directors may reasonably require to show the transferor's right to make the transfer, or evidence of the right of someone other than the transferor to make the transfer on the transferor's behalf; or
  - (d) the transfer is in respect of more than one class of share or in favour of more than four transferees.
- (7) If the directors refuse to register the transfer of a share, the instrument of transfer must be returned to the transferee with the notice of refusal unless they suspect that the proposed transfer may be fraudulent.

## **68 Transfer of uncertificated shares**

A transfer of an uncertificated share shall not be registered if it is in favour of more than four transferees.

## **69 Transmission of shares**

(1) If:

- (a) a share has one holder; and
- (b) the holder of that share dies,

the company shall not recognise any person other than the holder's personal representatives as having any title to the holder's interest in that share.

(2) If:

- (a) a share has two or more joint holders; and
- (b) one or more of them dies,

the company shall not recognise any person other than the deceased holder's personal representatives or a surviving joint holder of the share as having any title to the deceased holder's interest in that share.

(3) Nothing in these articles releases the estate of a deceased member from any liability in respect of a share jointly held by that member.

## **CONSOLIDATION OF SHARES**

## **70 Procedure for disposing of fractions of shares**

(1) This article applies where:

- (a) there has been a consolidation or division of shares; and
- (b) as a result, members are entitled to fractions of shares.

(2) The directors may:

- (a) sell the shares representing the fractions to any person including, subject to the Acts, the company for the best price reasonably obtainable;
- (b) in the case of a certificated share, authorise any person to execute an instrument of transfer of the shares to the purchaser or a person nominated by the purchaser; and
- (c) distribute the net proceeds of sale in due proportion among the holders of the shares.

(3) The person to whom the shares are transferred shall not be obliged to ensure that any purchase money is received by the person who held them previously.

(4) The transferee's title to the shares shall not be affected by any irregularity in or invalidity of the proceedings in connection with their sale.

## DISTRIBUTIONS

### 71 Procedure for declaring dividends

- (1) Subject to the Companies Acts:
  - (a) the company may by ordinary resolution declare dividends; and
  - (b) the directors may decide to pay interim dividends.
- (2) If it is proposed that a dividend should be declared by ordinary resolution:
  - (a) the directors must have made a recommendation as to its amount; and
  - (b) the dividend declared shall not exceed the amount recommended.
- (3) No dividend shall be declared or paid unless:
  - (a) it appears to the directors to be justified by the company's profits; and
  - (b) it is in accordance with members' respective rights.
- (4) Any members' resolution or director's decision to pay or declare a dividend must specify that the dividend shall be paid by reference to each member's holding of shares on a specified date.
- (5) If the company's share capital is divided into different classes, no interim dividend shall be paid on shares carrying deferred or non-preferred rights if, at the time of payment, any preferential dividend is in arrear.
- (6) The directors may pay at intervals any dividend payable at a fixed rate if it appears to them that the profits available for distribution justify the payment.
- (7) If the directors act in good faith they shall not incur any liability to the holders of shares conferring preferred rights for any loss they may suffer by the lawful payment of an interim dividend on shares with deferred or non-preferred rights.

### 72 Calculation of dividends

- (1) Except as otherwise provided by the articles, the rights attached to shares or the terms on which they are issued, the amount of any dividend payable on a share which has not been fully paid throughout the period in respect of which the dividend is to be paid shall be so much less than the amount of dividend payable on a share of the same class which has been fully paid throughout that period as reflects:
  - (a) the amount by which the share has not been fully paid; and
  - (b) for how much of that period the share was not fully paid.
- (2) For the purposes of calculating dividends, no account shall be taken of any amount which has been paid up on a share in advance of the due date for payment of that amount.

### 73 Payment of dividends and other distributions

- (1) Where a dividend or other sum is payable in respect of a share, it shall be paid in accordance with this article.
- (2) The company may pay any such sum by means of:

- (a) a transfer to a bank account specified in writing by the distribution recipient;
  - (b) a cheque, warrant or money order sent by post to the distribution recipient's registered address and made payable to the distribution recipient; or
  - (c) such other means of payment as the directors agree with the distribution recipient.
- (3) In the articles, "the distribution recipient" means, in respect of a share in respect of which a dividend or other sum is payable::
- (a) the holder of the share, or, if it has two or more holders, whichever of them is named first in the register of members (the "senior holder"); or
  - (b) if the holder or senior holder is dead or bankrupt, either to a person entitled to the share by reason of such death or bankruptcy, or to such person as all the surviving holders of the share and any persons entitled to it by reason of such death or bankruptcy shall specify to the company by notice in writing signed by all of them.

