

The Companies Act 1985

Company Limited by Guarantee

Special Resolution

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

Company Number

3937800

Railway Safety

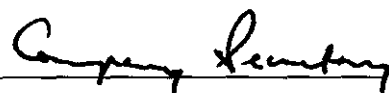
At a shareholders meeting of the above company, duly convened and held at:

Railtrack House, Euston Square, London, NW1 2EE on 19 December 2000

the following SPECIAL RESOLUTION was duly passed:-

THAT the 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 Articles of Association.

Signed 

Position 



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

No. 3937800

The Companies Act 1985

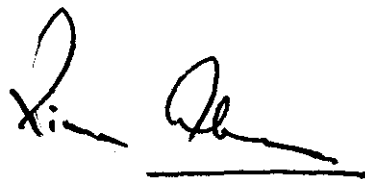
PRIVATE COMPANY LIMITED BY GUARANTEE AND NOT HAVING A SHARE CAPITAL

Articles of Association

of

RAILWAY SAFETY

19<sup>th</sup> December  
(as at 2000)

  
19<sup>th</sup> December 2000

Incorporated 25 February 2000

SIMMONS & SIMMONS

Solicitors

21 Wilson Street

London EC2M 2TX

Ref: 5/R31732/CXM/AXA

Company Number: 3937800

THE COMPANIES ACT 1985

PRIVATE COMPANY LIMITED BY GUARANTEE AND NOT HAVING A SHARE CAPITAL

ARTICLES OF ASSOCIATION

of

RAILWAY SAFETY

## 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 Railway Safety.

### 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 Railway Safety. 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 nominal value of a share.
Auditors	Railway Safety's auditors. If there are joint auditors, "Auditors" means any one of the joint auditors.
Board	The Board of Directors of Railway Safety 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.
class meeting	A meeting of the holders of any class of members of Railway Safety.
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"><li>• starts on (but does not include) the day on which the notice is given, or treated as given; and</li><li>• 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.</li></ul>
Executive Director	A Chief Executive Director, Joint or Deputy Chief Executive Director, Managing Director, Joint Managing Director or Assistant Managing Director of

	Railway Safety or a Director who holds any other employment or executive office (whether or not an employee) with Railway Safety or any of its <i>holding or subsidiary undertakings</i> .
independent non-executive Director	A non-executive Director who has not at any time within the two years prior to the date of appointment as a director been an employee of any member of the Railtrack Group. The Board's decision as to whether someone is or is not an independent non-executive director is final.
Majority Member	Any member(s) of Railway Safety who hold a majority of the voting rights exercisable at general meetings of Railway Safety for the time being.
member of the Railtrack Group	This includes any subsidiary and associated undertakings of Railtrack Group from time to time, excluding Railway Safety itself.
Rail Regulator	This means the person for the time being appointed as the Rail Regulator under Section 1 of the Railways Act.
Railtrack PLC	This means Railtrack PLC, incorporated with registration number 2904587.
Railway Safety	This means Railway Safety, incorporated with registration number 3937800.
Railways Act	This means the Railways Act 1993, as amended, modified or re-enacted from time to time.
related person	This means any one or more of someone's spouse, partner and dependent person.
Register	The Railway Safety Register of Members, which is the register of Railway Safety members.
Registered Office	Railway Safety's registered office at any given time.
Seal	Railway Safety's common seal, any official seal that Railway Safety 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 Railway Safety's secretary. This includes any joint, deputy, temporary or assistant secretary.
services relating to railways	This has the same meaning as is used for the purposes of Railtrack PLC's Network Licence Condition 3.
stakeholder	This has the same meaning as for the purposes of Railtrack PLC's Network Licence Condition 3.
subsidiary undertaking	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.

unpermitted disqualifying interest

An interest in any benefit which concerns or is determined by reference to the commercial activities or affairs of any person engaged in or likely to be engaged in the provision of services relating to railways and which in any such case has not been permitted by the Rail Regulator. But, it shall not include an entitlement to participate in an all employee share scheme established by any such person. For these purposes an all employee share scheme means any Inland Revenue approved employee share scheme established by a company under which it is a condition of such approval that participation is offered generally to all employees of the company and its participating subsidiaries or to all such employees fulfilling conditions as to length of service.

## 2.2 Understanding other words and expressions

- (A) Words which refer to appointment also refer to reappointment.
- (B) Where the Articles refer to a thing being "in writing" this includes writing, or any substitute for writing (including any electronic communication) or both.
- (C) Words which refer to a single number also refer to plural numbers, and the other way around.
- (D) Words which refer to males also refer to females, and to companies and *unincorporated associations*.
- (E) References to a "person" or "people" include companies, and *unincorporated associations*.
- (F) Any headings in the Articles are only included for convenience. They do not affect the meaning of the Articles.
- (G) 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.
- (H) The reference to "benefit" in the definition of unpermitted disqualifying interest includes any payment, profit, gain or advantage however expressed, established, given or made.
- (I) The Board's decision on whether, for the purposes of these Articles, someone does or does not have an unpermitted disqualifying interest or is or is not a related person is final.
- (J) The version of an Act, and the version of the Articles, which is current at any particular time, will apply.
- (K) 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.

- (L) 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.
- (M) 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*.
- (N) Where the Articles deal with something which is also dealt with by the Acts (such as calling and conduct of general meetings) 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. **Members**

The subscribers to the Memorandum of Association of Railway Safety and such other persons as are admitted to membership in accordance with these Articles shall be members of Railway Safety. No person shall be admitted as a member of Railway Safety unless he is approved by the Directors and the Majority Member's authority has been obtained. Every person who wishes to become a member shall deliver to Railway Safety an application for membership, in such form as the Directors require, *executed* by him.

The number of members of Railway Safety is limited to such number as the Board may determine.

A member may at any time withdraw from Railway Safety by giving notice in writing to Railway Safety. Membership shall not be transferable and shall cease on death.

### 4. **The Registered Office**

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

## **GENERAL MEETINGS**

### 5. **The annual general meeting and extraordinary general meetings**

- 5.1 Each year, in accordance with the requirements of the Acts, Railway Safety must hold an annual general meeting unless the members otherwise resolve. 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.
- 5.2 Any general meeting which is not an annual general meeting is called an extraordinary general meeting.

### 6. **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 members under the Acts. If the Board does not comply with a requisition by the members, 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 members can call a general meeting.

