

DRAFT MODEL ARTICLES OF ASSOCIATION FOR PUBLIC COMPANIES

PART 1: DEFINITIONS AND INTERPRETATION

1. Defined terms

1. The special meanings given to certain words and phrases in the articles are set out in the index of defined terms.
2. Where a word or phrase is defined in the index of defined terms, other grammatical forms of that word or phrase used in the articles shall have a meaning which corresponds to that definition.

PART 2: DIRECTORS

DIRECTOR'S POWERS AND RESPONSIBILITIES

2. Directors' general authority

Subject to the Companies Acts and the articles, the directors:

- a. shall manage the company's business; and
- b. may exercise all the powers of the company for any purpose connected with the company's business.

3. Members' reserve power

1. The members may, by special resolution, order the directors to act, or refrain from acting, in a particular way
2. No such special resolution shall invalidate anything which the directors have already done.

DELEGATION OF DIRECTORS' POWERS AND RESPONSIBILITIES

4. Directors may delegate

1. Subject to the articles, the directors may delegate any of their powers and responsibilities:
 - a. to such persons;
 - b. by such means;
 - c. to such an extent;

- d. in relation to such matters or territories; and
 - e. on such conditions or subject to such restrictions, as they think fit.
2. Unless the directors specify otherwise, any such delegation authorises further delegation of the directors' powers and responsibilities by any person to whom they are delegated, whether expressly or by virtue of this paragraph.
3. The directors must not delegate to any person who is not a director any decision connected with:
- a. how the directors (or a committee of directors) take decisions;
 - b. a director's appointment or the termination of a director's appointment; or
 - c. the payment or declaration of a dividend.
4. The directors may at any time withdraw or revoke any delegation in whole or part, or alter its terms.

5. Committees of directors

1. If the directors:
- a. delegate powers or responsibilities to two or more persons, at least one of whom is a director; and
 - b. indicate that they should act together in respect of those powers or responsibilities, those persons are a "committee" for the purposes of the articles.
2. The provisions of the articles about how the directors take decisions shall apply, as far as possible, to the taking of decisions by committees, but the directors may make rules of procedure which are binding on a committee.

DECISION-MAKING BY DIRECTORS

6. Directors to take decisions collectively

1. This article applies to any matter in respect of which the directors have not delegated their powers and responsibilities to a single director.
2. Subject to the articles, the directors must not act in relation to any such matter unless they have taken a decision about it:
- a. at a directors' meeting, or

b. in the form of a directors' written resolution, in accordance with the articles.

7. Calling directors' meetings

1. Any director may call a directors' meeting.
2. The company secretary shall call a directors' meeting if a director so requests.
3. A meeting is not called unless reasonable notice of it has been given, indicating its proposed date, time, place and subject matter.
4. Notice must be given to all the directors, except those:
 - a. to whom it is not possible to give reasonable notice; or
 - b. who waive their entitlement to notice, prospectively or retrospectively.
5. Notice of a directors' meeting need not be given in writing.
6. The reasonableness of any notice period shall be determined by reference to:
 - a. The urgency and importance of the meeting's subject matter; and
 - b. Individual directors' ability to receive notice of or participate in the meeting.

8. Participation in directors' meetings

1. Subject to the articles, directors participate in a directors' meeting, or part of a director's meeting, when:
 - a. the meeting has been called and takes place in accordance with the articles;
 - b. they are engaged, together, exclusively in the business of the meeting, or of that part of the meeting;
 - c. no other directors are engaged on that business separately from them; and
 - d. they can each communicate to the others any information or opinions they have on any particular item of that business.
2. In determining whether directors are participating in a directors' meeting, it is irrelevant where any director is or how they communicate with each other.

9. Quorum for directors' meetings

1. At a directors' meeting, unless a quorum is participating, no proposal shall be voted on,

except a proposal to call another meeting.

2. The quorum for directors' meetings may be fixed from time to time by:
 - a. a decision of the directors, or
 - b. an ordinary resolution, but it shall never be less than two, and unless otherwise fixed it shall be two.
3. Subject to the articles, a director who is interested in an actual or proposed transaction or arrangement with the company shall not be counted as participating in any directors' meeting, or part of a directors' meeting, relating to that transaction or arrangement.
4. A person who is an alternate director but not a director shall be counted as participating for the purposes of determining whether a quorum is participating, but only if that person's appointor is not participating. No alternate shall be counted as more than one director for such purposes.

10. Total number of directors less than quorum

If the total number of directors for the time being is less than the quorum for directors' meetings, then:

- a. all the directors, or
- b. as many of them as are not incapable of doing so by reason of illness or accident, may agree in writing either to appoint sufficient new directors to make up a quorum or to call a general meeting of the company to vote on a resolution that will appoint further directors or alter the quorum.

