

Company No: 3889945

THE COMPANIES ACT 1985
COMPANY LIMITED BY SHARES
WRITTEN RESOLUTION
OF
RAILTRACK HOLDINGS LIMITED

I, the undersigned, representing all the Members of the Company for the time being entitled to receive notice of, attend and vote at General Meetings hereby pass the following Resolution and agree that the said Resolution shall for all purposes be as valid and effective as if the same had been passed at a General Meeting of the Company duly convened and held:

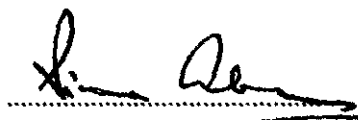
SPECIAL RESOLUTION

THAT the Articles of Association be amended by adding new Article 121A as follows:

Delegating powers to management committees

The Board can delegate any of its powers, authorities or discretions, including the power to sub-delegate, in accordance with Article 121.1, to committees of one or more Directors and any number of co-opted people as explained in Article 121 where the terms of reference of that committee specify that it has been constituted pursuant to this Article 121A for the purpose of carrying out management or operational functions of the Board and/or considering issues relating to the business of any associated company or companies (however the committee is named or styled) to the extent permissible under that associated company's articles of association. The provisions of Article 121.3(A), (B) and (C) shall not apply to committees constituted pursuant to this Article 121A."

Dated this 30th day of July 2001.


.....
S. K. Osborne

by the authority of the board of Railtrack Group PLC



No. 3889945

The Companies Act 1985

PRIVATE COMPANY LIMITED BY SHARES

Articles and Memorandum of Association

of

RAILTRACK HOLDINGS LIMITED

(New Articles and Memorandum of Association adopted on 2 December 1999)

(Memorandum and Articles of Association amended by Written Resolution on 3 April 2001)

(Articles of Association amended by Written Resolution on 30 July 2001)

Simmons & Simmons

CityPoint One Ropemaker Street London EC2Y 9SS

Incorporated 2 December 1999

Company No. 3889945

MEMORANDUM OF ASSOCIATION
OF RAILTRACK HOLDINGS LIMITED



1. The Company's name is "RAILTRACK HOLDINGS LIMITED".
2. The Company's registered office is to be situated in England and Wales.
3. The Company's object is to carry on business as a general commercial company and accordingly to carry on any trade or business whatsoever and so that the Company has power to do all such things as are incidental or conducive to the carrying on of any trade or business by it and in addition and without prejudice to the generality of the foregoing the further objects for which the Company is established are:-
 - 3.1 To carry on the business of a holding company and to co-ordinate, finance and manage all or any part of the businesses and operations of any and all companies controlled, directly or indirectly, by the Company or in which the Company is interested, whether as a shareholder or otherwise and whether directly or indirectly.
 - 3.2 To carry on the business of owners, investors, developers, dealers and managers of property (including any form of interest in property or rights relating to property or such interests) in all its aspects, undertaking the management of property as owners, trustees, agents, receivers or otherwise, improvers, preparers for sale or letting or other disposal of any kind and dealers in buildings, lands and estates, estate agents, surveyors and auctioneers, builders, facilities providers and contractors for construction work of any kind and the demolition of any structure, dealers in all manner of building materials, site clearers and landscapers, and proprietors, with power to do any of the foregoing, as agent, as principal, in partnership, joint venture or any other form of business combination or by or through any form of investment or investment entity, and to provide all such services at, from or by means of such properties as the directors may consider appropriate, including (but without prejudice to the generality of the foregoing) railway light maintenance services.
 - 3.3 To carry on any business which is ancillary to or connected with the businesses of providing railway network services and station services in all their aspects.

- 3.4 To do anything which the Company is or may be authorised to do under or pursuant to any enactment or any licence granted to the Company thereunder or pursuant thereto or which the Company is required or permitted to do under or by virtue of any enactment or such a licence.
- 3.5 To apply for and take out, purchase, or otherwise acquire for any estate or interest, any property (real or personal) or assets or any concessions, licences, grants, patents, trade marks, copyrights or other exclusive or non-exclusive rights of any kind and to hold, develop and turn to account and deal with the same in such manner as may be thought fit.
- 3.6 To build, construct, alter, remove, replace, equip, execute, carry out, improve, work, develop, administer, maintain, repair, renew, discontinue, manage or control buildings, structures, works, apparatus, equipment or facilities of all kinds, whether for the purposes of the Company or for sale, letting or hire to or in return for any consideration from any company, firm or person, and to contribute to or assist in or carry out any part of any such operation.
- 3.7 To subscribe, underwrite, purchase, or otherwise acquire, and to hold, dispose of, and deal with, any shares or other securities or investments of any nature whatsoever, and any options or rights in respect thereof or interests therein, and to buy, sell, transact, enter into and to carry on the business of dealers in financial futures, currencies, options, interest rate transactions and commodities of every kind including but not limited to buying, selling or dealing in foreign currency, spot and forward rate exchange contracts, futures, options, forward rate agreements, swaps, caps, floors, collars, money, securities for money, bills of exchange, promissory notes, insurance or other financial policies, baskets of currencies, sale and repurchase transactions, buy-sell back arrangements, precious metals, bullion and specie and any other foreign exchange or interest rate or currency hedging arrangements and any other derivative instruments (whether on exchange or off exchange) whether for the purpose of making a profit or avoiding a loss or managing a currency or interest rate exposure or any other exposure or for any other purpose.
- 3.8 To invest and deal with the moneys of the Company not immediately required in such manner as may from time to time be determined and to hold or otherwise deal with any investments made.
- 3.9 To open and maintain accounts of every kind, character or description whatsoever of the Company and accounts with and for customers or other persons, including margin or collateral accounts with respect to financial futures, currencies and commodities and to do anything incidental to the maintaining of

such accounts.

- 3.10 To draw, grant, make, accept, endorse, discount, negotiate, execute, and issue, and to buy, sell and deal with letters of credit, circular notes, drafts, bills of exchange, acceptances, promissory notes, and other forms of credit, negotiable or transferable instruments or securities.
- 3.11 To enter into partnership or any joint venture or profit/loss-sharing arrangement or other association with any company, firm, person or body, where such collaboration may seem to advance the interests or affairs of the Company.
- 3.12 To purchase or otherwise acquire and undertake all or any part of the business, property and liabilities of any company, firm, person or body carrying on any business which the Company is authorised to carry on or possessed of any property suitable for the purposes of the Company.
- 3.13 To promote, or join in the promotion of, any company, whether or not having objects similar to those of the Company.
- 3.14 To borrow and raise money and to secure or discharge any debt or obligation of or binding on the Company in such manner as may be thought fit and in particular by mortgages and charges upon all or any part of the undertaking, property and assets (present and future) and the uncalled capital of the Company, or by the creation and issue of debentures, debenture stock or other securities of any description.
- 3.15 To advance, lend or deposit money or give credit to or with any company, firm or person on such terms as may be thought fit and with or without security.
- 3.16 To guarantee or give indemnities or other assurance for the obligations of any person or provide security, with or without consideration and whether by personal covenant or by mortgage or charge upon all or any part of the undertaking, property and assets (present and future) and the uncalled capital of the Company, or by all or any such methods, for the performance of any contracts or obligations, and the payment of capital or principal (together with any premium) and dividends or interest on any shares, debentures or other securities, of any person, firm or company including (without limiting the generality of the foregoing) any company which is for the time being a holding company of the Company or another subsidiary of any such holding company or is associated with the Company in business.

- 3.17 To issue any securities which the Company has power to issue for any other purpose by way of security or indemnity or in satisfaction of any liability undertaken or agreed to be undertaken by the Company.
- 3.18 To constitute any trusts with a view to the issue of preferred and deferred or any other special stocks, securities, certificates or other documents based on or representing any shares, stocks or other assets appropriated for the purposes of any such trust and to settle and regulate and if thought fit to undertake and execute any such trusts, and to issue, hold or dispose of any such preferred, deferred or other special stocks, securities, certificates or documents.
- 3.19 To sell, lease, grant licences, easements and other rights over, and in any other manner deal with or dispose of, the undertaking, property, assets, rights and effects of the Company or any part thereof for such consideration as may be thought fit, and in particular for shares or other securities, whether fully or partly paid up.
- 3.20 To procure the registration, recognition or incorporation of the Company in or under the laws of any territory outside England.
- 3.21 To pay and discharge all or any expenses, costs and disbursements, to pay commissions and to remunerate any person for services rendered or to be rendered in connection with the formation, promotion, registration and flotation of the Company and the underwriting or placing or issue at any time of any securities of the Company or of any other person.
- 3.22 To apply for, promote and obtain any Act of Parliament, statutory instrument, order, right, privilege, franchise, concession, licence or authorisation of any government, state or municipality or other department or authority and to carry out, exercise and comply with the same, or enter into arrangements with any such body for enabling the Company to carry out any of its objects or for extending any of the powers of the Company or for effecting any modification of the constitution of the Company or for any other purpose which may seem to the Company to be expedient and to carry out, exercise and comply with the same and to oppose any proceedings or applications which may seem calculated directly or indirectly to prejudice the interests of the Company.
- 3.23 To apply for, acquire and hold membership in any trade, financial or other association or organisation membership of which will in any way facilitate the conduct of the Company's business.
- 3.24 To subscribe for or guarantee (in cash or in kind) any national, charitable, benevolent, public, general or useful object or for any purpose which may be

considered likely directly or indirectly to further the interests of the Company, its employees or its members.

- 3.25 To establish and maintain or contribute to any pension or superannuation funds for the benefit of, and to give or procure the giving of donations, gratuities, pensions, allowances or emoluments to, any individuals who are or were at any time in the employment or service of the Company or of any company which is its holding company or is a subsidiary of the Company or any such holding company or otherwise is allied to or associated with the Company or any of the predecessors of the Company or any other such company as aforesaid, or who are or were at any time directors or officers of the Company or of any such other company or predecessor, and the wives, widows, families and dependants of any such individuals; to establish and subsidise or subscribe to any institutions, associations, clubs or funds which may be considered likely to benefit any such persons or to further the interests of the Company or of any such other company and to make payments for or towards the insurance of any such persons.
- 3.26 To establish and maintain, and to contribute to, any scheme for encouraging or facilitating the holding of shares or debentures in the Company by or for the benefit of its employees or former employees, or those of its subsidiary or holding company or subsidiary of its holding company, or by or for the benefit of such other persons as may for the time being be permitted by law, or any scheme for sharing profits with its employees or those of its subsidiary and/or associated companies, and (so far as for the time being permitted by law) to lend money to employees of the Company or of any company which is its holding company or is a subsidiary of the Company or any such holding company or otherwise is allied to or associated with the Company with a view to enabling them to acquire shares in the Company or its holding company.
- 3.27 (A) To purchase and maintain insurance for or for the benefit of any persons who are or were at any time directors, officers or employees or auditors of the Company, or of any other company which is its holding company or in which the Company or such holding company or any of the predecessors of the Company or of such holding company has any interest whether direct or indirect or which is in any way allied to or associated with the Company, or of any subsidiary undertaking of the Company or of any such other company, or who are or were at any time trustees of any pension fund or employees' share scheme in which any employees of the Company or of any such other company or subsidiary undertaking are interested, including (without prejudice to the generality of the foregoing) insurance against any liability incurred by such persons in respect of any act or omission in the actual or purported execution and/or discharge of their duties and/or in the exercise or purported

exercise of their powers and/or otherwise in relation to the Company or any such other company, subsidiary undertaking, pension fund or employees' share scheme; and

- (B) to such extent as may be permitted by law otherwise to indemnify or to exempt any such person against or from any such liability; for the purposes of this clause "holding company" and "subsidiary undertaking" shall have the same meanings as in the Companies Act 1985 as amended by the Companies Act 1989.

- 3.28 To have regard to the protection of buildings and other objects of historic, architectural or other significance when formulating and implementing proposals and more generally to participate in, manage and co-operate in projects or works designed to restore, preserve, improve or protect the environment.
- 3.29 To distribute among members of the Company in specie or otherwise, by way of dividend or bonus or by way of reduction of capital, all or any of the property or assets of the Company, or any proceeds of sale or other disposal of any property or assets of the Company, with and subject to any incident authorised and consent required by law.
- 3.30 To carry on any other business or activity of any nature whatsoever which may seem to the directors to be capable of being conveniently or advantageously carried on in connection or conjunction with any business of the Company hereinbefore authorised or to be expedient with a view directly or indirectly to enhancing the value of or to rendering profitable or more profitable any of the Company's assets or utilising its skills, know-how or expertise.
- 3.31 To do all or any of the things and matters aforesaid in any part of the world, and either as principals, agents, contractors, trustees or otherwise, and by or through trustees, agents, subsidiary companies or otherwise, and either alone or in conjunction with others.
- 3.32 To do all such other things as may be deemed, or as the Company considers to be, incidental or conducive to any of the above objects.

AND it is hereby declared that in this clause:-

"company", except where used in reference to this Company, shall include any partnership or other body of persons, whether incorporated or not incorporated, and whether formed, incorporated, domiciled or resident in the United Kingdom or elsewhere;

“person” shall include any company as well as any other legal or natural person;

“subsidiary” and “holding company” shall include, respectively, “subsidiary undertaking” and “parent undertaking”;

“securities” shall include any fully, partly or nil paid or no par value share, stock, unit, debenture, debenture or loan stock, deposit receipt, bill, note, warrant, coupon, right to subscribe or convert, or similar right or obligation;

“and” and “or” shall mean “and/or” where the context so permits;

“other” and “otherwise” shall not be construed ejusdem generis where a wider construction is possible.

The objects specified in the different paragraphs of this clause shall not, except where the context expressly so requires, be in any way limited or restricted by reference to or inference from the terms of any other paragraph or the name of the Company, but may be carried out in as full and ample a manner and shall be construed in as wide a sense as if each of the said paragraphs defined the objects of a separate, distinct and independent company.

4. The liability of the members is limited.
5. The Company's share capital is £1,000 divided into 1,000 shares of £1 each.

By a Written Resolution passed on 3 April 2001 the nominal capital in the Company was increased to £500,000 by the creation of 499,000 ordinary shares of £1 each ranking pari passu in all respects with the existing ordinary shares of the Company.

I, the subscriber to this memorandum of association, wish to be formed into a company pursuant to this memorandum, and I agree to take the number of shares shown opposite my name.

Names and Addresses of Subscriber

Number of shares taken by
the Subscriber

Instant Companies Limited
1 Mitchell Lane
Bristol
BS1 6BU

1

Total shares taken:

1

Dated 2nd December 1999

Witness to the above signature:

Glenys Copeland
1 Mitchell Lane
Bristol
BS1 6BU

The Companies Act 1985

Company Limited by Shares

Special Resolution

Pursuant to section 378(2) of the Companies Act 1985

Company Number

3889945

Railtrack Holdings Limited

At a shareholders meeting of the above company, duly convened and held at:

Railtrack House, Euston Square, London, NW1 2EE on 2 December 1999

the following SPECIAL RESOLUTION was duly passed:-

THAT the Memorandum and Articles of Association, attached as an appendix and signed by the Company Secretary for the purposes of identification, be adopted in substitution for the existing Memorandum and Articles of Association.

Signed: S C Hornbuckle

Position: Company Secretary

NOTE: To be filed within 15 days of the passing of the special resolution.

Elective Resolution

Pursuant to section 379A of the Companies Act 1985

Company Number

3889945

Railtrack Holdings Limited

At a shareholders meeting of the above company, duly convened and held at Railtrack House, Euston Square, London, NW1 2EE on 2 December 1999 the following ELECTIVE RESOLUTION was duly passed, viz:-

- I. THAT as an elective resolution in accordance with section 379A of the Act -
 - (A) The provisions of section 80A of the Act shall apply, instead of the provisions of section 80(4) and (5) of the Act, in relation to the giving or renewal, after the passing of this resolution, of an authority under the said section 80.
 - (B) The Company hereby elects:
 - (i) pursuant to section 252 of the Act, to dispense with the laying of accounts before the Company in general meeting;
 - (ii) pursuant to section 366A of the Act, to dispense with the holding of annual general meetings; and
 - (iii) pursuant to section 386 of the Act, to dispense with the obligation to appoint auditors annually and to allow the directors to fix their remuneration.
2. THAT, notwithstanding the provisions of Article 10.2 of the Company's Articles of Association, with effect from the time of the passing of this resolution and for an indefinite period thereafter (but subject always to the right of the Company to revoke at any time the authority hereby conferred) the directors of the Company be unconditionally authorised, pursuant to section 80 of the Act, to allot relevant securities (as defined in the Act) up to a maximum of the nominal amount of the authorised but unissued share capital of the Company at the time of the passing of this resolution.

Signed: S C Hornbuckle Position: Company Secretary

NOTE: To be filed within 15 days of the passing of the elective resolution.



CERTIFICATE OF INCORPORATION
OF A PRIVATE LIMITED COMPANY

Company No. 3889945

The Registrar of Companies for England and Wales hereby certifies that
RAILTRACK HOLDINGS LIMITED

is this day incorporated under the Companies Act 1985 as a private company
and that the company is limited.

