The Companies Act 2006
COMANY LIMITED BY GUARANTEE

SPECIAL RESOLUTION OF

BERWICK FILM & MEDIA ARTS FESTIVAL
Company no. 05622380

We, the undersigned, declare that the following is a true copy of a Special Resolution of the above company duly passed by the requisite majority at a General Meeting held on 22nd March 2019

IT IS RESOLVED THAT:

1) The Articles of Association of the company be amended by deleting the current articles 28 and 32, replacing them as follows:

28. There shall be a minimum of three and a maximum of twelve directors of the charity at any one time.

32. At the first annual general meeting all the directors must retire from office unless by the close of the meeting the members have failed to elect sufficient directors to hold a quorate meeting of the directors. At each subsequent annual general meeting one third of the directors or, if their number is not three or a multiple of three, the number nearest to one-third, must retire from office. If there is only one director he or she must retire.

Board members may remain on the board for a maximum of three years. After three years, they must stand down and, if they wish, can stand for re-election. Board members can stand for re-election twice, with a total potential board tenure of nine years.

2) Existing board members who have already exceeded their nine-year tenure can serve a further three years from 1 April 2019. After that they must retire and cannot stand for re-election.

Signed

(Director/Secretary)

(Director)

Dated this date 22 MARCH 2019.
The Companies Act 2006

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Signed

(Director/Secretary)

(Director)

Dated this date 22 March 2019
Charitable Companies: Model Articles of Association
Model Memorandum and Model Articles of Association for a Charitable Company

A charity may need to take the form of a company when there is a risk that it might incur large financial liabilities because, for example, it is expected to:

- control substantial assets; or
- employ staff; and/or
- engage in charitable purposes involving commercial risks.

Guidance to consider before you begin

You may find it helpful to begin by reading the following guidance on our website:

- The comprehensive information under Start up a charity
- Registering as a Charity (CC21). Its checklist of questions will help you to decide how best to set up the charity. Annex A summarises the nature of the responsibilities of those who run the charity, both as charity trustees and as company directors (in this document we use the term 'directors').
- Choosing and Preparing a Governing Document (CC22). This gives advice on the practicalities of completing the charity's governing document and on the different provisions which may be needed.
- Our guidance The Essential Trustee - What you need to know (CC3), which sets out the basics that all charity trustees need to know.

Next steps

1. Completing the articles of association

Once you have decided to apply to register a charitable company, please read the articles of association and its accompanying guidance notes carefully.

Some articles contain blank spaces that you will need to fill in.

The model is intended to be sufficiently flexible to deal with most eventualities. If you want to include special or complex provisions which are not contained in it you should consider asking a solicitor to help you. Please make clear any changes you make and why they are necessary. This will help us to consider your application as quickly as possible. We cannot guarantee to accept every organisation which uses the model articles of association as charitable. We must consider each case separately.

When you have completed this document please check that you have filled in all the gaps and deleted any articles which are not appropriate.
2. Applying to register as a company

You will need to apply to Companies House to incorporate your organisation. Companies House will then issue you a certificate of incorporation. For details please visit the Companies House website.

3. Applying to register as a charity

To register a new charity, apply online. (The online application material includes Application for registration - guidance notes.)

Please attach the following documents to your application:

- signed memorandum of association;
- the articles of association;
- signed Trustee Declaration;
- a copy of your certificate of incorporation (issued by Companies House).

If you cannot attach these documents to your application please proceed to apply online and we will email you instructions about how to send them to us. (Please do not send us your original certificate of incorporation.)

If you cannot apply online, please contact our First Contact Division. The best way to contact us is by email (using the Contact us link from our website homepage). If you need to speak to someone over the phone you can call our contact centre on 0845 300 0218.

4. How long will it take?

We can normally make a decision in 15 working days if an organisation:

- uses our model wording for its objects (as set out in the Example charitable objects on our website);
- shows that its activities are or will be consistent with the objects;
- shows that any private benefit is incidental and is properly managed; and
- uses our model governing document.

Other applications will need closer consideration and so will take longer (especially where the purposes are novel and/or at the boundaries of what is charitable).

Please note that if you want to include any special or complex provisions which are not contained in the model articles of association you should consider asking a solicitor to help you. We may require more time to consider any such specialist changes. It is important to make clear what changes you make.

