

No. 2904587

THE COMPANIES ACT 1985  
and

THE COMPANIES ACT 2006

COMPANY LIMITED BY SHARES

Special Resolution

of


Network Rail Infrastructure Limited

At the general meeting of the Company duly convened and held on 2 March 2009 the following resolution was duly passed as a Special Resolution:

Special Resolution

Articles of Association

That the Articles of Association produced to this meeting and for the purposes of identification signed by the Company Secretary hereof, be approved and adopted as the Articles of Association of the company, in substitution for, and to the exclusion of, all existing Articles of Association.



.....  
Hazel Walker  
Company secretary



LD2

03/03/2009

146

COMPANIES HOUSE

A handwritten signature in black ink, appearing to read 'M. Walker', is located in the top right corner of the page.

Company Number: No 2904587

**THE COMPANIES ACT 1985**  
**And**  
**THE COMPANIES ACT 2006**

**COMPANY LIMITED BY SHARES**

**ARTICLES OF ASSOCIATION**  
**of**  
**NETWORK RAIL INFRASTRUCTURE LIMITED**

**THE COMPANIES ACT 1985**

**and**

**THE COMPANIES ACT 2006**

**COMPANY LIMITED BY SHARES**

**ARTICLES OF ASSOCIATION**

**of**

**Network Rail Infrastructure Limited**

**Adopted by Special Resolution on 2 March 2009**

**Preliminary**

- 1** The regulations contained in Table A in The Companies (Tables A to F) Regulations 1985 (as amended so as to affect companies first registered on the date of adoption of these Articles) shall, except as hereinafter provided and so far as not inconsistent with the provisions of these Articles, apply to the Company to the exclusion of all other regulations or Articles of Association. References herein to Regulations are to Regulations in the said Table A (a copy of which is annexed to these Articles) unless otherwise stated.
- 1A** Anything required to be done by extraordinary resolution may also be done by special resolution.
- 2** In these Articles (if not inconsistent with the subject or context):
  - "Authority"** means the Strategic Rail Authority of, on the date of incorporation of the Company, 55 Victoria Street, London W1H 0EU being the body corporate referred to in Section 201 of the Transport Act 2000 or such other person who becomes the Special Member of Network Rail in substitution for the previous Special Member pursuant to or in accordance with a statute or subordinate legislation providing for the creation of a successor to the functions of the previous Special Member;
  - "Board"** means the board of Directors of the Company, as from time to time constituted;
  - "Companies Acts"** shall have the meaning given thereto by Section 2 of the Companies Act 2006 but shall only extend to provisions which are in force at the relevant date;
  - "Company Communications Provisions"** shall have the same meaning as in the Companies Acts;
  - "Director"** means a director of the Company from time to time;
  - "electronic communication"** shall have the same respective meaning as a communication in electronic form sent in accordance with the Company Communication Provisions and the definition of "communication" and "electronic communication" set out in Regulation 1 shall not apply;

**"Eligible GB Licence Holder"** means any person (other than Network Rail or a subsidiary of Network Rail) who (a) is authorised by a licence to be the operator of railway assets pursuant to Section 8 of the Railways Act 1993 and (b) is operating such assets in Great Britain by virtue of such licence;

**"Eligible non-GB Licence Holder"** means any person (other than an Eligible GB Licence Holder or Network Rail or a subsidiary of Network Rail) who is a railway undertaking (as such term is defined in Council Directive 95/18/EC of 19 June 1995 (as amended)) who (a) is authorised by virtue of a licence issued by a Member State of the European Union to provide services for the transport of goods and/or passengers by rail and (b) is providing such services in Great Britain by virtue of such licence;

**"Eligible Industry Stakeholder"** means an Eligible non-GB Licence Holder or an Eligible GB Licence Holder or an Eligible Preferred Bidder;

**"Eligible Preferred Bidder"** means any person who is the bidder announced by or on behalf of the Authority as the preferred bidder for a franchise to provide services for the carriage of passengers by rail in Great Britain (provided that any such person shall cease to be an Eligible Preferred Bidder upon ceasing to be such a preferred bidder (whether as a result of the franchise being granted or the termination of the bidding process or otherwise));

**"Executive Director"** means a Director holding or appointed to executive office in accordance with Regulation 84;

**"Incentive Policy"** means the policy of Network Rail, as amended from time to time in accordance with the articles of association of Network Rail, relating to the remuneration and incentivisation of executive directors of Network Rail and its significant subsidiaries and other individuals specified therein;

**"Network Rail"** means Network Rail Limited, a company registered in England and Wales with registered number 4402220;

**"Network Rail Holdco"** means Network Rail Holdco Limited, a company registered in England and Wales with registered number 4423711;

**"Nominations Committee of Network Rail"** means the committee of the board of Network Rail responsible for nominating directors of Network Rail and of its subsidiaries, as defined in and constituted in accordance with the articles of association of Network Rail;

**"Non-Executive Director"** means a Director, other than an Executive Director;

**"Railtrack Facility Agreement"** means the facility agreement between Network Rail, Network Rail Holdco, the Authority and the Company dated 3 October 2002 (as amended from time to time);

**"Remuneration Committee of Network Rail"** means the committee of the board of Network Rail responsible for determining matters related to remuneration and incentivisation of executive directors of Network Rail and certain others, as defined in and constituted in accordance with the articles of association of Network Rail;

**"Senior Employee"** means an employee of the company in question (including a person providing services to such company under an engagement to which Schedule 12 of the Finance Act 2000 applies) on a salary (or aggregate engagement fee) in excess of £30,000 per annum (and shall not include an individual who remains entitled to receive benefits from the company in question in respect of previous employment but who is no longer such an employee);

**"Senior Executive"** means an employee of the Company identified as a Senior Executive in the Incentive Policy;

**"shadow director"** has the meaning given to it in Section 251741 of the Companies Act 2006;

**"Special Director"** means the Director appointed by the Authority pursuant to Article 43;

**"Special Provisions"** means those Articles identified as such in Article 71 or, where appropriate, those provisions identified as such in the articles of association of any subsidiary of the Company;

**"Statutes"** means the Companies Acts and every other enactment for the time being in force concerning companies and affecting the Company;

**"Substantial Shareholder"** means a person who is interested (within the meaning of Part 22 of the Companies Act 2006) in five per cent. or more of the issued equity share capital of a body corporate or who is able to exercise or control the exercise of five per cent. or more of the voting rights exercisable at general meetings of the body corporate; and

references to an **"officer"** shall not include an auditor.

## **Share Capital**

### **3**

- 3.1** The share capital of the Company at the date of adoption of these Articles is £500,050,000 divided into 50,000,000 ordinary shares of 0.1p each and 500,000,000 redeemable shares of £1 each.
- 3.2** Subject to the provisions of the Statutes relating to authority, pre-emption rights and otherwise and of any resolution of the Company in general meeting passed pursuant thereto and subject to paragraph 3.3 of this Article 3, all unissued shares shall be at the disposal of the Directors and they may allot (with or without conferring a right of renunciation), grant options over or otherwise dispose of them to such persons, at such times and on such terms as they think proper.
- 3.3** Notwithstanding any other provision of these Articles, the Directors shall not exercise any power of the Company to allot, issue (with or without conferring a right of renunciation), grant options over or otherwise dispose of shares or other securities other than for the purpose of financing the payment by the Company of premiums on the redemption of bonds or notes issued by it. Regulations 9 to 11, 17 to 22, 29 to 31, 33 and 116 shall not apply. Regulations 2 to 4 and 110 shall be modified accordingly.

## **The rights of redeemable shares**

- 4** Every redeemable share ranks equally with every other redeemable share. The redeemable shares also rank equally with any other shares, if the terms of those other shares say that they rank equally with the redeemable shares. Articles 4 to 28 set out the rights of the redeemable shares and the restrictions which apply to them.
- 5** Redeemable shares can be issued in one or more separate series. Each series will be identified in the way that the Board decides, and they do not have to make any changes to the Articles to do this.

- 6 A series of redeemable shares may also have any extra rights which the Board decides to give them. The Board must decide on any extra rights before the shares of the series are allotted, and in the way allowed by Articles 4 to 28. There is no need to have the consent of shareholders under Article 29 for this. But any extra rights must not conflict with the rights set out in Articles 4 to 28. The terms and rights of any series of redeemable shares can be set out in language which reflects the substance, rather than the language, of the Articles.
- 7 The Board can change the amount of any redeemable shares into larger or smaller shares, and Articles 30 to 31, where relevant, will apply if the Board does this. This power is not intended to restrict the wider authority of the Board to give extra rights to redeemable shares.
- 8 Where Articles 4 to 28 give the Board the power to decide on any extra rights attached to any redeemable shares, these do not have to be the same as the extra rights which are attached to existing redeemable shares.
- 9 Articles 10 to 28 deal with rights of redeemable shares to:
- 9.1 share in the Company's profits and assets;
- 9.2 be redeemed; and
- 9.3 attend and vote at meetings.

#### **The rights of redeemable shares to share in the Company's profits**

- 10 Subject to Article 11, all redeemable shares will rank equally between themselves, and also with any other shares whose rights say that they rank equally with them, in sharing in the Company's profits.
- 11 The redeemable shares will only have a right to be paid a dividend if the Board decides that this is the case. If a dividend is to be paid to the holders of the Company's ordinary shares, the holders of redeemable shares will not necessarily have the right to be paid a dividend as well.
- 12 If the capital is returned to shareholders for any reason (including the Company being wound up), each redeemable share will rank equally with every other redeemable share, and with the Company's ordinary shares or any other shares whose terms say that they rank equally with them, in sharing in the Company's assets. But this will not apply where the Company returns capital by redeeming, or buying back, any shares of any class.

#### **Redeeming redeemable shares**

- 13 Subject to Article 72 the Company or the shareholder can redeem any of the redeemable shares in the way set out in Articles 13 to 21, if the Statutes allow this. But the Company or the shareholder cannot redeem a particular series of redeemable shares if the Board decides, before the shares are allotted, that the series cannot be redeemed.
- 14 Subject to Article 72 the Company can at any time redeem some or all of the redeemable shares by giving the holder a written Redemption Notice. The holder of any redeemable shares can demand at any time that the Company redeem some or all of the redeemable shares by giving the Company a written Redemption Notice, and the Company must redeem them if this is allowed under the Statutes. If the Company cannot redeem all the shares named in the Redemption Notice because this is not allowed by the Statutes, it must redeem

as many of the shares as the Statutes allow. The contents of the Redemption Notice are set out in Article 16.

- 15 When a redeemable share is redeemed, the following will be paid for each share:
  - 15.1 the amount paid up on the share, or the amount treated as paid up on it; and
  - 15.2 any premium paid when the share was issued, if the Board has decided (before the share was allotted) that this premium should be paid when the share is redeemed.
- 16 A Redemption Notice (as referred to in Article 14) must state:
  - 16.1 the relevant date on which the shares are to be redeemed (the "**Redemption Date**");
  - 16.2 which redeemable shares are to be redeemed;
  - 16.3 the redemption price; and
  - 16.4 the place where documents of title for the shares will be presented and surrendered which place shall, unless agreed otherwise before the Redemption Date, be the registered office of the Company at that time.

Any Redemption Notice must be given at least 20 days before the Redemption Date, but not more than 90 days before.