Given at Companies House, Cardiff, the 2nd December 1999

MRS S WALBEOFF
FOR THE REGISTRAR OF COMPANIES

COMPANIES HOUSE

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PRELIMINARY

1. Table A and other standard regulations do not apply

The regulations in the Companies (Tables A to F) Regulations 1985, and any similar regulations in any other legislation relating to companies, do not apply to Railtrack.

2. The meaning and use of words in the Articles

2.1 Meaning of certain words

Certain words which are used in the Articles have a particular meaning which is set out below. After the Articles there is a glossary which explains other words and expressions. Words which are explained in the glossary are printed in italics the first time they appear in each Article. The glossary does not form part of the Articles and the definitions given in the glossary are intended as a general guide only.

<u>Word(s)</u>	<u>Definition</u>
the Companies Act	The Companies Act 1985.
the Acts	The Companies Act and every other statute concerning companies and affecting Railtrack. This includes any orders, regulations or further legislation made under the Companies Act or other statute as well as any <i>re-enactment</i> .
amount (of share)	This means the <i>nominal value</i> of the share.
Auditors	Railtrack's auditors. If there are joint auditors, "Auditors" means any one of the joint auditors.
Board	The Board of Directors of Railtrack at any time, or those Directors who are present at a Directors' meeting which has been properly called and at which a <i>quorum</i> is present.
certificated (share or security)	A share or other security which is shown in the Register as owned, for the time being,

with a certificate as evidence of ownership.

class meeting	A meeting of the holders of any class of share of Railtrack.
clear days	<p>This term is used in relation to the period of notice required in order for various notices under the Articles to be valid. Where it is used it means that the period:</p> <ul style="list-style-type: none"> • starts on (but does not include) the day on which the notice is given, or treated as given; and • ends on (but does not include) the day on which the meeting referred to in the notice is to be held or the event referred to in the notice is to happen.
company	Includes any corporate body and any <i>corporation sole</i> .
Executive Director	An Executive Chairman, Chief Executive Director, Joint or Deputy Chief Executive Director, Managing Director, Joint Managing Director or Assistant Managing Director of Railtrack or a Director who holds any other employment or executive office (whether or not an employee) with Railtrack or any of its subsidiary undertakings.
existing shares (of any kind)	Shares in Railtrack which are in issue at the relevant time.
paid up share or other security	This includes a share or other security which is treated as paid up.
Railtrack	Railtrack Holdings Limited.
Register	The Railtrack Register of Members, which is the register of Railtrack's shareholders.
Registered Office	Railtrack's registered office at any given time.

Seal	Railtrack's common seal, the Securities Seal or any official seal that Railtrack keeps in accordance with the Acts.
Secretary	Any person qualified under the Acts and appointed by the Board to do any of the duties of Railtrack's secretary. This includes any joint, deputy, temporary or assistant secretary.
Securities Seal	The official seal of Railtrack kept in accordance with Section 40 of the Companies Act.
share warrant	A bearer warrant issued by Railtrack for Railtrack's shares. The warrant will state the number of shares to which the bearer is entitled. The right to the shares is transferred by the bearer delivering the share warrant to another person (who then becomes the new bearer).
<i>subsidiary undertaking</i>	This is defined in Section 258 of the Companies Act.
United Kingdom	Great Britain and Northern Ireland, and the Channel Islands and the Isle of Man.

2.2 Understanding other words and expressions

- (A) Words which refer to appointment also refer to reappointment.
- (B) The words "*debenture*" and "debenture holder" include debenture stock and debenture stockholder.
- (C) The words "shareholder" and "holder" include the *bearer* of any *share warrant*, unless the Articles say otherwise or that meaning is not appropriate in the context in which the Articles use that word.
- (D) Where the Articles refer to a thing being "in writing" this includes writing, or any substitute for writing or both.

- (E) Where the Articles refer to a person who is *automatically entitled to a share by law*, this includes a person who is entitled to the share as a result of the death, or bankruptcy, of a shareholder.
- (F) Words which refer to a single number also refer to plural numbers, and the other way around.
- (G) Words which refer to males also refer to females, and to companies and unincorporated associations.
- (H) References to a 'person' or 'people' include companies, and *unincorporated associations*.
- (I) Any headings in the Articles are only included for convenience. They do not affect the meaning of the Articles.
- (J) When an Act of Parliament, or a Section of an Act of Parliament, is referred to, this includes any amendment to that Act or Section.
- (K) The version of an Act, and the version of the Articles, which is current at any particular time, will apply.
- (L) Where the Articles give any power or authority to anybody, this power or authority can be used on any number of occasions, unless the context does not allow this meaning.
- (M) Any word which is defined in the Companies Act means the same in the Articles. This does not apply if the Articles define the word differently, or the meaning given by the Companies Act is not appropriate in the context in which the Articles use the word.
- (N) Where the Articles say that anything can be done by passing an *ordinary resolution*, that thing can also be done by passing a *special resolution* or an *extraordinary resolution*.
- (O) Where the Articles deal with something which is also dealt with by the Acts (such as disclosure of interests in shares, calling and conduct of general meetings and payment of dividends) the Articles must be read in the light of the relevant provision of the Acts. If there is a conflict between the two statements, whatever is said in the Acts will prevail. This applies throughout the Articles, not just where an Article expressly states that it is "subject to the Acts".

3. The Registered Office

The Registered Office will be in England and Wales at a place where the Board decides.

RAILTRACK'S SHARE CAPITAL

4. Railtrack's share capital

*The authorised share capital of Railtrack is £500,000. This is made up of 500,000 ordinary shares of £1 each.**

5. Rights attached to the shares

- 5.1 Railtrack can issue shares with any rights and restrictions. These can include any preferential, future, conditional or other rights or restrictions and can relate to anything including the payment of dividends, voting or the return of capital. The rights and restrictions should be set out in an *ordinary resolution* but if there is no such ordinary resolution, or to the extent that the ordinary resolution does not specifically deal with these matters, the Board can decide which rights or restrictions will apply.
- 5.2 If Railtrack does issue new shares with rights or restrictions it will not affect any rights applying to any existing shares or class of shares. Railtrack's power to attach rights and restrictions to shares may be affected by provisions of the Acts - in particular, Railtrack must obey provisions which relate to *pre-emption rights*.

6. Redeemable shares

Railtrack can *issue* shares which can be *redeemed*. This can include shares which can be redeemed if the shareholder wants to do so, as well as shares which Railtrack can insist on redeeming. The terms and conditions on which the shares can be redeemed must be approved by a special resolution. The terms and conditions will be set out in the Articles. When Railtrack issues redeemable shares it must obey the relevant provisions of the Acts.

* By a Written Resolution passed on 3 April 2001 the nominal capital in the Company was increased to £500,000 by the creation of 499,000 ordinary shares of £1 each ranking *pari passu* in all respects with the existing ordinary shares of the Company.

7. Changing share rights

If Railtrack'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:

- (A) shareholders holding at least 75% in nominal value of the issued shares of that class consent in writing; or
- (B) 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, Railtrack can do this at any time (including at a time when Railtrack is being wound up).

8. Changing the rights of some only of a class of shares

Article 7 also applies to the variation, cancellation or withdrawal of *special rights* attached to some only of the shares of a particular class. That group of shares will be treated as if it was a separate class of shares.

9. The effects of further issues of shares or the purchase or redemption of Railtrack's own shares

- 9.1 If Railtrack creates or issues new shares which rank equally with existing shares (except as regards the date on which the new shares become entitled to a dividend) this will not be treated as varying, cancelling or withdrawing the *rights* of those existing shares.
- 9.2 The rights of existing shares will not be varied, cancelled or withdrawn if Railtrack buys or redeems its own shares under the Acts or the Articles.
- 9.3 This Article does not apply if the terms of the existing shares expressly say otherwise.

10. The allotment of shares

- 10.1 The Board can decide how to deal with any shares of Railtrack which have not been *issued*. It can offer to *allot* the shares. The offer can include the right to transfer the *allotment* to another person before any person's name has been put into the Register. This is called the right to *renounce* the allotment. The Board can also allot shares in Railtrack or grant options over or dispose of shares in Railtrack in any other way. The Board has complete freedom to decide who it deals with, when it deals with the shares and the terms and conditions it deals on. The Board must, however, obey any relevant provisions of the Acts or the Articles and any resolution which specifies the way in which it can deal.
- 10.2 (A) *For the purposes of section 80 of the Companies Act , the Directors are generally and unconditionally authorised to exercise all powers of the Company to allot relevant securities as defined in the said section up to an aggregate nominal amount of £500,000.* This authority shall expire five years from the date of incorporation of the Company but may be previously revoked or varied by the Company in general meeting and may from time to time be renewed by the Company in general meeting for a further period not exceeding five years. The Company may make any offer or agreement before the expiry of this authority that would or might require relevant securities to be allotted after this authority has expired and the Directors may allot relevant securities in pursuance of any such offer or agreement as if this authority had not expired.*
- (B) Subsection (1) of section 89 and subsections (1) to (6) (inclusive) of section 90 of the Companies Act shall not apply.

11. Railtrack's power to pay commissions and brokerage

Railtrack can pay any commission or *brokerage* (a special form of commission) allowed under the Acts. The commission or brokerage can be paid in cash (in any currency) or in fully or *partly paid shares* or by the grant of an option to call for an *allotment* of shares, or by a mixture of any of these.

* By a Written Resolution passed on 3 April 2001 the authority of the Directors to allot relevant securities under Section 80 was increased to £500,000 from £1,000.

12. Railtrack will not recognise trusts

Railtrack will only be bound by, and recognise, a current and absolute right of a registered holder to all of a share, or to each part of a share. The fact that a share is not owned completely by the registered holder is of no concern to Railtrack, for example, if a share is held on any kind of trust. This applies even where Railtrack actually knows of such things. This also applies to the holder of a share warrant. The only exception to this is for any right which is expressly given by the Articles, required by statute, or by a binding court order.

13. Share Warrants

13.1 In relation to any *fully paid shares*, Railtrack can issue share warrants which say that the *bearer* of the warrant is entitled to the shares specified in it. Railtrack can also provide for future payments of dividends or other moneys relating to the shares included in a share warrant. Payment can be made by exchanging coupons which can be attached to the share warrants or Railtrack can make other arrangements to pay.

13.2 The Board can decide on the conditions on which share warrants are issued. It can change these conditions for different issues of share warrants. In particular, the Board can decide:

- (A) the conditions on which a new share warrant or *coupon* will be issued to replace one which is damaged, defaced, worn out, lost or destroyed (although the Board must be satisfied beyond reasonable doubt that a lost original has been destroyed before it will replace it);
- (B) the conditions on which the bearer of a share warrant will be entitled to receive notice of and to attend, vote and demand a *poll* at general meetings;
- (C) whether, and the conditions on which, dividends will be paid; and
- (D) the conditions on which a share warrant can be surrendered and the name of the bearer can be put into the Register for the shares specified in the share warrant.

These examples do not limit the power of the Board to decide on other conditions.

Subject to any conditions decided by the Board and to the Articles, the bearer of a share warrant will be treated as a shareholder for all purposes. The bearer of a

share warrant will be subject to the conditions of the share warrant which are in force and apply to it. These conditions can be made before or after the share warrant is issued.

SHARE CERTIFICATES

14. Share certificates, replacement certificates and shares without certificates

14.1 Every person whose name is registered as the holder of any class of shares will, when he is first registered, be entitled, free of charge, to receive one share certificate for each class of shares. The certificate must be delivered to the shareholder either:

- within two months from the date on which the shares were *allotted* or transferred to the shareholder; or
- within a time specified when the shares were issued,

whichever is the earliest date. This Article does not apply if the Acts require or allow Railtrack not to issue share certificates.

14.2 If a shareholder gets more shares of any class, he is entitled, free of charge, to another certificate for the extra shares.

14.3 If a shareholder transfers only part of his shares covered by a certificate, he is entitled to a new certificate for the rest of the shares, free of charge.

14.4 Railtrack does not have to issue more than one certificate for any share, even if that share is held jointly.

14.5 When Railtrack delivers a certificate to one of several joint holders, the effect is as if it has been delivered to all of the joint shareholders.

14.6 Railtrack can deliver a certificate to a broker or agent who is acting for a person buying the shares or who is having the shares transferred to him.

14.7 Every certificate will show the number, class and distinguishing numbers (if any) of the shares for which it is issued and the amount paid up on the shares. If all Railtrack's issued shares or all the shares issued of a particular class are fully paid up and rank equally for all purposes, then none of those shares will have a distinguishing number. In every other case, each share of the particular class will be marked with a distinguishing number.

- 14.8 Railtrack will not issue a certificate covering more than one class of shares.
- 14.9 Railtrack can limit the number of persons it registers as joint holders of a share to four.
- 14.10 If a shareholder has two or more share certificates for shares of the same class, he can ask Railtrack to cancel these and replace them with a single new certificate. Railtrack may do this free of charge if that shareholder returns the original certificates to Railtrack to be cancelled.
- 14.11 If a shareholder has a single share certificate he can ask Railtrack to cancel and replace his certificate with two or more share certificates for the same total number of shares and in any proportions he wants. The Board can charge the shareholder for any expenses or fees Railtrack incurs in doing this.
- 14.12 If shares are held jointly by several people, any one of the joint holders can ask Railtrack to do any of the things mentioned in Articles 14.10 and 14.11.
- 14.13 A shareholder can ask for a new certificate if the original is damaged, defaced, worn out, lost, stolen or destroyed. If the certificate has been damaged, defaced or worn out, Railtrack can insist that the certificate is returned to it before issuing one to replace it. If the certificate is lost, stolen or destroyed, Railtrack can request satisfactory evidence of the loss, theft or destruction before it will issue a replacement.
- 14.14 Unless these Articles say otherwise, the Board can require the shareholder to pay Railtrack's exceptional out-of-pocket expenses in investigating any evidence, preparing an *indemnity* or issuing any share certificates to replace any certificate which has been lost, stolen or destroyed.

15. Sealing share certificates

- 15.1 All certificates for shares, loan capital or other securities which are issued can be sealed with Railtrack's Seal, printed with a copy of Railtrack's Seal or issued in any other way the Board decides. The Board must have regard to the terms on which the certificate was issued. The Board must also obey the Acts.
- 15.2 If a signature is required to witness a seal, the Board can pass a resolution so that the individual does not need to sign the certificate. The Board can decide that the signature can be put on the certificate mechanically or can be printed on it in some other way. The Board's decision can relate to a particular certificate or can be general.

16. Shares which can be transferred without transfer forms

The Board can also lay down rules which:

- (A) govern the issue, holding and transfer of shares and securities; and
- (B) govern where appropriate, the mechanics of conversion and redemption of these shares and securities.

LIEN ON SHARES

17. Railtrack's lien on shares which are not fully paid

- 17.1 Railtrack has a *lien and charge* on all *partly paid shares*. This is for any money owed to Railtrack by the shareholder or by his estate where money has been called for or is payable under the terms on which the share was issued. This also applies where the shareholder is a joint shareholder and where the money is owed jointly with other people. The other people do not need to be shareholders. This lien and charge has priority over any other lien or charge over the shares.
- 17.2 Railtrack's lien and charge applies if the money is payable immediately. It also applies if the money is payable in the future. It also applies to dividends and other payments on partly paid shares. The Board can decide to waive any lien and charge that has arisen. The Board can also declare that any share is totally or partly exempt from these provisions. These things can be done generally or in a particular case.

18. Enforcing the lien by selling the shares

- 18.1 Railtrack can enforce its lien on *partly paid shares* by selling those shares. It can sell some or all of those shares and it can sell the shares in any way the Board decides. But Railtrack cannot sell the shares until all of the following conditions are met:
 - (A) the money owed by the shareholder must be immediately payable;
 - (B) Railtrack must have given a written notice to the shareholder. The notice must state the amount which is owed. It must also demand that the money is paid. It must also say that the shareholder's shares will be sold if the money is not paid;

- (C) the notice must have been served on the shareholder or on any person who is *automatically entitled to the shares by law*; and
- (D) the money must still be unpaid at least fourteen days after the notice has been served.

The notice can be served in any way the Board decides. If someone becomes automatically entitled to a share by law, Railtrack can give the notice to that person. Articles 44 and 45 deal with registration of people who are automatically entitled to shares by law and their rights.

- 18.2 If Railtrack sells any shares under Article 18, the Board can authorise any person to transfer the shares to the buyer.
- 18.3 Railtrack can register the buyer's name as the shareholder. Or if the buyer directs Railtrack to do so, someone else can be registered. It is not the buyer's responsibility to check that the sale is valid or that Railtrack and the Board have acted within their rights. The buyer's rights will not be affected if the sale is not valid or if Railtrack or the Board have acted outside the scope of their rights. The buyer does not need to check how the money he is paying is being used. After the buyer has been registered as the shareholder, no one can question or attack the validity of the sale.

