

Company 2619506

The Companies Acts 1985 & 1989

Company Limited by Shares

Resolution

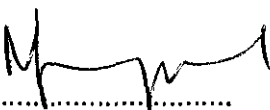
of

County Environmental Services Ltd

At an Annual General meeting of the above named Company duly convened and held at the Alverton Manor Hotel, Truro on 25th March 2003 the following resolution was duly proposed and passed as a Special Resolution.

Special Resolution

"That the regulations contained in the printed document annexed to this resolution be and are approved and adopted as the articles of association of the Company in substitution for, and to the exclusion of, all the existing articles of association of the Company."


.....

Roger Gazzard, Secretary



THE COMPANIES ACTS 1985 AND 1989
PRIVATE COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION
OF
COUNTY ENVIRONMENTAL SERVICES LIMITED

(No. 2619506)

(Adopted by Special Resolution, dated 1st September 1993, as amended by Special Resolution, dated 13th March 1997 and by Special Resolution, dated 25th March 2003)

PRELIMINARY

1. The Regulations in Table A in the Companies (Tables A to F) Regulations 1985 (as amended) shall, except as hereinafter provided and so far as not inconsistent with the provisions of these Articles, apply to the Company. References herein to regulations are to regulations in the said Table A unless otherwise stated.

2. In these Articles:

“the Act” means the Companies Act 1985 including any statutory modification or re-enactment thereof for the time being in force;

these “Articles” means these Articles of Association as from time to time altered;

“Council” means Cornwall County Council;

“County Treasurer” means the officer appointed under section 6 of the Local Government and Housing Act 1989 to be responsible for the administration of the financial affairs of the Council;

“month” means calendar month;

“Office” means the registered office of the Company;

“Seal” means the common seal of the Company;

“Secretary” means the secretary of the Company or any other person appointed to perform the duties of the secretary of the Company, including a joint, assistant or deputy secretary;

“Special Director” means the person appointed pursuant to Article 9;

“Year” means calendar year;

Words denoting the singular shall include the plural and vice versa. Words denoting the masculine shall include the feminine. Words denoting persons shall include corporations;

Unless the context of the words otherwise requires, words or expressions contained in these Articles bear the same meanings as in the Act but excluding any statutory modifications thereof not in force when these Articles become binding on the Company; and

Any Special or Extraordinary Resolution shall be effective for any purpose for which an Ordinary Resolution is expressed to be required under any provisions of these Articles.

TRANSFER OF SHARES

3. The Directors shall not be entitled to refuse to register a valid transfer of a share. Regulations 24 and 25 shall not apply and Regulation 28 shall be amended accordingly.

PROCEEDINGS AT GENERAL MEETINGS

4. Every notice convening a General Meeting shall comply with the provisions of section 372(3) of the Act as to the giving of information to Members in regard to their right to appoint proxies; and notices of and other communications relating to any General Meeting which any Member is entitled to receive shall be sent to the Directors and to the auditors for the time being of the Company.
5. In the case of the Council, a resolution or other notice in writing may be signed on its behalf by the Chief Executive or his duly appointed attorney or duly authorised representative. Regulation 53 shall be extended accordingly.

VOTES OF MEMBERS

6. An instruction appointing a proxy (and, where it is signed on behalf of the appointor by an attorney, the letter or power of attorney or a duly certified copy thereof) must either be delivered at such place or one of such places (if any) as may be specified for that purpose in or by way of a note to the notice convening the meeting (or, if no place is so specified, at the Office) before the time appointed for holding the meeting or adjourned meeting or (in the case of a poll taken otherwise than at or on the same day as the meeting or adjourned meeting) for the taking of the poll at which it is to be used, or delivered to the Secretary (or the chairman of the meeting) on the day and at the place of, but in any event before the time appointed for holding, the meeting or adjourned meeting or poll. An instrument of proxy shall not be treated as valid until such delivery has been effected. Regulation 62 shall not apply.

NUMBER OF DIRECTORS

7. Unless otherwise determined by Ordinary Resolution, the number of Directors shall not be subject to any maximum but shall not be less than five. Alternate directors appointed under Regulation 69 shall only act in place of the appointing Director and shall not be treated in law as Directors in their own right. Regulation 69 shall be modified accordingly.

DELEGATION OF DIRECTORS' POWERS

8. The Directors shall not delegate any of their powers to any committee of Directors, except in accordance with the Company's internal standing orders. Regulation 72 shall be modified accordingly. The Directors may authorise the co-option of persons other than Directors to any committee of Directors.