On the Redemption Date, the Company will redeem the relevant shares. This is subject to the other provisions of Articles 13 to 21, and also to the Statutes. If the Redemption Notice is defective in any way, or not given properly, the redemption will still be valid.

- 17 The redemption money will be paid by:
  - 17.1 a sterling cheque drawn on any bank in London; or
  - 17.2 a transfer to a sterling account held by the person to be paid at any bank in London, if the holder has requested this before the Redemption Date.
- 18 If the shares are registered, payment will be made when the relevant share certificate is presented and surrendered at the place, stated in the Redemption Notice. If a certificate is for more shares than are to be redeemed, the Company will send a certificate for the balance. This certificate will be sent within 21 days to the registered holder, or to the first-named joint holder, free of charge, but at the holder's risk.
- 19 All redemption payments will be made after complying with any tax laws, and any other laws, which apply.
- 20 If the Redemption Date for any sterling redeemable shares is not a day when banks are open in London (a "**London Business Day**"), the payment will be made on the next London Business Day. But if the next London Business Day is in another month, the payment will be moved back and made on the previous London Business Day. There will be no interest or other payment for the delay.
- 21 If the holder of any redeemable share which is being redeemed gives the Company a receipt for the redemption money, or if the law treats him as giving a receipt, this establishes conclusively that the Company has carried out its obligations completely. If a share is held jointly, this applies to any receipt, or anything the law treats as a receipt, from the joint holder whose name is registered first.

### **The voting rights of redeemable shares**

- 22** The holders of any series of redeemable shares are only entitled to receive notice of general meetings, or to attend and vote at general meetings, if any of the following apply:
- 22.1** a resolution is going to be proposed at the general meeting which would vary or abrogate the rights attached to that series of redeemable shares. In this case they are only entitled to vote on this resolution;
  - 22.2** a resolution is going to be proposed at the general meeting to wind-up the Company. In this case they are only entitled to vote on this resolution; or
  - 22.3** other circumstances have arisen which the Board set out before that series of redeemable shares was first allotted.
- 23** The holders of redeemable shares can also require there to be a general meeting if the Board has decided, before the shares were allotted, that the holders of redeemable shares can do this. The Board can decide when and how the holders of redeemable shares can do this. If the holders of redeemable shares do require there to be a meeting in this way, the Board must call the meeting as soon as it is practicable to do so.
- 24** If the holders of redeemable shares can vote at a general meeting, a shareholder who attends personally will have one vote on a show of hands. If there is a poll, holders who attend personally, or who appoint a proxy, will have the number of votes which the Board has decided on before their shares were allotted.

### **Buying back redeemable shares**

- 25** Subject to Article 72 the Company can buy back any redeemable shares which have been issued, on terms and conditions decided on by the Board. The shares can be bought back:
- 25.1** through the market;
  - 25.2** by tender; or
  - 25.3** by private arrangement.

The Board must comply with the Statutes.

### **Varying the rights of redeemable shares**

- 26** Subject to Article 3 the Board can only authorise, create, or increase the amount of any class of shares, or other securities which can be converted into any class of shares, which rank ahead of the redeemable shares in sharing in the Company's profits or assets if:
- 26.1** holders of at least 75 per cent of the total value of all existing redeemable shares in issue agree in writing; or
  - 26.2** an extraordinary resolution, passed at a separate general meeting of the holders of the existing redeemable shares, approves the proposal.
- However, this does not of itself restrict the Company's ability to redeem, or buy back, any shares before returning assets to holders of redeemable shares.
- 27** Unless the terms of any redeemable shares say otherwise, the special rights which apply to existing redeemable shares are not varied if:



- 27.1 any other series of redeemable shares is created or issued;
- 27.2 any other shares are created or issued which rank equally with, or behind, the redeemable shares in sharing in the Company's profits or assets; or
- 27.3 any change is made to Articles 4 to 28 applying to any new series of redeemable shares, except for any change about the ranking of the redeemable shares.
- 28 If a new series of redeemable shares, or any other class of shares, is created, or issued, which ranks equally with the existing redeemable shares in sharing in the Company's profits or assets, these can either have the same right as, or different rights to, existing redeemable shares. This will not be treated as varying the rights of the existing shares. For example:
  - 28.1 the new shares can be in any currency;
  - 28.2 the new shares can be in any basket of currencies if the law allows;
  - 28.3 a premium may or may not be paid if capital is returned on the shares;
  - 28.4 the Company can redeem the new shares, or they can be non-redeemable;
  - 28.5 if the Company can redeem the new shares, the redemption can be on different dates, and on different terms, than those which apply to the existing shares; or
  - 28.6 the new shares can be converted (on the terms and conditions set when the new shares are issued) into ordinary shares, or into any other class of shares which rank equally with, or behind, the existing redeemable shares in sharing in the Company's profits or assets.

### **Changing share rights**

- 29 If the Company's share capital is split into different classes of shares, the special rights which are attached to any of these classes of shares can be varied, cancelled or withdrawn. However, this can only be done if:
  - 29.1 shareholders holding at least 75 per cent in nominal value of the issued shares of that class consent in writing; or
  - 29.2 there is a separate general meeting of the holders of the relevant class of shares which passes an extraordinary resolution approving it.

Subject to obtaining that consent, the Company can do this at any time (including at a time when the Company is being wound up).

### **Fractions**

- 30 Subject to Article 72, if any shares are consolidated, divided or sub-divided, the Board has power to deal with any fractions of shares which may result from this. This will be subject to anything which may be decided at a general meeting. The Board can issue certificates for fractions of shares to the shareholders who would have been entitled to the fractions.

### **Reducing the Company's capital**

- 31 Subject to Article 72 the Company can pass a special resolution to:
  - 31.1 reduce its authorised and issued share capital; or

- 31.2** reduce any capital redemption reserve, share premium account or other reserve which cannot be distributed.

A reduction can be done in any way but the Company must obey the provisions of the Statutes and any rights attached to any shares at that time. Regulation 34 shall not apply.

### **Annual General Meetings**

- 32A** The Company shall unless it resolves otherwise in each year hold a general meeting as its annual general meeting and shall specify the meeting as such in the notice calling it. An annual general meeting shall be held in each period of 6 months beginning with the day following the Company's accounting reference date. The annual general meeting shall be held at such date, place and time as the Board shall appoint.

### **Proceedings at General Meetings**

- 32** A written resolution of the Company (which means a resolution proposed and passed in accordance with Chapter 2 of Part 13 of the Companies Act 2006) shall have effect as if passed by the Company in general meeting or by a meeting of a class of members of the Company, as the case may be. In the case of a corporation a written resolution may be signed on its behalf by a director or the Secretary thereof or by its duly appointed attorney or duly authorised representative. .

### **Votes of Members**

- 33** The appointment of 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 received at such address or one of such addresses (if any) as may be specified for that purpose in or by way of note to the notice convening the meeting (or, if no address is so specified, must be left 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** be 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. The appointment may be in the form of a facsimile or other machine-made copy or in any other form which the Directors may approve, and shall, unless the contrary is stated thereon, be valid as well for any adjournment of the meeting as for the meeting to which it relates. The appointment of a proxy relating to more than one meeting (including any adjournment thereof) having once been so delivered for the purposes of any meeting shall not require again to be delivered for the purposes of any subsequent meeting to which it relates. Regulation 62 shall not apply.
- 33A** For the purposes of Regulation 63, the second sentence of Regulation 111 and the fourth sentence of Regulation 112, "address", in relation to electronic communications, shall have the same respective meaning in accordance with the Company Communication Provisions.
- 34** At a general meeting, but subject to any rights or restrictions attached to any shares, on a show of hands every member present in person or by proxy (or being a corporation present by a duly authorised representative) shall have one vote, and on a poll every member who is present in person or by proxy shall have one vote for every share of which he is the holder. Regulation 54 shall not apply.

### **Number of Directors**

- 35 The Directors shall not be less than three nor more than 17 in number. Regulation 64 shall be modified accordingly.

### **Alternate Directors**

36

- 36.1 Any person who would not be eligible to be a Director under Article 43 may not be an alternate Director. Regulation 65 shall be modified accordingly. An alternate Director shall (except when absent from the United Kingdom) be entitled to receive notices of meetings of the Directors and of any committee of the Directors of which his appointor is a member and shall be entitled to attend and vote as a Director and be counted in the quorum at any such meeting at which his appointor is not personally present and generally at such meeting to perform all functions of his appointor as a Director and for the purposes of the proceedings at such meeting the provisions of these Articles shall apply as if he were a Director. If he shall be himself a Director or shall attend any such meeting as an alternate for more than one Director, his voting rights shall be cumulative but he shall not be counted more than once for the purposes of the quorum. If his appointor is for the time being absent from the United Kingdom or temporarily unable to act through ill health or disability his signature to any resolution in writing of the Directors shall be as effective as the signature of his appointor. An alternate Director shall not (save as aforesaid) have power to act as a Director, nor shall he be deemed to be a Director for the purposes of these Articles, nor shall he be deemed to be the agent of his appointor. Regulations 66 and 69 shall not apply.
- 36.3 An alternate Director shall be entitled to contract and be interested in and benefit from contracts or arrangements or transactions and to be repaid expenses and to be indemnified to the same extent *mutatis mutandis* as if he were a Director but he shall not be entitled to receive from the Company in respect of his appointment as alternate Director any remuneration except only such part (if any) of the remuneration otherwise payable to his appointor as such appointor may by notice in writing to the Company from time to time direct.

### **Powers of Directors**

37

- 37.1 Subject to the provisions of the Act, the Directors may exercise all the powers of the Company to borrow money and to enter into any guarantee or contract of indemnity or surety or to mortgage or charge all or any part or parts of its undertaking, property (present and future) and uncalled capital and to issue debentures and other securities, whether outright or as collateral security for any debt, liability or obligation of the Company or of any other person.
- 37.2 Nothing in Regulation 70 shall permit the Board to exercise any of the powers or discretions exercisable by the Remuneration Committee of Network Rail or the Nominations Committee of Network Rail in accordance with Articles 44 and 48 hereof.

### **Delegation Of Directors' Powers**

- 38 Subject to Article 40, in addition to the powers to delegate contained in Regulation 72, the Directors may delegate any of their powers, authorities or discretions (including without prejudice to the generality of the foregoing all powers and discretions whose exercise involves or may involve the payment of remuneration to or the conferring of any other benefit on all or

any of the Directors) with the power to sub-delegate to any committee consisting, subject to Article 41, of such person or persons (whether Directors or not) as it thinks fit. Any committee so formed may exercise its power to sub-delegate by sub-delegating any of the powers, authorities or discretions delegated to it to any person or persons (whether or not a member or members of the Board or of the committee but provided such a person or persons is or are not prohibited from being a member or members of such a committee by virtue of Article 41). Insofar as any such power or discretion is delegated to a committee or sub-committee, any reference in these Articles to the exercise by the Directors of the power, authority or discretion so delegated shall be read and construed as if it were a reference to the exercise thereof by such committee or sub-committee. Any committee or sub-committee so formed shall in the exercise of the powers so delegated conform to any regulations which may from time to time be imposed by the Directors. Any such regulations may, subject to Article 41, provide for or authorise the co-option to the committee of persons other than Directors and may provide for members who are not Directors to have voting rights as members of the committee. The meetings and proceedings of any committee or sub-committee consisting of two or more persons shall be governed by the provisions contained in these Articles for regulating the meetings and proceedings of the Board so far as the same are applicable and are not superseded by any regulations imposed by the Board. Regulation 72 shall be modified accordingly.