19. Using the sale proceeds

- 19.1 Railtrack will use the proceeds of any sale under Article 18 to repay the amount which is immediately payable. Subject to Article 19.2, if any money is left over, Railtrack will pay it to the shareholder or to any person who is *automatically entitled to the shares by law*. Railtrack will only pay this money to the shareholder (or that person) if the old share certificate is returned to Railtrack. That certificate will be cancelled.
- 19.2 Railtrack's lien will also apply to any money which is left over following a sale of shares under Article 18. This can be used to cover any money which is still due to Railtrack but which is not immediately payable. Railtrack has the same rights over this money as it had over the shares immediately before they were sold.

CALLS ON SHARES

20. The Board can make calls on shares

- 20.1 The Board can *call* on shareholders to pay any money which they still owe Railtrack for their shares. This can be for money owed for the nominal value of the share or for any *premium* which was payable on the share. Calls can also be made on people who are *automatically entitled to shares by law*.
- 20.2 If the terms of *issue* of a share specify a fixed date on which unpaid money will be due for payment, the Board cannot call for that money before that date. Otherwise the Board can make calls whenever they think fit. The Board can decide when and where the shareholder must pay the money.
- 20.3 A call is treated as having been made as soon as the Board passes a resolution authorising the call.
- 20.4 The Board must give at least 14 days' notice of a call, specifying the time or times by which and place where payment must be made.
- 20.5 Calls must be made in accordance with the Articles and in accordance with any conditions which were attached to the shares when they were *allotted*.
- 20.6 The Board can cancel or postpone a call at any time before Railtrack receives the money. This can be done for all or part of a call.
- 20.7 Even if a shareholder on whom a call is made transfers his shares he will still be liable for the amount of money which has been called.

21. Paying by instalments

The Board can decide that money called for may be paid in instalments.

22. Liability of joint shareholders

Joint shareholders are liable jointly and severally (which, in general terms, means they are liable all together and individually) to pay any money called for.

23. Interest on unpaid calls

If the Board calls for money under Article 20 and the person due to pay the money does not pay it by the day that it is due, he will be liable to pay interest on the money. This interest will be payable from the day on which the money was due to be paid until the day the money is actually paid. The Board will decide the yearly interest rate but it must not be more than 25% a year unless shareholders pass an *ordinary resolution* authorising a higher rate. The Board can decide to forego any or all of this interest.

24. Amounts payable on fixed dates

If the terms of a share require any money to be paid at the time the share is *allotted*, or at any fixed date, this money will be treated in the same way as if a valid *call* for that money had been made on the same date the money was due. This applies whether it relates to the nominal amount of the share or is a *premium* or an instalment of a call. If the money is not paid, everything in the Articles and the Acts relating to calls for money will apply as if the shareholder had been notified of a valid call. This includes Articles which allow Railtrack to *forfeit* or sell shares.

25. Calls for different amounts

When new shares are issued, the Board can decide that shareholders will be called on to pay different amounts or to pay at different times.

26. Paying calls early

The Board can accept advance payment of all or part of the money due from a shareholder before he is called on to pay it. The Board can pay interest on all or part of the money which is paid in advance. That interest will be paid at a rate agreed between the Board and the shareholder but the rate of interest must not be more than 25% a year. The shareholders can, however, pass an *ordinary resolution* to allow a higher interest rate. The interest will run from the date on which the money is paid to Railtrack until the date on which the money would have been due. If money is paid early to Railtrack, the shareholder will not have any further liability to pay that money to Railtrack.

FORFEITURE OF SHARES

27. Notice if a call is not paid

27.1 Articles 27 to 34 apply where a shareholder fails to pay the whole of a *call*, or an instalment of a call, on or before the day that it is due.

- 27.2 Where a shareholder fails to pay the whole of a call, or an instalment of a call, on or before the day that it is due, the Board can serve a notice on that shareholder at any time after that date. The notice must comply with Article 28. The notice can require payment of the amount still owing plus any interest which is due. The notice can also require payment of any expenses Railtrack has incurred due to the shareholder's failure to pay on time. A notice can be served at any time until the whole amount of the call, or the instalment of a call, has been paid.

28. The contents of the notice

The notice given under Article 27 must:

- 28.1 demand payment of the amount immediately due, plus any interest on that amount and any of Railtrack's expenses caused by the failure to pay;
- 28.2 name a day when the total amount referred to in Article 28.1 must be paid. That date must be at least 14 days after the date of the notice;
- 28.3 say where the payment must be made; and
- 28.4 say that if the full amount demanded is not paid by the time stated and where stated, Railtrack can *forfeit* the shares on which the *call* or instalment was due.

Where Railtrack can forfeit a share the Board can also accept a surrender of the share. If this is done, where the Articles refer to forfeiture that will also be treated as including a surrender.

29. Forfeiture if the notice is not complied with

- 29.1 If the notice is not fully complied with, the share or shares it relates to can be forfeited at any time while any amount owing still remains unpaid. This can include unpaid amounts of calls for money, instalments due, interest and expenses. Forfeiture will be effected by the Board passing a resolution to *forfeit* the shares.
- 29.2 If shares are forfeited, all dividends or other money due on the shares to the shareholder, but not yet paid, will also be forfeited.

30. Notice of forfeiture

After shares have been forfeited, notice of the forfeiture must be given to the person who held the share before they were forfeited. A statement that notice was given and the date when the shares were forfeited will be put into the Register next to the details of the shares. But even if any of this is not done the shares will still be forfeited and so will any dividends or other money due.

31. Power to sell or dispose of forfeited shares or cancel forfeiture

- 31.1 After a share has been forfeited it can be cancelled.
- 31.2 Until the forfeited share is cancelled it will be treated as Railtrack's property and the Board can sell the forfeited share or it can re-allot it or dispose of it in any way. This can be done on the terms the Board decides. The share can be sold or disposed of to any person. This can include the previous shareholder or the person who was previously automatically entitled to the share by law.
- 31.3 At any time before the Board sells, re-allots or disposes of a forfeited share, it can cancel the forfeiture. This is known as an 'annulment' and can be done on any terms the Board thinks fit.

32. The liability of shareholders after forfeiture

- 32.1 If a person's shares are forfeited, he must give the share certificates back to Railtrack for cancellation. That person will cease to be a shareholder of Railtrack. But he will still be liable to pay any money which was immediately payable to Railtrack before the date his shares were forfeited. This will include any calls which were due but which had not been paid. It will also include any interest owed under Article 23. That interest will be treated as forming part of the capital amount due to Railtrack. The amount due to Railtrack will continue to bear interest. This interest will be at the rate of 25% a year or a lower rate decided by the Board. This interest is payable from the date the share is forfeited until the day the money owing is paid.
- 32.2 The person whose shares are forfeited will not be entitled to any credit for the value of the share when it was forfeited. Nor will he be given credit for any money received on the disposal of the share. Railtrack may waive all or part of the money owed.

33. Declaration of forfeiture and ownership of forfeited shares

- 33.1 A Director, or the Secretary, can make a *statutory declaration*:

- (A) that he is a Director, or the Secretary, of Railtrack;
- (B) that a share has been validly forfeited under the Articles; and
- (C) stating when the share was forfeited.

This will be evidence of these facts which cannot be disputed by anyone, including anyone who claims they are entitled to the share.

- 33.2 Where a forfeited share is sold, Railtrack can receive any money paid for it. This also applies where the forfeited share is *re-allotted* or disposed of in any other way. The Board can authorise any person to sign a transfer form to transfer the forfeited share.
- 33.3 The buyer of the share will be registered as the holder of the share. The buyer will not be liable for any calls which were made before he bought the share. The buyer does not need to take any steps to check how any money paid for the share is used. The new shareholder's ownership of the share will not be affected if the steps taken to *forfeit* the share, or the sale, re-allotment or disposal of the share, were irregular or invalid, or if anything which should have been done was not done.

34. The effect of forfeiture

As soon as a share is forfeited, the person whose share was forfeited loses:

- 34.1 all of his interest in the share;
- 34.2 all claims and demands against Railtrack which he might have had relating to the share; and
- 34.3 all other *rights and liabilities* relating to the share.

This does not apply to any rights or liabilities which the Articles expressly state will continue or which the Acts give to or impose on past shareholders.

DISCLOSURE OF INTERESTS

35. Disclosure of interests in shares in Railtrack

- 35.1 Under the Acts, the Board can require any shareholder of Railtrack to disclose in writing certain information in relation to the shares.

35.2 The information which the Board is entitled to request is set out in the Acts.

TRANSFERRING SHARES

36. Transfer forms

- 36.1 Unless the Articles say otherwise, any shareholder can transfer some or all of his shares to another person.
- 36.2 Every transfer of certificated shares must be in writing, either in the usual standard form, or in any other form approved by the Board.
- 36.3 The transfer form of a certificated share must be signed by (or on behalf of) the person transferring the share. Or it can be made effective in some other way.
- 36.4 If the certificated share which is being transferred is a partly paid share, the transfer form must also be signed by (or on behalf of) the person the share is being transferred to. Or that person can make it effective in some other way.
- 36.5 The person transferring the share will still be treated as being the shareholder until the name of the person the share is being transferred to is put into the Register as the holder of that share.
- 36.6 Railtrack can keep any written transfer form relating to any transfer it registers.

37. Closing the Register

- 37.1 The Board can decide to stop registering transfers of shares by closing the Register. This can be for part of a day, a whole day or more than one day. The Register cannot be closed for more than 30 days in each year. The Board can close the Register generally or for a particular class of share only.

38. Railtrack can refuse to register a transfer

- 38.1 The Board can refuse to register a transfer of any shares which are not fully paid up or on which Railtrack has a lien. In these circumstances the Board has complete freedom to refuse to register the transfer. It does not have to give any reasons for its actions.
- 38.2 The Board can also refuse to register any transfer if any of the following requirements are not met:

- (A) the transfer form (which must have been validly stamped) must be delivered to the Registered Office (or any other place decided on by the Board) with the share certificate for the shares to be transferred attached to it. In the case of a transfer by a Recognised Person, share certificates will only need to be attached if share certificates were issued in relation to the shares now being transferred;
- (B) if the Board reasonably asks the person transferring the shares to prove he is entitled to transfer the share that evidence must be provided;
- (C) the transfer is only for one class of share; and
- (D) if the transfer is to joint shareholders, the number of joint shareholders to whom the share is being transferred is not more than four.

39. Transfer of shares to a bankrupt or mentally disordered person

The Board can refuse to register a transfer of any shares to a bankrupt or a person who is mentally disordered or a patient under any legislation relating to mental health. The Board has complete freedom to do this. It does not have to give any reasons for its actions.

40. Notice of refusal

- 40.1 If the Board refuses to register a transfer of a share, it must notify the person to whom the shares were transferred.
- 40.2 This must be done before two months after the date on which the transfer form was received.

41. No fee is payable for registering a transfer

Railtrack will not charge any fee for making any entry in the Register relating to any shares. This means that Railtrack will not charge to register the transfer of a share. Nor will Railtrack charge for registering any *probate, letters of administration, certificate of death or marriage, power of attorney, stop notice, court order* or otherwise making an entry in the Register relating to any share.

42. Renouncing an allotment of shares

A person to whom a share in Railtrack is allotted can give up the shares allotted to him in favour of some other person. This is known as "renunciation" of an allotment of a share. The Board can recognise a renunciation and nothing in these Articles prevents the Board from doing so.

AUTOMATIC ENTITLEMENT TO SHARES BY LAW

43. People entitled to a share on the death of a shareholder

- 43.1 If a sole shareholder (or a shareholder who is the last surviving joint shareholder) dies, Railtrack will only recognise his legal *personal representatives* as being entitled to his shares.
- 43.2 If a joint shareholder dies, Railtrack will only recognise the remaining joint shareholder(s) as being entitled to his shares.
- 43.3 But where a shareholder dies his estate will remain liable for any liability relating to any share held by the deceased, whether the deceased held those shares in his own name or jointly with other people.

44. A person entitled to shares by law

- 44.1 A person who becomes *automatically entitled to a share by law* (for example due to the death or bankruptcy of the shareholder) can either be registered as the shareholder himself or elect that some other person is registered as the shareholder. Railtrack will not charge a fee for doing this. The person who is automatically entitled to a share by law must provide any evidence of his right which the Board requires. This is subject to what is stated in the rest of this Article 44.
- 44.2 If a person automatically entitled to a share by law wants to be registered as the shareholder, he must deliver or send to Railtrack a notice. This notice must be in writing and must be in the form required by the Board. This notice must be signed by that person.
- 44.3 A notice given under Article 44.2 and a form signed under Article 44.5 will be treated as a transfer form and all of the provisions of the Articles which deal with the transfer of shares and registration of transfers will apply. This means that all the limits, restrictions and provisions of the Articles relating to the right to transfer and to register the transfer of shares will apply to any notice or transfer form as though the event causing the shares to be automatically transferred by law had not happened and as if the notice or transfer form were transfers signed by the former shareholder.
- 44.4 If a person automatically entitled to a share by law wants to transfer the share to another person, he must do this by signing a transfer form transferring the share to the person he has chosen.

45. Rights following the automatic transfer of shares by law

- 45.1 If a person becomes *automatically entitled to a share by law*, any rights that the previous shareholder had in that share will end.
- 45.2 A person who is automatically entitled to a share by law is entitled to any dividends or other money relating to the share. He may have to produce evidence of his right to the share if the Board requires this. He can receive that dividend or money and he can give a receipt for it. He is not entitled to receive notices of general meetings of Railtrack, or attend or vote at them, or have any of the rights or benefits of being a shareholder until he is properly registered as the holder of the share.
- 45.3 At any time, the Board can give a notice to the person who is automatically entitled which demands that he elects either to be registered as the holder of the share himself, or to transfer the share. If he does not comply with the notice within 60 days, the Board can withhold the dividends and other money due to him until he has met the requirements of the notice.

STOCK

46. Converting shares into stock and reconverting stock into shares

- 46.1 Railtrack can convert some or all of its fully paid up shares into stock, or reconvert any stock into fully paid up shares of any denomination. This can be done at any time and is done by passing an *ordinary resolution*.
- 46.2 If a resolution is passed converting all the fully paid up shares of a class into stock, any shares of that class which become fully paid up after that resolution is passed which rank equally in all other respects with those shares will be converted automatically into stock. That stock can be transferred in the same units as the shares already converted.

47. Transferring stock

The holders of stock can transfer some or all of their stock in the same way (or as near as circumstances will allow) as shares are transferred. The Board can fix a minimum amount of stock which can be transferred and can restrict or forbid smaller transfers. That minimum cannot be more than the nominal value of the shares which were converted into stock unless an *ordinary resolution* is passed approving a larger amount.

48. Stockholders' rights

A stockholder will have the same rights, privileges and benefits as he would have had as the holder of the number of shares which were converted into his stock. However, with the exception of what is said in the next sentence, conversion of shares into stock will not increase any rights, privileges or benefits. A stockholder can, however, be entitled to higher dividends than the holder of that number of shares would have been entitled to, and to a greater share in the profits of Railtrack or in its assets on a reduction of capital or if it is wound up.

49. Articles relating to paid up shares also apply to stock

All provisions of the Articles which relate to paid up shares will also apply to stock. When the words "share" and "shareholder" are used in the Articles, they should be read as including "stock" and "stockholder".

SHAREHOLDERS WHO CANNOT BE TRACED

50. Power to sell shares

50.1 Railtrack can sell any shares held by any shareholder (and any shares to which a person is automatically entitled by law) if, in the 12 year period ending on the last date on which the advertisements referred to in Article 50.2(A) were published, at least three cash dividends have become payable by Railtrack but have not been claimed by the shareholder. This includes both interim and final dividends. A cash dividend is not claimed if the payment has been made by Railtrack in accordance with Article 142 and either none of the cheques or warrants have been cashed or none of the cash dividends have been satisfied by such other means as Article 142 allows.

Railtrack must not have received any communication from the shareholder (or from the person *automatically entitled to the share by law*) during that 12 year period. Railtrack must sell the shares at the best price it can reasonably obtain for them.

50.2 Before Railtrack can sell any share the following requirements must also be satisfied.

- (A) At or after the end of the 12 year period referred to in Article 50.1, Railtrack must have advertised its intention to sell. This advertisement must have been placed in both a leading national daily newspaper and in a newspaper appearing in the area in which the address of the shareholder (or the person automatically entitled to the shares by law) as shown in the Register is situated (or in the area in which the last known address of the shareholder or the person automatically entitled to the shares by law is situated).
- (B) For three months after the date on which the advertisements were published (but before it sells the shares), no communication must have been received by Railtrack from the shareholder or any person automatically entitled to the shares by law. Where the advertisements referred to in Article 50.2(A) appeared on different dates, the three month period is calculated from the date on which the second advertisement was published.
- (C) During the same three month period neither the shareholder (nor any person automatically entitled to the shares by law) must have cashed any

cheque or warrant or had money transferred to his bank account in relation to the dividends.