The Commission cannot guarantee that a proposed organisation which uses a model as its governing document will be accepted as charitable. Every case has to be considered separately.
ARTICLES OF ASSOCIATION FOR A CHARITABLE COMPANY

1. The company's name is

2. Address means a postal address or, for the purposes of the Companies Act 2006, a registered office address or, for the purposes of the Charities Act 2011, a registered office address or a virtual office address as defined in the Charities Act 2011.

3. The name of the company is

4. The registered office is

5. Interpreting "day" in relation to the period of a notice means the day when the notice is given or deemed to be given and "clear day" means a day when the notice is given or deemed to be given and not excluding public holidays.

6. The Commission means the Commission for the Regulation of Charities.


Notes

'the directors' means the directors of the charity. The directors are charity trustees as defined by section 177 of the Charities Act 2011;

'document' includes, unless otherwise specified, any document sent or supplied in electronic form;

'electronic form' has the meaning given in section 1168 of the Companies Act 2006;

'the memorandum' means the charity's memorandum of association;

'officers' includes the directors and the secretary (if any);

'the seal' means the common seal of the charity if it has one;

'secretary' means any person appointed to perform the duties of the secretary of the charity;

'the United Kingdom' means Great Britain and Northern Ireland; and words importing one gender shall include all genders, and the singular includes the plural and vice versa.

Unless the context otherwise requires words or expressions contained in the articles have the same meaning as in the Companies Acts but excluding any statutory modification not in force when this constitution becomes binding on the charity.

Apart from the exception mentioned in the previous paragraph a reference to an Act of Parliament includes any statutory modification or re-enactment of it for the time being in force.

Liability of members

3 The liability of the members is limited to a sum not exceeding £10, being the amount that each member undertakes to contribute to the assets of the charity in the event of its being wound up while he, she or it is a member or within one year after he, she or it ceases to be a member, for:

(1) payment of the charity's debts and liabilities incurred before he, she or it ceases to be a member;

(2) payment of the costs, charges and expenses of winding up; and

(3) adjustment of the rights of the contributories among themselves.
Notes

Article 4 - The articles of a charity do not have to specify the objects. However, a charity's objects must be sufficiently described so that the court can assess whether the objects are charitable. The key elements to include are:

- the purpose itself (e.g., establishing and running a school);
- the people who can benefit and if so, how;
- any geographic limits which may be necessary to define the area or benefit the people of a particular group or area.

If the charity will operate in Scotland and/or Northern Ireland, you should include the wording in square brackets to meet the requirements of charity law in both countries, deleting as required if the charity works in one of these two countries.

Article 5 - It is useful to include powers to avoid any misunderstandings of the wide powers available to the charity and the conditions that must be met when exercising the powers. Examples of powers that charities have already have include powers to borrow money, power to acquire or dispose of the assets of the charity, and power to acquire or dispose of other charitable assets. Powers that are not usual, such as the power to engage in trading, must be clearly defined in the articles.

Objects

4 The charity's objects ('Objects') are specifically restricted to the following:

(a) To promote appreciation and education in the arts and crafts and their associated technologies, especially but not exclusively through the cinema and other forms of moving images, and including those of music, drama, dancing, mime, graphic arts, painting, sculpture, literature, poetry andatory arts.

(b) To educate the public in the history, aesthetics and theory of moving images in all their aspects.

(c) To educate the public in the history, aesthetics and theory of moving images in all their aspects.

[Nothing in the articles shall authorise an application of the property of the charity for purposes which are not charitable in accordance with section 2 of the Charities and Trustee Investment (Scotland) Act 2005 and/or section 2 of the Charities Act (Northern Ireland) 2008.]

Powers

5 The charity has power to do anything which is calculated to further its Object(s) or is conducive or incidental to doing so. In particular, the charity has power:

(1) to raise funds. In doing so, the charity must not undertake any taxable permanent trading activity and must comply with any relevant statutory regulations;

(2) to buy, take on lease or in exchange, hire or otherwise acquire any property and to maintain and equip it for use;

(3) to sell, lease or otherwise dispose of all or any part of the property belonging to the charity. In exercising this power, the charity must comply as appropriate with sections 117 and 122 of the Charities Act 2011.

