

## SCHEDULE 1

Article 6

### TRANSITIONAL ADAPTATIONS OF PROVISIONS BROUGHT INTO FORCE

#### **A company's constitution (s.17)**

- 1.—(1) Section 17 (a company's constitution) has effect with the following adaptation.
- (2) Make the existing provision subsection (1).
- (3) After that subsection insert—
  - “(2) Unless the context otherwise requires, references in this Act to a company's articles (including the reference in subsection (1) above) include the company's memorandum.”.

#### **Inspection of register of members (s.116)**

- 2.—(1) Section 116 (rights to inspect and require copies of register and index of members' names) has effect with the following adaptation.
- (2) After subsection (1) (right of inspection) insert—
  - “(1A) The right conferred by subsection (1) is not exercisable when the register is closed under section 358 of the Companies Act 1985 or Article 366 of the Companies (Northern Ireland) Order 1986.”.

#### **Exercise of members' rights (ss.145 to 153)**

- 3.—(1) Section 145 (effect of provision of articles as to enjoyment or exercise of members' rights) has effect with the following adaptation.
  - (2) In subsection (3)(h), for “section 423 (right to be sent a copy of annual accounts and reports)” substitute “section 238 of the Companies Act 1985 or Article 246 of the Companies (Northern Ireland) Order 1986 (persons entitled to receive copies of accounts and reports).”.
- 4.—(1) Section 146 (traded companies: nomination of persons to enjoy information rights) has effect with the following adaptations.
  - (2) In subsection (3)(b)(i), for “section 431 or 432 (right to require copies of accounts and reports),” substitute “section 239 of the Companies Act 1985 or Article 247 of the Companies (Northern Ireland) Order 1986 (right to demand copies of accounts and annual reports).”.
  - (3) For the second sentence of subsection (4) substitute “Section 251 of the Companies Act 1985 or Article 259 of the Companies (Northern Ireland) Order 1986 (summary financial statements) applies to copies of accounts and reports required to be sent out by virtue of this section to a person nominated to enjoy information rights as it applies to copies of accounts and reports required to be sent out to a member of the company in accordance with section 238 of that Act or Article 246 of that Order.”.
- 5.—(1) Section 153(1) (exercise of rights held on behalf of others: members' requests) has effect with the following adaptation.
  - (2) Omit paragraph (d).

#### **General duties of directors (ss.170 to 181)**

- 6.—(1) Section 170 (scope and nature of general duties) has effect with the following adaptations.
  - (2) In subsection (1), for “177” substitute “174”.
  - (3) Omit subsection (2).

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(4) In subsection (3) after “The general duties” insert “in sections 171 to 174”.

7.—(1) Section 178 (civil consequences of breach of general duties) has effect with the following adaptation.

(2) In subsection (1), for “177” substitute “174”.

8.—(1) Section 180 (consent, approval or authorisation by members) has effect with the following adaptations.

(2) Omit subsection (1).

(3) In subsection (2), omit the words from “, except that” to the end.

(4) In subsection (4), omit paragraph (b).

9.—(1) Section 181 (modification of provisions in relation to charitable companies) has effect with the following modifications.

(2) Omit subsections (2) and (3).

#### **Transactions with directors requiring approval of members (ss.188 to 226)**

10.—(1) Section 191 (meaning of “substantial” non-cash asset) has effect with the following adaptations.

(2) In subsection (4)—

(a) for “Part 15” substitute “Part 7 of the Companies Act 1985 or Part 8 of the Companies (Northern Ireland) Order 1986”, and

(b) for “section 424” substitute “section 238A of that Act or Article 246A of that Order”.

11.—(1) Section 205 (exception for expenditure on defending proceedings etc) has effect with the following adaptation.

(2) In subsection (5), for the words from “section 661(3)” to the end substitute—

“section 144(3) or (4) of the Companies Act 1985 or Article 154(3) or (4) of the Companies (Northern Ireland) Order 1986 (acquisition of shares by innocent nominee), or

section 727 of the Companies Act 1985 or Article 675 of the Companies (Northern Ireland) Order 1986 (general power to grant relief in case of honest and reasonable conduct).”.

#### **Directors’ liabilities (ss.232 to 239)**

12.—(1) Section 234 (qualifying third party indemnity provision) has effect with the following adaptation.

(2) In subsection (6), for the words from “section 661(3)” to the end substitute—

“section 144(3) or (4) of the Companies Act 1985 or Article 154(3) or (4) of the Companies (Northern Ireland) Order 1986 (acquisition of shares by innocent nominee), or

section 727 of the Companies Act 1985 or Article 675 of the Companies (Northern Ireland) Order 1986 (general power to grant relief in case of honest and reasonable conduct).”.