- 50.3 To sell any certificated shares in this way, Railtrack can appoint any person to sign (or make effective in some other way) a transfer form to transfer the shares. This form will be just as effective as if it had been signed (or made effective in some other way) by the registered holder of the shares, or by a person automatically entitled to the shares by law.
- 50.4 The ownership of the person the shares are transferred to will not be affected even if the sale is irregular or invalid in any way. The person the shares are transferred to does not need to take any steps to check how any money paid for the shares is used.
- 50.5 The sale proceeds will belong to Railtrack, but it must pay the money (after the costs of selling the shares have been deducted) to the shareholder who could not be traced, or to the person who is automatically entitled to the shares by law. This only needs to be done if that shareholder or person asks for it to be done.
- 50.6 Railtrack must record the name of that shareholder, or the person who is automatically entitled to the shares by law, as a creditor for this money in its accounts. The money will not be held on trust. Railtrack can use the money in its business or invest it in any way the Board decides (but not in shares of Railtrack or its *holding company*, if there is one). No interest will be paid, and Railtrack will not have to give any other money earned from the sale proceeds to the previous shareholder or person automatically entitled to the shares by law.
- 50.7 This Article applies if, before the end of the three month period referred to in Article 50.2(B), further shares have been issued in respect of those held at the start of the 12 year period referred to in Article 50.1 or in respect of any shares previously issued in this way. If so, Railtrack can also sell these further shares using the above provisions. However, all of the requirements of Articles 50.1 and 50.2 must have been met in relation to the further shares. If these further shares have been *in issue* for less than 12 years, references to the 12 year period will be treated as being references to the period in which all these further shares have been in issue. It will also not be necessary for three cash dividends on the further shares to be unclaimed in the manner set out in Article 50.1 in order for Railtrack to be entitled to sell the further shares.

ALTERATION OF CAPITAL

51. Increase, consolidation, sub-division and cancellation of capital

By passing an *ordinary resolution*, Railtrack can:

- 51.1 increase its share capital. The resolution will fix the number and the nominal amount of the new shares and the currency or currencies of the shares. The new shares will be subject to all the provisions of the Articles and the Acts and will be treated in exactly the same way as if they were part of the existing share capital. This includes the provisions which relate to allotment, the payment of calls, lien, transfer, transmission, forfeiture of shares and all other things;
- 51.2 direct that some or all of the new shares must be offered in some particular way. This can include a direction that new shares must be offered first to all shareholders of a particular class or classes in proportion to the number of shares they each hold;
- 51.3 cancel any shares which at the date the resolution is passed have not been taken or agreed to be taken by any person. If this is done, Railtrack can reduce the amount of its authorised share capital by the amount of the cancelled shares;
- 51.4 consolidate and divide some or all of its share capital into shares of a larger nominal amount than the existing shares;
- 51.5 sub-divide some or all of its shares into shares which are of a smaller amount than is fixed in Railtrack's Memorandum of Association. This must be done in accordance with the provisions of the Acts. The resolution can state that, as between the holders of the divided shares, one or more of these shares may be given a preference over the others in relation to dividends, capital, voting or anything else. Alternatively, the resolution can state that one or more of these shares has deferred or qualified rights or is subject to restrictions as compared with the others. These preferences, rights or restrictions can relate to any preference, right or restriction which Railtrack can attach to any unissued or new shares.

52. Fractions

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 or can sell the fractional shares. If the Board decides to sell any fractions it can divide the proceeds of the sale between the shareholders in due proportion. Or it can retain the proceeds of sale for Railtrack's benefit. It can authorise any person to transfer the fraction which has been sold to the buyer. The buyer does not need to take any steps to see how any money he is paying is used. Nor will his ownership be affected if the sale was irregular or invalid in any way.

53. Reducing Railtrack's capital

Railtrack can pass a *special resolution* to:

- 53.1 reduce its authorised and *issued* share capital; or
- 53.2 reduce any *capital redemption reserve*, *share premium account* or other reserve which cannot be distributed.

A reduction can be done in any way but Railtrack must obey the provisions of the Acts and any *rights* attached to any shares at that time.

54. Railtrack's power to buy back its own shares

- 54.1 Railtrack can buy back any of its own shares including 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 Railtrack or the proceeds of a fresh issue of shares. If it does so, it must obey any provisions of the Acts and these Articles and must obtain any consent or confirmation which is needed by law. Railtrack cannot do this if there are any convertible shares *in issue* unless the terms of *issue* of the convertible shares allow this or the holders of all classes of convertible shares have held a separate class meeting and passed an *extraordinary resolution* allowing this.
- 54.2 Railtrack is free to select which shares to buy back. It does not have to select the shares to be purchased rateably, or in any other particular manner, as between the holders of shares of the same class, nor as between those holders and the holders of shares of any other class, nor in accordance with the *rights* for dividends or capital given by any class of shares.

GENERAL MEETINGS

55. The annual general meeting and extraordinary general meetings

- 55.1 Each year, in accordance with the requirements of the Acts, Railtrack must hold an annual general meeting. This is in addition to any other general meetings which are held in the year. The Board will decide when and where the annual general meeting will be held.
- 55.2 Any general meeting which is not an annual general meeting is called an extraordinary general meeting.

56. Calling an extraordinary general meeting

The Board can decide to call an extraordinary general meeting at any time. In doing so the Board must obey the Acts. Extraordinary general meetings must also be called in response to a requisition by the shareholders under the Acts. If the Board does not comply with a requisition by the shareholders, those making the requisition can call the meeting themselves under the Acts. If there are not enough Directors in the United Kingdom to call a general meeting, any Director or shareholder can call a general meeting.

PROCEEDINGS AT GENERAL MEETINGS

57. Notices of meetings

- 57.1 At least 21 clear days' notice in writing must be given for:
- (A) every annual general meeting;
 - (B) any meeting where it is proposed to pass a special resolution or a resolution of which special notice has been given to Railtrack;
 - (C) any meeting at which it is proposed to pass a resolution appointing a person as a Director.
- 57.2 For every other general meeting, at least 14 clear days' notice in writing must be given.
- 57.3 Any notice must state where the meeting is to be held, the date and time of the meeting and the nature of any special business for the meeting. (Article 58 explains what business is treated as special business.)

- 57.4 The notice calling an annual general meeting must state that the meeting is the annual general meeting. The notice calling a meeting at which it is proposed to pass a *special* or *extraordinary resolution* must state that it is intended to propose the resolution as either a special or extraordinary resolution.
- 57.5 Notice of every general meeting must be given to all shareholders. This does not apply if the shareholders are not entitled to receive notice under the terms on which the shares are issued or under these Articles.
- 57.6 Even though a meeting of Railtrack is called by a notice period shorter than that stated in Article 57.1 or 57.2, it will be treated as having been validly called if it is agreed:
- (A) in the case of a meeting called as an annual general meeting, by all the shareholders entitled to attend and vote at that meeting; and
 - (B) in the case of any other meeting, by a majority of the shareholders entitled to attend and vote at that meeting. This must be a majority which together hold at least 95 per cent in nominal value of the shares giving that right.
- 57.7 If, by accident, notice of a meeting is not given to any person who is entitled to receive such notice, the proceedings of that meeting will still be valid. This also applies to any accidental failure to send any other notice or circular relating to the meeting. It also applies where proxy forms are sent out with the notice and by accident a *proxy* is not sent to any person. It also applies where the notice or circular or proxy was sent but was not received.
- 57.8 If the Board considers that it is impractical or undesirable to hold a general meeting on the date or at the time or place set out in the notice calling the meeting, it can postpone the meeting to another date, time or place. This also applies to any meeting which has been postponed under this Article and to any *adjourned* meeting. The Board has complete freedom to decide that these things should be done.
- 57.9 If a meeting is postponed for 30 days or more, at least seven days' notice of the postponed meeting must be given. That notice must be given in the same way as for the original meeting. Otherwise there is no need to give notice of an adjourned meeting or of the business which is to take place at an adjourned meeting.
- 57.10 If the Board made special safety or other arrangements for the meeting which was postponed, those arrangements will, if the Board decides, also apply to the

postponed meeting. The power to make special arrangements is dealt with in Article 64.

58. Special business

Any business at an extraordinary general meeting is treated as special business. Except for the following, all business at an annual general meeting is also treated as special business:

- 58.1 declaring dividends;
- 58.2 considering and adopting the annual accounts, the Directors' Report, Auditors' Report and any other document which must be sent with or attached to the accounts;
- 58.3 appointing Directors to replace any Directors who are retiring (whether they are *retiring by rotation* or for any other reason);
- 58.4 appointing the Auditors, except in cases where the Acts require special notice of the resolution for this appointment; and
- 58.5 setting, or deciding the method for setting, the Auditor's fees.

59. Amendments to resolutions

- 59.1 Amendments can be proposed to any type of resolution if the amendments are only clerical amendments to correct an obvious error.
- 59.2 No other amendments to any *special* or *extraordinary* resolution can be proposed or voted on.
- 59.3 In the case of an *ordinary* resolution any amendments to the resolution can be proposed and voted on (even if they are more than clerical amendments made to correct an obvious error), but such amendments can only be proposed and voted on if written notice of the proposed amendment and the intention to propose the amendment is delivered to the Registered Office at least 48 hours before the time fixed for the meeting or *adjourned* meeting.
- 59.4 If an amendment is proposed to a resolution which is under consideration and the chairman of the meeting decides in good faith that the proposed amendment is out of order, his decision is final. The meeting's decision on the unamended resolution will not be affected by an error in the chairman's decision.

60. Quorum needed for general meetings and procedure if quorum is not present

- 60.1 Before a general meeting starts to do business there must be a *quorum* present. If there is not, the meeting cannot carry out any business. However, a chairman can be appointed, chosen or elected without a quorum being present as this is not treated as part of the meeting's business. Unless the Articles say otherwise, a quorum for all purposes is two shareholders who are personally present or represented by a *proxy*, and who are entitled to vote.
- 60.2 This Article applies if a quorum is not present within five minutes of the time fixed for a meeting to start. The chairman of the meeting can decide to extend this time but cannot extend it to more than one hour.
- 60.3 If a quorum is not present within five minutes of the time fixed for the start of the meeting or within any extended time period:
- (A) if the meeting was called by the shareholders it will be dissolved;
 - (B) a meeting which was called in any other way will be *adjourned* to another day, time and place decided by the chairman.

Railtrack must comply with Article 57 in relation to giving notice of the meeting except that it only needs to give at least seven clear days' notice. At the adjourned meeting, one shareholder present or represented by a proxy and entitled to vote will be a quorum - this will apply regardless of the number of shares held by him.

61. Director's rights to attend and speak

Each Director is entitled to attend and speak at any general meeting.

62. The chairman of a general meeting

- 62.1 The chairman of the Board will be the chairman at every general meeting.
- 62.2 If the chairman of the Board is absent from any general meeting, the deputy chairman of the Board will be the chairman at that general meeting.
- 62.3 If Railtrack does not have a chairman of the Board or deputy chairman of the Board, the Directors who are present will choose one of themselves to act as chairman of the general meeting. This also applies if neither the chairman of the Board nor the deputy chairman of the Board is present within five minutes of the

time the meeting is due to start. It also applies if neither of them is willing to chair the meeting. If only one Director is present, he will be chairman of the meeting (if he is willing).

- 62.4 If there is no Director present at the general meeting, the shareholders who are personally present at the meeting and entitled to vote on a *poll* will elect one of themselves to be chairman. This also applies where there is a Director or more than one Director present at the meeting but none of them is willing or able to chair the meeting.
- 62.5 The chairman of the general meeting can take any action to make sure the meeting is orderly. This can be whatever action he thinks is necessary. Any decision the chairman makes relating to matters of order or procedure will be final and cannot be challenged. This also applies to incidental matters arising out of the business of the meeting. The chairman can decide whether any question raised is a point of order or procedure or is incidental to the business of the meeting. If he makes this decision in good faith, that decision will also be final and cannot be challenged.

63. Adjourning general meetings

- 63.1 The chairman of a general meeting can *adjourn* a *quorate* meeting at any time after the time the meeting was due to start, if he thinks that:
- (A) there is not enough room for the number of shareholders present or who wish to attend the meeting;
 - (B) the behaviour of people present prevents, or is likely to prevent, the business of the meeting being carried out in an orderly way and an adjournment is the only way of providing for the meeting to be conducted in an orderly way; or
 - (C) it is necessary to adjourn the meeting for any other reason, so that the business of the meeting can be properly carried out.

The chairman does not need the consent of the meeting to adjourn it for any of these reasons. He will adjourn the meeting to another time (which can be later on the same day as the meeting), date and place which he decides. These provisions do not affect any other powers the chairman may have for adjourning meetings under the Articles, or at common law.

- 63.2 The chairman of a meeting can also adjourn a general meeting to another time (which can be later on the same day as the meeting) if this is agreed at a meeting

which has a quorum present. The chairman must adjourn the meeting if the meeting directs him to.

- 63.3 The only business which can be carried on at an adjourned general meeting is that business which could validly have been carried on at the meeting which was adjourned.
- 63.4 If a general meeting is adjourned for 30 days or more, at least seven days' notice of the adjourned meeting must be given. That notice must be given in the same way as for the original meeting. Otherwise, there is no need to give notice of an adjourned meeting or of the business which is to take place at an adjourned meeting. This Article does not apply to a meeting which is adjourned because a quorum is not present - this is dealt with in Article 60.3.
- 63.5 If the Board or the chairman of the meeting has made special safety or other arrangements in relation to a general meeting which is adjourned, those arrangements will, if the Board decides, also apply to the adjourned meeting. The power to make these special arrangements is dealt with in Article 64.

64. Accommodation of shareholders at meetings

- 64.1 At any time before a general meeting is due to start, the Board can make any arrangements it thinks necessary:
- (A) for the safety of the people attending a general meeting; or
 - (B) to allow the people present to be able to hear the meeting and to be able to speak and vote on the business of the meeting; or
 - (C) to reflect the wishes of the majority of the meeting.

The Board is entirely free to decide what these arrangements should be and to alter whatever arrangements are made. After the time when the meeting was due to start, it is for the chairman of the meeting to take this action. He is entirely free to decide what arrangements should be made and whether and how to alter any arrangements which the Board has previously made.

- 64.2 A shareholder's right to attend a general meeting is subject to any arrangements made under Article 64.1. This also applies to any proxy appointed by any shareholder.
- 64.3 The arrangements which can be made under Article 64.1 include arranging for any people to attend and take part in the meeting in another room or separate place

from that stated in the original notice of the meeting where the chairman will be. This applies to all shareholders and their proxies and to corporate representatives. The people in the other room or place must be able to hear the meeting in the main room. They must also be able to speak and vote on the matters being considered at the meeting, if they have the right to do so. The Board can decide how to divide people between the main room and any other room or place. If any other room or place is used, the meeting will be treated as being held, and taking place, in the main room. The notice of the meeting does not have to give details of any arrangements under this Article.

- 64.4 At any general meeting the Board or the chairman can implement search and security arrangements. These arrangements can be whatever the Board or the chairman thinks appropriate and can apply to all shareholders, their proxies, corporate representatives and anyone else attending the meeting. They can include a right to require a person and anyone else attending the meeting to leave any item which might be used to disrupt the meeting or might be a security risk outside of the meeting. If anyone refuses to submit to any searches or does not comply with the security arrangements he can be refused entry into the meeting or can be ejected from the meeting. Also, anyone who disrupts the orderly conduct of a meeting can be refused entry into or ejected from the meeting.

CLASS MEETINGS

65. Special provisions for class meetings

The provisions of these Articles which relate to general meetings will apply to every class meeting. However, for class meetings:

- 65.1 to be *quorate*, there must be at least two people who hold, or who act as *proxies* for, at least one third of the total nominal value of the issued shares of that class;
- 65.2 any holder of shares of the class who is personally present, or who is represented by a proxy, can demand a *poll*;
- 65.3 on a poll, shareholders will have one vote for every share they hold; and
- 65.4 if the class meeting is *adjourned*, when the meeting is reconvened it will be *quorate* if one shareholder is present in person, or is represented by a proxy. This will apply whatever number of shares that one shareholder holds.

VOTING

66. How votes are taken

- 66.1 If a resolution is put to the vote at a general meeting, it will be decided by a show of hands. This applies unless a *poll* is demanded when, or before, the result of the show of hands is declared by the chairman or unless someone demands a poll when another demand for a poll is withdrawn. A poll can be demanded by:
- (A) the chairman of the meeting; or
 - (B) at least five shareholders who are present at the meeting and are entitled to vote. This includes *proxies* for shareholders entitled to vote and properly appointed *corporate representatives*; or
 - (C) one or more shareholders present at the meeting who are entitled to vote and who has, or have between them, at least 10% of the total votes of all shareholders who have the right to attend and vote at the meeting. This includes *proxies* for shareholders entitled to vote and properly appointed corporate representatives; or
 - (D) one or more shareholders present at the meeting who have shares which allow them to attend and vote at the meeting, where the total amount which has been paid up on these shares is at least 10% of the total amount paid up on all shares which give the right to attend and vote at the meeting. This includes *proxies* for shareholders entitled to vote and properly appointed corporate representatives.

