

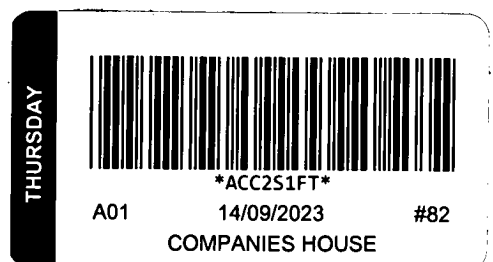
**COMPANIES ACT 2006  
COMPANY LIMITED BY GUARANTEE**

**MEMORANDUM AND ARTICLES  
OF ASSOCIATION  
-OF-  
BADGER TRUST**

**DATE OF INCORPORATION: 23 MAY 2005  
COMPANY NUMBER: 05460677  
CHARITY NUMBER: 1111440**

**BRABNERS LLP  
HORTON HOUSE  
EXCHANGE FLAGS  
LIVERPOOL  
L2 3YL**

**REF: GDH/ITR/101743.1  
TEL: 0151 600 3000**



COMPANIES ACT 2006  
COMPANY LIMITED BY GUARANTEE

MEMORANDUM OF ASSOCIATION

-OF-

BADGER TRUST

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Each subscriber to this Memorandum of Association wishes to form a company under the Companies Act 2006 and agrees to become a member of the company

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*Name of each subscriber*

*Authentication by subscriber*

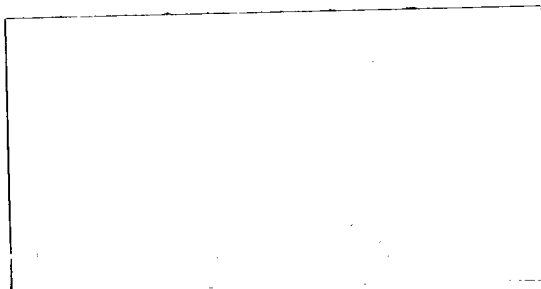
Dr Pamela Wynne Mynott

Mr Steven Philip Jackson

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**Dated:** 23 May 2005

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**COMPANIES ACT 2006  
COMPANY LIMITED BY GUARANTEE**

**ARTICLES OF ASSOCIATION**

**-OF-**

**BADGER TRUST**

**1. Objects**

- 1.1 The Charity's objects ("the Objects") are to promote and enhance the welfare, conservation and protection of badgers, their setts and habitats, for the public benefit.
- 1.2 This provision may be amended by special resolution but only with the prior written consent of the Commission.

**2. Powers**

The Charity has the following powers, which may be exercised only in promoting the Objects:

- 2.1 to provide advice or information;
- 2.2 to carry out research;
- 2.3 to co-operate with other bodies;
- 2.4 to engage in political activity (including campaigning activities and advocacy) provided that the Trustees are satisfied that the proposed activities will further the Objects to an extent justified by the resources committed and the activity is not the dominant means by which the Charity carries out the Objects;
- 2.5 to support, administer or set up other charities;
- 2.6 to accept gifts and to raise funds (but not by means of taxable trading);
- 2.7 to borrow money;
- 2.8 to give security for loans or other obligations (but only in accordance with the restrictions imposed by the Charities Act);
- 2.9 to acquire or hire property of any kind;
- 2.10 to let or dispose of property of any kind (but only in accordance with the restrictions imposed by the Charities Act);
- 2.11 to set aside funds for special purposes or as reserves against future expenditure;
- 2.12 to deposit or invest its funds in any manner (but to invest only after obtaining such advice from a suitably qualified person as the Trustees consider necessary and having regard to the suitability of investments and the need for diversification);
- 2.13 to delegate the management of investments to a suitably qualified person, but only on terms that:
  - 2.13.1 the investment policy is set down in writing by the Trustees;

- 2.13.2 timely reports of all transactions are provided to the Trustees;
  - 2.13.3 the performance of the investments is reviewed regularly with the Trustees;
  - 2.13.4 the Trustees are entitled to cancel the delegation arrangement at any time;
  - 2.13.5 the investment policy and the delegation arrangement are reviewed at least once a year;
  - 2.13.6 all payments due to the suitably qualified person are on a scale or at a level which is agreed in advance and are notified promptly to the Trustees on receipt; and
  - 2.13.7 the suitably qualified person must not do anything outside the powers of the Charity;
- 2.14 to arrange for investments or other property of the Charity to be held in the name of a nominee company acting under the direction of the Trustees or controlled by a financial expert acting under their instructions, and to pay any reasonable fee required;
  - 2.15 to deposit documents and physical assets with any company registered or having a place of business in England or Wales as custodian, and to pay any reasonable fee required;
  - 2.16 to insure the property of the Charity against any foreseeable risk and take out other insurance policies to protect the Charity when required;
  - 2.17 subject to Article 6.3, to employ paid or unpaid agents, staff or advisers;
  - 2.18 to enter into contracts to provide services to or on behalf of other bodies;
  - 2.19 to establish or acquire subsidiary companies;
  - 2.20 to do anything else within the law which promotes or helps to promote the Objects.

### **3. The Trustees**

- 3.1 The Trustees as charity trustees have control of the Charity and its property and funds.
- 3.2 Trustees are appointed by the Members for a term of up to three years or co-opted by the Trustees in accordance with Article 3.7.
- 3.3 The Trustees when complete consist of at least three and not more than twelve individuals.
- 3.4 A Trustee may not act as a Trustee unless he / she:
  - 3.4.1 is over the age of 18 years;
  - 3.4.2 has signed a written declaration confirming: (i) his or her willingness to act as a charity trustee of the Charity and to act only in the best interests of the Charity; (ii) any conflicts of interest or loyalty; (iii) his or her eligibility to act as a charity trustee of the Charity; and (iv) that he or she will at all times comply with any rules, bye laws, policies and / or codes of conduct implemented from time to time by the Charity; and
  - 3.4.3 has provided to the Charity such information as is reasonably required by the Trustees such as his or her former names (if any), previous associations and any spent or unspent criminal convictions.
- 3.5 A retiring Trustee, or a Trustee whose term of office has come to an end, who is eligible may be re-appointed provided that no Trustee may hold office as such for more than four consecutive terms of office unless authorised to do so by a resolution passed by a majority of two thirds of the Trustees in accordance with any rules or bye laws established by the Trustees in relation to such re-appointments.