#### **Written resolutions (ss.288 to 300)**

13.—(1) Section 288 (written resolutions of private companies) has effect with the following adaptations.

(2) In subsection (2) (resolutions that may not be passed as a written resolution)—

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- (a) in paragraph (b), for “a resolution under section 510” substitute “a resolution under section 391 of the Companies Act 1985 or Article 399 of the Companies (Northern Ireland) Order 1986”;
- (b) after that paragraph add—
  - “(c) a resolution under section 80A of the Companies Act 1985 or Article 90A of the Companies (Northern Ireland) Order 1986 revoking, varying or renewing the authority of the directors to allot securities.”.
- (3) After subsection (5) add—
  - “(6) A written resolution under any of the provisions of the Companies Act 1985 or the Companies (Northern Ireland) Order 1986 mentioned in sections 300A to 300D is not effective unless the procedural requirements specified in those sections are complied with.”.
- (4) After section 300 insert—

*“Transitional application of procedural requirements*

**Disapplication of pre-emption rights**

**300A.**—(1) This section applies to a written resolution—

- (a) under section 95(2) of the Companies Act 1985 or Article 105(2) of the Companies (Northern Ireland) Order 1986 (disapplication of pre-emption rights), or
- (b) renewing a resolution under that provision.

(2) The statement required by section 95(5) of that Act or Article 105(5) of that Order (statement by directors to be circulated with notice of meeting) must be sent or submitted to every eligible member at or before the time at which the resolution is sent or submitted to him.

(3) Section 95(6) of that Act or Article 105(6) of that Order (offences) applies in relation to the inclusion in any such statement of matter that is misleading, false or deceptive in a material particular.

**Financial assistance for purchase of company’s own shares or those of holding company**

**300B.**—(1) This section applies to a written resolution under section 155(4) or (5) of the Companies Act 1985 or Article 165(4) or (5) of the Companies (Northern Ireland) Order 1986 (financial assistance for purchase of company’s own shares or those of holding company).

(2) The documents referred to in section 157(4)(a) of that Act or Article 167(4)(a) of that Order (documents to be available at meeting) must be sent or submitted to every eligible member at or before the time at which the resolution is sent or submitted to him.

**Authority for off-market purchase or contingent purchase contract of company’s own shares**

**300C.**—(1) This section applies to a written resolution—

- (a) conferring authority to make an off-market purchase of the company’s own shares under section 164(2) of the Companies Act 1985 or Article 174(2) of the Companies (Northern Ireland) Order 1986,
- (b) conferring authority to vary a contract for an off-market purchase of the company’s own shares under section 164(7) of that Act or Article 174(7) of that Order, or

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(c) varying, revoking or renewing any such authority under section 164(3) of that Act or Article 174(3) of that Order.

(2) Section 164(5) of that Act or Article 174(5) of that Order (resolution ineffective if passed by exercise of voting rights by member holding shares to which the resolution relates) does not apply.

But for the purposes of section 289 of this Act (eligible members) a member holding shares to which the resolution relates shall not be regarded as a member who would be entitled to vote on the resolution.

(3) The documents referred to in section 164(6) of that Act or Article 174(6) of that Order (documents to be available at company's registered office and at meeting), and, where that provision applies by virtue of section 164(7) of that Act or Article 174(7) of that Order, the further documents referred to in that provision, must be sent or submitted to every eligible member at or before the time at which the resolution is sent or submitted to him.

(4) Subsections (2) and (3) above also have effect in relation to a written resolution in relation to which the provisions of section 164(3) to (7) of the Companies Act 1985 or Article 174(3) to (7) of the Companies (Northern Ireland) Order 1986 apply by virtue of—

- (a) section 165(2) of that Act or Article 175(2) of that Order (authority for contingent purchase contract), or
- (b) section 167(2) of that Act or Article 177(2) of that Order (approval for release of rights under contracts approved under section 164 or 165 or Article 174 or 175).

#### **Approval for payment out of capital**

**300D.**—(1) This section applies to a written resolution giving approval under section 173(2) of the Companies Act 1985 or Article 183(2) of the Companies (Northern Ireland) Order 1986 (redemption or purchase of company's own shares out of capital).

(2) Section 174(2) of that Act or Article 184(2) of that Order (resolution ineffective if passed by exercise of voting rights by member holding shares to which the resolution relates) does not apply.

But for the purposes of section 289 of this Act (eligible members) a member holding shares to which the resolution relates shall not be regarded as a member who would be entitled to vote on the resolution.