## PROCEEDINGS AT GENERAL MEETINGS

### 7. Notices of meetings

- 7.1 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 Railway Safety;
  - (C) any meeting at which it is proposed to pass a resolution appointing a person as a Director.
- 7.2 For every other general meeting, at least 14 clear days' notice in writing must be given.
- 7.3 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 8 explains what business is treated as special business.)
- 7.4 Every notice of a general meeting must contain a reasonably prominent statement that a member entitled to attend and vote can appoint one or more proxies to attend and, on a poll, vote instead of him. It must also state that a *proxy* does not have to be a member of Railway Safety.
- 7.5 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.
- 7.6 Notice of every general meeting must be given to all members. Notice of every general meeting must also be given to Railway Safety's Auditors. These requirements are subject to any provision of the Acts which relates to giving notice of meetings.
- 7.7 Even though a meeting of Railway Safety is called by a notice period shorter than that stated in Article 7.1 or 7.2, 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 members entitled to attend and vote at that meeting; and
  - (B) in the case of any other meeting, by a majority of the members entitled to attend and vote at that meeting. This must be a majority which together represents at least 95 per cent of the total voting rights at that meeting of all the members.
- 7.8 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.
- 7.9 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.



- 7.10 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 14.

## **8. 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:

- 8.1 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;
- 8.2 appointing Directors to replace any Directors who are retiring (whether they are retiring by rotation or for any other reason);
- 8.3 appointing the Auditors, except in cases where the Acts require special notice of the resolution for this appointment; and
- 8.4 setting, or deciding the method for setting, the Auditor's fees.

## **9. Amendments to resolutions**

- 9.1 Amendments can be proposed to any type of resolution if the amendments are only clerical amendments to correct an obvious error.
- 9.2 No other amendments to any special or extraordinary resolution can be proposed or voted on.
- 9.3 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.
- 9.4 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.

## **10. Quorum needed for general meetings and procedure if quorum is not present**

- 10.1 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 one member who is personally present or represented by a corporate representative or a proxy, and who is entitled to vote.
- 10.2 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.
- 10.3 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 members 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.

Railway Safety must comply with Article 7 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 member present or represented by a proxy and entitled to vote will be a quorum.

11. **Director's rights to attend and speak**

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

12. **The chairman of a general meeting**

- 12.1 The chairman of the Board will be the chairman at every general meeting.
- 12.2 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.
- 12.3 If Railway Safety 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).
- 12.4 If there is no Director present at the general meeting, the members 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.
- 12.5 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.

13. **Adjourning general meetings**

- 13.1 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 members 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.

- 13.2 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.
- 13.3 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.
- 13.4 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 14.

14. **Accommodation of members at meetings**

- 14.1 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.

- 14.2 A member's right to attend a general meeting is subject to any arrangements made under Article 14. This also applies to any proxy appointed by any member.
- 14.3 The arrangements which can be made under Article 14.2 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 members 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.
- 14.4 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 members, 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.

## VOTING

### 15. How votes are taken

15.1 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) one or more members 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 members who have the right to attend and vote at the meeting. This includes proxies for members entitled to vote and properly appointed corporate representatives.

These things apply unless the Acts specify different requirements.

15.2 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.

### 16. How a poll is taken

16.1 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 members. 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.

16.2 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.

16.3 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.

16.4 On a poll, votes can be given either in person, by proxy or by a validly authorised corporate representative.

16.5 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.

17. **Votes of members**

17.1 Every member 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.

17.2 Where there is a poll, every member (including authorised corporate representatives) who is present in person at the meeting shall have one vote. This includes members who are present by proxy.

17.3 Articles 17.1 and 17.2 do not apply if any special terms as to voting which were given to their membership either at the time they became members or which apply to them at the time of the meeting or otherwise.

18. **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**

19. **Proxy forms**

A proxy form must be in writing and signed by the member 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.

20. **A proxy need not be a member**

A proxy does not have to be a member.

21. **Delivering proxy forms**

21.1 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.

- 21.2 If a proxy form is signed by someone other than the member 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.
- 21.3 If Articles 21.1 and 21.2 are not complied with, the proxy will not be able to act for the member who appointed him.
- 21.4 If two or more valid but different proxy forms are delivered in relation to the same membership, 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 membership. 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 Railway Safety cannot determine which form was delivered last, none of the proxy forms will be treated as being valid in relation to that share.
- 21.5 A member 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.

## **22. The proxy form**

- 22.1 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.
- 22.2 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 member gives his proxy authority to vote as the proxy decides whatever the proxy does will be binding as between the member and Railway Safety. But the member can instruct the proxy to vote in a particular way.
- 22.3 If a proxy for a member demands a poll, this will be treated in the same way as a demand made by a member.
- 22.4 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.

## **23. Representatives of companies**

- 23.1 A company which is a member 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.

- 23.2 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 member. If the corporate representative is present at a meeting the company will be treated as present at that meeting.

24. **When a proxy is valid**

- 24.1 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.

- 24.2 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 Railway Safety 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 members.

## **APPOINTMENT AND REMOVAL OF DIRECTORS**

25. **Number and qualification of Directors**

- 25.1 There must be at least two Directors (not counting any alternate Directors in that capacity). There will not be more than eleven Directors at any time of the Railway Safety, of whom eight shall be non-executive Directors and not more than one of such non-executive Directors shall be a person who has at any time within two years prior to the date of appointment as a director been an employee of any member of the Railtrack Group.

- 25.2 A Director need not be a member.

26. **Railway Safety can appoint Directors**

Railway Safety can, by passing an ordinary resolution in general meeting, appoint extra Directors, or a Director to fill a vacancy where someone has ceased to be a Director. Where Railway Safety has fixed a maximum number of Directors, this appointment must not cause that maximum to be exceeded. Railway Safety'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 7.1.

27. **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.

**28. The Board can appoint Directors**

Subject to Article 95, the Board can appoint any persons as extra Directors, or to fill a vacancy where someone has ceased to be a Director. Where Railway Safety 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 Railway Safety's power to appoint Directors by ordinary resolution.

**29. Removing and appointing Directors**

29.1 Railway Safety 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 Railway Safety. If this is done by ordinary resolution, special notice of the resolution must be given to Railway Safety, as required by the Acts.

29.2 Railway Safety 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 7.1. 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.