- 3.6 A Trustee's term of office as such automatically terminates if he / she:
- 3.6.1 is disqualified under the Charities Act from acting as a charity trustee;
  - 3.6.2 is incapable, whether mentally or physically, of managing his / her own affairs;
  - 3.6.3 is absent without permission from three consecutive meetings of the Trustees and is asked by a majority of the other Trustees to resign;
  - 3.6.4 resigns by written notice to the Trustees (but only if at least three Trustees will remain in office);
  - 3.6.5 is removed by resolution passed by the Trustees present and voting at a meeting of the Trustees on the basis that it is in the best interests of the Charity for the Trustee concerned to be removed but only after the meeting has invited the written views of the Trustee concerned and considered the matter in the light of any such views; or
  - 3.6.6 is removed by the Members at a general meeting under the Companies Act.
- 3.7 The Trustees may at any time co-opt any individual who is eligible as a Trustee to fill a vacancy in their number or (subject to the maximum number permitted by these Articles) as an additional Trustee, but a co-opted Trustee holds office only until the next AGM.
- 3.8 The Trustees may act notwithstanding any vacancy in their number provided always that if the number of Trustees shall at any time be less than the minimum number set out in these Articles, it shall be lawful for the continuing Trustees to act for the purpose of filling vacancies or of calling a general meeting but not for any other purpose.
- 3.9 A technical defect in the appointment of a Trustee of which the Trustees are unaware at the time does not invalidate decisions taken at a meeting.
- 4. Trustees' proceedings**
- 4.1 The Trustees must hold at least three meetings each year.
- 4.2 A quorum at a meeting of the Trustees is at least three or one third of the Trustees in office, whichever is the greater.
- 4.3 Subject to article 4.4, a meeting of the Trustees may be held in such a way as may be agreed by the Trustees, provided all participants may Communicate with all the other participants simultaneously. This may include:
- 4.3.1 physical meetings where all participants are present in the same room;
  - 4.3.2 virtual meetings where all participants access the meeting Virtually;
  - 4.3.3 hybrid meetings where some participants attend physically and some attend Virtually;
  - 4.3.4 satellite meetings where there are two or more physical venues linked Virtually and all participants are physically with at least one other participant.
- 4.4 In deciding how to conduct their meetings, the Trustees must have regard to the impact their choice of venue or virtual platform has on how accessible their meeting is to all potential participants. The trustees must hold at least one meeting each year in person.
- 4.5 Where a Trustees' meeting is being held Virtually (whether fully Virtually or partly Virtually) and there is a failure in the technology such that one or more participants is unable to Communicate with the other participants, those participants who are still

able to participate fully must check whether the meeting is still quorate. If the meeting is not quorate, or it is unclear whether the meeting is quorate, and the ability for all participants to Communicate is not re-established within 10 minutes, the Trustees must adjourn the meeting. If the meeting is still quorate, the Trustees may either continue the meeting or adjourn it.

- 4.6 The Chair or (if the Chair is unable or unwilling to do so) the Vice Chair or (if the Vice Chair is unable or unwilling to do so) some other Trustee chosen by the Trustees present presides at each meeting.
- 4.7 Any issue may be determined by a simple majority of the votes cast at a meeting, but a resolution in writing agreed by all the Trustees entitled to receive notice of a meeting (other than any Conflicted Trustee who has not been authorised to vote) is as valid as a resolution passed at a meeting. For this purpose the resolution may be contained in more than one document.
- 4.8 Every Trustee has one vote on each issue but, in case of equality of votes, the chair of the meeting has a second or casting vote.
- 4.9 A procedural defect of which the Trustees are unaware at the time does not invalidate decisions taken at a meeting.

## **5. Trustees' powers**

The Trustees have the following powers in the administration of the Charity in their capacity as Trustees:

- 5.1 To appoint (and remove) any person (who may be a Trustee) to act as Secretary in accordance with the Companies Act.
- 5.2 To appoint (and remove) a Chair, a Vice Chair, a Treasurer and other honorary officers from among their number.
- 5.3 To delegate any of their functions to committees consisting of two or more individuals appointed by them. At least one member of every committee must be a Trustee and all proceedings of committees must be reported promptly to the Trustees.
- 5.4 To delegate any of their functions to a chief executive officer and / or senior management team provided that any such delegation is formalised with terms of reference setting out the extent of a delegate's authority.
- 5.5 To make rules or bye laws consistent with the Memorandum, the Articles and the Companies Act to govern (without limitation):
  - 5.5.1 any process relating to the nomination and appointment of Trustees;
  - 5.5.2 any disciplinary procedures relating to the Trustees, including setting out a framework for the temporary suspension of a Trustee in prescribed circumstances;
  - 5.5.3 any process relating to the removal of Trustees;
  - 5.5.4 proceedings of the Trustees and proceedings of committees;
  - 5.5.5 the administration of the Charity;
  - 5.5.6 any process relating to the admission and removal of Members;
  - 5.5.7 proceedings at general meetings;
  - 5.5.8 the appointment, term of office and removal of any honorary officer;
  - 5.5.9 any procedures for the resolution of disputes or differences within the Charity.
- 5.6 To establish a code or codes of conduct setting out standards of conduct required of Trustees, Members, employees, volunteers and others involved in the Charity.
- 5.7 To exercise any powers of the Charity which are not reserved to the Members.