These things apply unless the Acts specify different requirements.

- 66.2 The following applies when there is a vote by a show of hands and no poll is demanded, or any demand for a poll is withdrawn. The chairman can declare that on the show of hands:
- (A) a resolution has been passed; or
 - (B) a resolution has been passed unanimously; or
 - (C) a resolution has been passed by a particular majority; or
 - (D) a resolution has been lost; or

- (E) a resolution has been lost by a particular majority.

That declaration will be final and conclusive. The declaration must be entered in the minute book, which will be conclusive proof of the fact. There is no need to prove the number or proportion of votes recorded for or against a resolution.

67. How a poll is taken

- 67.1 The chairman of the general meeting will decide when and how a *poll* which is properly demanded is to be carried out. He can appoint scrutineers who do not need to be shareholders. He must appoint scrutineers if the meeting directs him to do so. The result of the poll will be treated as the decision of the meeting where the poll was demanded. This applies even if the poll is carried out after the meeting.
- 67.2 If a poll is demanded in relation to the election of a chairman or on a question of *adjournment*, the poll must be carried out immediately. The chairman of the general meeting will decide how, when and where a poll on any other question will be taken but the poll must be taken within 30 days of the date of the demand. There is no need (unless the chairman decides otherwise) for notice to be given of a poll.
- 67.3 A demand for a poll on a particular matter will not stop a general meeting from continuing to deal with other matters. If a poll is demanded it may, if the chairman consents, be withdrawn at any time before the end of the meeting or before the poll is taken (whichever is earlier). If a demand for a poll is withdrawn, any declaration of the result of a vote on that resolution by a show of hands, which was made before the poll was demanded, will be valid.
- 67.4 On a poll, votes can be given either in person, by *proxy* or by a validly authorised corporate representative.
- 67.5 A person who is entitled to more than one vote on a poll does not need to use all his votes, or cast all the votes he uses, in the same way.

68. The chairman's casting vote

If the votes at a general meeting are equal, either on a show of hands or on a *poll*, the chairman of the meeting will be entitled to a second or casting vote. This is in addition to any votes which he may have as a shareholder, or as a *proxy*.

69. Votes of shareholders

- 69.1 Every shareholder who is present in person at a general meeting will have only one vote on a show of hands. This includes authorised *corporate representatives* who are present in person. A *proxy* cannot vote on a show of hands.
- 69.2 Where there is a *poll*, every shareholder (including authorised *corporate representatives*) who is present in person at the meeting has one vote for every share which he holds. This includes shareholders who are present by proxy.
- 69.3 Articles 69.1 and 69.2 do not apply if any special terms as to voting which were given to the shares either at the time they were issued or which apply to them at the time of the meeting say otherwise.
- 69.4 If a share is held jointly, and more than one of the joint shareholders votes, the only vote which will count is the vote of the person whose name is listed before the other voters on the Register for that share (the “senior shareholder”). This applies whether the senior shareholder votes in person or by proxy.

69.5 This Article applies where:

- (A) a shareholder is mentally disordered or a patient for the purpose of any legislation relating to mental health; or
- (B) a court which has the jurisdiction to control or manage the affairs of people who are unable to manage their own affairs has made an order about a shareholder.

The person or people appointed under that legislation or order to act for the shareholder can vote for the shareholder and otherwise act and be treated as a shareholder for the purpose of general meetings. The Board can require evidence of their authority to do this and that evidence must be delivered to the Registered Office. If the notice convening the meeting (or any other document sent with it) specified another address to which proxy forms should be delivered, that evidence should be delivered to that address instead. The evidence must be delivered at least 48 hours before the relevant meeting (or *adjourned* meeting) or the taking of the poll. If this is done that person or those people will be entitled to appoint a proxy, vote on a show of hands and vote on a poll.

- 69.6 Unless the Board decides otherwise, the only people who can attend or vote at, or be counted in the *quorum* for, general meetings are shareholders who have paid Railtrack all *calls* and all other sums relating to their shares which are due at the

time of the meeting. This applies both to attending a meeting personally and to appointing a proxy.

70. Challenging votes

Where:

- (A) an objection is raised to the right of any person to vote at a meeting;
- (B) votes have been counted that should not have been counted or that could have been rejected;
- (C) any votes are not counted that should have been counted

these things will only affect the validity of the decision of the meeting if the objection is raised or the error is pointed out at the meeting at which the vote was cast or the error occurred. Objections or errors which are pointed out in time will be referred to the chairman of the meeting. The validity of the decision of the meeting will not be affected unless the chairman decides that it is affected. His decision will be final and conclusive. This Article applies in the same way to *adjourned* meetings.

PROXIES

71. Proxy forms

A proxy form must be in writing and signed by the shareholder appointing the proxy, or by his attorney who has been properly appointed in writing. If a proxy is appointed by a corporation, the form should be either sealed with the corporation's seal or signed by an officer or attorney or other person who is properly authorised to sign the form on behalf of the corporation. The signature on the form does not have to be witnessed.

72. A proxy need not be a shareholder

A proxy does not have to be a shareholder.

73. Delivering proxy forms

73.1 A proxy form must be delivered to the Registered Office, or to any other place in the United Kingdom specified in the notice of the meeting, or in any document sent with the notice, or in the notice of an *adjournment*. This must be done at least:

- (A) 48 hours before the time set for a meeting;

- (B) for a *poll* taken during or on the same day as the meeting, 48 hours before the time set for the meeting; or
- (C) 24 hours before any other poll taken after the day of a meeting.

This Article applies in the same way to adjourned meetings.

- 73.2 If a proxy form is signed by someone other than the shareholder under a *power of attorney* or any other authority, the Board can require the power of attorney or other authority relied on to sign it, or a copy which has been certified by a notary, to be delivered with the proxy form.
- 73.3 If Articles 73.1 and 73.2 are not complied with, the *proxy* will not be able to act for the shareholder who appointed him.
- 73.4 If two or more valid but different proxy forms are delivered in relation to the same share, to be used at the same meeting, the one which carries the latest date will be treated as replacing and revoking the other forms in relation to that share. The date on the form with the latest date must be on or before the date on which the form was delivered but otherwise the actual date of signature and the actual date of delivery do not matter. If one or more of the proxy forms is not dated, or if the forms are all dated with the same date, the last form to be delivered will be treated as replacing and *revoking* the others in relation to that share. This also applies if the date on the form is illegible or if the form is dated with a date which is after the date the form was delivered. This is regardless of the date of the last form to be delivered or of the date it was signed. If Railtrack cannot determine which form was delivered last, none of the proxy forms will be treated as being valid in relation to that share.
- 73.5 A shareholder can still attend and vote in person at a meeting or on a poll, even though he has delivered a proxy form in respect of that meeting or poll.

74. The proxy form

- 74.1 A *proxy form* must be in any form which is commonly used, or in any other form which the Board approves. The Board can send out proxy forms with the notice of any meeting, for use at the meeting. This is subject to the provisions of the Acts.
- 74.2 A proxy form gives the person who is appointed as *proxy* authority to demand or join in demanding a *poll*. It will not give any further right to speak at the meeting, unless the chairman of the meeting allows. The proxy form also gives the person

appointed as proxy authority to vote in whatever way the proxy decides on any amendment of a resolution put to the meeting for which it is given. If a shareholder gives his proxy authority to vote as the proxy decides whatever the proxy does will be binding as between the shareholder and Railtrack. But the shareholder can instruct the proxy to vote in a particular way.

- 74.3 If a proxy for a shareholder demands a poll, this will be treated in the same way as a demand made by a shareholder.
- 74.4 Unless the proxy form says otherwise, the form will be valid for any postponed or adjourned meeting if it was valid for the original meeting.

75. Representatives of companies

- 75.1 A company which is a shareholder can authorise any person to act as its representative at any meeting. This person is called a *corporate representative*. The directors of the company must pass a resolution to appoint the corporate representative. If the company's governing body is not a board of directors, the resolution can be passed by its governing body. Alternatively a corporate representative can be authorised by using the seal or by the signature of an officer or officers of the company who have authority to appoint corporate representatives.
- 75.2 A corporate representative can exercise all the powers on behalf of the company which appointed him which that company could exercise if it were an individual shareholder. If the corporate representative is present at a meeting the company will be treated as present at that meeting.

76. When a proxy is valid

- 76.1 Any vote cast or poll demanded by a *proxy* or by a *corporate representative*, will be valid even though:
- (A) the person who appointed the proxy has died or has become physically or mentally incapable; or
 - (B) the *proxy form* or authority under which it was signed has been revoked; or
 - (C) the appointment of the corporate representative has been revoked; or
 - (D) the share in relation to which the vote is given or poll demanded has been transferred.

- 76.2 However the vote cast or poll demanded will not be valid if written notice that any of those things has happened has been received at the Registered Office (or at another place in the United Kingdom specified for the delivery of proxy forms in the notice of the meeting or other document sent with it) by the specified time. "By the specified time" means that notice must have been received by Railtrack no later than the time by which proxy forms must have been delivered to be valid for use at the meeting or to be valid for use on a poll at the meeting at which the vote being challenged was given or the poll demanded. Or this can be at a later time decided by the Board and set out in a written notice to the shareholders.

PRESIDENT

77. Appointing a President

- 77.1 If the Board thinks that a current or former Director has given outstanding service to Railtrack the Board can appoint him as President. The Board can decide for how long he will be President.
- 77.2 The President's remuneration and other terms of appointment will be decided by the Board or by a committee of the Board authorised to deal with remuneration and terms of employment.
- 77.3 The Board can also terminate a President's appointment.

78. The President's duties

The President's duty will be to advise the Board on matters which he or the Board think may be of interest to Railtrack. The President will not have any powers or duties to manage Railtrack's business. The role and duties of a President do not automatically make him a Director.

APPOINTMENT AND REMOVAL OF DIRECTORS

79. Number and qualification of Directors

- 79.1 There must be at least two Directors (not counting any alternate Directors in that capacity). There is no maximum on the number of Directors. These things can be changed by an *ordinary resolution*.
- 79.2 A Director need not be a shareholder.

80. Railtrack can appoint Directors

Railtrack can, by passing an *ordinary resolution*, appoint an extra Director, or a Director to fill a vacancy where someone has ceased to be a Director. Where Railtrack has fixed a maximum number of Directors, this appointment must not cause that maximum to be exceeded. Railtrack's power to appoint Directors in this way is subject to any other provision relating to the appointment of Directors under these Articles. The notice of the ordinary resolution must comply with Article 57.1.

81. Electing two or more Directors

Usually a single resolution can only propose the appointment of one Director. But a single resolution can propose the appointment of two or more Directors if the proposal to move such a resolution is approved by the general meeting without objection. If this is not done, the resolution will be void.

82. The Board can appoint Directors

The Board can appoint any person as an extra Director, or to fill a vacancy where someone has ceased to be a Director. Where Railtrack has fixed a maximum number of Directors, this appointment must not cause that maximum to be exceeded. Any Director appointed by the Board must retire at the first annual general meeting after his appointment. He will be eligible to be reappointed as a Director. But, he will not be taken into account when deciding which of the Directors should *retire by rotation* at that meeting. This Article does not affect Railtrack's power to appoint Directors by *ordinary resolution*.

83. Removing and appointing Directors

- 83.1 Railtrack can pass a *special resolution* or *ordinary resolution* to remove any Director even though his time in office has not ended. This will not affect any claim the Director may have for damages for breach of any contract of service he has with Railtrack. If this is done by ordinary resolution, special notice of the resolution must be given to Railtrack, as required by the Acts.
- 83.2 Railtrack can elect a person to replace a Director who has been removed in this way by passing an ordinary resolution. 21 clear days' notice of this must have been given, as stated in Article 57.1. If a person is appointed as a Director under this Article, he will be due to retire at the time when the Director he replaces would have been due to retire.

84. People who can be Directors

84.1 The only people who can be elected as Directors at a general meeting are the following:

- (A) a Director retiring at the meeting; and
- (B) a person who is recommended by the Board.

85. Job titles which include the word "director"

The Board can give titles to people who work, or are going to work, for Railtrack which include the word "director" in the job title even though they are not Directors of Railtrack. The Board can also change or take these titles away at any time. Even though these job titles include the word "director", these people are not Directors of Railtrack. They do not have power to act as a Director of Railtrack and are not treated as a Director for any of the purposes of the Articles.

86. When Directors must cease to be a Director

A Director must stop being a Director in any of the following circumstances:

- 86.1 if he delivers a written resignation to the Registered Office or offers it at a Board meeting;
- 86.2 if the Board decides that he is no longer able to be a Director because of physical or mental incapacity or mental disorder;
- 86.3 if he has missed Board meetings for a continuous period of six months without the Board's consent, and the Board has passed a resolution that he should no longer be a Director. This applies even if an alternate appointed by the Director has attended the meetings;
- 86.4 if he petitions for his own bankruptcy or is adjudged bankrupt. Or if he proposes or makes an arrangement with his creditors or a *composition* with his creditors (including a voluntary or any other type of arrangement). Or if he applies for an order for protection from his creditors;
- 86.5 if he is prohibited by law from being a Director;
- 86.6 if he ceases to be a Director under the Acts or is removed under these Articles;

- 86.7 if there are at least three other Directors and all of these Directors sign a notice, requiring him to resign. This notice must either be delivered to the Registered Office or presented at a Board meeting. Each Director can sign a separate notice or more than one Director can sign the same notice;
- 86.8 if he is an Executive Director and is dismissed from his office as an Executive Director. This applies even if this is in breach of any service contract he has with Railtrack;
- 86.9 if he is convicted of an indictable offence and the Board passes a resolution saying that it is not in Railtrack's interests for him to remain as a Director;
- 86.10 if his conduct is investigated by an inspector appointed by the Secretary of State or by the Serious Fraud Office (or any body which succeeds this or an equivalent in any foreign jurisdiction) and the Board passes a resolution that it is not in Railtrack's interests for him to remain a Director. This applies even if the conduct under investigation does not relate to Railtrack.

This Article does not affect the *retirement by rotation* provisions set out in Article 91.

If a Director stops being a Director for any reason, he will also stop being a member of any committee or sub-committee of the Board.

DIRECTORS' FEES, EXPENSES AND INSURANCE

87. The Directors' ordinary fees

- 87.1 The total fees paid to Directors for performing their services as Directors must not exceed:
- (A) £300,000 a year; or
 - (B) any greater amount fixed by an *ordinary resolution* passed at a general meeting.

These figures do not affect other payments to the Directors under the Articles. The actual fees paid will be decided by the Board or any committee of the Board which is authorised to decide Directors' fees.

- 87.2 Unless an ordinary resolution which fixes the fees says otherwise, the fees will be divided between some or all of the Directors in the way the Board or any committee authorised by the Board decides. If the Board or the committee does

not decide how to divide the fees, they will be divided equally between the Directors. But, if any Director has not been a Director throughout the period for which the fees are paid, he will only receive part of this amount in proportion to the amount of time he has been a Director.

88. Paying the Directors' additional fees and expenses

88.1 Railtrack can also pay the reasonable travelling, hotel and incidental expenses incurred by the Directors to attend and return from:

- (A) Board meetings;
- (B) meetings of committees of the Board;
- (C) general meetings; and
- (D) separate class meetings or meetings of any *debenture* holders.

88.2 Railtrack can also pay all other expenses properly and reasonably incurred by Directors in conducting Railtrack's business or performing their duties.

88.3 If a Director:

- (A) is requested to go, work or live abroad in connection with Railtrack's business; or
- (B) performs any services which the Board regards as beyond those which a Director is normally required to do,

he can be paid extra fees. This can be paid in any way including as salary, as commission, and as participation in Railtrack's profits. The Director can also receive other benefits decided by the Board or any committee of the Board. Any extra fees or benefits will be in addition to any fees or benefits which he receives under any other Article.

89. Insurance

89.1 The Board or any committee authorised by the Board can take out and renew insurance which is for, or which benefits any people who are, or were, at any time directors, officers, employees or auditors of any of the following:

- (A) Railtrack, or any *holding company* of Railtrack;

- (B) any company in which Railtrack, or any holding company of Railtrack, has any kind of direct or indirect interest;
- (C) any company in which any of the predecessors of Railtrack, or of any holding company of Railtrack, had any kind of direct or indirect interest;
- (D) any company which is allied to, or associated with, Railtrack;
- (E) any *subsidiary undertaking* of Railtrack;
- (F) any subsidiary undertaking of any company which falls within any of paragraphs (A) to (E); and
- (G) any trustee or former trustee of any pension fund or employee share scheme in which employees of Railtrack, or any other such company referred to in paragraphs (A) to (F), are interested.

The Board must comply with the provisions of the Acts relating to insurance. This Article does not affect Railtrack's power to *indemnify* its officers. This is dealt with in Article 162.