**30. People who can be Directors**

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

- (A) a Director retiring at the meeting;
- (B) a person who is recommended by the Board;
- (C) a person who has been proposed in the way set out in Article 30.2.

30.2 A member who is entitled to attend and vote at the meeting and who wishes to propose a person for appointment as a Director must deliver a written notice to the Registered Office, saying that he intends to do so. This notice must be delivered at least seven clear days before the meeting, but not more than 42 clear days before the meeting. The member making the proposal cannot propose himself. The person being proposed must confirm in writing that he is willing to be elected, and his confirmation must be included in the notice and delivered to the Registered Office.

30.3 People who are appointed to be non-executive Directors of Railway Safety shall be so far as reasonably practicable people who collectively have the appropriate practical experience in relation to the functions of Railway Safety including experience of the business of any one or more of passenger train operation, freight train operation, rolling stock leasing, rolling stock manufacturing, infrastructure maintenance and repair and other relevant railway activities of stakeholders and persons having extensive current experience of the management of safety.

30.4 The person appointed to be Chairman of Railway Safety and four other non-executive Directors shall have extensive current knowledge or experience of the management of safety and, unless otherwise agreed by the Rail Regulator after consultation with the Health and Safety Executive, must not have within two years prior to the date of appointment as Chairman or non-executive Director, as the case may be, been an employee of any:



- (A) member of the Railtrack Group; nor
  - (B) holder of a licence granted under Section 8 of the Railways Act; nor
  - (C) franchisee or franchise operator (as those terms are defined in Section 23 of the Railways Act); nor
  - (D) rolling stock leasing company; nor
  - (E) rolling stock manufacturer; nor
  - (F) railway infrastructure maintenance or repair company carrying on business in Great Britain or providing goods for use on Railtrack PLC's network.
- 30.5 Each non-executive Director shall be appointed as a director for a fixed term not exceeding three years but shall be capable of being reappointed and three of the non-executive Directors shall be representative of the railway industry.
- 30.6 The Board shall decide on whether someone meets the requirements of Article 30.4 and/or has the knowledge and/or experience and/or is representative of the railway industry contemplated by this Article 30. Its decision is final.
31. **Job titles which include the word "director"**
- Subject to Article 95, the Board can give titles to people who work, or are going to work, for Railway Safety which include the word "director" in the job title even though they are not Directors of Railway Safety. 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 Railway Safety. They do not have power to act as a Director of Railway Safety and are not treated as a Director for any of the purposes of the Articles.
32. **When Directors must cease to be a Director**
- A Director must stop being a Director in any of the following circumstances:
- 32.1 if he delivers a written resignation to the Registered Office or offers it at a Board meeting;
  - 32.2 if the Board decides that he is no longer able to be a Director because of physical or mental incapacity or mental disorder;
  - 32.3 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;
  - 32.4 if he is prohibited by law from being a Director;
  - 32.5 if he ceases to be a Director under the Acts or is removed under these Articles;
  - 32.6 all of the other 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;
  - 32.7 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 Railway Safety;
  - 32.8 if he is convicted of an indictable offence and the Board passes a resolution saying that it is not in Railway Safety's interests for him to remain as a Director;

- 32.9 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 Railway Safety's interests for him to remain a Director. This applies even if the conduct under investigation does not relate to Railway Safety.

This Article does not affect the retirement by rotation provisions set out in Article 37.

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**

#### **33. The Directors' ordinary fees**

- 33.1 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.

- 33.2 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.

#### **34. Paying the Directors' additional fees and expenses**

- 34.1 Railway Safety 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; and
- (C) general meetings.

- 34.2 Railway Safety can also pay all other expenses properly and reasonably incurred by Directors in conducting Railway Safety's business or performing their duties.

- 34.3 If a Director:

- (A) is requested to go, work or live abroad in connection with Railway Safety'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 and as commission. 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.

**35. Insurance**

35.1 Subject to Article 95, 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) Railway Safety, or any *holding company* of Railway Safety;
- (B) any company in which Railway Safety, or any holding company of Railway Safety, has any kind of direct or indirect interest;
- (C) any company in which any of the predecessors of Railway Safety, or of any holding company of Railway Safety, had any kind of direct or indirect interest;
- (D) any company which is allied to, or associated with, Railway Safety;
- (E) any subsidiary undertaking of Railway Safety;
- (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 Railway Safety, 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 Railway Safety's power to indemnify its officers. This is dealt with in Article 92.

35.2 The insurance which the Board can buy or renew under Article 35 can be for any purpose. This can include, for example, insurance against any liability incurred by any person mentioned in Article 35:

- (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 Railway Safety or any of the other companies, subsidiary undertakings, pension funds or employee share schemes which are referred to in Article 35.1; or
- (B) in any other way in connection with their duties, powers, or positions in relation to Railway Safety or any of the other companies, subsidiary undertakings, pension funds or employee share schemes which are referred to in Article 35.1.

**36. Appointing Executive Directors**

36.1 Subject to Article 95, 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.

36.2 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.

36.3 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 Railway Safety in relation to any breach of a contract of service between him and Railway Safety which is connected with

him ceasing to be an Executive Director. Nor does it affect any similar claim Railway Safety may have against the Director.

- 36.4 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, or as a lump sum.
- 36.5 The person appointed as Chief Executive of Railway Safety must have extensive current experience of the management of safety and current knowledge of the operation of railways and shall not, for such period as he shall be Chief Executive, be a director of Railtrack PLC or of Railtrack PLC's holding company.
- 36.6 The Board shall decide on whether a person has the knowledge and/or experience contemplated by this Article 36. Its decision is final.

### **ROTATION AND RETIREMENT OF DIRECTORS**

#### **37. Directors to retire by rotation**

- 37.1 Where authority has been given as required under Article 98, 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 28, which deals with Directors who are appointed by their co-Directors.
- 37.2 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.
- 37.3 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.

#### **38. 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 Railway Safety. 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 Railway Safety.

#### **39. 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.

40. **Director treated as reappointed**

At a meeting at which a Director retires because of rotation, Railway Safety can appoint a person in his place. If Railway Safety does not do this, the retiring Director will be treated as having been 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 Railway Safety notice in writing that he does not want to be reappointed or he has reached the age set for retirement of Directors. Railway Safety must obey the other provisions of these Articles relating to people who can be appointed as Directors.