(4) to borrow money and to charge the whole or any part of the property belonging to the charity as security for repayment of the money borrowed or as security for a grant or the discharge of an obligation. The charity must comply as appropriate with sections 124 - 126 of the Charities Act 2011 if it wishes to mortgage land;
Notes

an educational charity can charge fees for the educational services it provides.

Article 5(2) - This power is helpful if the charity is to acquire property either for use as office premises or functionally (such as a playground or school site). Our guidance Acquiring Land (CC33) contains further guidance on the issue.

Article 5(3) - This power enables the charity to dispose of its property. Sections 112 - 117 of the Charities Act 2011 apply to most charities and require compliance with certain conditions to ensure that charity property is disposed of for the best terms reasonably available. Our guidance Sales, Leases, Transfers or Mortgages: What Trustees Need to Know about Disposing of Charity Land (CC28) provides more information on this.

Article 5(4) - This power provides the company with an explicit power to borrow. It also makes clear that if this power involves securing the loan on land of the charity, a trust deed will be required. Section 27 of the Charities Act 2011, which imposes the requirements of the Companies Act 2006 on charities, may apply. The directors are required to take advice and provide certain certificates/statements when they are borrowing money by way of mortgage. Our document: Corporate Guidance: Borrowing and Mortgages on our website provides detailed information on this.

Article 5(5) - This power cannot be used to employ directors as staff. See article 7

Article 5(10) - The Trustee Act 2000 provides wide powers of investment and requires the charity to take advice and to consider the need to invest in a range of different investments. Our guidance Investment of Charitable Trust Funds: Basic Principles (CC43) provides more information about charity investments. We strongly recommend that the directors record any investment policy in writing. They are legally required to do so if they delegate their investment function to an investment manager. The powers to employ agents, nominees and custodians are of particular use where the charity wishes to use an investment manager.

Article 6 - Application of income and property

(1) Subject to charity law requirements that the income and property of a charity must be applied solely to further its objects and not to benefit the charity directors (except as permitted by the governing document - see article 5), a charity may hold the income and property of the charity in any manner that it considers necessary for the promotion of the objects of the charity.

(2) A director is entitled to be reimbursed from the property of the charity or may pay out of such property reasonable expenses properly incurred by him or her when acting on behalf of the charity.

(3) A director may receive an indemnity from the charity in the circumstances specified in article 57.

(4) To ensure propriety the director should take advice from a solicitor or accountant before paying out of or reimbursing themselves from the property of the charity.

(5) to co-operate with other charities, voluntary bodies and statutory authorities and to exchange information and advice with them;

(6) to establish or support any charitable trusts, associations or institutions formed for any of the charitable purposes included in the objects;

(7) to acquire, merge with or to enter into any partnership or joint venture arrangement with any other charity;

(8) to set aside income as a reserve against future expenditure but only in accordance with a written policy about reserves;

(9) to employ and remunerate such staff as are necessary for carrying out the work of the charity. The charity may employ or remunerate a director only to the extent it is permitted to do so by article 7 and provided it complies with the conditions in that article;

(10) to:

(a) deposit or invest funds;

(b) employ a professional fund-manager; and

(c) arrange for the investments of other property of the charity to be held in the name of a nominee;

in the same manner and subject to the same conditions as the trustees of a trust are permitted to do by the Trustee Act 2000;

(11) to provide indemnity insurance for the directors in accordance with, and subject to the conditions in, section 189 of the Charities Act 2011;

(12) to pay out of the funds of the charity the costs of forming and registering the charity both as a company and as a charity.

Application of income and property

6 (1) The income and property of the charity shall be applied solely towards the promotion of the objects.

(2) (a) A director is entitled to be reimbursed from the property of the charity or may pay out of such property reasonable expenses properly incurred by him or her when acting on behalf of the charity.

(b) A director may benefit from trustee indemnity insurance cover purchased at the charity's expense in accordance with, and subject to the conditions in, section 189 of the Charities Act 2011.

(c) A director may receive an indemnity from the charity in the circumstances specified in article 57.
Notes
(2) Set out a director's entitlement to reasonable expenses and refer to the provisions in the Charities Act 2011 about a charity director's entitlement to benefit from travel and subsistence expenses. It is included in the articles of association to whom people involved with the charity.

Article 7 - Directors are under a specific duty to avoid situations in which they have, or can have, a direct or indirect interest that conflicts with their interests of the company (section 175(1) of the Companies Act 2006). This duty can be modified as regards a conflict of interests arising in relation to a transaction or arrangement with the company if it is permitted by the company's articles of association (section 175(3) of the Companies Act 2006).