- 39** The power to delegate contained in Article 38 and Regulation 72 shall be effective in relation to the powers, authorisation and discretions of the Board generally and, save in the case of the powers, authorities and discretions exercisable by the Remuneration Committee of Network Rail and Nominations Committee of Network Rail which may not be delegated to other committees, shall not be limited by the fact that in certain Articles but not in others, reference is made to particular powers, authorities or discretions being exercised by the Board or a committee authorised by the Board.
- 40** Neither Regulation 72 nor Article 38 shall permit the Board to delegate to other committees or to individual Directors any of the powers and discretions exercisable by the Remuneration Committee of Network Rail and Nominations Committee of Network Rail in accordance with Articles 44 and 48 hereof.
- 41** No person may be a member of any committee formed pursuant to Regulation 72 or Article 38 if he is a director, shadow director, officer or Senior Employee of an Eligible Industry Stakeholder or a company which is a subsidiary of an Eligible Industry Stakeholder or a subsidiary of a holding company of an Eligible Industry Stakeholder (other than any such subsidiary which is also a holding company of such an Eligible Industry Stakeholder) or if he is a Substantial Shareholder of an Eligible Industry Stakeholder or of any holding company or subsidiary of an Eligible Industry Stakeholder. Any member of such a committee who becomes a director, shadow director, officer, Senior Employee, or Substantial Shareholder of any such company shall resign as a member of the committee forthwith.

### **Appointment and Retirement of Directors**

- 42** The Directors shall not be subject to retirement by rotation.
- 43** The Authority may from time to time appoint one person to be the Special Director. Any such person may at any time be removed from office by the Authority who may appoint another person as Special Director in his place. Any such appointment or removal shall be made in writing by the Authority and shall take effect on or from the date on which such notice is served

on the Company at the office or delivered to the Secretary or to a meeting of the Directors. The Special Director shall be a Non-Executive Director.

- 44** Regulations 76-79 shall be subject to this Article 44. The Nominations Committee of Network Rail shall be responsible for nominating persons for appointment as Directors, either to become additional Directors or to fill one or more vacancies. No person shall be eligible for election or appointment as a Director:
- 44.1** if he is, at the time of his proposed election or appointment, a director, shadow director, officer or Senior Employee of an Eligible Industry Stakeholder or a company which is the subsidiary of an Eligible Industry Stakeholder or a subsidiary of a holding company of an Eligible Industry Stakeholder (other than any such subsidiary which is also a holding company of an Eligible Industry Stakeholder) or if he is a Substantial Shareholder of an Eligible Industry Stakeholder or of a holding company or subsidiary of an Eligible Industry Stakeholder; and
- 44.2** without prejudice to Article 43, unless he has been nominated for election or appointment by the Nominations Committee of Network Rail.

### **Disqualification and Removal of Directors**

- 45** The office of a Director shall be vacated if any of the events specified in Regulation 81 occurs or if he shall in writing offer to resign and the Directors shall resolve to accept such offer or, save in the case of the Special Director, if he shall be removed from office by notice in writing signed by not less than three-quarters of his co-Directors but so that if he holds an appointment to an executive office which thereby automatically determines such removal shall be deemed an act of the Company and shall have effect without prejudice to any claim for damages for breach of any contract of service between him and the Company.
- 46** In addition to those circumstances specified in Regulation 81, the office of a Director shall be vacated if he shall become a director, shadow director, officer or Senior Employee of an Eligible Industry Stakeholder or a company which is a subsidiary of an Eligible Industry Stakeholder or a subsidiary of a holding company of an Eligible Industry Stakeholder (other than any such subsidiary which is also a holding company of an Eligible Industry Stakeholder) or if he shall become a Substantial Shareholder of an Eligible Industry Stakeholder or of a holding company or subsidiary of an Eligible Industry Stakeholder.
- 47** If the office of a Director is vacated for any reason, the Director in question shall cease to be a member of any committee or sub-committee of the Board.

### **Remuneration of Directors**

- 48** Any Director who serves on any committee, or who otherwise performs services which in the opinion of the Directors are outside the scope of the ordinary duties of a Director, may be paid such extra remuneration by way of salary, commission or otherwise or may receive such other benefits as the Remuneration Committee of Network Rail (in the case of Executive Directors) or the Directors (in the case of Non-Executive Directors) may determine. The Remuneration Committee of Network Rail shall alone be responsible for determining, in accordance with the Incentive Policy and the terms of reference of the Remuneration Committee of Network Rail (as amended from time to time in accordance with the articles of association of Network Rail), all matters concerning the remuneration and incentivisation of Executive Directors and Senior Executives employed by the Company (including but not limited to, benefits by way of

gratuities, pensions and other superannuation benefits). Regulation 84 shall be extended and modified accordingly. Regulation 82, insofar as it relates to Executive Directors, shall not apply.

### **Proceedings of Directors**

- 49** The Directors, and any committee of the Directors, shall be deemed to meet together if, being in separate locations, they are nonetheless linked by conference telephone or other communication equipment which allows those participating to hear and speak to each other, and a quorum in that event shall be three persons so linked (or such other number as is specified by the Board pursuant to Article 50). Such a meeting shall be deemed to take place where the largest group of those participating is assembled or, if there is no such group, where the chairman of the meeting then is.
- 50** The quorum necessary for the transaction of the business of the Board may be fixed by the Board and, unless so fixed at any other number, shall be not less than three. Subject to the provisions of these Articles, any Director who ceases to be a Director at a Board meeting may continue to be present and to act as a Director and be counted in the quorum until the termination of the Board meeting if no other Director objects and if otherwise a quorum of Directors would not be present. Regulation 89 shall be modified accordingly.
- 51** Resolutions in writing for the purposes of Regulation 93 can be made using electronic communications. No signature is necessary if electronic communications are used, subject to any terms and conditions the Board decide pursuant to Article 66.
- 52** The Special Director may, subject to any obligations of confidentiality agreed from time to time between the Company (or any holding company of the Company or subsidiary of the Company or any such holding company) and the Authority, communicate any information which he receives in his position as a Director to the Authority or to any employees or professional advisers of the Authority.

### **Directors' Interests**

#### **53 Authorisation of Directors' interests**

- 53.1** For the purposes of Section 175 of the Companies Act 2006, the Directors shall have the power to authorise any matter which would or might otherwise constitute or give rise to a breach of the duty of a Director under that Section to avoid a situation in which he has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the Company.
- 53.2** Authorisation of a matter under this Article 53 shall be effective only if:
- 53.2.1** the matter in question shall have been proposed in writing for consideration at a meeting of the Directors, in accordance with the Board's normal procedures or in such other manner as the Directors may determine;
  - 53.2.2** any requirement as to the quorum at the meeting of the Directors at which the matter is considered is met without counting the Director in question and any other interested Director (together the "**Interested Directors**"); and
  - 53.2.3** the matter was agreed to without the Interested Directors voting or would have been agreed to if the votes of the Interested Directors had not been counted.

- 53.3** Any authorisation of a matter under this Article 53 shall extend to any actual or potential conflict of interest which may reasonably be expected to arise out of the matter so authorised.
- 53.4** Any authorisation of a matter under this Article 53 shall be subject to such conditions or limitations as the Directors may determine, whether at the time such authorisation is given or subsequently, and may be terminated by the Directors at any time. A Director shall comply with any obligations imposed on him by the Directors pursuant to any such authorisation.
- 53.5** A Director shall not, save as otherwise agreed by him, be accountable to the Company for any benefit which he (or a person connected with him) derives from any matter authorised by the Directors under this Article 53 and any contract, transaction or arrangement relating thereto shall not be liable to be avoided on the grounds of any such benefit.

**53A Directors may have interests**

- 53A.1** Regulations 94 to 98, 85 and 86 shall not apply to the Company. Subject to the provisions of the Statutes and Article 70 and provided that he has disclosed to the Board the nature and extent of any interest of his in accordance with Article 57, a Director notwithstanding his office:
- 53A.1.1** may (or a person connected with him may) be party to, or otherwise interested in, any contract, transaction or arrangement with the Company or in which any Relevant Company is otherwise interested;
- 53A.1.2** may (or a person connected with him may) be a director or other officer of, or employed by, or otherwise interested in (including by the holding of shares), any Relevant Company;
- 53A.1.3** may (or a person connected with him may) (or any firm of which he is a partner, employee or member may) act in a professional capacity for the Company (other than as auditor) and be remunerated therefor;
- 53A.1.4** may have an interest of a kind which cannot reasonably be regarded as likely to give rise to a conflict of interest;
- 53A.1.5** may have an interest, or a transaction or arrangement giving rise to an interest, of which the Director is not aware;
- 53A.1.6** may have an interest in any matter authorised under Article 53;
- 53A.1.7** may have any other interest authorised by ordinary resolution; and
- 53A.1.8** shall not, save as otherwise agreed by him, be accountable to the Company for any benefit which he (or a person connected with him) derives from any such contract, transaction or arrangement or from any such office or employment or from any interest in any such body corporate or for such remuneration and no such contract, transaction or arrangement shall be liable to be avoided on the grounds of any such interest or benefit.

No authorisation under Article 53 shall be necessary in respect of any such interest.

**Restrictions on quorum and voting**

- 54** Save as herein provided, and whether or not the interest is one which is authorised pursuant to Article 53 or permitted under Article 53A, a Director shall not be entitled to vote on any resolution in respect of any contract, transaction or arrangement or any other proposal whatsoever in which he (or a person connected with him) is interested and, if he shall do so,

his vote shall not be counted. A Director shall not be counted in the quorum at a meeting in relation to any resolution on which he is not entitled to vote. Subject to the provisions of the Statutes and without prejudice to Article 48, a Director shall (in the absence of some other [material] interest than is indicated below) be entitled to vote (and be counted in the quorum) in respect of any resolution concerning any of the following matters, namely:

- 54.1** any proposal in which he has an interest of which he is not aware;
- 54.2** any proposal in which he has an interest which cannot reasonably be regarded as likely to give rise to a conflict of interest;
- 54.3** any proposal concerning the adoption, modification or operation of a pension fund or retirement, death or disability benefits scheme which relates both to Directors and employees of the Company or of any of its subsidiary undertakings or of any parent undertaking of the Company or subsidiary undertaking of any such parent undertaking and does not provide, in respect of any Director as such, any privilege or advantage not generally accorded to the employees to which the fund or scheme relates;
- 54.4** any proposal relating to an arrangement for the benefit of employees or former employees of the Company or of any of its subsidiary undertakings or of any parent undertaking of the Company or subsidiary undertaking of any such parent undertaking under which he benefits in a similar manner to the employees and which does not accord to any Director as such any privilege or advantage not generally accorded to the employees to whom the contract relates;
- 54.5** any proposal concerning the purchase or maintenance for any Director or Directors or persons who include Directors of insurance against any liability;
- 54.6** the giving of any security, guarantee or indemnity to the Director or any other person in respect of (i) money lent or obligations incurred by him or by any other person at the request of or for the benefit of the Company or any of its subsidiary undertakings or of any parent undertaking of the Company or subsidiary undertaking of any such parent undertaking or (ii) a debt or other obligation of the Company or any of its subsidiary undertakings or of any parent undertaking of the Company or subsidiary undertaking of any such parent undertaking for which he himself has assumed responsibility in whole or in part under a guarantee or indemnity or by the giving of security;
- 54.7** any proposal concerning any other body corporate in which he is interested, directly or indirectly and whether as an officer or shareholder or otherwise, provided that he (together with persons connected with him within the meaning of Section 252 of the Companies Act 2006) does not have an interest (as that term is used in Part 22 of the Companies Act 2006) in one per cent. or more of the issued equity share capital of any class of such body corporate (or of any third company through which his interest is derived) or of the voting rights available to members of the relevant body corporate (any such interest being deemed for the purpose of this Article 54 to be a material interest in all circumstances);
- 54.8** in the case of the Special Director, any proposal concerning the Authority in which he is interested by virtue of his relationship with the Authority (whether as its employee or consultant or otherwise);
- 54.9** any arrangement in which he has an interest only by virtue of interests in shares, debentures or other securities of the Company, or by reason of any other interest in or through the Company;