**ALTERNATE DIRECTORS**

41. **Power to appoint and remove**

Subject to Article 95, 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 Railway Safety in writing. The notice must be signed by the Director and sent to Railway Safety 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.

42. **An alternate director is responsible for his own acts**

42.1 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 Railway Safety 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.

42.2 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 Railway Safety

as if he were a Director.

42.3 Railway Safety will only pay fees to an alternate director out of the fees which would otherwise be paid to the Director who appointed him. Railway Safety will only do this if, and to the extent that, the Director who appointed the alternate notifies Railway Safety in writing to do so.

43. **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.

44. **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**

45. **A Director can hold other positions with Railway Safety.**

- 45.1 A Director can hold any other position in Railway Safety 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, or commission. Any extra fees he is paid will be in addition to any other fees he is paid under these Articles.
- 45.2 A Director can act for Railway Safety professionally, either alone or through his firm, but neither a Director nor his firm can be Railway Safety's Auditor.
- 45.3 A Director or his firm can be paid for professional services as though he were not a Director.
- 45.4 A Director can become, or remain a director, or other officer of any company in which Railway Safety has any interest or which Railway Safety has promoted or over which Railway Safety 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 Railway Safety 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 Railway Safety 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.
- 45.5 If the Board is considering a resolution which relates to a Director's appointment to another position with Railway Safety or a position with another company in which Railway Safety 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.
- 45.6 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 Railway Safety or any company in which Railway Safety 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 49.
- 45.7 If the Companies Act and Article 48 allows, and subject to notice having been given as required under Article 46.1, a Director can:
- (A) enter into contracts, transactions, or arrangements with Railway Safety. 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, Railway Safety or dealing with Railway Safety in any other way; and

- (B) have any kind of interest in any existing or proposed contract, transaction or arrangement with Railway Safety.

The Director will not be disqualified from acting as a Director of Railway Safety 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.

- 45.8 If he has declared his interest at a Board meeting as required under the Companies Act and Article 46, a Director does not have to pay to Railway Safety or Railway Safety's members any fees, profit or other benefits he makes as a result of that contract, transaction or arrangement.

#### 46. **Disqualifying Interests**

- 46.1 Each Director of Railway Safety must, upon appointment or when required by the Board, provide a declaration to the effect that:

- (A) he, and to the best of his knowledge and belief his spouse, partner and dependent children, have no unpermitted disqualifying interest;
- (B) he undertakes to notify his *related persons* at the time of the declaration that they should not hold an unpermitted disqualifying interest while he is such a Director; and
- (C) he undertakes to notify Railway Safety if by reason of the facts and circumstances then subsisting he becomes aware that the declaration would (if repeated at any time while he is such a Director) be incorrect.

- 46.2 A Director of Railway Safety who has an unpermitted disqualifying interest shall, so long as he does, be treated as having a conflict of interest for the purposes of Article 47. A Director who has notified the other Directors in accordance with Article 46.1 that, to his knowledge, a related person of his has a disqualifying interest shall also be treated as having a conflict of interest for the purposes of Article 47.

- 46.3 But, no Director shall be treated as having an actual or potential conflict of interest by virtue of any disqualifying interest permitted by the Rail Regulator and/or by being a person representative of the railway industry in relation to matters affecting the railway industry generally.

#### 47. **Actual and Potential Conflicts of Interest**

- 47.1 If a Director is interested in any transaction with Railway Safety 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.

- 47.2 This obligation to notify the other Directors includes the circumstances where the Director has an unpermitted disqualifying interest or, to the knowledge of that Director, a related person of that Director has an unpermitted disqualifying interest. And, this obligation includes circumstances where that Director becomes aware that he has any other actual or potential conflict of interest between that Director and Railway Safety.

- 47.3 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 Railway Safety 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.

- 47.4 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.

#### 48. **When Directors can vote on things in which they are interested**

- 48.1 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 unless he has disclosed that interest to the directors. 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 without having disclosed that interest when he was supposed to under these Articles, his vote must not be counted.
- 48.2 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, Railway Safety or any of its subsidiary undertakings;
  - (B) any transaction under which Railway Safety or any subsidiary undertaking gives any guarantee, security or indemnity to any other person in relation to a debt or obligation owed by Railway Safety, 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, by Railway Safety, its holding company 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 49;
  - (E) any proposal relating to any insurance which Railway Safety can buy and renew under Article 35 for the benefit of the Directors of Railway Safety 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 Railway Safety, 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.

48.3 If there is an overlap between Articles 48.2 and Article 50.1, Article 50.1 takes precedence.

49. **Where a Director owns one per cent of a company**

49.1 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.

49.2 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.

49.3 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.

50. **Resolution relating to a Director's interest**

50.1 In relation to matters where a Director of Railway Safety has an actual or potential conflict of interest, unless the chairman of the meeting (or where the chairman of the meeting is concerned, another Director nominated by the Board for the purpose) is satisfied that the actual or potential conflict of interest is not material and the Director in question remains capable of independent judgement and acting in the interests of Railway Safety in relation to the matter in question, he shall not be entitled to count in the quorum, participate in the relevant part of the meeting or vote on the matter in question.

50.2 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 the chairman of the meeting in accordance with Article 50.1. The chairman of the meeting's decision 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 of the meeting. These are set out in the next Article.

- 50.3 If any question comes up at a meeting about whether the chairman of the meeting has a material interest, or whether he can vote or be counted in the quorum, the chairman of the meeting can voluntarily agree to abstain from voting or from being counted in the quorum on the issue. If he does not, the question will be decided by another Director nominated by the Board. (For this purpose the chairman will not be counted in the quorum nor must he vote on the resolution appointing the other Director.) If on a vote of the Board to nominate another Director the votes are equal, the chairman's interest will be treated as not being material. The chairman of the meeting will then be entitled to vote and be counted in the quorum in relation to that vote. The decision of the other Director will be final and conclusive, unless the nature or extent of the chairman's interest, of which the chairman has knowledge, has not been fairly disclosed to the Board.

51. **Meaning of "transaction"**

In Articles 46-49, the word "transaction" includes any actual transaction, contract, arrangement or agreement, or one that is proposed.

**THE BOARD'S POWERS AND DUTIES**

52. **The Board's powers to manage Railway Safety**

- 52.1 The Board will manage Railway Safety's business. The Board can use all of Railway Safety's powers except where the Articles or the Acts say that powers can only be used by the members voting at a general meeting.
- 52.2 The Board is always subject to:
- (A) the provisions of the Acts;
  - (B) Railway Safety's Memorandum of Association;
  - (C) the requirements of these Articles; and
  - (D) any directions given by the members passing a special resolution at a general meeting.