#### **74 Deduction from dividends of sums owed to the company**

The Directors may deduct from any dividend or other sum payable in respect of a share any sum of money payable to the company by the holder of that share and for which the due date for payment has passed.

#### **75 Retention of dividends by the company**

If a share in respect of which a dividend or other sum is payable is subject to the company's lien, the directors may:

- (a) retain all or part of that dividend or other sum; and
- (b) apply it in or towards satisfying the debts, liabilities or other obligations in respect of which the lien exists.

#### **76 No interest on distributions**

The company shall not pay interest on any dividend or other sum payable in respect of a share unless:

- (a) the terms on which the share was issued, or
- (b) the provisions of another agreement between the holder of that share and the company,

provide otherwise.

#### **77 Non-cash dividends**

- (1) The company may, by ordinary resolution on the recommendation of the directors, decide to pay all or part of a dividend or other sum payable in respect of a share by transferring to distribution recipients non-cash assets of equivalent value (including, without limitation, shares or other securities in any company).
- (2) For the purposes of paying a dividend or other sum payable in respect of a share otherwise than in cash, the directors may make whatever arrangements they think fit, including:

- (a) fixing the value of any assets;
- (b) paying cash to any distribution recipient on the basis of that value in order to adjust the rights of recipients; and
- (c) vesting any assets in trustees.

### **78 Unclaimed dividends**

(1) All dividends or other sums which are:

- (a) payable in respect of shares, and
- (b) unclaimed after having been declared or become payable,

may be invested or otherwise made use of by the directors for the benefit of the company until claimed.

(2) The payment of any such dividend or other sum into a separate account shall not make the company a trustee in respect of it.

(3) Any dividend which has remained unclaimed for twelve years from the date when it became due for payment shall, if the directors so decide, be forfeited and cease to remain owing by the company.

### **79 Waiver of dividends**

A distribution recipient's entitlement to a dividend or other sum payable in respect of a share is not waived unless:

- (a) the distribution recipient signs and delivers a document expressing the waiver of the distribution recipient's right to receive that sum; and
- (b) that waiver is accepted as such and acted on by the company.

## **CAPITALISATION OF PROFITS**

### **80 Allotment of shares on capitalisation of profits**

(1) Subject to the articles, the directors may, if they are so authorised by an ordinary resolution:

- (a) decide to capitalise any undivided profits of the company (whether or not they are available for distribution) which are not required for paying a preferential dividend, or any sum standing to the credit of the company's share premium account or capital redemption reserve;
- (b) appropriate any sum which they so decide to capitalise to the persons who would have been entitled to it if it were distributed by way of dividend (the "persons entitled") and in the same proportions;
- (c) apply the sums appropriated on behalf of the persons entitled, either in or towards paying up any amounts unpaid on existing shares of which they are the holders, or in paying up new shares or debentures of the company of nominal amounts equal to those sums;

- (d) allot the new shares or debentures credited as fully paid to the persons entitled or to persons nominated by them in the same proportions as a dividend would have been distributed to them;
  - (e) make such arrangements as they think fit to deal with shares or debentures becoming distributable in fractions under this article (including the issue of fractional certificates or the making of cash payments); and
  - (f) authorise any person to enter into an agreement with the company on behalf of all the persons entitled which shall be binding on them in respect of the allotment of shares and debentures to them under this article.
- (2) For the purposes of this article, the share premium account, the capital redemption reserve and any profits which are not available for distribution may not be applied in paying up partly paid shares.

## **PART 5: MISCELLANEOUS PROVISIONS**

### **EXERCISE OF MEMBERS' RIGHTS\***

#### **81 Nomination notices**

- (1) Subject to the Companies Acts, a member may send the company notice in writing that another person or persons is entitled to enjoy or exercise some or all of that member's rights in relation to the company (a "nomination notice").
- (2) A nomination notice:
- (a) must identify the person nominated and state that person's contact details;
  - (b) may specify which rights, in relation to which shares, the person nominated is entitled to enjoy or exercise;
  - (c) must indicate, in relation to the specified rights, whether they are to be exercised only by the person nominated, or whether the member giving the notice may also continue to exercise them;
  - (d) must specify the date from which it is to take effect;
  - (e) may specify when it is to cease to have effect; and
  - (f) must be executed by the member giving the notice and the person nominated.