89.2 The insurance which the Board can buy or renew under Article 89.1 can be for any purpose. This can include, for example, insurance against any *liability* incurred by any person mentioned in Article 89.1:

- (A) as a result of anything they do, or do not do, in carrying out or trying to carry out their duties, or using or trying to use their powers in relation to either Railtrack or any of the other companies, *subsidiary undertakings*, pension funds or employee share schemes which are referred to in Article 89.1; or
- (B) in any other way in connection with their duties, powers, or positions in relation to Railtrack or any of the other companies, *subsidiary undertakings*, pension funds or employee share schemes which are referred to in Article 89.1.

90. Appointing Executive Directors

90.1 The Board can appoint one or more of the Directors to be an Executive Director. The Board or any committee authorised by the Board can decide how long the appointment will be for, and on what terms. It can also cancel or end any such appointment. The appointment must not be for a period longer than that allowed under the Acts.

- 90.2 Where a Director is appointed to an executive office, this executive office will not automatically terminate if he ceases to be a Director. This does not apply if the contract or resolution under which he was appointed expressly states otherwise.
- 90.3 If a Director's appointment as an Executive Director is cancelled or terminated, this will not affect any claim for damages that he may have against Railtrack in relation to any breach of a contract of service between him and Railtrack which is connected with him ceasing to be an Executive Director. Nor does it affect any similar claim Railtrack may have against the Director.
- 90.4 The Board or any committee authorised by the Board can decide an Executive Director's remuneration. This can be paid either as well as, or instead of, the fees he receives for being a Director. It can be paid in any way including as salary, commission, participation in profits or as a lump sum.

ROTATION AND RETIREMENT OF DIRECTORS

91. Directors to retire by rotation

- 91.1 Where authority has been given as required under Article 164, at every annual general meeting one third of the current directors must retire as Directors. If one third is not a whole number, the number to retire is the number which is nearest to (but not more than) one third. If one third is a number less than three, one Director only must retire from office. This Article must be read with Article 82, which deals with Directors who are appointed by their co-Directors.
- 91.2 This Article states which Directors must retire at an annual general meeting.
- (A) First, any Director who wants to retire at the meeting, and who does not want to be re-elected and any Director who has to retire due to his age.
 - (B) Then those directors who have been Directors longest since they were last appointed. If there are Directors who were last appointed on the same date, they can agree between them who will retire. If they do not agree, the decision will be made by lot.
- 91.3 The number and identity of the Directors retiring on each occasion will be decided by the composition of the Board at the start of business on the date of the notice which calls the annual general meeting. Changes in the number or identity of the Directors after that date, but before the end of the meeting, will not affect the question of who is to retire.

92. Directors retiring because of age

The special rules of the Acts which fix a maximum age over which people cannot be appointed as Directors and which require a Director to retire because he has reached a specified age apply to Railtrack. The special rules in the Acts which require a special notice or other special procedure to be complied with when appointing a person over a specified age as a Director also apply to Railtrack.

93. A retiring director can be reappointed

A Director who retires at an annual general meeting can be reappointed. If he is not reappointed, or treated as being reappointed, he will remain a Director until the meeting appoints someone to replace him. If the meeting does not replace him, he will remain as a Director until the end of the meeting.

94. Director treated as reappointed

At a meeting at which a Director retires because of rotation, Railtrack can appoint a person in his place. If Railtrack does not do this, the retiring Director will be treated as having being reappointed. This will not apply if the meeting expressly decides not to fill his place. He will also not be treated as being reappointed if a resolution for his reappointment was lost or he has given Railtrack notice in writing that he does not want to be reappointed or he has reached the age set for retirement of Directors. Railtrack must obey the other provisions of these Articles relating to people who can be appointed as Directors.

ALTERNATE DIRECTORS

95. Power to appoint and remove

Each Director can appoint any person to act in his place as Director. This person is known as an "alternate" director. He can also remove an alternate director he appoints, if he wants to. If the alternate director is not already a director, his appointment must be approved by the Board before it will be valid. To appoint an alternate director, the Director must notify Railtrack in writing. The notice must be signed by the Director and sent to Railtrack either by faxing or delivering the notice to the Registered Office or presenting it at a Board Meeting. The Board can approve the notice in any other way they want to.

96. An alternate director is responsible for his own acts

- 96.1 All the provisions of these Articles relating to Directors apply also to alternate directors, except those Articles which deal with the power to appoint an alternate director and fees. Alternate directors are responsible to Railtrack in their own right for anything they do, or do not do. An alternate director will not be treated as an agent of the Director who appointed him.
- 96.2 An alternate director can:
- (A) be paid expenses;
 - (B) enter a contract, have an interest in a contract, or benefit from a contract, arrangement or transaction; and
 - (C) be indemnified by Railtrack
- as if he were a Director.
- 96.3 Railtrack will only pay fees to an alternate director out of the fees which would otherwise be paid to the Director who appointed him. Railtrack will only do this if, and to the extent that, the Director who appointed the alternate notifies Railtrack in writing to do so.

97. An alternate director can join in Board meetings

An alternate director is entitled to receive notice of all Board meetings and meetings of the committees of the Board to the same extent as the Director appointing him. This will not prevent the appointing Director from also receiving such notices. The appointing Director can request that the alternate director does not receive such notices. Where his appointing Director is not personally present at a meeting, the alternate director can attend and vote at the meeting and can exercise and carry out all the functions, powers and duties of his appointing Director. The provisions of the Articles relating to Directors at meetings will apply to the alternate director as if he was a Director. An alternate director will have one vote for each Director for whom he is acting as an alternate. This will be in addition to any vote he has if he is also a Director himself.

98. Revocation of appointment

An alternate director will automatically stop being an alternate director if the Director appointing him stops being a Director. Where any Director retires at any meeting, but is reappointed or treated as being reappointed at the same meeting, any appointment of an alternate director which was in force immediately before he retired will remain in force as though the appointing Director had not retired.

DIRECTORS' INTERESTS

99. A Director can hold other positions with Railtrack

- 99.1 A Director can hold any other position in Railtrack for the period and on the terms which the Board decides, subject to anything the Acts say in that regard. The Board or any committee authorised by the Board can decide to pay him extra fees for this other position. Those extra fees can be paid in any way, including by salary, commission or participation in profits. Any extra fees he is paid will be in addition to any other fees he is paid under these Articles.
- 99.2 A Director can act for Railtrack professionally, either alone or through his firm, but neither a Director nor his firm can be Railtrack's Auditor.
- 99.3 A Director or his firm can be paid for professional services as though he were not a Director.
- 99.4 A Director can become, or remain a director, or other officer of any company in which Railtrack has any interest or which Railtrack has promoted or over which Railtrack has any power of appointment. Or a Director can have any other interest in such a company. He does not have to pay over to Railtrack any fees, profit or other benefits which he receives as a result. The Board can also use the votes of any shares in any company which Railtrack holds or owns, or any power of appointment, in any way the Board decides. This can include using such votes or powers to appoint any of the Directors as directors or officers of the other company. The votes can also be used in voting on or providing for the payment of fees to the directors or officers of such other company.
- 99.5 If the Board is considering a resolution which relates to a Director's appointment to another position with Railtrack or a position with another company in which Railtrack is interested, that Director cannot vote on or be counted in the *quorum* for that resolution. This includes establishing or varying any terms of such an appointment, or its termination.

99.6 This Article applies if the Board or a committee authorised by the Board is considering proposals about appointing two or more Directors to positions with Railtrack or any company in which Railtrack is interested. It also applies if the Board is considering setting or changing the terms of the appointment or the termination of the appointment. A separate resolution can be used to deal with the proposals for each Director. In this case, the Director who is the subject matter of the resolution can vote and be included in the quorum for each resolution, except any concerning him. But a Director cannot vote on a resolution concerning another Director's appointment to a position with another company if he owns one per cent or more of that company in the sense referred to in Article 102.

99.7 If the Companies Act and Article 101 allows, and subject to notice having been given as required under Article 100, a Director can:

- (A) enter into contracts, transactions, or arrangements with Railtrack. This applies whether he does this as an officer of another company or in connection with another business of his. This allows him to enter into any contract, transaction or arrangement, whether he is selling something to, or buying something from, Railtrack or dealing with Railtrack in any other way; and
- (B) have any kind of interest in any existing or proposed contract, transaction or arrangement with Railtrack.

The Director will not be disqualified from acting as a Director of the Company and any such contract, transaction or arrangement will be valid and cannot be challenged on the basis of the Director's interest. This applies also to a proposed director.

99.8 If he has declared his interest at a Board meeting as required under the Companies Act and Article 100, a Director does not have to pay to Railtrack or Railtrack's shareholders any fees, profit or other benefits he makes as a result of that contract, transaction or arrangement.

100. Disclosure to Board

100.1 If a Director is interested in any transaction with Railtrack either directly or indirectly, he must notify the other Directors of his interest and the nature of it. He must do this at the Board meeting at which the transaction is first considered, or if he did not know he had an interest in the transaction when it was entered into, at the first meeting of the Board after he becomes aware of his interest.

100.2 It will be enough for the Director to give a general notice to the Board stating that:

- (A) he is a shareholder of a specified company or member of a firm and is interested in any transaction made with that company or firm after the date of the notice; or
- (B) he is interested in any transaction between Railtrack and a specified person who is "connected" with him which may be made after the date of the notice. (Section 346 of the Companies Act says when a person is to be regarded as connected with another person.)

This notice will not be effective unless it is either given at a Board meeting or the Director giving the notice takes reasonable steps to make sure that it is discussed at the next Board meeting after it has been given.

100.3 An interest of a person who is connected with a Director under Section 346 of the Companies Act (such as his spouse or child) will be treated as also being an interest of the Director himself. This does not apply to any interest of a connected person which the Director does not know about and which it is unreasonable to expect the Director to know about.

101. When Directors can vote on things in which they are interested

101.1 Unless the Articles say otherwise, a Director cannot vote, or be counted in the *quorum*, on a Board resolution in relation to any contract, transaction or arrangement of any kind in which he has an interest, and which he knows is material. In deciding whether a Director has a material interest any interest of any person connected with him must be taken into account. If a Director does vote in these circumstances, his vote must not be counted.

101.2 However, a Director can vote, and be counted in the *quorum*, on a resolution about any of the following things, as long as the only material interest he has in the resolution is one of the following:

- (A) a transaction giving the Director any guarantee, security or *indemnity* for any money which he has lent or obligations he has undertaken at the request of, or for the benefit of, Railtrack or any of its *subsidiary undertakings*;
- (B) any transaction under which Railtrack or any subsidiary undertaking gives any guarantee, security or indemnity to any other person in relation to a debt or obligation owed by Railtrack, or any of its *subsidiary*

undertakings, to that person, if the Director has himself taken responsibility for some or all of that debt or obligation;

- (C) any proposal relating to an offer of any shares or debentures or other securities for subscription or purchase, of or by Railtrack or any of its subsidiary undertakings, if the Director can take part in that offer because he is already a holder of shares, debentures or other securities, or if he takes part in the underwriting or sub-underwriting of the offer;
- (D) any transaction concerning any other company if the Director has a direct or indirect interest in that other company, including holding a position in that company, being a shareholder or creditor of that company, or having an interest in any other way. This does not apply if the Director owns one per cent or more of the company in the sense referred to in Article 102;
- (E) any proposal relating to any insurance which Railtrack can buy and renew under Article 89 for the benefit of the Directors of Railtrack or a group of people which is made up of or includes Directors. This does not apply to buying or renewing any other insurance;
- (F) any arrangements for the benefit of employees of Railtrack, or any of its subsidiary undertakings, which only gives the Director privileges or benefits which are also generally given to the employees that the arrangement relates to.

102. Where a Director owns one per cent of a company

102.1 A Director will be treated as owning one per cent in a company if and for as long as (but only if and for as long as) the Director, as well as any people connected with him under Section 346 of the Companies Act (a "connected person"), either directly or indirectly holds or is *beneficially interested* in one per cent or more of:

- (A) any class of equity share capital of that company; or
- (B) the voting rights of shareholders in that company.

102.2 When calculating whether or not the Director owns one per cent or more, the following should not be taken into account:

- (A) any shares which the Director or connected person holds as bare or *custodian trustee* and in which the Director or connected person has no beneficial interest;

- (B) any shares forming part of a trust in which the Director or connected person only has an interest in reversion or remainder, if and for as long as someone else is entitled to receive the income from the trust;
- (C) any shares forming part of an authorised unit trust scheme in which the Director or connected person is only a unit holder; and
- (D) any shares held on behalf of an employee trust or a scheme for the benefit of employees, but not shares which are held beneficially for the Director or connected person.

102.3 If a Director holds one per cent or more in a company which is materially interested in a transaction, the Director will also be treated as if he had a material interest in that transaction.

103. Resolution relating to a Director's interest

103.1 If any question comes up at a Board meeting about whether a Director has a material interest, or whether he can vote or be counted in the quorum, the Director can voluntarily agree to abstain from voting on the issue or from being counted in the quorum. If he does not, the question will be decided by a Board resolution. For this purpose, the Director in question will be counted in the quorum but must not vote on the resolution. The resolution will be final and conclusive, unless the nature or extent of the Director's interest, of which the Director has knowledge, has not been fairly disclosed to the Board. Different provisions apply to the Chairman. These are set out in the next Article.

103.2 If any question comes up at a meeting about whether the Chairman has a material interest, or whether he can vote or be counted in the quorum, the Chairman can voluntarily agree to abstain from voting or from being counted in the quorum on the issue. If he does not and on a vote of the Board the votes are equal, the Chairman's interest will be treated as not being material. The Chairman will then be entitled to vote and be counted in the quorum.

104. Meaning of "transaction"

In Articles 100-102, the word "transaction" includes any actual transaction, contract, arrangement or agreement, or one that is proposed.

THE BOARD'S POWERS AND DUTIES

105. The Board's powers to manage Railtrack

105.1 The Board will manage Railtrack's business. The Board can use all of Railtrack's powers except where the Articles or the Acts say that powers can only be used by the shareholders voting at a general meeting.

105.2 The Board is always subject to:

- (A) the provisions of the Acts;
- (B) Railtrack's Memorandum of Association;
- (C) the requirements of these Articles; and
- (D) any directions given by the shareholders passing a *special resolution* at a general meeting.

However, if the Memorandum or Articles of Association of Railtrack are altered, or a special resolution is passed, relating to something which the Board has already done which falls within its powers, this cannot invalidate the Board's previous action.

105.3 Any other Articles which give special authority or powers to the Board do not limit or restrict but add to the powers given by this Article 105.

106. Railtrack's business can be managed locally

106.1 The Board can set up local or divisional boards or agencies to manage any of Railtrack's business. These can be either in or outside the United Kingdom. The Board can appoint anybody to be and remove anybody who is:

- (A) a member of any local or divisional board; or
- (B) a local manager or agent.

106.2 The Board can:

- (A) decide on the fees to be paid to local or divisional boards, managers or agents;

- (B) delegate any of the Board's powers, authority or discretion to:
 - (1) any local or divisional board; and
 - (2) any manager or agent.

This can include giving any of them the power to delegate to another person. The Board can fix the terms and conditions of any such delegation. The Board can also cancel or vary any appointment or delegation although this will not affect anybody who acts in good faith who has not had any notice of any cancellation or variation. The Board can also:

- (C) allow some of the members of local or divisional boards to fill any vacancies on their boards. The Board can remove any person so appointed;
- (D) allow local and divisional boards to continue to act even though there are vacancies;
- (E) allow local and divisional boards to decide on their own fees.

107. The power to appoint attorneys

- 107.1 The Board can appoint any company, firm, person or any fluctuating body of persons to be attorneys of Railtrack. This must be done by *power of attorney*. The attorneys can either be appointed directly by the Board or the Board can give any other person or persons the power to select attorneys. The Board can decide on the purposes, powers, authorities and discretions of the attorneys. However, the Board cannot give an attorney any power, authority or discretion which the Board does not have itself.
- 107.2 The Board can decide how long a power of attorney will last, and can attach any conditions or terms to the power of attorney. The Board can fix the attorney's fees. The power of attorney can also include any provisions which the Board decides for the protection and convenience of anyone dealing with the attorney. The power of attorney can also allow the attorney to delegate some or all of his powers, authorities or discretions.
- 107.3 The Board can remove any person appointed under this Article 107 or can cancel or vary the delegation of powers to the attorney. However, if a person acts in good faith, and has not received notice of the cancellation or variation, they will not be affected by it.

108. The Board can delegate powers to individual Directors

The Board and any committee of the Board can delegate any of its powers to any Director. The Board can decide the terms and conditions and any restrictions which will apply. They can give a Director the power to sub-delegate. This delegation can allow the Director to act as well as the Board or can allow the Director to act to the exclusion of the Board. The Board can cancel or vary any powers it has delegated to a Director, although this will not affect anyone who acts in good faith who has not had any notice of the cancellation or variation.

109. Overseas branch registers

Railtrack can keep an overseas or local register in any place where shareholders are resident. The Board can make any regulations relating to this register and can change those regulations. These things can only be done if and in the way the Acts allow.

110. Employees

The Board can use any powers given under the Acts to provide benefits for employees or former employees of Railtrack, or any of its subsidiary undertakings, in connection with Railtrack or a subsidiary undertaking ceasing business or transferring some or all of its business to any person.