## **6. Benefits and Conflicts**

- 6.1 The property and funds of the Charity must be used only for promoting the Objects and do not belong to the Members but:
- 6.1.1 Members, Trustees and Connected Persons may be paid interest at a reasonable and proper rate which must not be more than the Bank of England base rate on money lent to the Charity;
  - 6.1.2 Members, Trustees and Connected Persons may be paid a reasonable rent or hiring fee for property let or hired to the Charity; and
  - 6.1.3 Members, Trustees and Connected Persons may receive charitable benefits on the same terms as any other members of the beneficial class.
- 6.2 A Trustee must not receive any payment of money or other material benefit (whether directly or indirectly) from the Charity except:
- 6.2.1 as mentioned in Articles 6.1 or 6.3;
  - 6.2.2 reimbursement of reasonable out-of-pocket expenses (including hotel and travel costs) actually incurred in running the Charity;
  - 6.2.3 the benefit of indemnity insurance as permitted by the Charities Act;
  - 6.2.4 an indemnity in respect of any liabilities properly incurred in running the Charity (including the costs of a successful defence to criminal proceedings);
  - 6.2.5 in exceptional cases, other payments or benefits (but only with the written consent of the Commission in advance and where required by the Companies Act the approval or affirmation of the Members).
- 6.3 No Trustee or Connected Person may be employed by the Charity except in accordance with Article 6.2.5, but any Trustee or Connected Person may enter into a written contract with the Charity, as permitted by the Charities Act, to supply goods or services in return for a payment or other material benefit but only if:
- 6.3.1 the goods or services are actually required by the Charity, and the Trustees decide that it is in the best interests of the Charity to enter into such a contract;
  - 6.3.2 the nature and level of the remuneration is no more than is reasonable in relation to the value of the goods or services and is set in accordance with the procedure in Article 6.4; and
  - 6.3.3 fewer than half of the Trustees are subject to such a contract in any financial year.
- 6.4 Any Trustee who becomes a Conflicted Trustee in relation to any matter must:
- 6.4.1 declare the nature and extent of his or her interest before discussion begins on the matter;
  - 6.4.2 withdraw from the meeting for that item after providing any information requested by the Trustees;
  - 6.4.3 not be counted in the quorum for that part of the meeting; and
  - 6.4.4 be absent during the vote and have no vote on the matter.
- 6.5 This provision may be amended by special resolution but, where the result would be to permit any material benefit to a Trustee or Connected Person, only with the prior written consent of the Commission.

## **7. Records and Accounts**

- 7.1 The Trustees must comply with the requirements of the Companies Act and of the Charities Act as to keeping records, the audit or independent examination of accounts and the preparation and transmission to the Registrar of Companies and the Commission of information required by law including:

- 7.1.1 annual returns;
  - 7.1.2 annual reports; and
  - 7.1.3 annual statements of account.
- 7.2 The Trustees must also keep records of:
  - 7.2.1 all proceedings at meetings of the Trustees;
  - 7.2.2 all resolutions in writing;
  - 7.2.3 all reports of committees; and
  - 7.2.4 all professional advice obtained.
- 7.3 Accounting records relating to the Charity must be made available for inspection by any Trustee at any time during normal office hours and may be made available for inspection by Members who are not Trustees if the Trustees so decide.
- 7.4 A copy of the Charity's constitution and latest available statement of account must be supplied on request to any Trustee. Copies of the latest accounts must also be supplied in accordance with the Charities Act to any other person who makes a written request and pays the Charity's reasonable costs.
- 8. Membership**
- 8.1 The Charity must maintain a Register of Members.
- 8.2 Membership is open to any Group interested in furthering the Objects and whose admission to Membership is approved by the Trustees.
- 8.3 It is the duty of each Member to exercise their powers as a Member in the way they decide in good faith would be most likely to further the purposes of the Charity.
- 8.4 The form and the procedure for applying for Membership is to be prescribed by the Trustees.
- 8.5 Membership is not transferable.
- 8.6 Membership of the Charity shall automatically terminate if the Member:
  - 8.6.1 ceases to exist;
  - 8.6.2 resigns by written notice to the Charity or by verbal notice to the Chair at a general meeting;
  - 8.6.3 has failed to pay any sum due from the Member to Charity in full within six months or the amount falling due; and
  - 8.6.4 is removed from Membership by a resolution passed by the Trustees present and voting at a meeting of the Trustees on the basis that it is in the best interests of the Charity for the Member concerned to be removed but only after the meeting has invited the written views of the Member concerned and considered the matter in the light of any such views.
- 8.7 The following provisions apply to any Group that is a Member:
  - 8.7.1 a Group may nominate any individual to act as its representative ("authorised representative") at any general meeting of the Charity
  - 8.7.2 the Group must give notice in writing to the Charity of the name of its authorised representative. The authorised representative will not be entitled to represent the Group at any meeting of the Charity unless such notice has been received by the Charity. The authorised representative may continue to represent the Group until notice in writing is received by the Charity to the contrary;
  - 8.7.3 an individual appointed by a Group to act as its authorised representative is



entitled to exercise (on behalf of the Group) the same powers as the Group could exercise if it were an individual member;

8.7.4 on a vote on a resolution at a meeting of the Charity, the authorised representative has the same voting rights as the Group would be entitled to if it was an individual Member present in person at the meeting.

8.8 The Trustees may recognise one or more classes of supporters or members who are not Members (but who may nevertheless be termed 'members') and set out their respective rights and obligations in rules or bye laws.

## **9. General Meetings**

9.1 General meetings, including the AGM, may be held physically, Virtually or as hybrid meetings. The provisions of Articles 9 and 10 should be construed accordingly, but for the avoidance of doubt:

9.1.1 a Member is entitled to attend, speak and vote at general meetings in accordance with Article 9.2 Virtually;

9.1.2 a Member attending a general meeting Virtually will count for the purposes of the quorum; and

9.1.3 a vote on a show of hands or poll in accordance with Article 10.3 shall include the votes of all Members voting at a general meeting Virtually and the Trustees shall be obliged to ensure that Members attending Virtually shall be able to vote.

Where a general meeting is being held Virtually or as a hybrid meeting and there is a failure in the technology such that one or more participants is unable to Communicate with the other participants, those participants who are still able to participate fully must check whether the meeting is still quorate. If the meeting is not quorate, or it is unclear whether the meeting is quorate, and the ability for all participants to Communicate is not re-established within 10 minutes, the chair must adjourn the meeting. If the meeting is still quorate, the chair of the meeting may either continue the meeting or adjourn it.

9.2 Members are entitled to attend, speak and vote at general meetings in person, by proxy or, in the case of a Group, by way of an authorised representative.

9.3 General meetings are called on at least 14 clear days' written notice indicating the business to be discussed and (if a special resolution is to be proposed) setting out the terms of the proposed special resolution.

9.4 There is a quorum at a general meeting if the number of Members present in person or by proxy is at least 10 Members entitled to vote upon the business conducted at the meeting or by proxy or 10% of the total number of Members of the Charity at the time, whichever is the greater.