11. Chairing of directors' meetings

1. The directors shall appoint a director to chair their meetings.
2. The person so appointed for the time being shall be known as the chairman.
3. The directors may terminate the chairman's appointment at any time.
4. If the chairman is not participating in a meeting within ten minutes of the time at which it is to start, the participating directors shall appoint one of themselves to chair it.

12. Voting at directors' meetings: general rules

1. A decision is taken at a directors' meeting when a majority of the participating directors vote in favour of a proposal.
2. Subject to the articles:

- a. each director participating in such a decision shall have one vote; but
- b. if a director has an interest in an actual or proposed transaction or arrangement with the company, that director and that director's alternate may not vote on any proposal relating to it.

13. Chairman's casting vote at directors' meetings

If the numbers of votes for and against a proposal are equal, the chairman or other director chairing the meeting shall have a casting vote.

14. Alternates voting at directors' meetings

Directors who are also alternate directors each have an additional vote on behalf of each of their appointers when their appointers are:

- a. not participating, and
- b. would have been entitled to vote if they were participating.

15. Conflict of interests: relaxation of restrictions

1. In any of the circumstances specified for the purposes of this article, a director who is interested in an actual or proposed transaction or arrangement with the company:

- a. shall be counted as participating in a decision at a directors' meeting, or part of a directors' meeting, relating to it; and
- b. is entitled to vote on a proposal relating to it.

2. The circumstances specified for the purposes of this article are when:

3. the company by ordinary resolution disapplies the provision of the articles which would otherwise prevent a director from being counted as participating in, or voting at, a directors' meeting;

4. the director's interest cannot reasonably be regarded as likely to give rise to a conflict of interest; or

5. the director's conflict of interest arises from a permitted cause.

3. For the purposes of this article, the following are permitted causes:

- a. a guarantee given, or to be given, by or to a director in respect of an obligation incurred by or on behalf of the company or any of its subsidiaries;

- b. subscription, or an agreement to subscribe, for shares or other securities of the company or its subsidiaries, or to underwrite, sub-underwrite, or guarantee subscription for any such shares or securities; and
- c. a contract about benefits for employees and directors or former employees and directors of the company or its subsidiaries generally which does not provide special benefits for directors or former directors.

16. Directors' discretion to make further rules

1. Subject to the articles, the directors may make any rule which they think fit about how they take decisions.
2. The directors must ensure that any such rule is communicated to all persons who are directors while it remains in force.

17. Directors' written resolutions

1. A directors' written resolution is adopted when all the directors (or their alternates) sign a document setting out a decision.
2. A directors' written resolution is also adopted when:
 - a. fewer than all of the directors sign a document setting out a decision;
 - b. it is impracticable to have the document signed by those who have not signed it; and
 - c. the document records the names of the directors who have not signed it and the reasons why they have not signed it.
3. The practicability of a director signing such a document shall be determined by reference to:
 - a. the urgency and importance of the decision to which it relates; and
 - b. the director's ability to receive and sign the document and send it to the company by the time when it is necessary or expedient for the directors to take that decision.
4. References to a document in this article include copies of that document.
5. The directors are responsible for ensuring that the company keeps a written record of all directors' written resolutions for at least ten years from the date of their adoption.

APPOINTMENT OF DIRECTORS

18. Minimum and maximum number of directors

Subject to the Companies Acts, the company may by ordinary resolution decide that it is to have:

- a. not more than, or
 - b. not less than,
- a specified number of directors.

19. Methods of appointing directors

Any person who is willing to act as a director, and is permitted by law to do so, may be appointed to be a director:

- a. by ordinary resolution; or
- b. by a decision of the directors.

20. Appointments by directors to be confirmed by members

1. Directors appointed by a decision of the directors must be confirmed in office by an ordinary resolution at the next annual general meeting following their appointment by the directors.
2. Subject to the articles, the appointment of directors whose appointment is not so confirmed terminates at the end of that annual general meeting.

21. Retirement of directors by rotation

1. At the first annual general meeting all the directors shall retire from office.
2. At every subsequent annual general meeting half of the directors (rounded up to the nearest whole number if there is an odd number of directors) shall retire from office and offer themselves for reappointment by the members.
3. The directors to retire by rotation shall be those who have been longest in office since their last appointment or reappointment by a general meeting, but as between persons who were last appointed or reappointed on the same day those to retire shall be decided by lot.
4. For the purposes of calculating which directors are required to retire by rotation, the following shall be disregarded:
 - a. any directors whose appointment is required to be confirmed because they were appointed by the directors; and
 - b. any directors who wish to retire and not be re-elected.