#### **82 Effect of nomination notices**

- (1) Subject to the Companies Acts, if the company receives a nomination notice, the company must give effect to that notice in accordance with its terms.
- (2) Subject to the Companies Acts, if a nomination notice does not specify the rights which the person nominated in it is entitled to enjoy or exercise, it shall be treated as having specified all the rights of the member giving it in relation to the company.
- (3) The company shall not give retrospective effect to a notice which is expressed to take effect from a date after the date on which it is given.

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\* Articles 81 to 84 may change, since they are related to Part 9 of the Bill, which is likely to be amended further during the Bill's passage through Parliament.

(4) If:

- (a) a nomination notice states that the member giving the notice may continue to exercise or enjoy the rights specified in it; and
- (b) that member and the person nominated in the notice both seek to exercise such a right in relation to a particular matter,

then, unless the effect of what each of them does in relation to that right would be the same, it shall be treated as not having been exercised by either of them.

(5) A nomination notice ceases to have effect when the member who has given it, or the person nominated in it, dies or ceases to exist.

### **83 Defective nomination**

If:

- (a) the company receives a notice from a member purporting to entitle another person or persons to enjoy or exercise some or all of the member's rights in relation to the company; and
- (b) the notice does not comply with the requirements of the articles as regards nomination notices, or validly appoint a proxy for the purposes of a general meeting,

the directors may decide not to give effect to the notice, but if they so decide, they must inform the member of their decision and the reasons for it.

### **84 Company to keep records of nominations**

The company must keep a record of:

- (a) all persons nominated in nomination notices and the members who gave them;
- (b) the rights which each such person is or was entitled to enjoy or exercise by virtue of each such notice; and
- (c) the dates from or (if applicable) between which each such person is or was entitled to enjoy or exercise such rights.

### **85 Persons entitled by reason of death or bankruptcy**

(1) Transmittees who produce such evidence of their entitlement to shares as the directors may properly require:

- (a) may, subject to the articles, choose either to become the holder of those shares or to have them transferred to another person; and
- (b) shall, subject to the articles, have the same rights as the holder had.

(2) Transmittees shall not have the right to attend or vote at a general meeting in respect of shares to which they are entitled by reason of the holder's death or bankruptcy unless they elect to have the shares transferred to them.

## **86 Exercise of transmitters' rights**

- (1) Transmitters who wish to become the holders of shares to which they have become entitled must notify the company in writing of that wish.
- (2) If the share is a certificated share and a transmitter wishes to have it transferred to another person, the transmitter must execute an instrument of transfer in respect of it.
- (3) If the share is an uncertificated share and the transmitter wishes to have it transferred to another person, the transmitter must:
  - (a) procure that all appropriate instructions are given to effect the transfer; or
  - (b) procure that the uncertificated share is changed into certificated form and then execute an instrument of transfer in respect of it.
- (4) Any transfer made or executed under this article shall be treated as if it were made or executed by the person by reason of whose death or bankruptcy the transmitter is entitled to the shares so transferred, and as if such death or bankruptcy had not occurred.

## **COMMUNICATIONS**

### **87 Means of communication to be used**

Subject to the articles:

- (a) anything sent or supplied by or to the company under the articles may be sent or supplied in any way in which documents or information may be sent or supplied by or to the company for the purposes of the Companies Acts; and
- (b) any notice or document to be sent or supplied to a director in connection with the taking of decisions by directors shall be sent or supplied by the means by which that director has asked to be sent or supplied with such notices or documents for the time being.

### **88 Contact details to be notified**

Members and directors shall notify the company of their contact details, but unless they take action to provide different contact details:

- (a) members' contact details shall be presumed to be their addresses as recorded in the register of members; and
- (b) directors' contact details shall be presumed to be their addresses as recorded in the register of directors.

### **89 Failure to notify contact details**

- (1) If:
  - (a) the company sends three consecutive documents to a member over a period of at least six months; and
  - (b) each of those notices is returned undelivered, or the company receives notification that it has not been delivered,

that member shall, subject to the Companies Acts, cease to be entitled to receive notices from the company.

- (2) Members who have lost their entitlement to receive notices shall regain it when they notify new contact details to the company (including, where the company has been using their addresses as recorded in the register of members, a new registered address).