9.5 The Chair or (if the Chair is unable or unwilling to do so) the Vice Chair or (if the Vice Chair is unable or unwilling to do so) some other Trustee chosen by the Members present presides at each meeting.

9.6 The Charity must hold an AGM in every year. Members must annually at the AGM:

9.6.1 receive the accounts of the Charity for the previous financial year;

9.6.2 receive a written report on the Charity's activities;

9.6.3 be informed of the retirement of those Trustees who wish to retire or whose terms of office have come to an end;

9.6.4 decide upon the appointment of Trustees co-opted during the year whose term of office as a co-opted Trustee has come to an end at the AGM;

9.6.5 appoint Trustees to fill the vacancies arising;

9.6.6 appoint reporting accountants or auditors for the Charity.

9.7 A general meeting may be called by the Trustees at any time and must be called within 21 days of a written request from at least 10% of the Membership or (where no general meeting has been held within the last year) at least 5% of the Membership.

9.8 A technical defect in the appointment of a Member of which the Members are unaware at the time does not invalidate a decision taken at a general meeting or a written resolution.

## **10. Voting at general meetings**

10.1 Except where otherwise provided by the Articles or the Companies Act, every issue is decided by ordinary resolution.

10.2 A vote on a resolution proposed at a meeting shall be decided by a show of hands unless before, or on the declaration of the result of, the show of hands a poll is demanded.

10.3 On a show of hands or on a poll, every Member shall have one vote.

10.4 Any objection to the qualification of any voter must be raised at the meeting or adjourned meeting at which the vote objected to is tendered and every vote not disallowed at the meeting shall be valid. Any such objection must be referred to the chair of the meeting whose decision is final.

10.5 Unless a poll is demanded, the declaration of the chair of the meeting of the result of the vote and an entry to that effect in the minutes of the meeting shall be conclusive evidence of the fact and the number or proportion of votes cast in favour or against need not be recorded.

## **11. Limited Liability**

The liability of Members is limited.

## **12. Guarantee**

Every Member undertakes to contribute such amount as may be required (not exceeding £10.00) to the Charity's assets if it should be wound up while he or she is a Member or within one year after he or she ceases to be a Member, for payment of the Charity's debts and liabilities contracted before he or she ceases to be a Member, and of the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves.

## **13. Communications**

13.1 Notices and other documents to be served on Members or Trustees under the Articles or the Companies Act may be served:

- 13.1.1 by hand;
- 13.1.2 by post; or
- 13.1.3 by suitable electronic means.

13.2 The only address at which a Member is entitled to receive notices sent by post is an address in the UK shown in the Register of Members.

13.3 Any notice given in accordance with these Articles is to be treated for all purposes as having been received:

- 13.3.1 24 hours after being sent by electronic means or delivered by hand to the relevant address;

- 13.3.2 two clear days after being sent by first class post to that address;
- 13.3.3 three clear days after being sent by second class or overseas post to that address;
- 13.3.4 immediately on being handed to the recipient personally; or, if earlier,
- 13.3.5 as soon as the recipient acknowledges actual receipt.

- 13.4 A technical defect in service of which the Trustees are unaware at the time does not invalidate decisions taken at a meeting.

#### **14. Dissolution**

- 14.1 If the Charity is wound up or dissolved and after all its debts and liabilities have been satisfied there remains any property it shall not be paid to or distributed among the Members, but shall be given or transferred to some other charity or charities having objects similar to the Objects which prohibits the distribution of its or their income and property to an extent at least as great as is imposed on the Charity by Article 6 above, chosen by the Members at or before the time of dissolution and if that cannot be done then to some other charitable object.

Nothing in this Memorandum and Articles shall authorise an application of the property of the Charity for purposes which are not charitable in accordance with section 7 of the Charities and Trustee Investment (Scotland) Act 2005.

#### **15. Interpretation**

- 15.1 The Articles are to be interpreted without reference to the model articles under the Companies Act, which do not apply to the Charity.

- 15.2 In the Articles, unless the context indicates another meaning:

'AGM' means an annual general meeting of the Charity;

'the Articles' means the Charity's Articles of Association and 'Article' refers to a particular Article;

'Chair' means the chair of the Trustees;

'the Charity' means the company governed by the Articles;

'the Charities Act' means the Charities Acts 1992 to 2016;

'charity trustee' has the meaning prescribed by the Charities Act;

'clear day' does not include the day on which notice is given or the day of the meeting or other event;

'the Commission' means the Charity Commission for England and Wales or any body which replaces it;

'Communicate' includes both incoming and outgoing communication;

'the Companies Act' means the Companies Act 2006;

'Conflicted Trustee' means a Trustee in respect of whom a conflict of interest arises or may reasonably arise because the Conflicted Trustee or a Connected Person is receiving or stands to receive a benefit (other than payment of a premium for indemnity insurance) from the Charity, or has some separate interest or duty in a matter to be decided, or in relation to information which is confidential to the Charity;

'Connected Person' means, in relation to a Trustee, a person with whom the Trustee shares a common interest such that he/she may reasonably be regarded as benefiting directly or indirectly from any material benefit received by that person, being either a member of the Trustee's family or household or a person or body who is a business associate of the Trustee, and (for the avoidance of doubt) does not include a company with which the Trustee's only connection is an interest consisting of no more than 1% of the voting rights;

'constitution' means the Memorandum and the Articles and any special resolutions relating to them;

'custodian' means a person or body who undertakes safe custody of assets or of documents or records relating to them;

'electronic means' refers to a document or information sent or supplied in electronic form where it is sent or supplied by electronic means (for example by email or fax), or by any other means while in an electronic form (for example sending a disc by post);

'financial year' means the Charity's financial year;

'Group' means either an incorporated body or unincorporated association who have been recognised by the Trustees as forming a group associated with the Charity;

'indemnity insurance' means insurance against personal liability incurred by any Trustee for an act or omission which is or is alleged to be a breach of trust or breach of duty, unless the act or omission amounts to a criminal offence or the Trustee concerned knew that, or was reckless whether, the act or omission was a breach of trust or breach of duty;

'material benefit' means a benefit, direct or indirect, which may not be financial but has a monetary value;

'Member' and 'Membership' refer to membership of the Charity;