However, if the Memorandum or Articles of Association of Railway Safety 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.

- 52.3 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 52.

53. **Railway Safety's business can be managed locally**

- 53.1 The Board can set up local or divisional boards or agencies to manage any of Railway Safety's business. These must be in 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.

- 53.2 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.

#### **54. The power to appoint attorneys**

- 54.1 The Board can appoint any company, firm, person or any fluctuating body of persons to be attorneys of Railway Safety. 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.
- 54.2 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.
- 54.3 The Board can remove any person appointed under this Article 54 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.

#### **55. 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. 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.

#### **56. Employees**

Subject to Article 95, the Board can use any powers given under the Acts to provide benefits for employees or former employees of Railway Safety, or any of its subsidiary undertakings, in connection with Railway Safety or a subsidiary undertaking ceasing business or transferring some or all of its business to any person.

**57. How Railway Safety 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 transferable), and all receipts for money paid to Railway Safety. Alternatively, the Board can make them effective in any other way the Board decides.

**58. Keeping minutes and records**

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

These minutes or records must be recorded in minute books.

58.2 If the Articles or Acts state that Railway Safety 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.

58.3 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.

**59. Paying pensions and other allowances**

59.1 If the Acts allow it, the Board or any committee authorised by the Board can use all the powers of Railway Safety 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.

59.2 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) Railway Safety;
- (B) any of Railway Safety's subsidiary undertakings or former subsidiary undertakings;  
or
- (C) any predecessor of either Railway Safety, or any of Railway Safety's subsidiary undertakings or former subsidiary undertakings.

59.3 Any Director or former Director can keep anything paid or given to him under Article 59. If any person receives any benefit under Article 59 it will not disqualify him from being or prevent him from becoming a Director of Railway Safety.

#### **EXERCISE BY THE BOARD OF RAILWAY SAFETY'S POWER TO BORROW**

##### **60. Borrowing powers**

Subject to Article 95, the Board can exercise all Railway Safety's powers to borrow money and to mortgage or *charge* all or any part of Railway Safety business and activities, property and assets (present and future). In exercising these powers the Board must obey the other provisions of the Articles and the requirements of the Acts.

#### **PROCEEDINGS OF THE BOARD**

##### **61. Board meetings**

- 61.1 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.
- 61.2 Unless Article 61.3 applies, 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.
- 61.3 During any Board meeting at which there shall not be a majority of non-executive Directors, there shall be allocated to the chairman of the meeting such additional votes as shall be necessary to enable the aggregate of the votes of the non-executive Directors to constitute a majority.
- 61.4 A Board meeting can be called by a Director. It must be called by the Secretary if a Director requests this.

##### **62. Giving notice of board meetings**

- 62.1 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 Railway Safety for this purpose.
- 62.2 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 Railway Safety 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.

62.3 A Director can waive notice of any meeting retrospectively or in any way he wants.

63. **The quorum for board meetings**

63.1 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.

63.2 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.

63.3 Where there is a quorum present at a Board meeting, that meeting can use all the Board's powers, authorities and discretions.

64. **Joining in meetings by telephone**

64.1 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.

64.2 A Board meeting under Article 64 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.

65. **When the number of Directors falls below the minimum**

65.1 The Directors can continue to act even if one or more of them has stopped being a Director.

65.2 This applies even if the number of Directors who remain is less than the minimum number set by Article 25.1 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.

65.3 If there are no Directors able or willing to act, any member can call a general meeting in order to appoint Directors.

66. **The chairman of Board Meetings**

66.1 The Board can appoint one of the independent non-executive Directors to be chairman of meetings of the Board. It can also appoint one or more of the other independent non-executive 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.

66.2 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, but the Director chosen to chair the meeting must be an independent non-executive Director.

**67. Delegating powers to committees**

**67.1** The Board of the Company shall establish the following committees:

- (A) An Executive Committee comprising the executive Directors of the Company and at least one independent non-executive Director provided that at any meeting of the Executive Committee at which there shall not be a majority of non-executive Directors one independent non-executive Director shall be appointed Chairman and there shall be allocated to the Chairman such additional votes as shall be necessary to enable the aggregate of the votes of the non-executive Director(s) on the Executive Committee to constitute a majority. The day to day management of Railway Safety shall be vested in the Executive Committee subject to such regulations as may be made by the Board. The quorum for the transaction of the business of the Executive Committee shall be three of whom at least one is an independent non-executive Director.
- (B) A Review Committee comprising the independent non-executive Directors of Railway Safety. If a person is aggrieved by any decision of Railway Safety concerning the Railway Group Standards or other issues, that person may make a request to the Board to review the decision. Once the Board receives such a request, the Board can decide whether or not it will delegate the request for a review to the Review Committee. If the Board decides that the Review Committee should review the decision, the Review Committee shall exercise, on behalf of the Board, the authority of the Board to reconsider, confirm or change the decision. Decisions taken by the Review Committee in reconsidering decisions made by Railway Safety shall be made without reference to the full Board but shall be deemed to be decisions of the Board. The quorum for the transaction of the business of the Review Committee shall be at least two independent non-executive Directors.
- (C) Instead of conducting its own enquiry, the Review Committee may appoint an independent person to conduct an enquiry into any matter that falls to be determined by the Review Committee and to make a report to the Review Committee. The Review Committee may instruct such advisers or investigators as it deems necessary to assist it (or an independent person) in conducting an enquiry.
- (D) The Board shall determine from time to time the terms of reference of the Review Committee and the basis of any review but the Board shall not make any regulations concerning the exercise of the discretion of the members of the Review Committee in respect of a decision of Railway Safety which has been delegated to the Review Committee for review.

**67.2** 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.

**67.3** 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 committee 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.

67.4 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.

**68. 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 66.3.

**69. Resolutions in writing**

69.1 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.

69.2 Article 66.3 also applies to written resolutions passed by the members of a committee of the Board.

69.3 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.