Where a benefit is authorised by the prior written consent of the Charity Commission under Article 7, this duty will also not apply because of section 175(2) of the Companies Act 2006 as modified by section 181(2)(b) of that Act.

In addition, a director may be given by the unconflicted directors a conflict of interests where the company's constitution includes a proviso on enabling them to provide such authorization (section 175(5) of the Companies Act 2006).

Article 7 provides the necessary structure for all the benefits either to be specifically authorised by the articles within the terms of section 175(3) of the Companies Act 2006 (as modified by section 181(2) for charitable companies) or to be authorised by the Commission so that the duty in section 175(1) of the Companies Act 2006 does not apply. In addition, because of the specific duty of section 175 of the Companies Act 2006, some provision has been made for conflicts of duties where a director owes a duty of loyalty to another organisation but the unconflicted directors consider it is in the best interests of the charity for that director to continue as a director. This provision can be found at Article 9.

Benefits and payments to charity directors and connected persons - Charity directors may only benefit from their charity if they have express legal authorisation to

(d) A director may not receive any other benefit or payment unless it is authorised by article 7.

(3) Subject to article 7, none of the income or property of the charity may be paid or transferred directly or indirectly by way of dividend bonus or otherwise by way of profit to any member of the charity. This does not prevent a member who is not a director receiving:

(a) a benefit from the charity in the capacity of a beneficiary of the charity;

(b) reasonable and proper remuneration for any goods or services supplied to the charity.

Benefits and payments to charity directors and connected persons

7 (1) General provisions

No director or connected person may:

(a) buy any goods or services from the charity on terms preferential to those applicable to members of the public;

(b) sell goods, services, or any interest in land to the charity;

(c) be employed by, or receive any remuneration from, the charity;

(d) receive any other financial benefit from the charity; unless the payment is permitted by sub-clause (2) of this article, or authorised by the court or the prior written consent of the Charity Commission has been obtained.

In this article a 'financial benefit' means a benefit, direct or indirect, which is either money or has a monetary value.

Scope and powers permitting directors' or connected persons' benefits

(2) (a) A director or connected person may receive a benefit from the charity in the capacity of a beneficiary of the charity provided that a majority of the directors do not benefit in this way.

(b) A director or connected person may enter into a contract for the supply of services, or of goods that are supplied in connection with the provision of services, to the charity where that is permitted in accordance with, and subject to the conditions in, sections 185 and 186 of the Charities Act 2011.

(c) Subject to sub-clause (3) of this article a director or connected person may provide the charity with goods that are not supplied in connection with services provided to the charity by the director or connected person.
Notes

do so (such as a clause in the articles of
association) This restriction extends to
people closely connected to a director
("connected persons" - this term is defined
in interpretation article 6). This article
covers the restrictions that apply to the
charity directors even where directors
are allowed to benefit from the charity,
this must only happen where the benefit
is in the interests of the charity. Our
guidance (trustee expenses and payments
(2)) provides more information about
directors' benefits.

This article permits a majority of the
charity directors or connected persons
to receive payments and other benefits
certain instances (such as for goods
and services they supply to the charity),
subject to the stated controls. The option
also allows other types of director benefit,
such as the Commission's prior consent.

Article 7(1)(b) - this does not prevent a
director from buying or leasing land from
the charity, such transactions will however
require the Commission's consent under
section 117 of the Charities Act 2011. Any
financial benefit authorised by this article
must be within the stated definition.

Article 7(2)(a) - if your charity will
benefit all local inhabitants in a specific
geographical area you may wish to
substitute the following wording: "A
director or connected person may receive
a benefit from the charity as a beneficiary
provided that it is available generally to
the beneficiaries of the charity."

Article 7(2)(b) - the charity should
document the amount of, and the
terms of, the director or connected
person's loan.

These powers cannot be adopted by
existing charities without the authority of
the Charity Commission. None of these
provisions allow directors to receive
payment for acting as a director

(d) A director or connected person may receive interest on
money lent to the charity at a reasonable and proper rate
which must be not more than the Bank of England bank
rate (also known as the base rate).