'Memorandum' means the Charity's Memorandum of Association;

'month' means calendar month;

'nominee company' means a corporate body registered or having an established place of business in England and Wales which holds title to property for another;

'ordinary resolution' means a resolution agreed by a simple majority of the Members present and voting at a general meeting or in the case of a written resolution by Members who together hold a simple majority of the voting power. Where applicable, 'Members' in this definition means a class of Members;

'the Objects' means the Objects of the Charity as defined in Article 1;

'Resolution in writing' means a written resolution of the Trustees;

'Secretary' means a company secretary;

'special resolution' means a resolution of which at least 14 days' notice has been given agreed by a 75% majority of the Members present and voting at a general meeting or in the case of a written resolution by Members who together hold 75% of the voting power. Where applicable, 'Members' in this definition means a class of Members;

'taxable trading' means carrying on a trade or business in such manner or on such a scale that some or all of the profits are subject to corporation tax;

'Trustee' means a director of the Charity and 'Trustees' means the directors;

'Virtually' means by telephone link, video link, or other technology enabling all participants to Communicate with one another in real time without being physically present in the same place;

'written' or 'in writing' refers to a legible document on paper or a document sent by electronic means which is capable of being printed out on paper;

'written resolution' refers to an ordinary or a special resolution which is in writing;

'year' means calendar year.

- 15.3 Expressions not otherwise defined which are defined in the Companies Act have the same meaning.
- 15.4 References to an Act of Parliament are to that Act as amended or re-enacted from time to time and to any subordinate legislation made under it.

**COMPANIES ACT 2006  
COMPANY LIMITED BY GUARANTEE**

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**MEMORANDUM AND ARTICLES**

**OF ASSOCIATION**

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**BADGER TRUST**

**DATE OF INCORPORATION: 23 MAY 2005  
COMPANY NUMBER: 05460677  
CHARITY NUMBER: 1111440**

**BRABNERS LLP  
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TEL: 0151 600 3000**

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*Name of each subscriber*

*Authentication by subscriber*

Dr Pamela Wynne Mynott

Mr Steven Philip Jackson

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**Dated:** 23 May 2005

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COMPANY LIMITED BY GUARANTEE**

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- 2.13.2 timely reports of all transactions are provided to the Trustees;
- 2.13.3 the performance of the investments is reviewed regularly with the Trustees;
- 2.13.4 the Trustees are entitled to cancel the delegation arrangement at any time;
- 2.13.5 the investment policy and the delegation arrangement are reviewed at least once a year;
- 2.13.6 all payments due to the suitably qualified person are on a scale or at a level which is agreed in advance and are notified promptly to the Trustees on receipt; and
- 2.13.7 the suitably qualified person must not do anything outside the powers of the Charity;
- 2.14 to arrange for investments or other property of the Charity to be held in the name of a nominee company acting under the direction of the Trustees or controlled by a financial expert acting under their instructions, and to pay any reasonable fee required;
- 2.15 to deposit documents and physical assets with any company registered or having a place of business in England or Wales as custodian, and to pay any reasonable fee required;
- 2.16 to insure the property of the Charity against any foreseeable risk and take out other insurance policies to protect the Charity when required;
- 2.17 subject to Article 6.3, to employ paid or unpaid agents, staff or advisers;
- 2.18 to enter into contracts to provide services to or on behalf of other bodies;
- 2.19 to establish or acquire subsidiary companies;
- 2.20 to do anything else within the law which promotes or helps to promote the Objects.

### **3. The Trustees**

- 3.1 The Trustees as charity trustees have control of the Charity and its property and funds.
- 3.2 Trustees are appointed by the Members for a term of up to three years or co-opted by the Trustees in accordance with Article 3.7.
- 3.3 The Trustees when complete consist of at least three and not more than twelve individuals.
- 3.4 A Trustee may not act as a Trustee unless he / she:
  - 3.4.1 is over the age of 18 years;
  - 3.4.2 has signed a written declaration confirming: (i) his or her willingness to act as a charity trustee of the Charity and to act only in the best interests of the Charity; (ii) any conflicts of interest or loyalty; (iii) his or her eligibility to act as a charity trustee of the Charity; and (iv) that he or she will at all times comply with any rules, bye laws, policies and / or codes of conduct implemented from time to time by the Charity; and
  - 3.4.3 has provided to the Charity such information as is reasonably required by the Trustees such as his or her former names (if any), previous associations and any spent or unspent criminal convictions.
- 3.5 A retiring Trustee, or a Trustee whose term of office has come to an end, who is eligible may be re-appointed provided that no Trustee may hold office as such for more than four consecutive terms of office unless authorised to do so by a resolution passed by a majority of two thirds of the Trustees in accordance with any rules or bye laws established by the Trustees in relation to such re-appointments.

- 3.6 A Trustee's term of office as such automatically terminates if he / she:
- 3.6.1 is disqualified under the Charities Act from acting as a charity trustee;
  - 3.6.2 is incapable, whether mentally or physically, of managing his / her own affairs;
  - 3.6.3 is absent without permission from three consecutive meetings of the Trustees and is asked by a majority of the other Trustees to resign;
  - 3.6.4 resigns by written notice to the Trustees (but only if at least three Trustees will remain in office);
  - 3.6.5 is removed by resolution passed by the Trustees present and voting at a meeting of the Trustees on the basis that it is in the best interests of the Charity for the Trustee concerned to be removed but only after the meeting has invited the written views of the Trustee concerned and considered the matter in the light of any such views; or
  - 3.6.6 is removed by the Members at a general meeting under the Companies Act.
- 3.7 The Trustees may at any time co-opt any individual who is eligible as a Trustee to fill a vacancy in their number or (subject to the maximum number permitted by these Articles) as an additional Trustee, but a co-opted Trustee holds office only until the next AGM.
- 3.8 The Trustees may act notwithstanding any vacancy in their number provided always that if the number of Trustees shall at any time be less than the minimum number set out in these Articles, it shall be lawful for the continuing Trustees to act for the purpose of filling vacancies or of calling a general meeting but not for any other purpose.
- 3.9 A technical defect in the appointment of a Trustee of which the Trustees are unaware at the time does not invalidate decisions taken at a meeting.