**70. 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.

**71. Safety Advisory Board**

Railway Safety shall establish a group called the Safety Advisory Board. It shall be a forum for railway industry stakeholders which are to participate in discussion and review of matters



concerning safety across the railway industry. It shall replace the activities of the Safety Advisory Board of the Safety & Standards Directorate of Railtrack PLC. The Safety Advisory Board is not a committee of the Board. The Board shall determine the terms of reference from time to time of the Safety Advisory Board and has the power to appoint one or more co-opted people to the Safety Advisory Board. The Safety Advisory Board shall comply with all regulations made by the Board concerning its meetings and proceedings.

## **SECRETARY**

### **72. Appointing and removing the Secretary**

Subject to Article 95, 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.

### **73. 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**

### **74. The Seal**

Railway Safety will have a Seal. The Board must make sure that every Seal is kept safely.

### **75. Execution of Documents**

- 75.1 A Seal can only be used with the Board's authority or the authority of a committee authorised for that purpose by the Board.
- 75.2 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.
- 75.3 Any document which is to be sealed with the common seal must be signed by a Director and the Secretary a Deputy or Assistant Secretary.
- 75.4 Where an official seal is used which is not the common seal or, no one needs to sign the documents unless the Board or Acts require them to.
- 75.5 Railway Safety can use all powers given by the Acts in relation to official seals, and those powers can be exercised by the Board.
- 75.6 If a document is executed by Railway Safety as a deed, the document will not be treated as delivered by Railway Safety solely as a result of the document being executed.

### **76. Using an official seal abroad**

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

## **AUTHENTICATION OF DOCUMENTS**

### **77. Power to authenticate**

- 77.1 Any Director or the Secretary or any person appointed by the Board for the purpose has power to authenticate any documents affecting Railway Safety's constitution and any resolutions passed by Railway Safety. 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 Railway Safety's business. This includes a power to certify copies of those documents and other things, or extracts from them, as true copies or extracts.
- 77.2 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 members of Railway Safety or of the Board, or any committee of the Board is certified in the way set out in Article 77.1 that will be conclusive evidence in favour of anyone who relies on that document in dealing with Railway Safety 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.

**78. Buying assets with effect from a past date**

Where Railway Safety 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 Railway Safety. Similarly, if Railway Safety buys any shares or securities with a dividend or interest due, the Board can decide to treat the dividend or interest as revenue. Railway Safety 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.

## **ACCOUNTS**

**79. Accounting records**

- 79.1 The Board must make sure that proper accounting records which comply with the Acts are kept which give a true and fair view of Railway Safety's affairs, and show and explain its transactions in accordance with the Acts.
- 79.2 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.
- 79.3 Railway Safety's officers can always inspect the accounting records.
- 79.4 A member of Railway Safety will not have any right to inspect any accounting record or book or document of Railway Safety 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 members authorise him to do so by passing an ordinary resolution at a general meeting.

**80. Sending copies of accounts**

- 80.1 Copies of the following documents must be sent to everyone who the Articles or the Acts or any other regulations or arrangements which bind Railway Safety, require Railway Safety to send them to:
  - (A) every annual accounts to be laid before Railway Safety 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.

- 80.2 Railway Safety will be treated as having satisfied its requirements under Article 80.1 if it sends the member a summary financial statement (where the Acts allow). The summary financial statement must comply with the Acts. Any member who receives a summary financial statement, and has not been sent copies of the documents listed in Article 80.1, is entitled to receive, free of charge, a copy of those documents if they apply to Railway Safety at the Registered Office.

## **AUDITORS**

### **81. The duties of auditors**

The appointment and duties of Railway Safety's Auditors will be governed by the Companies Act. Railway Safety'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**

### **82. Serving and delivering notices on members**

- 82.1 Any notice or other document can be served or delivered by Railway Safety on or to a member:

- (A) personally;
- (B) by posting it (with the postage paid) to the address given for the member in the Register; or
- (C) by leaving it at the address given for the member in the Register addressed to that address.

- 82.2 If a notice or other document is to be given to joint members, it will be enough to serve or deliver the notice or other document to only one of the joint members. This will be treated as having been given to all of the joint members.

### **83. Notice to members outside the United Kingdom**

Any member whose address on the Register is outside the United Kingdom can give to Railway Safety 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 Railway Safety.

### **84. When notices are treated as being served**

- 84.1 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.

- 84.2 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.

**85. Serving notices on members who have died or are bankrupt**

This Article applies to a member who has died, or become bankrupt, and who is still registered as a member. If any notice or other document is delivered, sent by post to or left at the registered address of a member in accordance with the Articles, this will be valid despite his death or bankruptcy, or other events occurring. This applies even if Railway Safety 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 every such member including joint members. It will not be valid, however, if at the time that the notice or document was served or delivered to the member, his name had been removed from the Register as a member.

**86. Giving notice by advertisement**

If Railway Safety 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 member entitled to receive it by noon on the day that the newspaper advertisement appears. If it is then practical, Railway Safety must send copies of the notice by post at least seven days before the meeting to members' addresses in the United Kingdom.

**87. Giving notice to Railway Safety**

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

- 87.1 sending it to the Registered Office by letter, with postage paid, addressed to Railway Safety, or the Railway Safety officer; or
- 87.2 leaving it at or delivering it to the Registered Office addressed to Railway Safety, or the Railway Safety officer.

**88. Sending notices using details on the Register**

If Railway Safety sends out notices or other documents to members, 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 member, even if the details on the Register change after this time. Railway Safety is under no obligation to resend the notice or document to any person entered on the Register.

**89. 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**

**90. Railway Safety can destroy documents**

90.1 Railway Safety can destroy:

- (A) any notifications of a change of name or address, after two years from the date these were recorded by Railway Safety; and
- (B) any documents which were the basis for making an entry in the Register, after six years from the date of registration.

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

90.3 However:

- (A) the provisions of Article 90 will only apply to documents which are destroyed in good faith, and will not apply if Railway Safety has received express notice that the documents may be relevant to a claim;
- (B) Article 90 should not be read as making Railway Safety liable for destroying a document earlier than the time referred to in Article 90; and
- (C) this Article applies equally whether a document is destroyed or disposed of in some other way.

### **WINDING UP**

**91. The Board can present a petition**

Subject to Article 95, the Board can on behalf of Railway Safety and in Railway Safety's name present a petition to a court for Railway Safety to be wound up.