(3) The documents referred to in section 174(4) of that Act or Article 184(4) of that Order (documents to be available at meeting) must be sent or submitted to every eligible member at or before the time at which the resolution is sent or submitted to him.”.

#### **Resolutions at meetings (ss.301 to 335)**

**14.**—(1) Section 306 (power of court to order meeting) has effect with the following adaptation.

(2) In subsection (1)(b) for “or this Act” substitute “this Act, the Companies Act 1985 or the Companies (Northern Ireland) Order 1986”.

#### **Public companies: additional requirements for AGMs (ss.336 to 340)**

**15.**—(1) Section 336 (public companies: annual general meeting) has effect with the following adaptations.

(2) In subsection (1), for “6 months” substitute “7 months”.

(3) In subsection (2), for “notice under section 392 (alteration of accounting reference date)” substitute “notice under section 225 of the Companies Act 1985 or Article 233 of the Companies (Northern Ireland) Order 1986 (alteration of accounting reference date)”.

#### **Contents of directors’ report: business review (s.417)**

**16.**—(1) Section 417 (contents of directors’ report: business review) has effect with the following adaptations.

(2) For subsection (1) substitute—

“(1) Unless the company is entitled to small companies exemption in relation to the directors’ report, the report must contain a business review.

(1A) A company is entitled to small companies exemption in relation to the directors’ report for a financial year if it—

- (a) qualifies as small in relation to that year under Part 7 of the Companies Act 1985 or Part 8 of the Companies (Northern Ireland) Order 1986, and
- (b) is not, and was not at any time within that year, an ineligible company as defined in section 247A(1B) of that Act or Article 255A(1B) of that Order.”.

(3) For subsection (7) substitute—

“(7) Where a company—

- (a) qualifies as medium-sized in relation to a financial year under Part 7 of the Companies Act 1985 or Part 8 of the Companies (Northern Ireland) Order 1986, and
- (b) is not, and was not at any time within that year, an ineligible company as defined in section 247A(1B) of that Act or Article 255A(1B) of that Order,

the directors’ report for the year need not comply with the requirements of subsection (6) so far as they relate to non-financial information.”.

#### **Appointment of auditors of private company (ss.485 to 488)**

**17.**—(1) Section 485 (appointment of auditors of private companies: general) has effect with the following adaptations.

(2) For paragraph (a) of subsection (2) substitute—

“(a) the end of the period allowed for delivering accounts and reports under section 244 of the Companies Act 1985 or Article 252 of the Companies (Northern Ireland) Order 1986, or”.

(3) In paragraph (b) of subsection (2), for “section 423” substitute “section 238 of the Companies Act 1985 or Article 246 of the Companies (Northern Ireland) Order 1986”.

**18.**—(1) Section 487 (term of office of auditors of private company) has effect with the following adaptation.

(2) In subsection (3) for “the provisions of this Part” substitute “the provisions of Chapter 5 of Part 11 of the Companies Act 1985 or Chapter 5 of Part 12 of the Companies (Northern Ireland) Order 1986”.

#### **Protection of members against unfair prejudice (ss.994 to 999)**

**19.**—(1) Section 994(3) (meaning of “company”) has effect with the following adaptation.

(2) For paragraph (a) substitute—

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“(a) a company within the meaning of the Companies Act 1985 or the Companies (Northern Ireland) Order 1986;”.

**Company investigations: amendments relating to offences (s.1124 and Sch.3)**

**20.**—(1) Schedule 3 (amendments of remaining provisions of the 1985 Act relating to offences) has effect with the following adaptations.

(2) Omit the words “or Northern Ireland” in the following provisions inserted in the 1985 Act—

- (a) in the provision inserted by paragraph 1(2) as section 444(4)(b)(ii);
- (b) in the provision inserted by paragraph 3(3) as section 449(6A)(b)(ii);
- (c) in the provision inserted by paragraph 4(1) as section 450(3)(b)(ii);
- (d) in the provision inserted by paragraph 5(1) as section 451(2)(b)(ii).

**Meaning of “UK-registered company” (s.1158)**

**21.**—(1) Section 1158 (meaning of “UK-registered company”) has effect with the following adaptations.

(2) For “a company registered under this Act” substitute “a company within the meaning of the Companies Act 1985 or the Companies (Northern Ireland) Order 1986 or a company registered under section 680 of that Act or Article 629 of that Order.”.

(3) For “an overseas company that has registered particulars under section 1046” substitute “an overseas company within the meaning of that Act or a Part 23 company within the meaning of that Order”.