- 54.10** any proposal concerning an offer of shares or debentures or other securities of or by the Company or any of its subsidiary undertakings (i) in which offer he is or may be entitled to participate as a holder of securities; or (ii) the underwriting or sub-underwriting of which he is to participate;
- 54.11** any proposal concerning the giving of indemnities in favour of Directors;
- 54.12** any proposal concerning the funding of expenditure by any Director or Directors on (i) defending criminal, civil or regulatory proceedings or actions against him or them, (ii) in connection with an application to the court for relief, or (iii) defending him or them in any regulatory investigations;
- 54.13** any proposal concerning the doing of anything to enable any Director or Directors to avoid incurring expenditure as described in paragraph 54.12 of this Article 54; and
- 54.14** any arrangement in respect of which his interest, or the interest of Directors generally, has been authorised by ordinary resolution.
- 55** A Director shall not vote on or be counted in the quorum in relation to any resolution of the Board concerning his own appointment, or the settlement or variation of its terms or its termination, as the holder of any office or place of profit with the Company or any other body corporate in which the Company is interested. Where proposals for any such matter are under consideration in respect of two or more Directors, a separate resolution may be put in relation to each Director. In that case, each of the Directors concerned shall (if not debarred under Article 54) be entitled to vote and be counted in the quorum in respect of each resolution unless it concerns his own appointment or the settlement, variation or termination of his own appointment.
- 56** If any question shall arise at any meeting of the Board as to the entitlement of any Director (other than the chairman of the meeting) to vote or be counted in the quorum and the question is not resolved by his voluntarily agreeing to abstain from voting or not to be counted in the quorum, the question shall be referred to the chairman of the meeting and his ruling in relation to the Director concerned shall be final and conclusive except in a case where the nature or extent of the interest of such Director (so far as it is known to him) has not been fairly disclosed to the Board. If any question shall arise in respect of the chairman of the meeting, the question shall be decided by a resolution of the Board (for which purpose the chairman shall be counted in the quorum but shall not vote on the matter) and the resolution shall be conclusive except in a case where the nature or extent of the interest of the chairman (so far as it is known to him) has not been fairly disclosed to the Board.
- 57 Declaration of Interests**
- 57.1** The Director shall declare the nature and extent of any interest permitted under Article 53A, and not falling within paragraph 57.2 of this Article 57, at a meeting of the Directors or in the manner set out in Section 184 or 185 of the Companies Act 2006.
- 57.2** No declaration of an interest shall be required by a Director in relation to an interest:
- (a) falling within paragraph 53A.1.4 or 53A.1.5 or 53A.1.6 of Article 53A;
  - (b) if, or to the extent that, the other Directors are already aware of such interest (and for this purpose the other Directors are treated as aware of anything of which they ought reasonably to be aware); or

- (c) if, or to the extent that, it concerns the terms of his service contract (as defined in Section 227 of the Companies Act 2006) that have been or are to be considered by a meeting of the Directors, or by a committee of Directors appointed for the purpose under these Articles.

**58** For the purposes of Articles 53 to 60:

**58.1** an interest (whether his own or of a person connected with him) of which a Director has no knowledge and of which it is unreasonable to expect him to have knowledge shall not be treated as an interest of his;

**58.2** an interest of a person who is connected (within the meaning of Section 252 of the Companies Act 2006) with a Director shall be treated as an interest of the Director; and

**58.3** For the purpose of Article 53A, "**Relevant Company**" shall mean:

- (a) the Company;
- (b) a subsidiary undertaking of the Company;
- (c) any holding company of the Company or a subsidiary undertaking of any such holding company;
- (d) any body corporate promoted by the Company; or
- (e) any body corporate in which the Company is otherwise interested.

**58A Confidential information**

**58A.1** Subject to paragraph 58A.2 of this Article 58A, if a Director, otherwise than by virtue of his position as Director, receives information in respect of which he owes a duty of confidentiality to a person other than the Company, he shall not be required:

- (a) to disclose such information to the Company or to the Directors, or to any Director, officer or employee of the Company; or
- (b) otherwise use or apply such confidential information for the purpose of or in connection with the performance of his duties as a Director.

**58A.2** Where such duty of confidentiality arises out of a situation in which the Director has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the Company, paragraph 58A.1 of this Article 58A shall apply only if the conflict falls within Article 53A above.

**58A.3** This Article 58A is without prejudice to any equitable principle or rule of law which may excuse or release the Director from disclosing information, in circumstances where disclosure may otherwise be required under this Article 58A.

**58B Directors' interests – general**

Where a Director has an interest which can reasonably be regarded as likely to give rise to a conflict of interest, the Director [may, and] shall if so requested by the Directors take such additional steps as may be necessary or desirable for the purpose of managing such conflict of interest, including compliance with any procedures laid down from time to time by the Directors for the purpose of managing conflicts of interest generally and/or any specific

procedures approved by the Directors for the purpose of or in connection with the situation or matter in question, including without limitation:

- (a) absenting himself from any meetings of the Directors at which the relevant situation or matter falls to be considered; and
- (b) not reviewing documents or information made available to the Directors generally in relation to such situation or matter and/or arranging for such documents or information to be reviewed by a professional adviser to ascertain the extent to which it might be appropriate for him to have access to such documents or information.

- 59** Subject to the provisions of the Statutes and to the appropriate declaration being made by him pursuant to Article 57, no Director or proposed Director shall be disqualified by his office from contracting with the Company with regard to his tenure of, or termination of, any office or place of profit with the Company or any of its subsidiary undertakings or any parent undertaking of the Company or subsidiary undertaking of any such parent undertaking, nor shall he be required to account to the Company or the members for any remuneration or other benefits received by him pursuant to such contract.
- 60** Subject to the provisions of the Statutes, the Company may by ordinary resolution suspend or relax the provisions of Articles 53 to 60 to any extent or ratify any contract not properly authorised by reason of a contravention of Articles 53 to 60.

### **Pensions and gratuities for Directors**

- 61** Subject to Article 48, the Board shall have power to pay and agree to pay gratuities, pensions or other retirement, superannuation, death or disability benefits to (or to any person in respect of) any Director or ex-Director and for the purpose of providing any such gratuities, pension or other benefits to contribute to any scheme or fund or to pay premiums. No Director or ex-Director shall be accountable to the Company or the Members for any benefit provided pursuant to this Article 61 and the receipt of any such benefit shall not disqualify any person from being or becoming a Director. Regulation 87 shall not apply.

### **Notices**

- 62** A member whose registered address is not within the United Kingdom shall be entitled to have notices sent to him as if he were a member with a registered address within the United Kingdom and the last sentence of Regulation 112 shall not apply.

### **Indemnity**

#### **Entitlement to indemnity**

- 63** Subject to the provisions of and so far as may be consistent with the Statutes, every Director and officer of the Company and of each of the Associated Companies of the Company shall be indemnified by the Company out of its own funds against:
- (a) any liability incurred by or attaching to him in connection with any negligence, default, breach of duty or breach of trust by him in relation to the Company or any Associated Company of the Company other than:
    - (i) any liability to the Company or any subsidiary; and

- (ii) any liability of the kind referred to in Section 234(3) of the Companies Act 2006;  
and
  - (b) any other liability incurred by or attaching to him in the actual or purported execution and/or discharge of his duties and/or the exercise or purported exercise of his powers and/or otherwise in relation to or in connection with his duties, powers or office.
- 63A** Subject to the Companies Acts the Company may indemnify a Director of the Company and any Associated Company of the Company if it is the trustee of an occupational pension scheme (within the meaning of Section 235(6) of the Companies Act 2006).
- 63B** Where a Director or officer is indemnified against any liability in accordance with Article 63, such indemnity shall extend to all costs, charges, losses, expenses and liabilities incurred by him in relation thereto.
- 63C** Regulation 118 shall not apply.

#### **Purchase of insurance**

- 64** Without prejudice to Article 63 above, the Directors shall have power to purchase and maintain insurance for or for the benefit of any person who is or was at any time a Director or officer of any Relevant Company (as defined in Article 65 below) or who is or was at any time a trustee of any pension fund or employees' share scheme in which employees of any Relevant Company are or were at any time interested, including (without prejudice to the generality of the foregoing) insurance against any liability incurred by him in respect of any act or omission in the actual or purported execution and/or discharge of his duties and/or in the exercise or purported exercise of his powers and/or otherwise in relation to his duties, powers or offices in relation to any Relevant Company, or any such pension fund or employees' share scheme (and all costs, charges, losses, expenses and liabilities incurred by him in relation thereto).

#### **Relevant Company**

- 65** For the purpose of Article 64 above "**Relevant Company**" shall mean the Company, any holding company of the Company or any other body, whether or not incorporated, in which the Company or such holding company or any of the predecessors of the Company or of such holding company has or had any interest whether direct or indirect or which is in any way allied to or associated with the Company or such other body, or any subsidiary undertaking of the Company or of such other body.

#### **Defence Expenditure**

- 65A** Subject to the provisions of and so far as may be permitted by the Companies Acts, the Company:
  - (a) may provide a Director or officer of the Company or any Associated Company of the Company with funds to meet expenditure incurred or to be incurred by him in defending any criminal or civil proceedings in connection with any negligence, default, breach of duty or breach of trust by him in relation to the Company [or a subsidiary of the Company] or in connection with any application for relief under the provisions mentioned in Section 205(5) of the Companies Act 2006; and
  - (b) may do anything to enable any such Director or officer to avoid incurring such expenditure.

- 65B** The terms set out in Section 205(2) of the Companies Act 2006 shall apply to any provision of funds or other things done under Article 65A.
- 65C** Subject to the provisions of and so far as may be permitted by the Companies Acts, the Company:
- (a) may provide a Director or officer of the Company or any Associated Company of the Company with funds to meet expenditure incurred or to be incurred by him in defending himself in an investigation by a regulatory authority or against action proposed to be taken by a regulatory authority in connection with any alleged negligence, default, breach of duty or breach of trust by him in relation to the Company or any Associated Company of the Company; and
  - (b) may do anything to enable any such Director or officer to avoid incurring such expenditure.
- 65D** In Articles 63 to 65C, "Associated Company" shall have the meaning given thereto by Section 256 of the Companies Act 2006.