(e) A director or connected person may receive rent for
premises let by the director or connected person to the
charity. The amount of the rent and the other terms of
the lease must be reasonable and proper. The director
concerned must withdraw from any meeting at which
such a proposal or the rent or other terms of the lease are
under discussion.

(f) A director or connected person may take part in the
normal trading and fundraising activities of the charity on
the same terms as members of the public.

Payment for supply of goods only - controls

(3) The charity and its directors may only rely upon the authority
provided by sub-clause (2)(c) of this article if each of the
following conditions is satisfied:

(a) The amount or maximum amount of the payment for
the goods is set out in an agreement in writing between
the charity or its directors (as the case may be) and the
director or connected person supplying the goods ("the
supplier") under which the supplier is to supply the goods
in question to or on behalf of the charity.

(b) The amount or maximum amount of the payment for
the goods does not exceed what is reasonable in the
circumstances for the supply of the goods in question.

(c) The other directors are satisfied that it is in the best
interests of the charity to contract with the supplier rather
than with someone who is not a director or connected
person. In reaching that decision the directors must
balance the advantage of contracting with a director or
connected person against the disadvantages of doing so.

(d) The supplier is absent from the part of any meeting at
which there is discussion of the proposal to enter into a
contract or arrangement with him or her or it with regard
to the supply of goods to the charity.

(e) The supplier does not vote on any such matter and is not
to be counted when calculating whether a quorum of
directors is present at the meeting.

(f) The reason for their decision is recorded by the directors
in the minute book.

(g) A majority of the directors then in office are not in receipt
of remuneration or payments authorised by article 7.
Article 8 imposes a duty on the directors to declare an interest in any transaction of the charity and to abstain themselves from any discussion where there may be a conflict between their personal interests and those of the charity. This would include, for example, discussions about the need for the provision of a particular service which one of the directors might have an interest in supplying. Although in the example the terms of section 103 of the Charities Act 2011 would already make it necessary for the director to absent him/herself, statutory duties to declare any interests came into force on 1 October 2008 (sections 177 and 182 of the Companies Act 2006).

Article 9: This article permits unconflicted directors to authorise a conflict of interests arising from a duty of loyalty owed by a director to another organisation or person provided that there is no direct or indirect benefit of any nature received by the director in question or by a connected person. Such a procedure is permitted by section 173(4) and (5) of the Companies Act 2006 (as extended to charitable companies by section 81). Where provision is made for it in the articles, the Commission considers that such a procedure should be limited to conflicts arising from a duty of loyalty to another organisation or person where there is no direct or indirect benefit of whatever nature to the director or to a connected person. In other circumstances involving a situation leading to a conflict of interests or the part of a director, the Commission is able to authorise the director to act notwithstanding the conflict where it is satisfied that this would be expedient in the interests of the charity (section 103 of the Charities Act 2011).

(4) In sub-clauses (2) and (3) of this article:
(a) 'charity' includes any company in which the charity:
(i) holds more than 50% of the shares; or
(ii) controls more than 50% of the voting rights attached to the shares; or
(iii) has the right to appoint one or more directors to the board of the company.
(b) 'connected person' includes any person within the definition in article 61 'Interpretation'.

Declaration of directors' interests

8 A director must declare the nature and extent of any interest, direct or indirect, which he or she has in a proposed transaction or arrangement with the charity or in any transaction or arrangement entered into by the charity which has not previously been declared. A director must absent himself or herself from any discussions of the charity directors in which it is possible that a conflict will arise between his or her duty to act solely in the interests of the charity and any personal interest (including but not limited to any personal financial interest).

Conflicts of interests and conflicts of loyalties

9 (1) If a conflict of interests arises for a director because of a duty of loyalty owed to another organisation or person and the conflict is not authorised by virtue of any other provision in the articles, the unconflicted directors may authorise such a conflict of interests where the following conditions apply:
(a) the conflicted director is absent from the part of the meeting at which there is discussion of any arrangement or transaction affecting that other organisation or person;
(b) the conflicted director does not vote on any such matter and is not to be counted when considering whether a quorum of directors is present at the meeting; and
(c) the unconflicted directors consider it is in the interests of the charity to authorise the conflict of interests in the circumstances applying.

(2) In this article a conflict of interests arising because of a duty of loyalty owed to another organisation or person only refers to such a conflict which does not involve a direct or indirect benefit of any nature to a director or to a connected person.
Notes

Members

10 (1) The subscribers to the memorandum are the first members of the charity.