APPOINTMENT, RETIREMENT AND REMOVAL OF DIRECTORS

9. The Council may from time to time appoint any person to be a Special Director by serving prior written notice thereof on the Secretary of the Company, provided that at no time shall there be more than one such Special Director. The Directors shall not be subject to retirement by rotation and references thereto in Regulations 73 and 80 shall be disregarded.
10. For so long as the Company remains a controlled company pursuant to section 68(1)(b) of the Local Government and Housing Act 1989, Regulation 79 shall not apply. All Directors except the Special Director shall be appointed in general meeting and all Directors shall be appointed for a fixed term of at least two years to expire at an annual general meeting of the Company.
11. If the Company, at a meeting at which a Director retires upon expiry of his fixed term contract, does not fill the vacancy, the retiring Director shall, if willing to act, be deemed to have been re-appointed unless at the meeting it is resolved not to fill the vacancy or unless a resolution for the reappointment of a Director is put to the meeting and lost.
12. Regulations 76, 77 and 79 shall not apply.
13. The office of a Director shall be vacated in any of the events specified in Regulation 81; or if his fixed term contract of employment (referred to in Articles 10 and 11) is terminated lawfully on account of misconduct; or if he shall in writing offer to resign and the Directors shall resolve to accept such offer; or, in the case of a Special Director, if he ceases to be a serving member or officer of the Council.

REMUNERATION OF DIRECTORS

14. The Directors shall be entitled to such remuneration as the Company may by Ordinary Resolution determine and, unless such Ordinary Resolution provides otherwise, the remuneration shall be deemed to accrue from day to day. The Company shall have regard to any restrictions imposed by law on the amount of remuneration which any Director is entitled to receive.

DIRECTORS' EXPENSES

15. The Company shall have regard to any restrictions imposed by law on the amount of expenses which any Director is entitled to receive.

DIRECTORS' APPOINTMENTS AND INTERESTS

16. (i) The appointment of the Managing Director and the terms of his appointment shall be subject to approval by Ordinary Resolution of the Company.
- (ii) The terms of appointment of a Director to any other executive office of the Company shall be subject to approval by Ordinary Resolution of the Company.

DIRECTORS' GRATUITIES AND PENSIONS

17. The power of Directors contained in Regulation 87 to provide benefits for any Director or his family members or dependants shall be subject to any restrictions imposed by law and to approval by Ordinary Resolution of the Company. Regulation 87 shall be modified accordingly.

PROCEEDINGS OF DIRECTORS

18. The quorum for a meeting of the Directors shall, throughout the meeting, be three and one of the three shall be the Special Director or his alternate. Regulation 89 shall not apply.
19. No Director shall be appointed save in accordance with these Articles. Regulation 90 shall be modified accordingly.
20. The Seal shall be used only with the authority of the Directors. The Directors may determine who shall sign any instrument to which the Seal is affixed and unless otherwise so determined, it shall be signed by a Director and the Secretary or a second Director.

INDEMNITY

- 21 (i) Subject to the provisions of, and so far as may be permitted by, law, every Director, auditor, Secretary or other officer of the Company shall be entitled to be indemnified by the Company against all costs, charges, losses, expenses and liabilities incurred by him in the execution and discharge of his duties or in relation thereto including any liability incurred by him in defending any proceedings, civil or criminal, which relate to anything done or omitted or alleged to have been done or omitted by him as an officer or employee of the Company and in which judgement is given in his favour (or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty of his part) or in which he is acquitted or in connection with any application under any statute for relief from liability in respect of any such act or omission in which relief is granted to him by the Court. Regulation 118 shall not apply.

- (ii) The Directors shall have powers to purchase and maintain for any Director, Secretary, officer or auditor of the Company insurance against any such liability as is referred to in section 310(1) of the Act.

CAPITAL SPENDING AND RESERVES

- 22 Any proposal by the Directors to incur capital expenditure which, if it were incurred by the Council would count as capital expenditure under the Local Government and Housing Act 1989, shall require the prior consent of the County Treasurer.

BUSINESS PLAN

- 23 (i) The Company shall prepare in writing a five year rolling business plan (in such form as shall be agreed between the Company and the Council from time to time) (a "Business Plan") for itself and its subsidiaries to cover the next financial year and the four succeeding financial years, such Business Plan to be prepared annually and to include the following for each year of such five year rolling period:-
 - (a) an estimate of the working capital requirements of the Company and of each of its subsidiaries incorporated within a cash flow statement, together with an indication of the amount (if any) which it is considered prudent to retain out of the previous financial year's distributable profits to meet such working capital requirements;
 - (b) a projected profit and loss account;
 - (c) an operating budget (to include estimated capital expenditure requirements and balance sheet forecasts); and
 - (d) a summary of business objectives.
- (ii) Each such Business Plan shall be prepared within 30 days, and shall be submitted for the Council's approval not later than 15 days, prior to the commencement of the financial year in question.
- (iii) In the event that the Company proposes a material variation to any item specified in a budget contained in the Business Plan already approved by the Council, the Company shall submit to the Council for its approval notice of such variation (containing such details of the said variation as the Council shall reasonably request), such notice to be provided prior to any expenditure being incurred; and for the purpose of this provision, a variation shall be regarded as material if it involves an increase or decrease of expenditure of an amount or related amounts of in excess of £100,000.