## **90 Position of transmitters**

Persons who become entitled to shares by reason of their holder's death or bankruptcy shall be bound by any notice in respect of those shares which was given to a person from whom they derive their title before their names are entered in the register of members

## **DOCUMENTS AND RECORDS**

### **91 Company seals**

- (1) The directors may determine by what means and in what form any official seal of the company is to be applied to any document or class of documents.
- (2) If the company has a common seal or an official seal for use abroad, it shall only be applied to a document if its use on that document has been authorised generally or specifically by a decision of the directors.
- (3) If the company has a common seal and it is applied to a document, the document shall be:
  - (a) signed by an authorised person; and
  - (b) countersigned by another authorised person.
- (4) For the purposes of this article, an authorised person is:
  - (a) any director of the company;
  - (b) the company secretary; or
  - (c) any person authorised by the directors for the purpose of signing and countersigning documents to which the common seal is applied.
- (5) If the company has an official seal for use in certifying title to securities issued by the company, it shall be applied to such securities by the company secretary or a person authorised to apply it to such securities by the company secretary.

### **92 Destruction of documents**

- (1) The company shall be entitled to destroy:
  - (a) all instruments of transfer of shares which have been registered, and all other documents on the basis of which any entries are made in the register of members, from six or more years after the date of registration;
  - (b) all dividend mandates, variations or cancellations of dividend mandates, and notifications of change of address at any time from two years after they have been recorded;

- (c) all share certificates which have been cancelled from one year after the date of the cancellation;
  - (d) all paid dividend warrants and cheques from one year after the date of actual payment;
  - (e) all proxy appointments which have been used for the purpose of a poll from one year after the date of use; and
  - (f) all proxy appointments which have not been used for the purpose of a poll from one month after the end of the meeting to which the proxy appointment relates, provided that no poll was demanded at it, but if a poll was demanded, they must not be destroyed until a month after the poll has taken place.
- (2) If the company destroys a document in good faith, in accordance with the articles, and without notice of any claim to which that document may be relevant, it shall be conclusively presumed in favour of the company that:
- (a) entries in the register purporting to have been made on the basis of an instrument of transfer or other document so destroyed were duly and properly made;
  - (b) any instrument of transfer so destroyed was a valid and effective instrument duly and properly registered;
  - (c) any share certificate so destroyed was a valid and effective certificate duly and properly cancelled; and
  - (d) any other document so destroyed was a valid and effective document in accordance with its recorded particulars in the books or records of the company.
- (3) This article does not impose on the company any liability which it would not otherwise have if it destroys any document before the time at which this article permits it to do so.
- (4) In this article, references to the destruction of any document include a reference to its being disposed of in any manner.

### **93 No right to inspect accounts and other records**

Except as provided by law or authorised by the directors or an ordinary resolution of the company, no person shall be entitled to inspect any of the company's accounting or other records merely by virtue of being a member.

## **ADMINISTRATIVE ARRANGEMENTS**

### **94 Powers of attorney**

- (1) The directors may, by power of attorney or otherwise, appoint any person to be the company's agent:
- (a) with such powers,
  - (b) in relation to such matters or territories, and
  - (c) on such conditions or subject to such restrictions,

as they think fit.

- (2) Unless the directors specify otherwise, agents so appointed shall be authorised to delegate all or any of their powers.

### **95 Company secretary**

(1) The directors must:

- (a) appoint a person to be the company secretary;
- (b) ensure that the requirements of the Companies Acts are satisfied in respect of person whom they appoint.

(2) The directors may, if they think fit, appoint:

- (a) two or more persons to fulfil the functions of company secretary jointly; or
- (b) a deputy or assistant company secretary to assist the company secretary and perform the company secretary's functions in the company secretary's absence.

### **96 Provision for employees on cessation of business**

The directors may decide to make provision for the benefit of persons employed or formerly employed by the company or any of its subsidiaries (other than a director or former director or shadow director) in connection with the cessation or transfer to any person of the whole or part of the undertaking of the company or that subsidiary.

## **LIABILITIES OF DIRECTORS AND OTHERS**

### **97 Indemnity for certain legal expenses**

(1) Subject to the Companies Acts and any agreement made between a director and the company in accordance with the Companies Acts, a director shall be indemnified out of the company's assets against any expenses which that director incurs in connection with:

- (a) civil proceedings in relation to the company (unless judgment is given against the director and the judgment is final);
- (b) criminal proceedings in relation to the company (unless the director is convicted and the conviction is final); or
- (c) any application for relief from liability for negligence, default, breach of duty or breach of trust in relation to the company (unless the court refuses to grant the director relief, and the refusal is final).

(2) A judgment, conviction or refusal of relief becomes final if:

- (a) the period for bringing an appeal (or any further appeal) has ended; and
- (b) any appeal brought is determined, abandoned or otherwise ceases to have effect.

## 98 Insurance

(1) Subject to the Companies Acts, the directors may decide to purchase and maintain insurance, at the expense of the company, for the benefit of any relevant officer in respect of any relevant loss.

