

SCHEDULE 3

MODEL ARTICLES FOR PUBLIC COMPANIES

PART 2

DIRECTORS

DIRECTORS' POWERS AND RESPONSIBILITIES

Directors' general authority

3. Subject to the articles, the directors are responsible for the management of the company's business, for which purpose they may exercise all the powers of the company.

Members' reserve power

4.—(1) The members may, by special resolution, direct the directors to take, or refrain from taking, specified action.

(2) No such special resolution invalidates anything which the directors have done before the passing of the resolution.

Directors may delegate

5.—(1) Subject to the articles, the directors may delegate any of the powers which are conferred on them under the articles—

- (a) to such person or committee;
- (b) by such means (including by power of attorney);
- (c) to such an extent;
- (d) in relation to such matters or territories; and
- (e) on such terms and conditions;

as they think fit.

(2) If the directors so specify, any such delegation may authorise further delegation of the directors' powers by any person to whom they are delegated.

(3) The directors may revoke any delegation in whole or part, or alter its terms and conditions.

Committees

6.—(1) Committees to which the directors delegate any of their powers must follow procedures which are based as far as they are applicable on those provisions of the articles which govern the taking of decisions by directors.

(2) The directors may make rules of procedure for all or any committees, which prevail over rules derived from the articles if they are not consistent with them.

DECISION-MAKING BY DIRECTORS

Directors to take decisions collectively

7. Decisions of the directors may be taken—

- (a) at a directors' meeting, or

- (b) in the form of a directors' written resolution.

Calling a directors' meeting

- 8.**—(1) Any director may call a directors' meeting.
- (2) The company secretary must call a directors' meeting if a director so requests.
 - (3) A directors' meeting is called by giving notice of the meeting to the directors.
 - (4) Notice of any directors' meeting must indicate—
 - (a) its proposed date and time;
 - (b) where it is to take place; and
 - (c) if it is anticipated that directors participating in the meeting will not be in the same place, how it is proposed that they should communicate with each other during the meeting.
 - (5) Notice of a directors' meeting must be given to each director, but need not be in writing.
 - (6) Notice of a directors' meeting need not be given to directors who waive their entitlement to notice of that meeting, by giving notice to that effect to the company not more than 7 days after the date on which the meeting is held. Where such notice is given after the meeting has been held, that does not affect the validity of the meeting, or of any business conducted at it.

Participation in directors' meetings

- 9.**—(1) Subject to the articles, directors participate in a directors' meeting, or part of a directors' meeting, when—
 - (a) the meeting has been called and takes place in accordance with the articles, and
 - (b) they can each communicate to the others any information or opinions they have on any particular item of the business of the meeting.
- (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.
- (3) If all the directors participating in a meeting are not in the same place, they may decide that the meeting is to be treated as taking place wherever any of them is.

Quorum for directors' meetings

- 10.**—(1) At a directors' meeting, unless a quorum is participating, no proposal is to 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 decision of the directors, but it must never be less than two, and unless otherwise fixed it is two.

Meetings where total number of directors less than quorum

- 11.**—(1) This article applies where the total number of directors for the time being is less than the quorum for directors' meetings.
- (2) If there is only one director, that director may appoint sufficient directors to make up a quorum or call a general meeting to do so.
 - (3) If there is more than one director—
 - (a) a directors' meeting may take place, if it is called in accordance with the articles and at least two directors participate in it, with a view to appointing sufficient directors to make up a quorum or calling a general meeting to do so, and

- (b) if a directors' meeting is called but only one director attends at the appointed date and time to participate in it, that director may appoint sufficient directors to make up a quorum or call a general meeting to do so.

Chairing directors' meetings

- 12.—**(1) The directors may appoint a director to chair their meetings.
- (2) The person so appointed for the time being is known as the chairman.
- (3) The directors may appoint other directors as deputy or assistant chairmen to chair directors' meetings in the chairman's absence.
- (4) The directors may terminate the appointment of the chairman, deputy or assistant chairman at any time.
- (5) If neither the chairman nor any director appointed generally to chair directors' meetings in the chairman's absence is participating in a meeting within ten minutes of the time at which it was to start, the participating directors must appoint one of themselves to chair it.