22. Appointment of directors at general meetings

1. A person is only eligible to be appointed a director by a general meeting if that person:
 - a. is a director retiring by rotation at that meeting under the articles; or
 - b. has been nominated for appointment as a director at that meeting by the directors or by a member qualified to vote at that meeting.
2. Members wishing to nominate a person for appointment as a director must do so by giving notice in writing to the company not less than.... or more than days before the date of the meeting.
3. The company must notify all those who are entitled to receive notice of the meeting of who is eligible to be appointed a director at any general meeting not less than seven or more than days before the date of that meeting.
4. Nominations or notices about the proposed appointment of a person as a director at a general meeting need not contain that person's address, but must otherwise include the same information as an entry in the register of directors in respect of that person would contain if that person were appointed a director.
5. Nominations of a person for appointment as a director at a general meeting must include a statement signed by the person nominated indicating that person's willingness to be appointed a director.
6. If, at the end of a general meeting, the company would otherwise have fewer than two directors, or such higher minimum number of directors as has been fixed in accordance with the articles, the persons who were directors at the start of the meeting shall be deemed to have been reappointed as directors, but they shall only act for the purposes of:
 - a. calling general meetings; and
 - b. performing such duties as are essential to maintain the company as a going concern.

23. Termination of director's appointment

1. A person ceases to be a director as soon as:
 - a. that person ceases to be a director by virtue of any provision of the Companies Acts, or is prohibited by law from being a director;
 - b. that person becomes subject to a receiving order or compounds with that person's creditors generally;
 - c. in the opinion of all the other directors, mental disorder makes that person incapable of

discharging the duties of a director;

- d. that person fails, without the directors' permission, to participate in directors' meetings for more than three months, and is not prevented from doing so by illness, accident, or some other cause which the directors consider sufficient;
- e. a notification to the company that that person is resigning or retiring from office as director takes effect in accordance with its terms (but if a contract with the company specifies a longer notice period, that person's appointment shall not terminate until expiry of the contractual notice period);
- f. the directors decide to accept that person's offer to resign from the office of director;
- g. an ordinary resolution is passed removing that person from office;
- h. a contract under which that person was appointed as a director of the company or undertakes personally to perform services for the company terminates, and the directors decide that that person should cease to be a director; or
- i. the directors decide that that person should be removed from office, after having given that person a reasonable opportunity to be heard at a directors' meeting called on at least fourteen days notice.

2. The termination of a person's appointment as a director under the articles:

- a. terminates that person's membership of any committee and any other employment which that person may have with the company;
- b. is without prejudice to any claim which that person may have for breach of contract.

24 Directors' terms of service

- 1. Directors may undertake any services for the company that the directors decide (except audit).
- 2. Directors may undertake such services either as part of, or in addition to, their work as directors.
- 3. Subject to the Companies Acts:
 - a. directors shall be entitled to be remunerated for their services to the company as the directors determine; and
 - b. the directors may decide any other terms of any contract relating to the services which a director undertakes personally to perform for the company.

4. Subject to the articles, a director's remuneration may:
 - a. take any form;
 - b. be contingent on or otherwise calculated by reference to any aspect of the company's performance, however measured; and
 - c. include any arrangements in connection with the payment of a pension, allowance or gratuity, or any death, sickness or disability benefits, to or in respect of that director.
5. Directors' remuneration which is determined by the directors must not include payments to or for the benefit of directors or former directors in connection with the cessation or the transfer to any person of the whole or part of the undertaking of the company or any of its subsidiaries.
6. Unless the directors decide otherwise, directors' remuneration shall accrue from day to day.
7. Unless the directors decide otherwise, directors shall not be accountable to the company for any remuneration which they receive as directors of the company's subsidiaries.

25. Directors' expenses

Subject to the Companies Acts, the company shall meet any reasonable expenses which the directors properly incur in connection with anything they do for the company.

ALTERNATE DIRECTORS

26. Appointment and removal of alternates

1. An alternate director (or "alternate") is a person appointed by a director (the alternate's "appointer") to:
 - a. exercise that director's powers; and
 - b. carry out that director's responsibilities, at directors' meetings as requested by that director.
2. Alternate directors must be:
 - a. directors, or
 - b. persons approved by the directors and willing to act as their appointers' alternates.
3. Any director may appoint an alternate by notice in writing to the company specifying the duration of the alternate's appointment.

27. Rights and responsibilities of alternate directors

1. Except as the articles specify otherwise, alternate directors shall, in relation to directors' meetings:

- a. have the same rights, duties and liabilities under the articles as their appointers;
- b. be subject to the same restrictions as their appointers; and
- c. be deemed for all purposes to be directors.

2. Alternate directors shall not be entitled to receive any remuneration from the company for their services as alternate directors except such part of their appointers' remuneration as their appointers may direct in writing.

3. Alternate directors are responsible for their own acts and omissions and shall not be deemed to be agents of or for their appointers.

28. Termination of alternate directorship

Alternate directors' appointments as alternates terminate:

- a. when their appointers revoke their appointments by notice to the company in writing specifying when their appointments are to terminate;
- b. on the occurrence in relation to them of any event which, if it occurred in relation to their appointers, would result in the termination of their appointers' appointments as directors;
- c. when their appointers die; or
- d. when their appointers' appointments as directors terminate, except that alternate directors' appointments as alternates do not terminate if their appointers retire by rotation at a general meeting at which they are re-appointed as directors.