#### **4. Trustees' proceedings**

- 4.1 The Trustees must hold at least three meetings each year.
- 4.2 A quorum at a meeting of the Trustees is at least three or one third of the Trustees in office, whichever is the greater.
- 4.3 Subject to article 4.4, a meeting of the Trustees may be held in such a way as may be agreed by the Trustees, provided all participants may Communicate with all the other participants simultaneously. This may include:
- 4.3.1 physical meetings where all participants are present in the same room;
  - 4.3.2 virtual meetings where all participants access the meeting Virtually;
  - 4.3.3 hybrid meetings where some participants attend physically and some attend Virtually;
  - 4.3.4 satellite meetings where there are two or more physical venues linked Virtually and all participants are physically with at least one other participant.
- 4.4 In deciding how to conduct their meetings, the Trustees must have regard to the impact their choice of venue or virtual platform has on how accessible their meeting is to all potential participants. The trustees must hold at least one meeting each year in person.
- 4.5 Where a Trustees' meeting is being held Virtually (whether fully Virtually or partly Virtually) and there is a failure in the technology such that one or more participants is unable to Communicate with the other participants, those participants who are still

able to participate fully must check whether the meeting is still quorate. If the meeting is not quorate, or it is unclear whether the meeting is quorate, and the ability for all participants to Communicate is not re-established within 10 minutes, the Trustees must adjourn the meeting. If the meeting is still quorate, the Trustees may either continue the meeting or adjourn it.

- 4.6 The Chair or (if the Chair is unable or unwilling to do so) the Vice Chair or (if the Vice Chair is unable or unwilling to do so) some other Trustee chosen by the Trustees present presides at each meeting.
- 4.7 Any issue may be determined by a simple majority of the votes cast at a meeting, but a resolution in writing agreed by all the Trustees entitled to receive notice of a meeting (other than any Conflicted Trustee who has not been authorised to vote) is as valid as a resolution passed at a meeting. For this purpose the resolution may be contained in more than one document.
- 4.8 Every Trustee has one vote on each issue but, in case of equality of votes, the chair of the meeting has a second or casting vote.
- 4.9 A procedural defect of which the Trustees are unaware at the time does not invalidate decisions taken at a meeting.

## **5. Trustees' powers**

The Trustees have the following powers in the administration of the Charity in their capacity as Trustees:

- 5.1 To appoint (and remove) any person (who may be a Trustee) to act as Secretary in accordance with the Companies Act.
- 5.2 To appoint (and remove) a Chair, a Vice Chair, a Treasurer and other honorary officers from among their number.
- 5.3 To delegate any of their functions to committees consisting of two or more individuals appointed by them. At least one member of every committee must be a Trustee and all proceedings of committees must be reported promptly to the Trustees.
- 5.4 To delegate any of their functions to a chief executive officer and / or senior management team provided that any such delegation is formalised with terms of reference setting out the extent of a delegate's authority.
- 5.5 To make rules or bye laws consistent with the Memorandum, the Articles and the Companies Act to govern (without limitation):
  - 5.5.1 any process relating to the nomination and appointment of Trustees;
  - 5.5.2 any disciplinary procedures relating to the Trustees, including setting out a framework for the temporary suspension of a Trustee in prescribed circumstances;
  - 5.5.3 any process relating to the removal of Trustees;
  - 5.5.4 proceedings of the Trustees and proceedings of committees;
  - 5.5.5 the administration of the Charity;
  - 5.5.6 any process relating to the admission and removal of Members;
  - 5.5.7 proceedings at general meetings;
  - 5.5.8 the appointment, term of office and removal of any honorary officer;
  - 5.5.9 any procedures for the resolution of disputes or differences within the Charity.
- 5.6 To establish a code or codes of conduct setting out standards of conduct required of Trustees, Members, employees, volunteers and others involved in the Charity.
- 5.7 To exercise any powers of the Charity which are not reserved to the Members.

## **6. Benefits and Conflicts**

- 6.1 The property and funds of the Charity must be used only for promoting the Objects and do not belong to the Members but:
- 6.1.1 Members, Trustees and Connected Persons may be paid interest at a reasonable and proper rate which must not be more than the Bank of England base rate on money lent to the Charity;
  - 6.1.2 Members, Trustees and Connected Persons may be paid a reasonable rent or hiring fee for property let or hired to the Charity; and
  - 6.1.3 Members, Trustees and Connected Persons may receive charitable benefits on the same terms as any other members of the beneficial class.
- 6.2 A Trustee must not receive any payment of money or other material benefit (whether directly or indirectly) from the Charity except:
- 6.2.1 as mentioned in Articles 6.1 or 6.3;
  - 6.2.2 reimbursement of reasonable out-of-pocket expenses (including hotel and travel costs) actually incurred in running the Charity;
  - 6.2.3 the benefit of indemnity insurance as permitted by the Charities Act;
  - 6.2.4 an indemnity in respect of any liabilities properly incurred in running the Charity (including the costs of a successful defence to criminal proceedings);
  - 6.2.5 in exceptional cases, other payments or benefits (but only with the written consent of the Commission in advance and where required by the Companies Act the approval or affirmation of the Members).
- 6.3 No Trustee or Connected Person may be employed by the Charity except in accordance with Article 6.2.5, but any Trustee or Connected Person may enter into a written contract with the Charity, as permitted by the Charities Act, to supply goods or services in return for a payment or other material benefit but only if:
- 6.3.1 the goods or services are actually required by the Charity, and the Trustees decide that it is in the best interests of the Charity to enter into such a contract;
  - 6.3.2 the nature and level of the remuneration is no more than is reasonable in relation to the value of the goods or services and is set in accordance with the procedure in Article 6.4; and
  - 6.3.3 fewer than half of the Trustees are subject to such a contract in any financial year.
- 6.4 Any Trustee who becomes a Conflicted Trustee in relation to any matter must:
- 6.4.1 declare the nature and extent of his or her interest before discussion begins on the matter;
  - 6.4.2 withdraw from the meeting for that item after providing any information requested by the Trustees;
  - 6.4.3 not be counted in the quorum for that part of the meeting; and
  - 6.4.4 be absent during the vote and have no vote on the matter.
- 6.5 This provision may be amended by special resolution but, where the result would be to permit any material benefit to a Trustee or Connected Person, only with the prior written consent of the Commission.