(2) Membership is open to other individuals or organisations who:

(a) apply to the charity in the form required by the directors; and

(b) are approved by the directors.

(3) (a) The directors may only refuse an application for membership if, acting reasonably and properly, they consider it to be in the best interests of the charity to refuse the application.

(b) The directors must inform the applicant in writing of the reasons for the refusal within twenty-one days of the decision.

(c) The directors must consider any written representations the applicant may make about the decision. The directors’ decision following any written representations must be notified to the applicant in writing but shall be final.

(4) Membership is not transferable.

(5) The directors must keep a register of names and addresses of the members.

Classes of membership

11 (1) The directors may establish classes of membership with different rights and obligations and shall record the rights and obligations in the register of members.

(2) The directors may not directly or indirectly alter the rights or obligations attached to a class of membership.

(3) The rights attached to a class of membership may only be varied if:

(a) three-quarters of the members of that class consent in writing to the variation; or

(b) a special resolution is passed at a separate general meeting of the members of that class agreeing to the variation.

(4) The provisions in the articles about general meetings shall apply to any meeting relating to the variation of the rights of any class of members.

Article 10(5) - it is very important for the good administration of the charity to keep the register of members up to date; failure to do so can result in a number of problems, including serious difficulties with the holding of annual or general meetings. It should also be remembered that section 116 of the Companies Act 2006 sets out certain requirements for making the register available to members of the charity and to the public.
Notes

Termination of membership

12 Membership is terminated if:

(1) the member dies or, if it is an organisation, ceases to exist;

(2) the member resigns by written notice to the charity unless, after
    the resignation, there would be less than two members;

(3) any sum due from the member to the charity is not paid in full
    within six months of it falling due;

(4) the member is removed from membership by a resolution of
    the directors that it is in the best interests of the charity that his
    or her or its membership is terminated. A resolution to remove a
    member from membership may only be passed if:

    (a) the member has been given at least twenty-one days' notice
        in writing of the meeting of the directors at which
        the resolution will be proposed and the reasons why it is
        to be proposed;

    (b) the member or, at the option of the member, the
        member's representative (who need not be a member of
        the charity) has been allowed to make representations to
        the meeting.

General meetings

13 (1) The charity must hold its first annual general meeting within
     eighteen months after the date of its incorporation.

     (2) An annual general meeting must be held in each subsequent
         year and not more than fifteen months may elapse between
         successive annual general meetings.

14 The directors may call a general meeting at any time.

Notice of general meetings

15 (1) The minimum periods of notice required to hold a general
       meeting of the charity are:

       (a) twenty-one clear days for an annual general meeting
           or a general meeting called for the passing of a
           special resolution;

       (b) fourteen clear days for all other general meetings.

     (2) A general meeting may be called by shorter notice if it is so
         agreed by a majority in number of members having a right to
         attend and vote at the meeting, being a majority who together
         hold not less than 90 percent of the total voting rights.

Article 13  We provide guidance on
meetings in Charities and Meetings
(CC48), produced in association with
The Institute of Chartered Secretaries
and Administrators (ICSA). This article
makes provision for an annual general
meeting. However, an annual general
meeting is not a legal requirement and
this article can be amended where this
is appropriate. If no provision is to be
made for an annual general meeting,
consequential amendments will be
required to articles 15(1)(a), 15(3), 17,
33(2) and 37(2).

Article 15  This article provides for
21 days' notice for an annual general
meeting or a general meeting called
for the passing of a special resolution.
The only legal requirement in respect of
notice for general meetings is a private
company's specifies notice of at least
14 days. Accordingly, this figure can be
substituted if considered appropriate.

Notice of a general meeting is required to
include a statement setting out the rights
of members to appoint a proxy (section
325 of the Companies Act 2006).
Notes

(3) The notice must specify the date, time and place of the meeting and the general nature of the business to be transacted. If the meeting is to be an annual general meeting, the notice must say so. The notice must also contain a statement setting out the right of members to appoint a proxy under section 324 of the Companies Act 2006 and article 22.

(4) The notice must be given to all the members and to the directors and auditors.

16 The proceedings at a meeting shall not be invalidated because a person who was entitled to receive notice of the meeting did not receive it because of an accidental omission by the charity.