Voting at directors' meetings: general rules

- 13.—**(1) Subject to the articles, a decision is taken at a directors' meeting by a majority of the votes of the participating directors.
- (2) Subject to the articles, each director participating in a directors' meeting has one vote.
- (3) Subject to the articles, if a director has an interest in an actual or proposed transaction or arrangement with the company—
- (a) that director and that director's alternate may not vote on any proposal relating to it, but
 - (b) this does not preclude the alternate from voting in relation to that transaction or arrangement on behalf of another appointor who does not have such an interest.

Chairman's casting vote at directors' meetings

- 14.—**(1) If the numbers of votes for and against a proposal are equal, the chairman or other director chairing the meeting has a casting vote.
- (2) But this does not apply if, in accordance with the articles, the chairman or other director is not to be counted as participating in the decision-making process for quorum or voting purposes.

Alternates voting at directors' meetings

- 15.** A director who is also an alternate director has an additional vote on behalf of each appointor who is—
- (a) not participating in a directors' meeting, and
 - (b) would have been entitled to vote if they were participating in it.

Conflicts of interest

- 16.—**(1) If a directors' meeting, or part of a directors' meeting, is concerned with an actual or proposed transaction or arrangement with the company in which a director is interested, that director is not to be counted as participating in that meeting, or part of a meeting, for quorum or voting purposes.
- (2) But if paragraph (3) applies, a director who is interested in an actual or proposed transaction or arrangement with the company is to be counted as participating in a decision at a directors' meeting, or part of a directors' meeting, relating to it for quorum and voting purposes.

(3) This paragraph applies 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.

(4) 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 any of its subsidiaries, or to underwrite, sub-underwrite, or guarantee subscription for any such shares or securities; and
- (c) arrangements pursuant to which benefits are made available to employees and directors or former employees and directors of the company or any of its subsidiaries which do not provide special benefits for directors or former directors.

(5) Subject to paragraph (6), if a question arises at a meeting of directors or of a committee of directors as to the right of a director to participate in the meeting (or part of the meeting) for voting or quorum purposes, the question may, before the conclusion of the meeting, be referred to the chairman whose ruling in relation to any director other than the chairman is to be final and conclusive.

(6) If any question as to the right to participate in the meeting (or part of the meeting) should arise in respect of the chairman, the question is to be decided by a decision of the directors at that meeting, for which purpose the chairman is not to be counted as participating in the meeting (or that part of the meeting) for voting or quorum purposes.

Proposing directors' written resolutions

17.—(1) Any director may propose a directors' written resolution.

(2) The company secretary must propose a directors' written resolution if a director so requests.

(3) A directors' written resolution is proposed by giving notice of the proposed resolution to the directors.

(4) Notice of a proposed directors' written resolution must indicate—

- (a) the proposed resolution, and
- (b) the time by which it is proposed that the directors should adopt it.

(5) Notice of a proposed directors' written resolution must be given in writing to each director.

(6) Any decision which a person giving notice of a proposed directors' written resolution takes regarding the process of adopting that resolution must be taken reasonably in good faith.

Adoption of directors' written resolutions

18.—(1) A proposed directors' written resolution is adopted when all the directors who would have been entitled to vote on the resolution at a directors' meeting have signed one or more copies of it, provided that those directors would have formed a quorum at such a meeting.

(2) It is immaterial whether any director signs the resolution before or after the time by which the notice proposed that it should be adopted.

(3) Once a directors' written resolution has been adopted, it must be treated as if it had been a decision taken at a directors' meeting in accordance with the articles.

(4) The company secretary must ensure that the company keeps a record, in writing, of all directors' written resolutions for at least ten years from the date of their adoption.

Directors' discretion to make further rules

19. Subject to the articles, the directors may make any rule which they think fit about how they take decisions, and about how such rules are to be recorded or communicated to directors.

APPOINTMENT OF DIRECTORS

Methods of appointing directors

20. 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.

Retirement of directors by rotation

21.—(1) At the first annual general meeting all the directors must retire from office.