## **7. Records and Accounts**

- 7.1 The Trustees must comply with the requirements of the Companies Act and of the Charities Act as to keeping records, the audit or independent examination of accounts and the preparation and transmission to the Registrar of Companies and the Commission of information required by law including:

- 7.1.1 annual returns;
  - 7.1.2 annual reports; and
  - 7.1.3 annual statements of account.
- 7.2 The Trustees must also keep records of:
- 7.2.1 all proceedings at meetings of the Trustees;
  - 7.2.2 all resolutions in writing;
  - 7.2.3 all reports of committees; and
  - 7.2.4 all professional advice obtained.
- 7.3 Accounting records relating to the Charity must be made available for inspection by any Trustee at any time during normal office hours and may be made available for inspection by Members who are not Trustees if the Trustees so decide.
- 7.4 A copy of the Charity's constitution and latest available statement of account must be supplied on request to any Trustee. Copies of the latest accounts must also be supplied in accordance with the Charities Act to any other person who makes a written request and pays the Charity's reasonable costs.
- 8. Membership**
- 8.1 The Charity must maintain a Register of Members.
- 8.2 Membership is open to any Group interested in furthering the Objects and whose admission to Membership is approved by the Trustees.
- 8.3 It is the duty of each Member to exercise their powers as a Member in the way they decide in good faith would be most likely to further the purposes of the Charity.
- 8.4 The form and the procedure for applying for Membership is to be prescribed by the Trustees.
- 8.5 Membership is not transferable.
- 8.6 Membership of the Charity shall automatically terminate if the Member:
- 8.6.1 ceases to exist;
  - 8.6.2 resigns by written notice to the Charity or by verbal notice to the Chair at a general meeting;
  - 8.6.3 has failed to pay any sum due from the Member to Charity in full within six months or the amount falling due; and
  - 8.6.4 is removed from Membership by a resolution passed by the Trustees present and voting at a meeting of the Trustees on the basis that it is in the best interests of the Charity for the Member concerned to be removed but only after the meeting has invited the written views of the Member concerned and considered the matter in the light of any such views.
- 8.7 The following provisions apply to any Group that is a Member:
- 8.7.1 a Group may nominate any individual to act as its representative ("authorised representative") at any general meeting of the Charity
  - 8.7.2 the Group must give notice in writing to the Charity of the name of its authorised representative. The authorised representative will not be entitled to represent the Group at any meeting of the Charity unless such notice has been received by the Charity. The authorised representative may continue to represent the Group until notice in writing is received by the Charity to the contrary;
  - 8.7.3 an individual appointed by a Group to act as its authorised representative is

entitled to exercise (on behalf of the Group) the same powers as the Group could exercise if it were an individual member;

- 8.7.4 on a vote on a resolution at a meeting of the Charity, the authorised representative has the same voting rights as the Group would be entitled to if it was an individual Member present in person at the meeting.

- 8.8 The Trustees may recognise one or more classes of supporters or members who are not Members (but who may nevertheless be termed 'members') and set out their respective rights and obligations in rules or bye laws.

## **9. General Meetings**

- 9.1 General meetings, including the AGM, may be held physically, Virtually or as hybrid meetings. The provisions of Articles 9 and 10 should be construed accordingly, but for the avoidance of doubt:

- 9.1.1 a Member is entitled to attend, speak and vote at general meetings in accordance with Article 9.2 Virtually;
- 9.1.2 a Member attending a general meeting Virtually will count for the purposes of the quorum; and
- 9.1.3 a vote on a show of hands or poll in accordance with Article 10.3 shall include the votes of all Members voting at a general meeting Virtually and the Trustees shall be obliged to ensure that Members attending Virtually shall be able to vote.

Where a general meeting is being held Virtually or as a hybrid meeting and there is a failure in the technology such that one or more participants is unable to Communicate with the other participants, those participants who are still able to participate fully must check whether the meeting is still quorate. If the meeting is not quorate, or it is unclear whether the meeting is quorate, and the ability for all participants to Communicate is not re-established within 10 minutes, the chair must adjourn the meeting. If the meeting is still quorate, the chair of the meeting may either continue the meeting or adjourn it.

- 9.2 Members are entitled to attend, speak and vote at general meetings in person, by proxy or, in the case of a Group, by way of an authorised representative.
- 9.3 General meetings are called on at least 14 clear days' written notice indicating the business to be discussed and (if a special resolution is to be proposed) setting out the terms of the proposed special resolution.
- 9.4 There is a quorum at a general meeting if the number of Members present in person or by proxy is at least 10 Members entitled to vote upon the business conducted at the meeting or by proxy or 10% of the total number of Members of the Charity at the time, whichever is the greater.
- 9.5 The Chair or (if the Chair is unable or unwilling to do so) the Vice Chair or (if the Vice Chair is unable or unwilling to do so) some other Trustee chosen by the Members present presides at each meeting.
- 9.6 The Charity must hold an AGM in every year. Members must annually at the AGM:
- 9.6.1 receive the accounts of the Charity for the previous financial year;
  - 9.6.2 receive a written report on the Charity's activities;
  - 9.6.3 be informed of the retirement of those Trustees who wish to retire or whose terms of office have come to an end,
  - 9.6.4 decide upon the appointment of Trustees co-opted during the year whose term of office as a co-opted Trustee has come to an end at the AGM;
  - 9.6.5 appoint Trustees to fill the vacancies arising;
  - 9.6.6 appoint reporting accountants or auditors for the Charity.

9.7 A general meeting may be called by the Trustees at any time and must be called within 21 days of a written request from at least 10% of the Membership or (where no general meeting has been held within the last year) at least 5% of the Membership.

9.8 A technical defect in the appointment of a Member of which the Members are unaware at the time does not invalidate a decision taken at a general meeting or a written resolution.

## **10. Voting at general meetings**

10.1 Except where otherwise provided by the Articles or the Companies Act, every issue is decided by ordinary resolution.

10.2 A vote on a resolution proposed at a meeting shall be decided by a show of hands unless before, or on the declaration of the result of, the show of hands a poll is demanded.