111. How Railtrack can make certain documents effective

The Board can sign, draw, accept or endorse all cheques, *promissory notes*, *drafts*, *bills of exchange* and other financial *instruments* (whether or not they are *negotiable* or *transferrable*), and all receipts for money paid to Railtrack. Alternatively, the Board can make them effective in any other way the Board decides.

112. Keeping minutes and records

112.1 The Board must make sure that proper minutes or records are kept of:

- (A) all appointments of officers which the Board makes;
- (B) the names of the Directors who attend Board meetings or Board committees; and
- (C) all proceedings, resolutions and business made at:
 - (1) any general meetings of Railtrack;

- (2) any meetings of the holders of any class of shares in Railtrack;
- (3) any meetings of the Board; and
- (4) any meetings of Board committees.

These minutes or records must be recorded in minute books.

- 112.2 If the Articles or Acts state that Railtrack must keep any register, index, minute book, or other book or accounting records, entries can either be recorded in bound books or in any other way. If bound books are not used, the Board must take enough precautions to guard against false entries being made and for discovering this.
- 112.3 The Board must comply with any provisions of the Acts which relate to keeping registers, or the inspection and production of copies of such registers. If the Acts allow it do so, the Board can charge a fee for any inspection or production of copies of the registers.

113. Paying pensions and other allowances

- 113.1 If the Acts allow it, the Board or any committee authorised by the Board can use all the powers of Railtrack to pay or give:

- (A) pensions;
- (B) annual payments;
- (C) gratuities;
- (D) superannuation; or
- (E) other allowances or benefits

to any people, including any people who are, or were, Directors, or relations of or people dependant on or connected to Directors or former Directors. The Board has the power to contribute to any scheme or fund, or to pay any premiums for the purpose of giving any benefit or allowance.

- 113.2 Unless another Article allows it or this is approved by the passing of an *ordinary resolution* in a general meeting, these benefits cannot be given to a Director or former Director unless he works or worked for or was an officer of:

- (A) Railtrack;
- (B) any of Railtrack's *subsidiary undertakings* or former subsidiary undertakings; or
- (C) any predecessor of either Railtrack, or any of Railtrack's subsidiary undertakings or former subsidiary undertakings.

113.3 Any Director or former Director can keep anything paid or given to him under Article 113. If any person receives any benefit under Article 113 it will not disqualify him from being or prevent him from becoming a Director of Railtrack.

EXERCISE BY THE BOARD OF RAILTRACK'S POWER TO BORROW

114. Borrowing powers

The Board can exercise all Railtrack's powers to borrow money and to mortgage or *charge* all or any part of Railtrack's business and activities, property and assets (present and future) and uncalled capital. The Board can also exercise all Railtrack's power to *issue* debentures and other securities, whether outright or as collateral security for any debt, *liability* or obligation of Railtrack or of any third party. In exercising these powers the Board must obey the requirements of this Article and the Acts.

PROCEEDINGS OF THE BOARD

115. Board meetings

- 115.1 The Board can decide when to have meetings and how to conduct them. This includes deciding whether to *adjourn* any meeting. The Board must, however, obey any specific provision of these Articles which applies to Board meetings.
- 115.2 Matters for decision which arise at a Board meeting will be decided by a majority vote. If the votes are equal, the chairman of the meeting will have a second or casting vote.
- 115.3 A Board meeting can be called by a Director. It must be called by the Secretary if a Director requests this.

116. Giving notice of board meetings

- 116.1 Notice of a Board meeting can be given to a Director:
 - (A) personally (in writing or orally); or

- (B) by sending it in writing to him at his last known address or at any address he has given to Railtrack for this purpose.

- 116.2 If a Director is not in the United Kingdom or intends not to be in the United Kingdom, he can request that while he is abroad the Board should send notices of Board meetings in writing to his last known address or to another address he gives Railtrack for this purpose. But that notice will not have to be given any earlier than notices given to Directors who are in the United Kingdom. If the Director does not request that notice be sent to such an address, notice of a Board meeting which takes place whilst he is outside the United Kingdom does not have to be given to him.
- 116.3 A Director can waive notice of any meeting retrospectively or in any way he wants.

117. The quorum for board meetings

- 117.1 The Board can decide the *quorum* needed to deal with the business of the Board. If the Board has not decided any number, the quorum will be two.
- 117.2 If a Director ceases to be a Director during a Board meeting, he can remain at the meeting, and still act as a Director and be counted in the quorum, until the Board meeting ends. But, this will only be the case if no other Director objects and if a quorum would not be present otherwise. This is subject to the other provisions of the Articles.
- 117.3 Where there is a quorum present at a Board meeting, that meeting can use all the Board's powers, authorities and discretions.

118. Joining in meetings by telephone

- 118.1 A Director will be treated as being present at a meeting if he communicates with the meeting by conference telephone, or similar equipment which allows everybody taking part in the meeting to hear each other. Alternatively, a meeting can take place by a series of telephone calls from the chairman of the meeting. Taking part in the meeting in this way will be counted as being present at the meeting and so the Director will count in the *quorum* and can vote at the meeting.
- 118.2 A Board meeting under Article 118 will be treated as taking place where most of the people taking part in it are situated. If there is no majority, it will be treated as being held at the place where the chairman of the meeting is present.

Alternatively, if the meeting takes place by a series of telephone calls from the chairman, it will be treated as taking place where the chairman is calling from.

119. When the number of Directors falls below the minimum

- 119.1 The Directors can continue to act even if one or more of them has stopped being a Director.
- 119.2 This applies even if the number of Directors who remain is less than the minimum number set by Article 79.1 or less than the number fixed under the Articles for a *quorum* for a Board meeting. However, in these circumstances, the continuing Directors or Director can only appoint further directors to make up the shortfall or convene a general meeting and cannot use any of the Board's other powers.
- 119.3 If there are no Directors able or willing to act, any two shareholders can call a general meeting in order to appoint Directors.

120. The chairman of Board Meetings

- 120.1 The Board can appoint one of the Directors to be chairman of meetings of the Board. It can also appoint one or more Directors as deputy chairman. The Board can decide the period for which they will be chairman and deputy chairman and can remove them from that position at any time. If the chairman is absent from a meeting, and there is more than one deputy chairman, the deputy chairman who has held that position the longest will chair the meeting, or the Board can decide which of them will chair the meeting.
- 120.2 If:
 - (A) no chairman or deputy chairman has been appointed; or
 - (B) neither the chairman nor any deputy chairman is present and is willing to act as chairman within five minutes from the time at which the meeting was due to start

the Directors who are present can choose which of them will chair the meeting.

121. Delegating powers to committees

- 121.1 The Board can delegate any of its powers, authorities or discretions to committees of one or more Directors. The Board can also give the committee the power to sub-delegate. The Directors can impose a requirement that the committee must include one or more *co-opted* people as explained in this Article.

- 121.2 There is no limit on the powers, authorities or discretions which the Board can delegate but they can include powers, authorities or discretions relating to Directors' fees or other benefits given to Directors or fees or other benefits given to any person co-opted to any Board committee.
- 121.3 In exercising the powers, authorities and discretions delegated to it, any committee must comply with any regulations made by the Board. These regulations can allow or require people who are not Directors to be co-opted onto the committee (or give the committee power to co-opt such people onto the committee) and give voting rights to them, but:
- (A) the number of co-opted members on a committee must be less than half of the total number of committee members;
 - (B) a resolution of the committee is only effective if the majority of the members of the committee present at the time of the resolution are Directors; and
 - (C) the chairman of each committee must be a Director and if the votes are equal, the chairman of the committee will have a second or casting vote.
- 121.4 If the Board has delegated any power, authority or discretion to a committee, any references in these Articles to the Board using that power, authority or discretion include use of that power, authority or discretion by the committee.

121A. Delegating powers to management committees

The Board can delegate any of its powers, authorities or discretions, including the power to sub-delegate, in accordance with Article 121, to committees of one or more Directors and any number of co-opted people as explained in Article 121 where the terms of reference of that committee specify that it has been constituted pursuant to this Article 121A for the purpose of carrying out management or operational functions of the Board and/or considering issues relating to the business of any associated company or companies (however the committee is named or styled) to the extent permissible under that associated company's articles of association. The provisions of Article 121.3(A), (B) and (C) shall not apply to committees constituted pursuant to this Article 121A.

122. Proceedings of committees

If a committee includes two or more people, the Articles which regulate Board Meetings and proceedings at Board Meetings will also apply to meetings of that committee. This does not apply to any Article which cannot apply to a committee meeting. Nor will it apply if and to the extent that the Articles are inconsistent with any regulations for the committee which the Board has made under Article 121.3.

123. Resolutions in writing

- 123.1 This Article applies to a written resolution which is signed or approved by all the Directors (or their alternate Directors) who are in the United Kingdom at the time. The written resolution can be approved by letter, facsimile, telegram or any other form of electronic communication. The number of Directors who sign must be at least the number which would be required to form a *quorum* at a Board Meeting. This kind of resolution will be as valid and effective as a resolution passed at a Board Meeting which is properly convened and held. The resolution can be passed by using one document, or using several copies of the document, if each document is signed by one or more Directors.
- 123.2 Article 123.1 also applies to written resolutions passed by the members of a committee of the Board.
- 123.3 If a resolution has been signed by an alternate Director, it does not need to be signed by the Director who appointed him. This does not apply if the notice of appointment of the alternate Director provides otherwise. If the resolution is signed by a Director who has appointed an alternate Director, it does not also have to be signed by the alternate Director.

124. The validity of the Board's actions

Everything which is done by the Board, or by any Board committee, or by any person acting as a Director, or as a member of a committee, will be valid even though it is later discovered that any member of the Board, or committee, or person acting as a Director or committee member, was not properly appointed. This also applies if it is later discovered that anyone was disqualified from being a Director, or had ceased holding that position, or was not entitled to vote. In any of these cases, anything done will be as valid as if there was no defect or irregularity as referred to in this Article.

SECRETARY

125. Appointing and removing the Secretary

The Secretary will be appointed by the Board. The Board will decide on the terms and conditions of his appointment, including his remuneration. The Board can also remove the Secretary. The Board must obey the provisions of the Acts relating to people who can be Secretary.

126. Acts of the Secretary where he is also a Director

If the Acts or the Articles require something to be done by or to or authorised by both a Director and the Secretary, it must be done by or authorised by the Secretary and a separate Director to be valid. It will not be enough for a Secretary who is also Director to do or authorise the thing required.

THE SEAL

127. Using the Seal

- 127.1 The Board must make sure that every Seal is kept safely. A Seal can only be used with the Board's authority or the authority of a committee authorised for that purpose by the Board.
- 127.2 The Board can decide who will sign any document which is to be sealed with the common seal. But unless the Board decides otherwise, it must be signed by a Director and the Secretary or by two Directors.
- 127.3 The Securities Seal must only be used for sealing securities issued by Railtrack and documents which create or represent such securities. Securities or documents which are sealed with the Securities Seal do not need to be signed as well as sealed.
- 127.4 Where an official seal is used which is not the common seal or Securities Seal, no one needs to sign the documents unless the Board or Acts require them to.
- 127.5 Railtrack can use all powers given by the Acts in relation to official seals, and those powers can be exercised by the Board.
- 127.6 The Board can decide that Railtrack will not have a Seal.

128. Documents without a seal

- 128.1 A document signed by one Director and the Secretary, or by two Directors, which states that it has been executed by Railtrack will have the same effect as if it had been sealed. This will not apply if the Acts say otherwise.
- 128.2 A document which clearly states that it is intended to be a deed must not be signed without the Board's authority or the authority of a Board committee.
- 128.3 The Board can decide either generally or in a particular case or cases that any individual does not need to sign the document himself but that his signature can be printed on it or applied by some other way.
- 128.4 If a document is executed by Railtrack as a deed, the document will not be treated as delivered by Railtrack solely as a result of the document being executed.

129. Using an official seal abroad

Railtrack can use all the powers given by the Acts relating to official seals for use abroad.

AUTHENTICATION OF DOCUMENTS

130. Power to authenticate

- 130.1 Any Director or the Secretary or any person appointed by the Board for the purpose has power to authenticate any documents affecting Railtrack's constitution and any resolutions passed by Railtrack or the holders of any class of share of Railtrack. This also applies to the authentication of any resolution of the Board or any committee of the Board and any books, records, documents and accounts relating to Railtrack's business. This includes a power to certify copies of those documents and other things, or extracts from them, as true copies or extracts.
- 130.2 Where a document which appears to be a copy of:
- (A) a resolution; or
 - (B) the minutes of or an extract of the minutes of a meeting of the shareholders or the holders of any class of shares of Railtrack or of the Board, or any committee of the Board

is certified in the way set out in Article 130.1 that will be conclusive evidence in favour of anyone who relies on that document in dealing with Railtrack that the

resolution has been validly passed or, as the case may be, that the minutes or extract is a true and accurate record of proceedings at a valid meeting.

DIVIDENDS AND OTHER PAYMENTS

131. Declaring and paying dividends

Railtrack can *declare* and pay dividends to shareholders in relation to their *rights* and interests in the profits which are available to be distributed. This is done by passing an *ordinary resolution*. A dividend cannot be declared for an amount which is greater than the amount recommended by the Board. Dividends must be paid in accordance with the Acts.

132. Paying fixed and interim dividends

- 132.1 The Board can pay the fixed dividend on any class of share carrying a fixed dividend if the Board believes that Railtrack's profits justify such payments. The fixed dividend will be payable on fixed dates and the dividend may be payable half-yearly or other times may be fixed.
- 132.2 The Board can also pay interim dividends if the Board believes that Railtrack's profits justify it. These can be paid on any class of shares and can be in any amount, paid on any dates and for such periods as the Board decides.
- 132.3 If the Board acts in good faith and it pays an interim dividend on shares which do not carry preferred *rights* or which carry deferred rights, the Board will not be liable for any loss which the holders of shares which carry preferred rights suffer as a result.

133. Apportioning and paying dividends on partly paid shares

If a share is not fully paid throughout the period for which a dividend is paid, all dividends will be divided and paid in proportions based on the amounts which have been paid up on the shares during that period. But any sum which has been paid up in advance of a *call* will not be treated as having been paid up for this purpose. This Article will not apply if and to the extent that the *rights* attached to any shares or the terms of *issue* of those shares say otherwise.

134. Dividends must be paid out of profits

Dividends can only be paid out of profits available for that purpose. The Acts specify what profits are available to pay dividends.

135. Dividends can be declared and paid in any currency

This Article applies unless the *rights* attached to any shares, or the terms of any shares, say otherwise. Dividends can be declared or paid in whatever currency the Board decides. The Board can agree with any shareholder that dividends due on or which become due on his shares in one currency will be paid or satisfied in another currency. The Board can also agree how and when the currency exchange calculations will be carried out, and how any costs will be met. The Board can agree that Railtrack will pay these costs.

136. Buying assets with effect from a past date

Where Railtrack buys any *asset*, business or property with effect from a date in the past, some or all of the profit and losses resulting from this, can, if the Board decides, be carried to the revenue account and treated as profits or losses of Railtrack. Similarly, if Railtrack buys any shares or securities with a dividend or interest due, the Board can decide to treat the dividend or interest as revenue. Railtrack will not be obliged to *capitalise* any dividend or interest it receives or any part of it. Anything which the Board does under this Article must be done in accordance with the Acts.

137. Power to deduct unpaid calls and debts from dividends or other money

137.1 If Railtrack has a lien on a share, the Board can use the following to repay the debt, *liabilities* or obligation to which the lien relates:

- (A) some or all of any dividend on any shares held by the holder of the share to which the lien relates; or
- (B) some or all of any other money payable by Railtrack on or in respect of that share.

137.2 Until a person becomes a shareholder in respect of:

- (A) shares to which any person is entitled to become a shareholder automatically by law; or
- (B) shares which any person is entitled to transfer automatically by law,

the Board can keep the dividend payable on those shares until either that person becomes a shareholder in relation to those shares or transfers them.

137.3 Railtrack does not have to pay interest on any dividend or other money payable by Railtrack on a share, whatever causes the late payment.

138. Waiver of dividends

Where a shareholder waives his entitlement to some or all of any dividend, this will only be effective if he delivers a document, signed by him (whether or not the document is a deed), to the Registered Office. Or the document can be signed by someone who has become *automatically entitled to the share by law*. Railtrack must accept the document as a waiver and act upon it and the waiver will only be effective if and to the extent that Railtrack does so.

139. Unclaimed dividends

- 139.1 If the Board pays any unclaimed dividend or other monies payable in relation to a share into a separate account, Railtrack will not be a trustee of that money.
- 139.2 Any dividend which has not been claimed for 12 years after being announced will be forfeited and returned to Railtrack.