#### **Signature or authentication of documents sent by electronic means**

- 66** Where these Articles require a notice or other document to be signed or authenticated by a member or other person then any notice or other document sent or supplied in electronic form is sufficiently authenticated in any manner authorised by the Company Communications Provisions or in such other manner as may be approved by the Directors. The Directors may designate mechanisms for validating any such notice or other document, and any such notice or other document not so validated by use of such mechanisms shall be deemed not to have been received by the Company.

#### **Overriding Provisions**

- 67** Network Rail Holdco, subject to holding at the time in question, shares carrying not less than 90 per cent of the votes which may for the time being be cast at a general meeting of the Company may at any time and from time to time:
- 67.1** subject to Article 43, appoint any person to be a Director (whether to fill a vacancy or as an additional Director);
  - 67.2** remove from office any Director other than the Special Director howsoever appointed but so that if he holds an appointment to an executive office which thereby automatically determines such removal shall be deemed an act of the Company and shall have effect without prejudice to any claim for damages for breach of any contract of service between him and the Company;
  - 67.3** save in relation to Articles 52 and paragraph 54.8 of Article 54, restrict any or all powers of the Directors in such respects and to such extent as Network Rail Holdco may by notice to the Company from time to time prescribe.
- 68** Any such appointment, removal, consent or notice shall be in writing served on the Company and signed by or on behalf of Network Rail Holdco. No person dealing with the Company shall be concerned to see or enquire as to whether the powers of the Directors have been in any way restricted hereunder or as to whether any requisite consent of Network Rail Holdco has been obtained and no obligation incurred or security given or transaction effected by the Company to or with any third party shall be invalid or ineffectual unless the third party had at

the time express notice that the incurring of such obligation or the giving of such security or the effecting of such transaction was in excess of the powers of the Directors.

- 69** To the extent of any inconsistency Articles 67 to 70 shall have overriding effect as against all other provisions of these Articles.
- 70** The Board shall use their powers as Directors to procure, so far as they are able by such exercise to procure, that neither the Company nor any of its subsidiaries enters into an agreement to effect a transaction or varies or novates any existing agreement which, as a result of the involvement therein of a Director or former Director or director or former director of a subsidiary undertaking of the Company or of a parent undertaking of the Company or fellow subsidiary undertaking of any such parent undertaking (or an associate of any such current or former Director or director), requires approval by the members of Network Rail by virtue of being a Transaction with a Related Party for the purpose of the Articles of Association of Network Rail, or completes any such agreement, unless the transaction in question has been approved by Network Rail by written notice to the Company at the office either prior to entering into such an agreement or, in the case of an agreement which is conditional upon such approval, prior to completion of the transaction in question.

### **Special Articles**

- 71** The following Articles, or where specified the relevant parts of the following Articles (or, if at any time renumbered, such renumbered Articles from time to time) shall be Special Provisions for the purposes of the Articles of Association of Network Rail:
- 71.1** Article 3;
- 71.2** Articles 38, 39 and 40 insofar as they relate to the Nominations Committee or Remuneration Committee of Network Rail;
- 71.3** Article 42 in its application to the Special Director;
- 71.4** Article 43;
- 71.5** Article 44 insofar as it relates to the Nomination Committee of Network Rail;
- 71.6** Article 45 insofar as it relates to the Special Director;
- 71.7** Article 48 insofar as it relates to the Remuneration Committee of Network Rail;
- 71.8** Article 52;
- 71.9** paragraph 54.8 of Article 54;
- 71.10** paragraph 67.2 of Article 67 insofar as it relates to the Special Director;
- 71.11** this Article 71;
- 71.12** Article 72;
- 71.13** Article 73;
- 71.14** Article 2 insofar as any of the definitions therein relate to or are used within any of the aforementioned Articles or, where specified, the relevant parts of the aforementioned Articles; and
- 71.15** Any reference in an Article referring to any of the aforementioned Articles or, where specified, the relevant parts of the aforementioned Articles.

### **Restriction on Distributions**

- 72** Unless permitted in accordance with the terms of the Railtrack Facility Agreement or such other agreements to which the Company and the Authority (and, if relevant, others) are party from time to time neither the whole nor any part of the income, property or assets of the Company may be paid or transferred, directly or indirectly, to the members of the Company by way of dividend, bonus or in any other way that amounts to a distribution, provided that nothing in this paragraph shall prevent payments (whether by way of dividend, bonus, in any other way that amounts to a distribution or otherwise) to any member, in good faith, in respect of:
- 72.1** the reasonable and proper expenses of any member, including, without limitation, in respect of:
- 72.1.1** the reasonable and proper remuneration or expenses of any officer, employee or servant of such member;
  - 72.1.2** the reasonable and proper expenses of the board of directors or of any board committee of such member;
  - 72.1.3** the fees and expenses of professional or other advisers to such member, or to the board of directors or to any board committee of such member;
- 72.2** consideration to any member of the Company in return for any services actually rendered to the Company on an arm's length basis;
- 72.3** reasonable and proper rent for premises demised or let by any member of the Company;
- and Regulations 102 to 108 shall be modified accordingly.

### **Articles of Association of subsidiaries**

- 73** The Directors shall exercise all voting rights exercisable by the Company in relation to those of its subsidiaries whose articles of association incorporate provisions identified by reference to the articles of association of Network Rail as "Special Provisions" so as to secure, so far as by such exercise they can secure, that no amendment, removal or alteration is made to any such Special Provisions without the prior written consent of Network Rail.

## **Annex**

### **Table A Regulations for Management of a Company Limited by Shares**

**1** In these regulations:

"the Act" means the Companies Act 1985 including any statutory modification or re-enactment thereof for the time being in force and any provisions of the Companies Act 2006 for the time being in force.

"the articles" means the articles of the company.

"clear days" in relation to the period of a notice means that period excluding the day when the notice is given or deemed to be given and the day for which it is given or on which it is to take effect.

"communication" means the same as in the Electronic Communications Act 2000.

"electronic communication" means the same as in the Electronic Communications Act 2000.

"executed" includes any mode of execution.

"office" means the registered office of the company.

"the holder" in relation to shares means the member whose name is entered in the register of members as the holder of the shares.

"the 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.

"the United Kingdom" means Great Britain and Northern Ireland.

Unless the context otherwise requires, words or expressions contained in these regulations bear the same meaning as in the Act but excluding any statutory modification thereof not in force when these regulations become binding on the company.

### **SHARE CAPITAL**

- 2** Subject to the provisions of the Act and without prejudice to any rights attached to any existing shares, any share may be issued with such rights or restrictions as the company may by ordinary resolution determine.
- 3** Subject to the provisions of the Act, shares may be issued which are to be redeemed or are to be liable to be redeemed at the option of the company or the holder on such terms and in such manner as may be provided by the articles.
- 4** The company may exercise the powers of paying commissions conferred by the Act. Subject to the provisions of the Act, any such commission may be satisfied by the payment of cash or by the allotment of fully or partly paid shares or partly in one way and partly in the other.
- 5** Except as required by law, no person shall be recognised by the company as holding any share upon any trust and (except as otherwise provided by the articles or by law) the company shall not be bound by or recognise any interest in any share except an absolute right to the entirety thereof in the holder.



## **SHARE CERTIFICATES**

- 6 Every member, upon becoming the holder of any shares, shall be entitled without payment to one certificate for all the shares of each class held by him (and, upon transferring a part of his holding of shares of any class, to a certificate for the balance of such holding) or several certificates each for one or more of his shares of any class, to a certificate for the balance of such holding) or several certificates each for one or more of his shares upon payment for every certificate after the first of such reasonable sum as the directors may determine. Every certificate shall be sealed with the seal and shall specify the number, class and distinguishing numbers (if any) of the shares to which it relates and the amount or respective amounts paid up thereon. The company shall not be bound to issue more than one certificate for shares held jointly by several persons and delivery of a certificate to one joint holder shall be a sufficient delivery to all of them.
- 7 If a share certificate is defaced, worn-out, lost or destroyed, it may be renewed on such terms (if any) as to evidence and indemnity and payment of the expenses reasonably incurred by the company in investigating evidence as the directors may determine but otherwise free of charge, and (in the case of defacement or wearing-out) on delivery up of the old certificate.

## **LIEN**

- 8 The company shall have a first and paramount lien on every share (not being a fully paid share) for all moneys (whether presently payable or not) payable at a fixed time or called in respect of that share. The directors may at any time declare any share to be wholly or in part exempt from the provisions of this regulation. The company's lien on a share shall extend to any amount payable in respect of it.
- 9 The company may sell in such manner as the directors determine any shares on which the company has a lien if a sum in respect of which the lien exists is presently payable and is not paid within fourteen clear days after notice has been given to the holder of the share or to the person entitled to it in consequence of the death or bankruptcy of the holder, demanding payment and stating that if the notice is not complied with the shares may be sold.
- 10 To give effect to a sale the directors may authorise some person to execute an instrument of transfer of the shares sold to, or in accordance with the directions of, the purchaser. The title of the transferee to the shares shall not be affected by any irregularity in or invalidity of the proceedings in reference to the sale.
- 11 The net proceeds of the sale, after payment of the costs, shall be applied in payment of so much of the sum for which the lien exists as is presently payable, and any residue shall (upon surrender to the company for cancellation of the certificate for the shares sold and subject to a like lien for any moneys not presently payable as existed upon the shares before the sale) be paid to the person entitled to the shares at the date of the sale.

## **CALLS ON SHARES AND FORFEITURE**

- 12 Subject to the terms of allotment, the directors may make calls upon the members in respect of any moneys unpaid on their shares (whether in respect of nominal value or premium) and each member shall (subject to receiving at least fourteen clear days' notice specifying when and where payment is to be made) pay to the company as required by the notice the amount called on his shares. A call may be required to be paid by instalments. A call may, before receipt by the company of any sum due thereunder, be revoked in whole or part and payment of a call

may be postponed in whole or part. A person upon whom a call is made shall remain liable for calls made upon him notwithstanding the subsequent transfer of the shares in respect whereof the call was made.

- 13 A call shall be deemed to have been made at the time when the resolution of the directors authorising the call was passed.
- 14 The joint holders of a share shall be jointly and severally liable to pay all calls in respect thereof.
- 15 If a call remains unpaid after it has become due and payable the person from whom it is due and payable shall pay interest on the amount unpaid from the day it became due and payable until it is paid at the rate fixed by the terms of allotment of the share or in the notice of the call or, if no rate is fixed, at the appropriate rate (as defined by the Act) but the directors may waive payment of the interest wholly or in part.
- 16 An amount payable in respect of a share on allotment or at any fixed date, whether in respect of nominal value or premium or as an instalment of a call, shall be deemed to be a call and if it is not paid the provisions of the articles shall apply as if that amount had become due and payable by virtue of a call.
- 17 Subject to the terms of allotment, the directors may make arrangements on the issue of shares for a difference between the holders in the amounts and times of payment of calls on their shares.
- 18 If a call remains unpaid after it has become due and payable the directors may give to the person from whom it is due not less than fourteen clear days' notice requiring payment of the amount unpaid together with any interest which may have accrued. The notice shall name the place where payment is to be made and shall state that if the notice is not complied with the shares in respect of which the call was made will be liable to be forfeited.
- 19 If the notice is not complied with any share in respect of which it was given may, before the payment required by the notice has been made, be forfeited by a resolution of the directors and the forfeiture shall include all dividends or other moneys payable in respect of the forfeited shares and not paid before the forfeiture.
- 20 Subject to the provisions of the Act, a forfeited share may be sold, re-allotted or otherwise disposed of on such terms and in such manner as the directors determine either to the person who was before the forfeiture the holder or to any other person and at any time before sale, re-allotment or other disposition, the forfeiture may be cancelled on such terms as the directors think fit. Where for the purposes of its disposal a forfeited share is to be transferred to any person the directors may authorise some person to execute an instrument of transfer of the share to that person.
- 21 A person any of whose shares have been forfeited shall cease to be a member in respect of them and shall surrender to the company for cancellation the certificate for the shares forfeited but shall remain liable to the company for all moneys which at the date of forfeiture were presently payable by him to the company in respect of those shares with interest at the rate at which interest was payable on those moneys before the forfeiture or, if no interest was so payable, at the appropriate rate (as defined in the Act) from the date of forfeiture until payment but the directors may waive payment 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.