10.3 On a show of hands or on a poll, every Member shall have one vote.

10.4 Any objection to the qualification of any voter must be raised at the meeting or adjourned meeting at which the vote objected to is tendered and every vote not disallowed at the meeting shall be valid. Any such objection must be referred to the chair of the meeting whose decision is final.

10.5 Unless a poll is demanded, the declaration of the chair of the meeting of the result of the vote and an entry to that effect in the minutes of the meeting shall be conclusive evidence of the fact and the number or proportion of votes cast in favour or against need not be recorded.

## **11. Limited Liability**

The liability of Members is limited.

## **12. Guarantee**

Every Member undertakes to contribute such amount as may be required (not exceeding £10.00) to the Charity's assets if it should be wound up while he or she is a Member or within one year after he or she ceases to be a Member, for payment of the Charity's debts and liabilities contracted before he or she ceases to be a Member, and of the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves.

## **13. Communications**

13.1 Notices and other documents to be served on Members or Trustees under the Articles or the Companies Act may be served:

13.1.1 by hand;

13.1.2 by post; or

13.1.3 by suitable electronic means.

13.2 The only address at which a Member is entitled to receive notices sent by post is an address in the UK shown in the Register of Members.

13.3 Any notice given in accordance with these Articles is to be treated for all purposes as having been received:

13.3.1 24 hours after being sent by electronic means or delivered by hand to the relevant address;

- 13.3.2 two clear days after being sent by first class post to that address;
- 13.3.3 three clear days after being sent by second class or overseas post to that address;
- 13.3.4 immediately on being handed to the recipient personally; or, if earlier,
- 13.3.5 as soon as the recipient acknowledges actual receipt.

- 13.4 A technical defect in service of which the Trustees are unaware at the time does not invalidate decisions taken at a meeting.

#### **14. Dissolution**

- 14.1 If the Charity is wound up or dissolved and after all its debts and liabilities have been satisfied there remains any property it shall not be paid to or distributed among the Members, but shall be given or transferred to some other charity or charities having objects similar to the Objects which prohibits the distribution of its or their income and property to an extent at least as great as is imposed on the Charity by Article 6 above, chosen by the Members at or before the time of dissolution and if that cannot be done then to some other charitable object.

Nothing in this Memorandum and Articles shall authorise an application of the property of the Charity for purposes which are not charitable in accordance with section 7 of the Charities and Trustee Investment (Scotland) Act 2005.

#### **15. Interpretation**

- 15.1 The Articles are to be interpreted without reference to the model articles under the Companies Act, which do not apply to the Charity.

- 15.2 In the Articles, unless the context indicates another meaning:

'AGM' means an annual general meeting of the Charity;

'the Articles' means the Charity's Articles of Association and 'Article' refers to a particular Article;

'Chair' means the chair of the Trustees;

'the Charity' means the company governed by the Articles;

'the Charities Act' means the Charities Acts 1992 to 2016;

'charity trustee' has the meaning prescribed by the Charities Act;

'clear day' does not include the day on which notice is given or the day of the meeting or other event;

'the Commission' means the Charity Commission for England and Wales or any body which replaces it;

'Communicate' includes both incoming and outgoing communication;

'the Companies Act' means the Companies Act 2006;

'Conflicted Trustee' means a Trustee in respect of whom a conflict of interest arises or may reasonably arise because the Conflicted Trustee or a Connected Person is receiving or stands to receive a benefit (other than payment of a premium for indemnity insurance) from the Charity, or has some separate interest or duty in a matter to be decided, or in relation to information which is confidential to the Charity;



'Connected Person' means, in relation to a Trustee, a person with whom the Trustee shares a common interest such that he/she may reasonably be regarded as benefiting directly or indirectly from any material benefit received by that person, being either a member of the Trustee's family or household or a person or body who is a business associate of the Trustee, and (for the avoidance of doubt) does not include a company with which the Trustee's only connection is an interest consisting of no more than 1% of the voting rights;

'constitution' means the Memorandum and the Articles and any special resolutions relating to them;

'custodian' means a person or body who undertakes safe custody of assets or of documents or records relating to them;

'electronic means' refers to a document or information sent or supplied in electronic form where it is sent or supplied by electronic means (for example by email or fax), or by any other means while in an electronic form (for example sending a disc by post);

'financial year' means the Charity's financial year;

'Group' means either an incorporated body or unincorporated association who have been recognised by the Trustees as forming a group associated with the Charity;

'indemnity insurance' means insurance against personal liability incurred by any Trustee for an act or omission which is or is alleged to be a breach of trust or breach of duty, unless the act or omission amounts to a criminal offence or the Trustee concerned knew that, or was reckless whether, the act or omission was a breach of trust or breach of duty;

'material benefit' means a benefit, direct or indirect, which may not be financial but has a monetary value;

'Member' and 'Membership' refer to membership of the Charity;

'Memorandum' means the Charity's Memorandum of Association;

'month' means calendar month;

'nominee company' means a corporate body registered or having an established place of business in England and Wales which holds title to property for another;

'ordinary resolution' means a resolution agreed by a simple majority of the Members present and voting at a general meeting or in the case of a written resolution by Members who together hold a simple majority of the voting power. Where applicable, 'Members' in this definition means a class of Members;

'the Objects' means the Objects of the Charity as defined in Article 1;

'Resolution in writing' means a written resolution of the Trustees;

'Secretary' means a company secretary;

'special resolution' means a resolution of which at least 14 days' notice has been given agreed by a 75% majority of the Members present and voting at a general meeting or in the case of a written resolution by Members who together hold 75% of the voting power. Where applicable, 'Members' in this definition means a class of Members;

'taxable trading' means carrying on a trade or business in such manner or on such a scale that some or all of the profits are subject to corporation tax;

'Trustee' means a director of the Charity and 'Trustees' means the directors;

'Virtually' means by telephone link, video link, or other technology enabling all participants to Communicate with one another in real time without being physically present in the same place;

'written' or 'in writing' refers to a legible document on paper or a document sent by electronic means which is capable of being printed out on paper;

'written resolution' refers to an ordinary or a special resolution which is in writing;

'year' means calendar year.

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- 15.3 Expressions not otherwise defined which are defined in the Companies Act have the same meaning.
- 15.4 References to an Act of Parliament are to that Act as amended or re-enacted from time to time and to any subordinate legislation made under it.