(2) In this article:

- (a) a “relevant officer” means any director or former director of the company, any other officer or employee or former officer or employee of the company (but not its auditors), or any trustee of a pension fund or employee benefits trust of the company; and
- (b) a “relevant loss” means any loss or expenditure which has been or may be incurred by a relevant officer in connection with that relevant officer’s duties, powers or responsibilities in relation to the company or its pension fund or employee benefits trust.

## INDEX OF DEFINED TERMS

In the articles:

<b>“alternate” or “alternate director”</b>	has the meaning given in article 26;
<b>“appointor”</b>	has the meaning given in article 26;
<b>“articles”</b>	means the company’s articles of association;
<b>“Bank of England base rate”</b>	means the base lending rate most recently set by the Monetary Policy Committee of the Bank of England in connection with its responsibilities under Part II of the Bank of England Act 1998;
<b>“bankruptcy”</b>	includes individual insolvency proceedings in a jurisdiction other than England and Wales and Northern Ireland which have an effect similar to that of bankruptcy as regards an insolvent individual’s shares;
<b>“call”</b>	has the meaning given in article 58;
<b>“call notice”</b>	has the meaning given in article 58;
<b>“Companies Acts”</b>	means the Companies Acts (as defined in section 2 of the Company Law Reform Act 2006)*, in so far as they apply to the company;
<b>“company’s lien”</b>	has the meaning given in article 56;
<b>“certificate”</b>	means a paper certificate (other than a share warrant) evidencing a person’s title to specified shares or other securities;
<b>“certificated”</b>	in relation to a share, means that it is not an uncertificated share or a share in respect of which a share warrant has been issued and is current;
<b>“chairman”</b>	has the meaning given in article 11;
<b>“chairman of the meeting”</b>	has the meaning given in article 35;
<b>“committee”</b>	has the meaning given in article 5;
<b>“contact details”</b>	in relation to a person, means the addresses (postal or otherwise) and numbers necessary to send or supply information or documents under the articles to that person from time to time by the means of sending or supplying information by which that person wishes to be sent or supplied with information or documents;
<b>“director”</b>	means a director of the company, and includes any person occupying the position of director, by whatever name called;
<b>“distribution recipient”</b>	has the meaning given in article 73;
<b>“document”</b>	includes, unless otherwise specified, any document sent or supplied in electronic form;
<b>“electronic form”</b>	has the meaning given in section 807 of the Company Law Reform Act 2006;*
<b>“fully paid”</b>	in relation to a share, means that the nominal value and any

	premium to be paid to the company in respect of that share have been paid to the company;
<b>“holder”</b>	in relation to shares means the person whose name is entered in the register of members as the holder of the shares, or, in the case of a share in respect of which a share warrant has been issued (and not cancelled), the person in possession of that warrant;
<b>“instrument”</b>	a document in hard copy form;
<b>“member”</b>	has the meaning given in section 111 of the Company Law Reform Act 2006;*
<b>“nomination notice”</b>	has the meaning given in article 81;
<b>“ordinary resolution”</b>	has the meaning given in section 265 of the Company Law Reform Act 2006;*
<b>“paid”</b>	means paid or credited as paid
<b>“participate”</b>	in relation to a directors’ meeting has the meaning given in article 8, and in relation to a general meeting has the meaning given in article 32;
<b>“partly paid”</b>	in relation to a share means that part of the nominal value or the premium to be paid to the company in respect of that share has not been paid to the company;
<b>“powers and responsibilities”</b>	in relation to the directors, means the powers and responsibilities conferred on them by the articles;
<b>“proxy notice”</b>	has the meaning given in article 42;
<b>“shares”</b>	means shares in the company;
<b>“special resolution”</b>	has the meaning given in section 266 of the Company Law Reform Act 2006;*
<b>“subsidiary”</b>	has the meaning given in section 736 of the Companies Act 1985; and
<b>“transmittee”</b>	means a person entitled to a share by reason of the death or bankruptcy of the share’s holder;
<b>“uncertificated”</b>	in relation to a share means that, by virtue of legislation (other than section 185(4) of the Companies Act 1985) permitting title to shares to be evidenced and transferred without a certificate, title to that share is evidenced and may be transferred without a certificate;
<b>“voting record date”</b>	has the meaning given in article 31; and
<b>“writing”</b>	means the representation or reproduction of words, symbols or other information in a visible form by any method or combination of methods, whether sent or supplied in electronic form or otherwise.

***\* References based on the Company Law Reform Bill as introduced into the House of Commons and printed on 24 May 2006.***

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