- 22** A statutory declaration by a director or the secretary that a share has been forfeited on a specified date shall be conclusive evidence of the facts stated in it as against all persons claiming to be entitled to the share and the declaration shall (subject to the execution of an instrument of transfer if necessary) constitute a good title to the share and the person to whom the share is disposed of shall not be bound to see to the application of the consideration, if any, nor shall his 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.

### **TRANSFER OF SHARES**

- 23** The instrument of transfer of a share may be in any usual form or in any other form which the directors may approve and shall be executed by or on behalf of the transferor and, unless the share is fully paid, by or on behalf of the transferee.
- 24** The directors may refuse to register the transfer of a share which is not fully paid to a person of whom they do not approve and they may refuse to register the transfer of a share on which the company has a lien. They may also refuse to register a transfer unless:
- (a) it is lodged at the office or at such other place as the directors may appoint and is accompanied by the certificate for the shares to which it relates and such other evidence as the directors may reasonably require to show the right of the transferor to make the transfer;
  - (b) it is in respect of only one class of shares; and
  - (c) it is in favour of not more than four transferees.
- 25** If the directors refuse to register a transfer of a share, they shall within two months after the date on which the transfer was lodged with the company send to the transferee notice of the refusal.
- 26** The registration of transfers of shares or of transfers of any class of shares may be suspended at such times and for such periods (not exceeding thirty days in any year) as the directors may determine.
- 27** No fee shall be charged for the registration of any instrument of transfer or other document relating to or affecting the title to any share.
- 28** The company shall be entitled to retain any instrument of transfer which is registered, but any instrument of transfer which the directors refuse to register shall be returned to the person lodging it when notice of the refusal is given.

### **TRANSMISSION OF SHARES**

- 29** If a member dies the survivor or survivors where he was a joint holder, and his personal representatives where he was a sole holder or the only survivor of joint holders, shall be the only persons recognised by the company as having any title to his interest; but nothing herein contained shall release the estate of a deceased member from any liability in respect of any share which had been jointly held by him.
- 30** A person becoming entitled to a share in consequence of the death or bankruptcy of a member may, upon such evidence being produced as the directors may properly require, elect either to become the holder of the share or to have some person nominated by him registered as the transferee. If he elects to become the holder he shall give notice to the company to that effect.

If he elects to have another person registered he shall execute an instrument of transfer of the share to that person. All the articles relating to the transfer of shares shall apply to the notice or instrument of transfer as if it were an instrument of transfer executed by the member and the death or bankruptcy of the member had not occurred.

- 31** A person becoming entitled to a share in consequence of the death or bankruptcy of a member shall have the rights to which he would be entitled if he were the holder of the share, except that he shall not, before being registered as the holder of the share, be entitled in respect of it to attend or vote at any meeting of the company or at any separate meeting of the holders of any class of shares in the company.

## **ALTERATION OF SHARE CAPITAL**

- 32** The company may by ordinary resolution:
- (a) increase its share capital by new shares of such amount as the resolution prescribes;
  - (b) consolidate and divide all or any of its share capital into shares of larger amount than its existing shares;
  - (c) subject to the provisions of the Act, sub-divide its shares, or any of them, into shares of smaller amount and the resolution may determine that, as between the shares resulting from the sub-division, any of them may have any preference or advantage as compared with the others; and
  - (d) cancel shares which, at the date of the passing of the resolution, have not been taken or agreed to be taken by any person and diminish the amount of its share capital by the amount of the shares so cancelled.
- 33** Whenever as a result of a consolidation of shares any members would become entitled to fractions of a share, the directors may, on behalf of those members, sell the shares representing the fractions for the best price reasonably obtainable to any person (including, subject to the provisions of the Act, the company) and distribute the net proceeds of sale in due proportion among those members, and the directors may authorise some person to execute an instrument of transfer of the shares to, or in accordance with the directions of, the purchaser. The transferee shall not be bound to see to the application of the purchase money nor shall his title to the shares be affected by any irregularity in or invalidity of the proceedings in reference to the sale.
- 34** Subject to the provisions of the Act, the company may by special resolution reduce its share capital, any capital redemption reserve and any share premium account in any way.

## **PURCHASE OF OWN SHARES**

- 35** Subject to the provisions of the Act, the company may purchase its own shares (including any redeemable shares) and, if it is a private company, make a payment in respect of the redemption or purchase of its own shares otherwise than out of distributable profits of the company or the proceeds of a fresh issue of shares.

## **GENERAL MEETINGS**

- 36** [Deleted].

- 37 The directors may call general meetings and, on the requisition of members pursuant to the provisions of the Act, shall forthwith proceed to convene a general meeting in accordance with the provisions of the Act. If there are not within the United Kingdom sufficient directors to call a general meeting, any director or any member of the company may call a general meeting.

### **NOTICE OF GENERAL MEETINGS**

- 38 General meetings shall be called by at least fourteen clear days' notice but a general meeting may be called by shorter notice if is so agreed by a majority in number of the members having a right to attend and vote being a majority together holding not less than ninety per cent in nominal value of the shares giving that right.

The notice shall specify the time and place of the meeting and the general nature of the business to be transacted.

Subject to the provisions of the articles and to any restrictions imposed on any shares, the notice shall be given to all the members, to all persons entitled to a share in consequence of the death or bankruptcy of a member and to the directors and auditors.

- 39 The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any person entitled to receive notice shall not invalidate the proceedings at that meeting.

### **PROCEEDINGS AT GENERAL MEETINGS**

- 40 No business shall be transacted at any meeting unless a quorum is present. Save in the case of a company with a single member, two persons entitled to vote upon the business to be transacted, each being a member or a proxy for a member or a duly authorised representative of a corporation, shall be a quorum.
- 41 If such a quorum is not present within half an hour from the time appointed for the meeting, or if during a meeting such a quorum ceases to be present, the meeting shall stand adjourned to the same day in the next week at the same time and place or to such time and place as the directors may determine.
- 42 The chairman, if any, of the board of directors or in his absence some other director nominated by the directors shall preside as chairman of the meeting, but if neither the chairman nor such other director (if any) be present within fifteen minutes after the time appointed for holding the meeting and willing to act, the directors present shall elect one of their number to be chairman and, if there is only one director present and willing to act, he shall be chairman.
- 43 If no director is willing to act as chairman, or if no director is present within fifteen minutes after the time appointed for holding the meeting, the members present and entitled to vote shall choose one of their number to be chairman.
- 44 A director shall, notwithstanding that he is not a member, be entitled to attend and speak at any general meeting and at any separate meeting of the holders of any class of shares in the company.
- 45 The chairman may, with the consent of a meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at an adjourned meeting other than business which might properly have been transacted at the meeting had the adjournment not taken place. When a meeting is adjourned for fourteen days or more, at least seven clear days' notice shall be given

specifying the time and place of the adjourned meeting and the general nature of the business to be transacted. Otherwise it shall not be necessary to give any such notice.

- 46** A resolution put to the vote of a meeting shall be decided on a show of hands unless before, or on the declaration of the result of, the show of hands a poll is duly demanded. Subject to the provisions of the Act, a poll may be demanded:

- (a) by the chairman; or
- (b) by at least two members having the right to vote at the meeting; or
- (c) by a member or members representing not less than one-tenth of the total voting rights of all the members having the right to vote at the meeting; or
- (d) by a member or members holding shares conferring a right to vote at the meeting being shares on which an aggregate sum has been paid up equal to not less than one-tenth of the total sum paid up on all the shares conferring that right;

and a demand by a person as proxy for a member shall be the same as a demand by the member.

- 47** Unless a poll is duly demanded a declaration by the chairman that a resolution has been carried or carried unanimously, or by a particular majority, or lost, or not carried by a particular majority and an entry to that effect in the minutes of the meeting shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

- 48** The demand for a poll may, before the poll is taken, be withdrawn but only with the consent of the chairman and a demand so withdrawn shall not be taken to have invalidated the result of a show of hands declared before the demand was made.

- 49** A poll shall be taken as the chairman directs and he may appoint scrutineers (who need not be members) and fix a time and place for declaring the result of the poll. The result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

- 50** [Deleted]

- 51** A poll demanded on the election of a chairman or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken either forthwith or at such time and place as the chairman directs not being more than thirty days after the poll is demanded. The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll was demanded. If a poll is demanded before the declaration of the result of a show of hands and the demand is duly withdrawn, the meeting shall continue as if the demand had not been made.

- 52** No notice need be given of a poll not taken forthwith if the time and place at which it is to be taken are announced at the meeting at which it is demanded. In any other case at least seven clear days' notice shall be given specifying the time and place at which the poll is to be taken.

- 53** [Delete]

## **VOTES OF MEMBERS**

- 54** Subject to any rights or restrictions attached to any shares, on a show of hands every member who (being an individual) is present in person or by proxy or (being a corporation) is present by a duly authorised representative or by proxy, unless the proxy (in either case) or the

representative is himself a member entitled to vote, shall have one vote and on a poll every member shall have one vote for every share of which he is the holder.

- 55** In the case of joint holders the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders; and seniority shall be determined by the order in which the names of the holders stand in the register of members.
- 56** A member in respect of whom an order has been made by any court having jurisdiction (whether in the United Kingdom or elsewhere) in matters concerning mental disorder may vote, whether on a show of hands or on a poll, by his receiver, curator bonis or other person authorised in that behalf appointed by that court, and any such receiver, curator bonis or other person may, on a poll, vote by proxy. Evidence to the satisfaction of the directors of the authority of the person claiming to exercise the right to vote shall be deposited at the office, or at such other place as is specified in accordance with the articles for the deposit of instruments of proxy, not less than 48 hours before the time appointed for holding the meeting or adjourned meeting at which the right to vote is to be exercised and in default the right to vote shall not be exercisable.
- 57** No member shall vote at any general meeting or at any separate meeting of the holders of any class of shares in the company, either in person or by proxy, in respect of any share held by him unless all moneys presently payable by him in respect of that share have been paid.
- 58** No objection shall be raised to the qualification of any voter 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. Any objection made in due time shall be referred to the chairman whose decision shall be final and conclusive.
- 59** On a poll votes may be given either personally or by proxy. A member may appoint more than one proxy to attend on the same occasion.
- 60** The appointment of a proxy shall be executed by or on behalf of the appointor and shall be in the following form (or in a form as near thereto as circumstances allow or in any other form which is usual or which the directors may approve):

" .. . PLC/Limited .. . I/We, .. ., of .. ., being a member/members of the above-named company, hereby appoint .. . of .. ., or failing him, .. . of .. ., as my/our proxy to vote in my/our name[s] and on my/our behalf at the general meeting of the company to be held on .. . 19 .. ., and at any adjournment thereof.