(2) At every subsequent annual general meeting any directors—

- (a) who have been appointed by the directors since the last annual general meeting, or
- (b) who were not appointed or reappointed at one of the preceding two annual general meetings,

must retire from office and may offer themselves for reappointment by the members.

Termination of director's appointment

22. 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 Act 2006 or is prohibited from being a director by law;
- (b) a bankruptcy order is made against that person;
- (c) a composition is made with that person's creditors generally in satisfaction of that person's debts;
- (d) a registered medical practitioner who is treating that person gives a written opinion to the company stating that that person has become physically or mentally incapable of acting as a director and may remain so for more than three months;
- (e) by reason of that person's mental health, a court makes an order which wholly or partly prevents that person from personally exercising any powers or rights which that person would otherwise have;
- (f) notification is received by the company from the director that the director is resigning from office as director, and such resignation has taken effect in accordance with its terms.

Directors' remuneration

23.—(1) Directors may undertake any services for the company that the directors decide.

(2) Directors are entitled to such remuneration as the directors determine—

- (a) for their services to the company as directors, and
- (b) for any other service which they undertake for the company.

Status: This is the original version (as it was originally made).

- (3) Subject to the articles, a director's remuneration may—
 - (a) take any form, and
 - (b) 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.
- (4) Unless the directors decide otherwise, directors' remuneration accrues from day to day.
- (5) Unless the directors decide otherwise, directors are not accountable to the company for any remuneration which they receive as directors or other officers or employees of the company's subsidiaries or of any other body corporate in which the company is interested.

Directors' expenses

24. The company may pay any reasonable expenses which the directors properly incur in connection with their attendance at—

- (a) meetings of directors or committees of directors,
 - (b) general meetings, or
 - (c) separate meetings of the holders of any class of shares or of debentures of the company,
- or otherwise in connection with the exercise of their powers and the discharge of their responsibilities in relation to the company.

ALTERNATE DIRECTORS

Appointment and removal of alternates

25.—(1) Any director (the "appointor") may appoint as an alternate any other director, or any other person approved by resolution of the directors, to—

- (a) exercise that director's powers, and
 - (b) carry out that director's responsibilities,
- in relation to the taking of decisions by the directors in the absence of the alternate's appointor.
- (2) Any appointment or removal of an alternate must be effected by notice in writing to the company signed by the appointor, or in any other manner approved by the directors.

(3) The notice must—

- (a) identify the proposed alternate, and
- (b) in the case of a notice of appointment, contain a statement signed by the proposed alternate that the proposed alternate is willing to act as the alternate of the director giving the notice.

Rights and responsibilities of alternate directors

26.—(1) An alternate director has the same rights, in relation to any directors' meeting or directors' written resolution, as the alternate's appointor.

(2) Except as the articles specify otherwise, alternate directors—

- (a) are deemed for all purposes to be directors;
 - (b) are liable for their own acts and omissions;
 - (c) are subject to the same restrictions as their appointors; and
 - (d) are not deemed to be agents of or for their appointors.
- (3) A person who is an alternate director but not a director—

- (a) may be counted as participating for the purposes of determining whether a quorum is participating (but only if that person's appointor is not participating), and
- (b) may sign a written resolution (but only if it is not signed or to be signed by that person's appointor).

No alternate may be counted as more than one director for such purposes.

(4) An alternate director is not entitled to receive any remuneration from the company for serving as an alternate director except such part of the alternate's appointor's remuneration as the appointor may direct by notice in writing made to the company.

Termination of alternate directorship

27. An alternate director's appointment as an alternate terminates—

- (a) when the alternate's appointor revokes the appointment by notice to the company in writing specifying when it is to terminate;
- (b) on the occurrence in relation to the alternate of any event which, if it occurred in relation to the alternate's appointor, would result in the termination of the appointor's appointment as a director;
- (c) on the death of the alternate's appointor; or
- (d) when the alternate's appointor's appointment as a director terminates, except that an alternate's appointment as an alternate does not terminate when the appointor retires by rotation at a general meeting and is then re-appointed as a director at the same general meeting.