PRESERVATION OF ASSETS

- 24 The Directors shall call an Extraordinary General Meeting if the net assets of the Company fall to one half or less of its called up share capital.

FURTHER DUTIES TO LOCAL AUTHORITY SHAREHOLDERS

- 25 The Company shall observe all the legal requirements imposed on it by virtue of any of its shareholders being the Council or any other local authority (in either case, a "Local Authority Shareholder"). In particular, without limiting the generality of the foregoing, the Company shall:-
- (i). (to the extent that approval has not been obtained under Article 22) obtain the approval of the Local Authority Shareholder to any proposed borrowing or other credit arrangements for capital purposes;
 - (ii). not engage in activities for party political purposes or publish party political material;
 - (iii). not pay to the Special Director any remuneration or reimbursement of expenses greater than that to which he would have been entitled in comparable circumstances from the Local Authority Shareholder;
 - (iv). not appoint as a Director anyone disqualified from membership of a local authority (other than through employment with a local authority, another local authority or a company controlled by a local authority);
 - (v). provide, and instruct its auditors to provide, to the Local Authority Shareholder such information as it may reasonably require for the purpose of preparing and auditing the Local Authority Shareholder's accounts or for investigating value for money or any other reasonable purpose;
 - (vi). prepare and publish a statement of practice in respect of letting contracts and abide by it;
 - (vii). obtain appropriate competitive tenders prior to, and exclude non-commercial matters when deciding, letting contracts;
 - (viii). provide any member or officer of the Local Authority Shareholder with such information about the activities of the Company which he may reasonably need for the discharge of his functions;
 - (ix). not undertake any activity or incur any expenditure covered by section 137 of the Local Government Act 1972 (power of local authorities to incur expenditure for certain purposes not otherwise authorised) which, if aggregated with the Local Authority Shareholder's spending within that section, would exceed such Local Authority Shareholder's financial limit under that section for the relevant financial year;
 - (x). not appoint as auditor any person or firm not approved for that purpose by the Audit Commission;
 - (xi). not dispose of any land comprising either a freehold interest or a leasehold interest of more than seven years for less than the best consideration reasonably obtainable unless approved by the Secretary of State;

- (xii). while the Company is a "controlled arm's length company" of the Local Authority Shareholder for the purposes of section 68 of the Local Government and Housing Act 1989, use its best endeavours to produce a positive rate of return, the amount to be agreed from time to time with the Local Authority Shareholder;
- (xiii). not make or agree to make (and shall procure that none of its subsidiaries shall make or agree to make) any material change to any contract of employment between the Company or any such subsidiary and any of their respective directors (whatever his/her title or job description) or any alteration to his/her remuneration payable by the Company or such subsidiary, in any case without the consent of the Local Authority Shareholder; and/or
- (xiv). not (and shall procure that none of its subsidiaries from time to time shall), without the consent of the Local Authority Shareholder:-
 - (a) acquire, whether by formation or otherwise, any subsidiary nor effect or permit the disposal of or dilution of its interests, directly or indirectly, in any subsidiary;
 - (b) acquire any share or loan capital of any body corporate (including that of the Company or any subsidiary);
 - (c) enter into any partnership or profit-sharing arrangement with any person; and/or
 - (d) sell, transfer, lease or in any way dispose of all or a material part of its business, undertaking or assets, whether by a single transaction or series of related transactions; and for such purpose, an asset or part of the business shall be regarded as "material" if its then current market value exceeds £10,000.

26 The Company shall provide:-

- (i) to the Council within three weeks after the end of each calendar quarter, the management accounts for the Company and each of its subsidiaries from time to time in respect of such quarter, together with a rolling cash flow forecast for a period of twelve months from the end of such quarter (in each case, in such form as shall be agreed by the Company and the Council from time to time); and
- (ii) to the County Treasurer and the Council's Head of Internal Audit, promptly upon written request during normal office hours, access to all records and documents of the Company and its subsidiaries from time to time subject to the County Treasurer or the Council's Head of Internal Audit (as the case may be) entering into such confidentiality undertakings as the Company may reasonably require.