Signed on .. . 19 .. ."

- 61** Where it is desired to afford members an opportunity of instructing the proxy how he shall act the appointment of a proxy shall be in the following form (or in a form as near thereto as circumstances allow or in any other form which is usual or which the directors may approve):

".. . PLC/Limited .. . I/We, .. ., of .. ., being a member/members of the above-named company, hereby appoint .. . of .. ., or failing him .. . of .. ., as my/our proxy to vote in my/our name[s] and on my/our behalf at the general meeting of the company, to be held on .. . 19 , .. ., and at any adjournment thereof.

This form is to be used in respect of the resolutions mentioned below as follows:

Resolution No. 1 \*for \*against

Resolution No. 2 \*for \*against.

\*Strike out whichever is not desired.

Unless otherwise instructed, the proxy may vote as he thinks fit or abstain from voting.

Signed this ..... day of ..... 19 ....."

**62** The appointment of a proxy and any authority under which it is executed or a copy of such authority certified notarially or in some other way approved by the directors may:

(a) in the case of an instrument in writing be deposited at the office or at such other place within the United Kingdom as is specified in the notice convening the meeting or in any instrument of proxy sent out by the company in relation to the meeting not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote; or

(aa) in the case of an appointment contained in an electronic communication, where an address has been specified for the purpose of receiving electronic communications:

(i) in the notice convening the meeting, or

(ii) in any instrument of proxy sent out by the company in relation to the meeting, or

(iii) in any invitation contained in an electronic communication to appoint a proxy issued by the company in relation to the meeting,

be received at such address not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the appointment proposes to vote;

(b) in the case of a poll taken more than 48 hours after it is demanded, be deposited or received as aforesaid after the poll has been demanded and not less than 24 hours before the time appointed for the taking of the poll; or

(c) where the poll is not taken forthwith but is taken not more than 48 hours after it was demanded, be delivered at the meeting at which the poll was demanded to the chairman or to the secretary or to any director;

and an appointment of proxy which is not deposited, delivered or received in a manner so permitted shall be invalid.

In this regulation and the next, "address", in relation to electronic communications, includes any number or address used for the purposes of such communications.

**63** A vote given or poll demanded by proxy or by the duly authorised representative of a corporation shall be valid notwithstanding the previous determination of the authority of the person voting or demanding a poll unless notice of the determination was received by the company at the office or at such other place at which the instrument of proxy was duly deposited or, where the appointment of the proxy was contained in an electronic communication, at the address at which such appointment was duly received before the commencement of the meeting or adjourned meeting at which the vote is given or the poll demanded or (in the case of a poll taken otherwise than on the same day as the meeting or adjourned meeting) the time appointed for taking the poll.



## **NUMBER OF DIRECTORS**

- 64 Unless otherwise determined by ordinary resolution, the number of directors (other than alternate directors) shall not be subject to any maximum but shall be not less than two.

## **ALTERNATE DIRECTORS**

- 65 Any director (other than an alternate director) may appoint any other director, or any other person approved by resolution of the directors and willing to act, to be an alternate director and may remove from office an alternate director so appointed by him.
- 66 An alternate director shall be entitled to receive notice of all meetings of directors and of all meetings of committees of directors of which his appointor is a member, to attend and vote at any such meeting at which the director appointing him is not personally present and generally to perform all the functions of his appointor as a director in his absence but shall not be entitled to receive any remuneration from the company for his services as an alternate director. But it shall not be necessary to give notice of such a meeting to an alternate director who is absent from the United Kingdom.
- 67 An alternate director shall cease to be an alternate director if his appointor ceases to be a director; but, if a director retires by rotation or otherwise but is reappointed or deemed to have been reappointed at the meeting at which he retires, any appointment of an alternate director made by him which was in force immediately prior to his retirement shall continue after his reappointment.
- 68 Any appointment or removal of an alternate director shall be by notice to the company signed by the director making or revoking the appointment or in any other manner approved by the directors.
- 69 Save as otherwise provided in the articles, an alternate director shall be deemed for all purposes to be a director and shall alone be responsible for his own acts and defaults and he shall not be deemed to be the agent of the director appointing him.

## **POWERS OF DIRECTORS**

- 70 Subject to the provisions of the Act, the memorandum and the articles and to any directions given by special resolution, the business of the company shall be managed by the directors who may exercise all the powers of the company. No alteration of the memorandum or articles and no such direction shall invalidate any prior act of the directors which would have been valid if that alteration had not been made or that direction had not been given. The powers given by this regulation shall not be limited by any special power given to the directors by the articles and a meeting of directors at which a quorum is present may exercise all powers exercisable by the directors.
- 71 The directors may, by power of attorney or otherwise, appoint any person to be the agent of the company for such purposes and on such conditions as they determine, including authority for the agent to delegate all or any of his powers.

## **DELEGATION OF DIRECTORS' POWERS**

- 72 The directors may delegate any of their powers to any committee consisting of one or more directors. They may also delegate to any managing director or any director holding any other executive office such of their powers as they consider desirable to be exercised by him. Any

such delegation may be made subject to any conditions the directors may impose, and either collaterally with or to the exclusion of their own powers and may be revoked or altered. Subject to any such conditions, the proceedings of a committee with two or more members shall be governed by the articles regulating the proceedings of directors so far as they are capable of applying.

## **APPOINTMENT AND RETIREMENT OF DIRECTORS**

**73** [Deleted]

**74** [Deleted]

**75** [Deleted]

**76** No person shall be appointed or reappointed a director at any general meeting unless:

- (a) he is recommended by the directors; or
- (b) not less than fourteen nor more than thirty-five clear days before the date appointed for the meeting, notice executed by a member qualified to vote at the meeting has been given to the company of the intention to propose that person for appointment or reappointment stating the particulars which would, if he were so appointed or reappointed, be required to be included in the company's register of directors together with notice executed by that person of his willingness to be appointed or reappointed.

**77** Not less than seven nor more than twenty-eight clear days before the date appointed for holding a general meeting notice shall be given to all who are entitled to receive notice of the meeting of any person who is recommended by the directors for appointment or reappointment as a director at the meeting or in respect of whom notice has been duly given to the company of the intention to propose him at the meeting for appointment or reappointment as a director. The notice shall give the particulars of that person which would, if he were so appointed or reappointed, be required to be included in the company's register of directors.

**78** The company may by ordinary resolution appoint a person who is willing to act to be a director either to fill a vacancy or as an additional director and may also determine the rotation in which any additional directors are to retire.

**79** The directors may appoint a person who is willing to act to be a director, either to fill a vacancy or as an additional director, provided that the appointment does not cause the number of directors to exceed any number fixed by or in accordance with the articles as the maximum number of directors.

**80** [Deleted]

## **DISQUALIFICATION AND REMOVAL OF DIRECTORS**

**81** The office of a director shall be vacated if:

- (a) he ceases to be a director by virtue of any provision of the Act or he becomes prohibited by law from being a director; or
- (b) he becomes bankrupt or makes any arrangement or composition with his creditors generally; or
- (c) he is, or may be, suffering from mental disorder and either:

- (iv) he is admitted to hospital in pursuance of an application for admission for treatment under the Mental Health Act 1983 or, in Scotland, an application for admission under the Mental Health (Scotland) Act 1960, or
- (v) an order is made by a court having jurisdiction (whether in the United Kingdom or elsewhere) in matters concerning mental disorder for his detention or for the appointment of a receiver, curator bonis or other person to exercise powers with respect to his property or affairs; or
- (d) he resigns his office by notice to the company; or
- (e) he shall for more than six consecutive months have been absent without permission of the directors from meetings of directors held during that period and the directors resolve that his office be vacated.

### **REMUNERATION OF DIRECTORS**

- 82** The directors shall be entitled to such remuneration as the company may by ordinary resolution determine and, unless the resolution provides otherwise, the remuneration shall be deemed to accrue from day to day.

### **DIRECTORS' EXPENSES**

- 83** The directors may be paid all travelling, hotel, and other expenses properly incurred by them in connection with their attendance at meetings of directors or committees of directors or general meetings or separate meetings of the holders of any class of shares or of debentures of the company or otherwise in connection with the discharge of their duties.

### **DIRECTORS' APPOINTMENTS AND INTERESTS**

- 84** Subject to the provisions of the Act, the directors may appoint one or more of their number to the office of managing director or to any other executive office under the company and may enter into an agreement or arrangement with any director for his employment by the company or for the provision by him of any services outside the scope of the ordinary duties of a director. Any such appointment, agreement or arrangement may be made upon such terms as the directors determine and they may remunerate any such director for his services as they think fit. Any appointment of a director to an executive office shall terminate if he ceases to be a director but without prejudice to any claim to damages for breach of the contract of service between the director and the company. A managing director and a director holding any other executive office shall not be subject to retirement by rotation.
- 85** Subject to the provisions of the Act, and provided that he has disclosed to the directors the nature and extent of any material interest of his, a director notwithstanding his office:
- (a) may be a party to, or otherwise interested in, any transaction or arrangement with the company or in which the company or in which the company is otherwise interested;
  - (b) may be a director or other officer of, or employed by, or a party to any transaction or arrangement with, or otherwise interested in, any body corporate promoted by the company or in which the company is otherwise interested; and
  - (c) shall not, by reason of his office, be accountable to the company for any benefit which he derives from any such office or employment or from any such transaction or arrangement or from any interest in any such body corporate and no such transaction

or arrangement shall be liable to be avoided on the ground of any such interest or benefit.

**86** For the purposes of regulation 85:

- (a) a general notice given to the directors that a director is to be regarded as having an interest of the nature and extent specified in the notice in any transaction or arrangement in which a specified person or class of persons is interested shall be deemed to be a disclosure that the director has an interest in any such transaction of the nature and extent so specified; and
- (b) an interest of which a director has no knowledge and of which it is unreasonable to expect him to have knowledge shall not be treated as an interest of his.

### **DIRECTORS' GRATUITIES AND PENSIONS**

**87** The directors may provide benefits, whether by the payment of gratuities or pensions or by insurance or otherwise, for any director who has held but no longer holds any executive office or employment with the company or with any body corporate which is or has been a subsidiary of the company or a predecessor in business of the company or of any such subsidiary, and for any member of his family (including a spouse and a former spouse) or any person who is or was dependent on him, and may (as well before as after he ceases to hold such office or employment) contribute to any fund and pay premiums for the purchase or provision of any such benefit.