140. Dividends not paid in cash

- 140.1 Railtrack can, if the Board recommends it, direct payment of all or part of a dividend by the distribution of specific assets (and in particular of paid up shares or *debentures* of any other company). This is done by ordinary resolution and if such a resolution is passed the Board must give effect to it.
- 140.2 If any difficulty arises in connection with such a distribution the Board can resolve it as it thinks expedient. In particular the Board can *issue* fractional certificates. It can also fix the value for distribution of such specific assets or any part of them and can decide to make cash payments to any shareholders on the basis of the value it has fixed in order to adjust the rights of all parties. The Board can also vest specific assets in trustees if that seems to the Board to be expedient. Or it can exercise its powers to issue fractional certificates.

141. Receiving extra shares instead of cash dividends

Subject to the provisions of Article 146, the Board can offer shareholders the right to choose to receive extra shares, which are credited as fully paid up, instead of some or all of a cash dividend.

142. Payment of dividends to shareholders

- 142.1 Any dividends or other monies payable in cash on or in respect of a share can be paid by cheque or warrant payable to the shareholder who is entitled to it, or to such other person who is entitled to it.

- 142.2 For joint shareholders, the money can be paid to any one of the joint shareholders. Where two or more people are entitled to the share automatically by law, the money can be paid to any one of them.
- 142.3 Unless the shareholder requests otherwise in writing, cheques and warrants will be sent to the latest registered address of the shareholder, or other person entitled to it. Alternatively, the shareholder or the person or persons entitled to the share automatically by law can direct Railtrack to send the dividend or other monies payable to such person at such address as the shareholder or the person entitled asks in writing. Where a share is held by joint shareholders these instructions must be given by all the joint shareholders.
- 142.4 The cheque or warrant will be made payable to the person it is sent to, or to any other person the holder or the joint holders or the person entitled to the share has asked it to be paid to. Where a share is held by joint shareholders these instructions must be given by all the joint shareholders.
- 142.5 Railtrack will have complied with its obligation to pay if the banker upon whom the cheque or warrant is drawn pays it.
- 142.6 Every cheque or warrant will be sent at the risk of the person who is entitled to the money it represents.
- 142.7 The Board is free to decide that Railtrack should pay any dividends or other money relating to a share by inter-bank transfer or other funds transfer system to or through any account which the holder, or joint holders, have selected. Railtrack will have complied with its obligation if it pays in that way. Railtrack will not be responsible for any sums lost or delayed during the transfer or for acting on those directions.

143. Payment to joint shareholders

If two or more people hold a share jointly, or are entitled jointly to the share automatically by law, either of them can validly give a receipt for any dividend, other money payable or property which is to be distributed in relation to the share.

144. Record date for payment

This Article applies to any dividend on any shares, or any distribution, *allotment* or *issue* in respect of shares of any class. This can be paid or made to the registered holder of such shares at the close of business on a particular day. It will be based on the number of shares which they are registered as holding on that day, even if this is at the same time as or before or after any resolution to authorise what is being done was passed or before the dividend, distribution, allotment or *issue* is to be paid or made. This applies whether or not a resolution authorising any payment or other distribution was a resolution of the Board, or was passed at a general meeting. The *rights* attached to any shares and the terms of any shares will override this Article if they are inconsistent with it. This Article does not affect the rights between past and present shareholders to payments and so on.

145. Dividends which are not cashed

- 145.1 Railtrack can stop paying dividends where the normal method used for paying them have on at least two consecutive occasions been returned undelivered or are left uncashed or the method of payment has failed. It can also stop where one payment is returned undelivered or left uncashed or has failed and it has made reasonable enquiries to establish the correct address of the registered holder and has not been able to do so. This applies to all means of payment of dividends, including by cheque or warrant sent by post.
- 145.2 Railtrack must start sending dividend payments again if the shareholder requests in writing for payments to be made again. This is subject to any provision of these Articles which would mean Railtrack would not have to do so.

CONVERTING RESERVES AND PROFITS INTO CAPITAL

146. Capitalising reserves

- 146.1 If the Board recommends it, Railtrack's shareholders can pass an *ordinary resolution* stating that any sum described in this Article should be changed into capital, and set aside as capital for the shareholders or the holders of any class of shares who would be entitled to it if it was distributed by way of a dividend. This must be done in proportion to the number of shares which they hold, and in the way that the resolution states. The sum which can be changed into capital is any sum which is all or part of any of Railtrack's reserves or funds whether or not that sum is available for paying or providing for dividends. This includes the profit and loss account.
- 146.2 The resolution will also state how a sum which is to be changed into capital under this Article can be used. This can be in any of the following ways:

- (A) to pay up in full any of Railtrack's capital which has not already been issued to anyone. This can be in payment up of unissued shares, debentures or other obligations of Railtrack which will then be allotted and distributed credited as *fully paid-up* in proportion to the number of shares which the shareholders hold;
- (B) to pay up some, or all, of any amount on any issued shares held by the shareholders which has not already been called up, or paid in advance

or it can be done in any combination of these ways.

146.3 The Board must give effect to a resolution passed under Article 146.1. However, a *share premium account* and a *capital redemption reserve*, and any reserve or fund which represents profits which cannot be distributed, can only be used in paying up unissued shares which are to be allotted to shareholders as if they were fully paid up.

147. Fractions

If any difficulty arises in relation to any distribution under Article 146 or Article 140, the Board can settle this in any way which it thinks is convenient. For example it can:

- (A) issue certificates of a fraction of a share;
- (B) authorise any person to sell and transfer any fractions and then arrange for the net proceeds of the sale to be distributed to the shareholders who would have been entitled to the fraction in proportion to the number of shares which they hold;
- (C) keep any proceeds of such a sale for Railtrack's benefit;
- (D) pay or settle the distribution as close as possible to the correct proportion but not in the exact proportion; or
- (E) ignore fractions altogether.

The Board can make cash payments to any shareholders in order to adjust rights between shareholders as seems convenient to the Board and it can appoint someone to sign contracts on behalf of the shareholders entitled to take part in the distribution to give effect to these arrangements. Such an appointment cannot be challenged by the shareholders.

ACCOUNTS

148. Accounting records

- 148.1 The Board must make sure that proper accounting records which comply with the Acts are kept which give a true and fair view of Railtrack's affairs, and show and explain its transactions in accordance with the Acts.
- 148.2 The accounting records must be kept:
- (A) at the Registered Office; or
 - (B) at any other place or places which the Board thinks fit and the Acts allow.
- 148.3 Railtrack's officers can always inspect the accounting records.
- 148.4 A shareholder of Railtrack will not have any right to inspect any accounting record or book or document of Railtrack unless:
- (A) he is also an officer;
 - (B) he is entitled by law;
 - (C) a court of competent jurisdiction makes an order;
 - (D) the Board authorises him; or
 - (E) the shareholders authorise him to do so by passing an *ordinary resolution* at a general meeting.

149. Sending copies of accounts

- 149.1 Copies of the following documents must be sent to everyone who the Articles or the Acts or any other regulations or arrangements which bind Railtrack, require Railtrack to send them to:
- (A) every annual accounts to be laid before Railtrack in general meeting;
 - (B) any other documents the law requires to be attached to the annual accounts;
 - (C) the Auditors' Report and the Directors' Report.

- 149.2 Railtrack must send as many copies of the documents referred to in Article 149.1 to the London Stock Exchange as the rules or practice of the London Stock Exchange require.
- 149.3 Railtrack will be treated as having satisfied its requirements under Article 149.1 if it sends the shareholders a summary financial statement (where the Acts allow). The summary financial statement must comply with the Acts. Any shareholder who receives a summary financial statement, and has not been sent copies of the documents listed in Article 149.1, is entitled to receive, free of charge, a copy of those documents if they apply to Railtrack at the Registered Office.

AUDITORS

150. The duties of auditors

The appointment and duties of Railtrack's Auditors will be governed by the Companies Act. Railtrack's Auditor is entitled to attend any general meeting and to receive notices of and any other communication relating to any general meeting which any shareholders are entitled to receive. The Auditor will also be entitled to speak at any general meeting on any business which concerns him as auditor.

NOTICES

151. Serving and delivering notices on shareholders

- 151.1 Any notice or other document (including a share certificate) can be served or delivered by Railtrack on or to a shareholder:
- (A) personally;
 - (B) by posting it (with the postage paid) to the address given for the shareholder in the Register; or
 - (C) by leaving it at the address given for the shareholder in the Register addressed to that address.
- 151.2 If a notice or other document is to be given to joint shareholders, it will be enough to serve or deliver the notice or other document to only one of the joint holders. This will be treated as having been given to all of the joint holders.

152. Notice to shareholders outside the United Kingdom

Any shareholder whose address on the Register is outside the United Kingdom can give to Railtrack a United Kingdom address where notices can be served on him. If he does, he will be entitled to have notices served on him at that address. Otherwise, he is not entitled to receive any notices from Railtrack.

153. When notices are treated as being served

153.1 If a notice or other document is sent through the post first class, it will be treated as being served or delivered 24 hours after it was posted (or 48 hours after it was posted if it was sent second class), if it can be proved that:

- (A) the letter containing the notice or document was properly addressed; and
- (B) it was put into the postal system with the postage paid.

153.2 Any notice or other document which is delivered to or left at a registered address in a way other than by post will be treated as having been served or delivered on the day that it was delivered or left there.

154. Serving notices on shareholders who have died or are bankrupt

This Article applies to a shareholder who has died, or become bankrupt, and who is still registered as a shareholder. It also applies in any other case where some other person has become *automatically entitled to shares by law* and whether the shareholder is registered as a sole or joint shareholder. If any notice or other document is delivered, sent by post to or left at the registered address of a shareholder in accordance with the Articles, this will be valid despite his death or bankruptcy, or other events occurring. This applies even if Railtrack knew about his death or bankruptcy or knew of the other event. If notices or documents are served or sent in this way, this will be treated as sufficient service or delivery of notice or documents on everyone who is interested in the share including joint shareholders and any other person who has an interest in the shares. It will not be valid, however, if at the time that the notice or document was served or delivered to the shareholder, his name had been removed from the Register as the holder of the shares.

155. Giving notice by advertisement

If Railtrack cannot call a general meeting by sending a notice by post, due to postal disruption within the United Kingdom, the meeting can be called by publishing the notice in at least two leading national daily newspapers in the United Kingdom. The notice must appear on the same day in each newspaper. If this is done, notice of the meeting will be treated as being delivered to all shareholders entitled to receive it by noon on the day that the newspaper advertisement appears. If it is then practical, Railtrack must send copies of the notice by post at least seven days before the meeting to shareholders' addresses in the United Kingdom.

156. Giving notice to Railtrack

Any summons, notice, order or other document can be sent to or served on Railtrack, or on any Railtrack officer, by:

- 156.1 sending it to the Registered Office by letter, with postage paid, addressed to Railtrack, or the Railtrack officer; or
- 156.2 leaving it at or delivering it to the Registered Office addressed to Railtrack, or the Railtrack officer.

157. Sending notices using details on the Register

If Railtrack sends out notices or other documents to shareholders, it may use the names and addresses listed in the Register at any time up to 15 days before the notice or document is sent. The notice or other document will still have been validly served on or delivered to any shareholder, even if the details on the Register change after this time. Railtrack is under no obligation to resend the notice or document to any person entered on the Register or who has any interest in the share.

158. Notice provisions in the Articles must comply with the Acts

Any provisions in the Articles in relation to notices must comply with any requirements of the Acts.

DESTRUCTION OF DOCUMENTS

159. Railtrack can destroy documents

- 159.1 Railtrack can destroy:

- (A) all cancelled share certificates, after one year from the date they were cancelled;
- (B) any dividend payment instructions, including any instructions to vary or cancel these, and notifications of a change of name or address, after two years from the date these were recorded by Railtrack; and
- (C) any forms for a transfer of shares that have been registered, and any other documents which were the basis for making an entry in the Register, after six years from the date of registration.

159.2 If Railtrack destroys a cancelled share certificate after the one year period, it is conclusively treated by Railtrack as being a valid certificate which was properly cancelled.

159.3 If Railtrack destroys a transfer form after the six year period, the form is conclusively treated by Railtrack as having been properly registered, valid and effective.

159.4 Every other document which Railtrack has destroyed under this Article will be conclusively treated by Railtrack as having been a valid and effective document in accordance with the details of that document which were recorded in Railtrack's book of records.

159.5 However:

- (A) the provisions of Article 159 will only apply to documents which are destroyed in good faith, and will not apply if Railtrack has received express notice that the documents may be relevant to a claim;
- (B) Article 159 should not be read as making Railtrack liable for destroying a document earlier than the time referred to in Article 159.1; and
- (C) this Article applies equally whether a document is destroyed or disposed of in some other way.

WINDING UP

160. The Board can present a petition

The Board can on behalf of Railtrack and in Railtrack's name present a petition to a court for Railtrack to be wound up.

161. Distribution of assets other than cash on liquidation

- 161.1 If Railtrack is wound up (whether this is voluntary or not) the liquidator can distribute some or all of Railtrack's assets between the shareholders or it can transfer them to be managed by trustees for the shareholders' benefit. The liquidator must act with the approval of an *extraordinary resolution* of the shareholders and must act in accordance with any relevant provisions of the Acts.
- 161.2 Where any assets are going to be distributed among the shareholders, the liquidator will decide the values of the assets as he thinks fit and decide how they will be divided between the shareholders or the different classes of shareholders. The liquidator can distribute the assets themselves or something equal in value to them. Where assets are transferred to trustees the liquidator can decide on the nature of the trusts. No shareholder will be obliged to accept any shares or other assets where there is any liability associated with them.
- 161.3 The liquidator can make any provision which is referred to in and sanctioned in accordance with the Acts.
- 161.4 The liquidation of Railtrack can then be completed and it can then be dissolved.

INDEMNITY

162. Officers have a right to an indemnity

Every Director, alternate director, Secretary and all other Railtrack officers are entitled to require Railtrack to *indemnify* them against all the costs, charges, losses, expenses and *liabilities* which they incur:

- (A) in carrying out their duties;
 - (B) in trying to carry out their duties;
 - (C) in relation to anything they do or do not do; or
 - (D) in relation to anything it is alleged that they have done or not done
- as an officer or an employee of Railtrack.

This includes any liability incurred in defending any proceedings, criminal or civil, relating to any of these things. In the case of any liability incurred in defending any proceedings, judgment must be given in favour of the individual (or the proceedings must be dealt with in such a way that he is neither found guilty of nor admits to any material breach of his

duties) or he must be acquitted, or the court must give relief in connection with any application under any statute for relief from liability. This Article only applies as far as the legislation allows.

SHAREHOLDERS' DECISIONS

163. Resolutions in writing

A resolution of the shareholders can be passed in writing. A resolution in writing will be just as effective as if the resolution had been passed at a validly convened general meeting. In order for a resolution passed in this way to be valid it must be signed (or made effective in some other way) by or on behalf of each shareholder who would have been entitled to vote on the resolution if it had been passed at a general meeting at which he was present. A resolution in writing passed in this way can consist of several documents in identical form, signed (or made effective) by or on behalf of one or more shareholder.

164. Matters which require the approval of the Majority Shareholder

- 164.1 If Railtrack Group PLC (the Majority Shareholder) owns the majority of the issued share capital of Railtrack, the Directors cannot use the powers listed in Article 164.2 unless the Majority Shareholder authorises or requires them to do so. The Majority Shareholder can give that authority by an ordinary resolution passed at a general meeting of Railtrack or under Article 163 or by a document signed (or made effective) by or on behalf of the Majority Shareholder.
- 164.2 The Majority Shareholder's authority will be needed for the Directors or the Board to use the following powers or for the following requirements to become effective:-
- (A) the powers contained in Article 82 to appoint Directors;
 - (B) the powers contained in Articles 86.2, 86.3, 86.9 and 86.10 relating to vacation of the position of Director;
 - (C) the powers contained in Article 90 in relation to Executive Directors;
 - (D) the powers contained in Article 88.2 relating to the increase of Directors' fees;
 - (E) the powers contained in Article 99.1 to fix the period of time and terms that a Director can hold any other position in Railtrack as well as his position of Director, and the powers under that Article to pay extra fees in respect of those other positions;

- (F) the power of the Board to approve any transaction with Railtrack in which a Director has a direct or indirect interest. This includes the powers of the Board contained in Article 103.1 to decide whether a Director's interest is material and whether the Director has the right to vote or be counted in a quorum on a resolution relating to such a transaction; and
- (G) the requirements contained in Article 91 relating to the retirement of Directors by rotation.

The Majority Shareholder can add to the list of powers which require the Majority Shareholder's permission by giving written notice to Railtrack.

164.3 The Majority Shareholder can limit, waive or suspend some or all of the requirements of Article 164.2. This can be done by giving written notice to Railtrack.

164.4 Any person dealing with Railtrack:-

- (A) does not have to seek confirmation that the Majority Shareholder's consent has been given where it was required; and
- (B) does not have to enquire whether the powers of the Directors or the Board are limited by this Article.

All obligations incurred or security given or transactions made by Railtrack with a third party will be valid even if the Directors or the Board have exceeded their powers unless the third party knew that the Directors or the Board had exceeded their powers, in which case the obligation incurred, security given or transaction made will be invalid.