**92. Distribution of assets on a winding up or dissolution**

- 92.1 If upon the *winding-up* or dissolution of Railway Safety there remains, after the satisfaction of all its debts and *liabilities*, any property whatsoever, the same shall not be paid to or distributed among the members of Railway Safety, but shall be given or transferred to some other institution or institutions having objects similar to the objects of Railway Safety, and which shall prohibit the distribution of its or their income and property to an extent at least as great as is imposed on Railway Safety under or by virtue of the Memorandum of Association of Railway Safety, such institution or institutions to be determined by the members of Railway Safety at or before the time of dissolution, and if and so far as effect cannot be given to such provision, then to some charitable object.
- 92.2 The liquidator can make any provision which is referred to in and sanctioned in accordance with the Acts.
- 92.3 The liquidation of Railway Safety can then be completed and it can then be dissolved.

### **INDEMNITY**

**93. Officers have a right to an indemnity**

Every Director, alternate director, Secretary and all other Railway Safety officers are entitled to require Railway Safety 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 Railway Safety.

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.

## **MEMBERS DECISIONS**

### **94. Resolutions in writing**

A resolution of the members 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 member 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 member.

### **95. Matters which require the approval of the Majority Member.**

- 95.1 The Directors cannot use the powers listed in Article 95.2 unless the Majority Member authorises or requires them to do so. The Majority Member can give that authority by an ordinary resolution passed at a general meeting of Railway Safety or under Article 94 or by a document signed (or made effective) by or on behalf of the Majority Member.
- 95.2 The Majority Member'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 28 to appoint Directors;
  - (B) the powers contained in Article 31 relating to job titles which include the word "director";
  - (C) the powers contained in Articles 32.2, 32.6, 32.7, 32.8 and 32.9 relating to vacation of the position of Director;
  - (D) the powers contained in Articles 33.1 and 33.2 in relation to Directors' fees;
  - (E) the powers contained in Article 34.2 relating to the increase of Directors' fees;
  - (F) the powers contained in Article 35 in relation to insurance;
  - (G) the powers contained in Article 36 in relation to Executive Directors;
  - (H) the requirements contained in Article 37 relating to the retirement of Directors by rotation;
  - (I) the powers contained in Article 41 relating to the power to appoint and remove alternate directors;
  - (J) the powers contained in Article 45.1 to fix the period of time and terms that a Director can hold any other position in Railway Safety as well as his position of

Director, and the powers under that Article to pay extra fees in respect of those other positions;

- (K) the power contained in Article 53 relating to setting up local or divisional boards or agencies.
- (L) the powers contained in Article 56 in relation to employees;
- (M) the powers contained in Article 59 relating to pensions and other allowances;
- (N) the powers contained in Articles 60 relating to borrowing, such that the aggregate principal amount outstanding at any one time by members of Railway Safety and its subsidiaries (excluding amounts borrowed by Railway Safety and its subsidiaries from each other or a holding company of Railway Safety and such holding company's subsidiaries) shall not exceed such limit as is from time to time specified by Majority Member's permission;
- (O) the powers contained in Article 66 relating to appointment of Chairman and Deputy Chairman.
- (P) the powers contained in Article 67 relating to delegating powers to committees, other than the ones contemplated in Article 67.1.
- (Q) the powers contained in Article 72 relating to the appointment and removal of the Secretary;
- (R) the powers contained in Article 91 in relation to a winding up petition.

The Majority Member can add to the list of powers which require the Majority Member's permission by giving written notice to Railway Safety signed (or made effective) by or on behalf of the Majority Member.

95.3 The Majority Member can limit, waive or suspend some or all of the requirements of Article 95.2. This can be done by giving written notice to Railway Safety signed (or made effective) by or on behalf of the Majority Member.

95.4 Any person dealing with Railway Safety:-

- (A) does not have to seek confirmation that the Majority Member'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 Railway Safety 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.

95.5 Subject to the provisions of the Act Railway Safety may keep an overseas or local or other register in any place and the directors may make and vary such regulations as they may think fit in respect of the keeping of any such register.

95.6 Unless a members' Decision permits in relation to a particular case or a particular class of case, the Directors shall exercise all powers of Railway Safety and exercise all powers of control exercisable by Railway Safety in relation to its subsidiary undertakings so as to secure (as regards such subsidiary undertakings so far as by such exercise they can secure) compliance with the following conditions:



- (A) There shall be no material change in the nature of the business carried on by Railway Safety and its subsidiaries;
- (B) No member of Railway Safety and its subsidiary undertakings shall *issue* any securities or grant any right to subscribe for any such securities other than pursuant to:-
  - (i) A direction given under Section 98 or Section 106 of the Railways Act; or
  - (ii) An application made by a member of Railway Safety or any member of Railway Safety or its subsidiary undertakings;
- (C) Other than pursuant to a scheme made or a direction given pursuant to Part II of the Railways Act, no member of Railway Safety or its subsidiary undertakings shall acquire or dispose of securities or a right to acquire securities of any body corporate except from or to other members of Railway Safety and its subsidiaries;
- (D) No share shall be sold in the exercise of any subsidiary undertaking's liens and no call shall be made on or right of forfeiture exercised over any subsidiary undertaking's share; and
- (E) No alteration shall be made to the memoranda and articles of association of any member of Railway Safety and its subsidiary undertakings.

95.7 For the purposes of this Article:-

- (A) "securities" means shares and debentures and any right to subscribe for or to convert securities into shares or debentures; and
- (B) "subsidiary undertaking" has the same meaning as in the Companies Act 1989.

## Glossary

### About the glossary

This glossary is to help readers understand Railway Safety's Articles of Association. Words are explained as they are used in the Articles - they might mean different things in other documents. The glossary is not legally part of the Articles and the definitions are intended to be a general guide - they are not precise. Words which are printed in bold in a definition have their own definition in the glossary.

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**adjourn** A meeting adjourns when it breaks, to be continued at a later time or day, at the same or a different place.

**asset** Anything which is of any value to its owner.

**attorney** An attorney is a person who has been appointed to act for another person. The person is appointed by a formal document, called a power of attorney.

**authenticate** A document is authenticated if it is shown to be genuine, valid or true or if the identity of the author of the document is established.

**bills of exchange** A form of *negotiable instrument* - an unconditional order in writing, addressed by one person to another, signed by the person giving it. The order requires the person to whom it is addressed to pay on demand or on a future date an amount of money and to pay it to, or to the order of, a specified person, or to the bearer of the bill.