### **PROCEEDINGS OF DIRECTORS**

- 88** Subject to the provisions of the articles, the directors may regulate their proceedings as they think fit. A director may, and the secretary at the request of a director shall, call a meeting of the directors. It shall not be necessary to give notice of a meeting to a director who is absent from the United Kingdom. Questions arising at a meeting shall be decided by a majority of votes. In the case of an equality of votes, the chairman shall have a second or casting vote. A director who is also an alternate director shall be entitled in the absence of his appointor to a separate vote on behalf of his appointor in addition to his own vote.
- 89** The quorum for the transaction of the business of the directors may be fixed by the directors and unless so fixed at any other number shall be two. A person who holds office only as an alternate director shall, if his appointor is not present, be counted in the quorum.
- 90** The continuing directors or a sole continuing director may act notwithstanding any vacancies in their number, but, if the number of directors is less than the number fixed as the quorum, the continuing directors or director may act only for the purpose of filling vacancies or of calling a general meeting.
- 91** The directors may appoint one of their number to be the chairman of the board of directors and may at any time remove him from that office. Unless he is unwilling to do so, the director so appointed shall preside at every meeting of directors at which he is present. But if there is no director holding that office, or if the director holding it is unwilling to preside or is not present within five minutes after the time appointed for the meeting, the directors present may appoint one of their number to be chairman of the meeting.
- 92** All acts done by a meeting of directors, or of a committee of directors, or by a person acting as a director shall, notwithstanding that it be afterwards discovered that there was a defect in the

appointment of any director or that any of them were disqualified from holding office, or had vacated office, or were not entitled to vote, be as valid as if every such person had been duly appointed and was qualified and had continued to be a director and had been entitled to vote.

- 93** A resolution in writing signed by all the directors entitled to receive notice of a meeting of directors or of a committee of directors shall be as valid and effectual as it if had been passed at a meeting of directors or (as the case may be) a committee of directors duly convened and held and may consist of several documents in the like form each signed by one or more directors; but a resolution signed by an alternate director need not also be signed by his appointor and, if it is signed by a director who has appointed an alternate director, it need not be signed by the alternate director in that capacity.
- 94** Save as otherwise provided by the articles, a director shall not vote at a meeting of directors or of a committee of directors on any resolution concerning a matter in which he has, directly or indirectly, an interest or duty which is material and which conflicts or may conflict with the interests of the company unless his interest or duty arises only because the case falls within one or more of the following paragraphs:
- (a) the resolution relates to the giving to him of a guarantee, security, or indemnity in respect of money lent to, or an obligation incurred by him for the benefit of, the company or any of its subsidiaries;
  - (b) the resolution relates to the giving to a third party of a guarantee, security, or indemnity in respect of an obligation of the company or any of its subsidiaries for which the director has assumed responsibility in whole or part and whether alone or jointly with others under a guarantee or indemnity or by the giving of security;
  - (c) his interest arises by virtue of his subscribing or agreeing to subscribe for any shares, debentures, or other securities of the company or any of its subsidiaries, or by virtue of his being, or intending to become, a participant in the underwriting or sub-underwriting of an offer of any such shares, debentures, or other securities by the company or any of its subsidiaries for subscription, purchase or exchange;
  - (d) the resolution relates in any way to a retirement benefits scheme which has been approved, or is conditional upon approval, by the Board of Inland Revenue for taxation purposes.

For the purposes of this regulation, an interest of a person who is, for any purpose of the Act (excluding any statutory modification thereof not in force when this regulation becomes binding on the company), connected with a director shall be treated as an interest of the director and, in relation to an alternate director, an interest of his appointor shall be treated as an interest of the alternate director without prejudice to any interest which the alternate director has otherwise.

- 95** A director shall not be counted in the quorum present at a meeting in relation to a resolution on which he is not entitled to vote.
- 96** The company may by ordinary resolution suspend or relax to any extent, either generally or in respect of any particular matter, any provision of the articles prohibiting a director from voting at a meeting of directors or of a committee of directors.
- 97** Where proposals are under consideration concerning the appointment of two or more directors to offices or employments with the company or any body corporate in which the company is interested the proposals may be divided and considered in relation to each director separately

and (provided he is not for another reason precluded from voting) each of the directors concerned shall be entitled to vote and be counted in the quorum in respect of each resolution except that concerning his own appointment.

- 98** If a question arises at a meeting of directors or of a committee of directors as to the right of a director to vote, the question may, before the conclusion of the meeting, be referred to the chairman of the meeting and his ruling in relation to any director other than himself shall be final and conclusive.

### **SECRETARY**

- 99** Subject to the provisions of the Act, the secretary shall be appointed by the directors for such term, at such remuneration and upon such conditions as they may think fit; and any secretary so appointed may be removed by them.

### **MINUTES**

- 100** The directors shall cause minutes to be made in books kept for the purpose:
- (a) of all appointments of officers made by the directors; and
  - (b) of all proceedings at meetings of the company, of the holders of any class of shares in the company, and of the directors, and of committees of directors, including the names of the directors present at each such meeting.

### **THE SEAL**

- 101** The seal shall only be used by the authority of the directors or of a committee of directors authorised by 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 by the secretary or by a second director.

### **DIVIDENDS**

- 102** Subject to the provisions of the Act, the company may by ordinary resolution declare dividends in accordance with the respective rights of the members, but no dividend shall exceed the amount recommended by the directors.
- 103** Subject to the provisions of the Act, the directors may pay interim dividends if it appears to them that they are justified by the profits of the company available for distribution. If the share capital is divided into different classes, the directors may pay interim dividends on shares which confer deferred or non-preferred rights with regard to dividend as well as on shares which confer preferential rights with regard to dividend, but 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. The directors may also pay at intervals settled by them any dividend payable at a fixed rate if it appears to them that the profits available for distribution justify the payment. Provided 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 any shares having deferred or non-preferred rights.
- 104** Except as otherwise provided by the rights attached to shares, all dividends shall be declared and paid according to the amounts paid up on the shares on which the dividend is paid. All dividends shall be apportioned and paid proportionately to the amounts paid up on the shares

during any portion or portions of the period in respect of which the dividend is paid; but, if any share is issued on terms providing that it shall rank for dividend as from a particular date, that share shall rank for dividend accordingly.

- 105** A general meeting declaring a dividend may, upon the recommendation of the directors, direct that it shall be satisfied wholly or partly by the distribution of assets and, where any difficulty arises in regard to the distribution, the directors may settle the same and in particular may issue fractional certificates and fix the value for distribution of any assets and may determine that cash shall be paid to any member upon the footing of the value so fixed in order to adjust the rights of members and may vest any assets in trustees.
- 106** Any dividend or other moneys payable in respect of a share may be paid by cheque sent by post to the registered address of the person entitled or, if two or more persons are the holders of the share or are jointly entitled to it by reason of the death or bankruptcy of the holder, to the registered address of that one of those persons who is first named in the register of members or to such person and to such address as the person or persons entitled may in writing direct. Every cheque shall be made payable to the order of the person or persons entitled or to such other person as the person or persons entitled may in writing direct and payment of the cheque shall be a good discharge to the company. Any joint holder or other person jointly entitled to a share as aforesaid may give receipts for any dividend or other moneys payable in respect of the share.
- 107** No dividend or other moneys payable in respect of a share shall bear interest against the company unless otherwise provided by the rights attached to the share.
- 108** Any dividend which has remained unclaimed for twelve years from the date when it became due for payment shall, if the directors so resolve, be forfeited and cease to remain owing by the company.

## **ACCOUNTS**

- 109** No member shall (as such) have any right of inspecting any accounting records or other book or document of the company except as conferred by statute or authorised by the directors or by ordinary resolution of the company.

## **CAPITALISATION OF PROFITS**

- 110** The directors may with the authority of an ordinary resolution of the company:
- (a) subject as hereinafter provided, resolve to capitalise any undivided profits of the company not required for paying any preferential dividend (whether or not they are available for distribution) or any sum standing to the credit of the company's share premium account or capital redemption reserve;
  - (b) appropriate the sum resolved to be capitalised to the members who would have been entitled to it if it were distributed by way of dividend and in the same proportions and apply such sum on their behalf either in or towards paying up the amounts, if any, for the time being unpaid on any shares held by them respectively, or in paying up in full unissued shares or debentures of the company of a nominal amount equal to that sum, and allot the shares or debentures credited as fully paid to those members, or as they may direct, in those proportions, or partly in one way and partly in the other: but the share premium account, the capital redemption reserve, and any profits which are not

available for distribution may, for the purposes of this regulation, only be applied in paying up unissued shares to be allotted to members credited as fully paid;

- (c) make such provision by the issue of fractional certificates or by payment in cash or otherwise as they determine in the case of shares or debentures becoming distributable under this regulation in fractions; and
- (d) authorise any person to enter on behalf of all the members concerned into an agreement with the company providing for the allotment to them respectively, credited as fully paid, of any shares or debentures to which they are entitled upon such capitalisation, any agreement made under such authority being binding on all such members.

## **NOTICES**

- 111** Any notice to be given to or by any person pursuant to the articles (other than a notice calling a meeting of the directors) shall be in writing or shall be given using electronic communications to an address for the time being notified for that purpose to the person giving the notice.

In this regulation, "address", in relation to electronic communications, includes any number or address used for the purposes of such communications.

- 112** The company may give any notice to a member either personally or by sending it by post in a prepaid envelope addressed to the member at his registered address or by leaving it at that address or by giving it using electronic communications to an address for the time being notified to the company by the member. In the case of joint holders of a share, all notices shall be given to the joint holder whose name stands first in the register of members in respect of the joint holding and notice so given shall be sufficient notice to all the joint holders. A member whose registered address is not within the United Kingdom and who gives to the company an address within the United Kingdom at which notices may be given to him, or an address to which notices may be sent using electronic communications, shall be entitled to have notices given to him at that address, but otherwise no such member shall be entitled to receive any notice from the company.

In this regulation and the next, "address", in relation to electronic communications, includes any number or address used for the purposes of such communications.

- 113** A member present, either in person or by proxy, at any meeting of the company or of the holders of any class of shares in the company shall be deemed to have received notice of the meeting and, where requisite, of the purposes for which it was called.
- 114** Every person who becomes entitled to a share shall be bound by any notice in respect of that share which, before his name is entered in the register of members, has been duly given to a person from whom he derives his title.
- 115** Proof that an envelope containing a notice was properly addressed, prepaid and posted shall be conclusive evidence that the notice was given. Proof that a notice contained in an electronic communication was sent in accordance with guidance issued by the Institute of Chartered Secretaries and Administrators shall be conclusive evidence that the notice was given. A notice shall be deemed to be given at the expiration of 48 hours after the envelope containing it was posted or, in the case of a notice contained in an electronic communication, at the expiration of 48 hours after the time it was sent.



- 116** A notice may be given by the company to the persons entitled to a share in consequence of the death or bankruptcy of a member by sending or delivering it, in any manner authorised by the articles for the giving of notice to a member, addressed to them by name, or by the title of representatives of the deceased, or trustee of the bankrupt or by any like description at the address, if any, within the United Kingdom supplied for that purpose by the persons claiming to be so entitled. Until such an address has been supplied, a notice may be given in any manner in which it might have been given if the death or bankruptcy had not occurred.

### **WINDING UP**

- 117** If the company is wound up, the liquidator may, with the sanction of a special resolution of the company and any other sanction required by the Act, divide among the members in specie the whole or any part of the assets of the company and may, for that purpose, value any assets and determine how the division shall be carried out as between the members or different classes of members. The liquidator may, with the like sanction, vest the whole or any part of the assets in trustees upon such trusts for the benefit of the members as he with the like sanction determines, but no member shall be compelled to accept any assets upon which there is a liability.

### **INDEMNITY**

- 118** Subject to the provisions of the Act but without prejudice to any indemnity to which a director may otherwise be entitled, every director or other officer or auditor of the company shall be indemnified out of the assets of the company against any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or in connection with any application in which relief is granted to him by the court from liability for negligence, default, breach of duty or breach of trust in relation to the affairs of the company.