**charge** See lien and charge.

**composition** An agreement between somebody who owes money ("a debtor") and the people who he owes money to (his "creditors"), which releases the debtor from his debts in exchange for him paying a proportion of what he owes.

**co-opt** Where a person is elected to a committee or other body by the votes of its existing members he is said to be "co-opted".

**corporate representative** If a company owns shares, it can appoint a corporate representative to attend a shareholders' meeting to speak and vote for the company.

**debenture** A typical debenture is a formal document recording a long-term loan borrowed by a company. The loan usually has to be repaid at a fixed date in the future, and carries a fixed rate of interest.

**drafts** An order for the payment of money, such as a cheque.

**equity securities** For section 89 of the Companies Act, this means all the shares of a company except:

- shares which only have a limited right to share in income or assets;
- shares held as a result of share schemes for employees (such as profit sharing schemes);
- some shares held by the founders of the company; and
- bonus shares issued when the company capitalises reserves.

Also included are securities which can be converted into such shares, or which allow their holder to subscribe for such shares.

**equity share capital** The issued share capital of a company, not including share capital which does not have the right to take part in a distribution of profits or assets beyond a specified amount. The term is defined in the Companies Act 1985.

**executed** A document is executed when it is signed, or sealed or made effective in any other way.

**exercise** When a power is exercised, it is put to use.

**extraordinary resolution** The Companies Act requires that certain things can or must be done by or with the approval of an extraordinary resolution of the members. For example an extraordinary resolution is required in connection with certain aspects of winding up. A resolution is an extraordinary resolution when it has been passed by at least 75% of the members who are entitled to vote on it (or their proxies if proxy voting is allowed) and the notice of the meeting at which the resolution is proposed must have stated that it was intended to propose the resolution as an extraordinary resolution. There is no particular connection between an extraordinary resolution and an extraordinary general meeting - an extraordinary resolution can be passed at either an extraordinary general meeting or at the annual general meeting.

**holding company** A company which controls another company (for example, by owning a majority of its shares) is called the holding company of that other company. The other company is the subsidiary of the holding company. The term "parent company" normally has the same meaning as holding company.

**indemnity** If a person gives another person an indemnity, he promises to make good any losses or damage which the other might suffer. The person who gives the indemnity is said to indemnify the other person.

**instruments** Formal legal documents.

**issue** When a share has been issued, everything has been done to make the shareholder the owner of the share. In particular, the shareholder's name has been put on the register of shareholders. Existing shares which have been issued are "in issue".

**liabilities** Something which obliges a person to transfer something of value to another person. Examples are borrowings and obligations to pay for goods and services.

**negotiable instrument** A document which can be transferred by mere delivery and which can be sued upon by the person who holds the document even if there are defects in the rights of ownership of the person who transferred the document. Examples of negotiable instruments include cheques, promissory notes and bills of exchange.

**ordinary resolution** A decision reached by a simple majority of votes - that is by more than 50% of the votes cast.

**power of attorney** A formal document which legally appoints one or more persons to act on behalf of another person.

**promissory note** An unconditional promise in writing, signed by the person making the promise, which states that a certain amount is to be paid on demand to the order of another person or to the bearer, or that it will be paid at some future time.

**proxy** A proxy is a person who is appointed by a member to attend a meeting and vote for that member. A proxy is appointed by using a proxy form. A proxy does not have to be a member. A proxy can only vote on a poll, and not on a show of hands.

**proxy form** A form which a member uses to appoint a proxy to attend a meeting, and vote for him. The proxy form must be delivered to Railway Safety before the meeting it relates to.

**quorum** The minimum number of people entitled to attend and vote who must be present before a meeting can start. When this number is reached, the meeting is said to be "quorate".

**re-enactment** Where an Act of Parliament or a section from it is included in another Act of Parliament it is "re-enacted".

**retire by rotation** At every annual general meeting, a proportion of the Directors retires in turn. This gives the members the chance to confirm their appointments by voting on whether to re-elect them.

**revoke** To withdraw, or cancel.

**securities** Financial investments, such as shares, bonds and debentures.

**special resolution** A decision reached by a majority of at least 75% of votes cast. Members must be given at least 21 days' notice of any special resolution.

**subject to** Means that something else has priority, or prevails, or must be taken into account. When a statement is subject to another statement, this means that the first statement must be read in the light of the other statement, which will prevail if there is any conflict.

**subsidiary** A company which is controlled by another company (for example, because the other company owns a majority of its shares) is called a subsidiary of that company.

**subsidiary undertaking** This is a term used by the Companies Act. It is a wider definition than subsidiary. Generally speaking, it is a company which is controlled by another company because the other company:

- has a majority of the votes in the company, either alone, or acting with others;
- is a shareholder who can appoint or remove a majority of the directors; or
- can exercise dominant influence over the company because of anything in the company's memorandum or articles, or because of a certain kind of contract.

**unincorporated associations** Associations, partnerships, societies and other bodies which the law does not treat as a separate legal person to their members.

**winding-up** The formal process to put an end to a company. When a company is wound up, its assets are distributed. The assets go first to creditors who have supplied property and services, and then to members.



**BLUEPRINT**  
Company Secretary

Please complete in typescript,  
or in bold black capitals

CHFP055

Company Number 3937795

Company Name in full Railway Safety & Standards

# 287

## Change in situation or address of Registered Office

### New situation of registered office

#### NOTE:

The change in the situation of the registered office does not take effect until the Registrar has registered this notice.

For 14 days beginning with the date that a change of registered office is registered, a person may validly serve any document on the company at its previous registered office.

PO Box numbers only are not acceptable.

Address Railtrack House

Euston Square

Post town London

County / Region

Postcode NW1 2EE

Signed

Date

21/12/00

† Please delete as appropriate.

† a director / secretary / administrator / administrative receiver / liquidator / receiver manager / receiver

Please give the name, address, telephone number and, if available, a DX number and Exchange of the person Companies House should contact if there is any query

Lindsay Crawford  
Assistant Secretary  
Railtrack PLC  
Railtrack House  
Euston Square  
London NW1 2EE

Companies House receipt date barcode

When you have completed and signed the form please send it to the Registrar of Companies at:

**Companies House, Crown Way, Cardiff, CF14 3UZ DX 33050 Cardiff**  
for companies registered in England and Wales or

**Companies House, 37 Castle Terrace, Edinburgh, EH1 2EB**  
for companies registered in Scotland **DX 235 Edinburgh**