Proceedings at general meetings

17 (1) No business shall be transacted at any general meeting unless a quorum is present.

(2) A quorum is:

(a) [3] members present in person or by proxy and entitled to vote upon the business to be conducted at the meeting, or

(b) one tenth of the total membership at the time whichever is the greater.

(3) The authorised representative of a member organisation shall be counted in the quorum.

18 (1) If:

(a) a quorum is not present within half an hour from the time appointed for the meeting; or

(b) during a meeting a quorum ceases to be present;

the meeting shall be adjourned to such time and place as the directors shall determine.

(2) The directors must reconvene the meeting and must give at least seven clear days’ notice of the reconvened meeting stating the date, time and place of the meeting.

(3) If no quorum is present at the reconvened meeting within fifteen minutes of the time specified for the start of the meeting the members present in person or by proxy at that time shall constitute the quorum for that meeting.

19 (1) General meetings shall be chaired by the person who has been appointed to chair meetings of the directors.

(2) If there is no such person or he or she is not present within fifteen minutes of the time appointed for the meeting the director nominated by the directors shall chair the meeting.
Notes

Article 20 - This is a discretionary power for the members present in person or by proxy to adjourn a meeting meeting. This differs from the adjournment provision in Article 19 which is mandatory and must be used where a general meeting is not quorate.

(3) If there is only one director present and willing to act, he or she shall chair the meeting.

(4) If no director is present and willing to chair the meeting within fifteen minutes after the time appointed for holding it, the members present in person or by proxy and entitled to vote must choose one of their number to chair the meeting.

20 (1) The members present in person or by proxy at a meeting may resolve by ordinary resolution that the meeting shall be adjourned.

(2) The person who is chairing the meeting must decide the date, time and place at which the meeting is to be reconvened unless those details are specified in the resolution.

(3) No business shall be conducted at a reconvened meeting unless it could properly have been conducted at the meeting had the adjournment not taken place.

(4) If a meeting is adjourned by a resolution of the members for more than seven days, at least seven clear days' notice shall be given of the reconvened meeting stating the date, time and place of the meeting.

21 (1) Any vote 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:

(a) by the person chairing the meeting; or

(b) by at least two members present in person or by proxy and having the right to vote at the meeting; or

(c) by a member or members present in person or by proxy representing not less than one-tenth of the total voting rights of all the members having the right to vote at the meeting.

(2) (a) The declaration by the person who is chairing the meeting of the result of a vote shall be conclusive unless a poll is demanded.

(b) The result of the vote must be recorded in the minutes of the charity but the number or proportion of votes cast need not be recorded.

(3) (a) A demand for a poll may be withdrawn, before the poll is taken, but only with the consent of the person who is chairing the meeting.

(b) If the demand for a poll is withdrawn the demand shall not invalidate the result of a show of hands declared before the demand was made.
Notes

Article 21(3)(c) - Where it is decided that a poll is to take place in these circumstances after a general meeting, all the members of the charity are entitled to vote.

Article 22 - This makes provision for proxy voting. Members of a company have a legal right to appoint proxies under section 326 of the Companies Act 2006. A statement about this right must be contained in a notice calling a meeting of the company (section 326 of the Companies Act 2006). Article 15 deals with such notices.

The provision for proxies is based on the provisions in Schedule 2 of the Companies (Model Articles) Regulations 2008.

(4) (a) A poll must be taken as the person who is chairing the meeting directs, who may appoint scrutineers (who need not be members) and who may fix a time and place for declaring the results of the poll.

(b) The result of the poll shall be deemed to be the resolution of the meeting at which the poll is demanded.

(5) (a) A poll demanded on the election of a person to chair a meeting or on a question of adjournment must be taken immediately.

(b) A poll demanded on any other question must be taken either immediately or at such time and place as the person who is chairing the meeting directs.

(c) The poll must be taken within thirty days after it has been demanded.

(d) If the poll is not taken immediately at least seven clear days' notice shall be given specifying the time and place at which the poll is to be taken.

(e) If a poll is demanded the meeting may continue to deal with any other business that may be conducted at the meeting.

Content of proxy notices

22 (1) Proxies may only validly be appointed by a notice in writing (a 'proxy notice') which:

(a) states the name and address of the member appointing the proxy;

(b) identifies the person appointed to be that member's proxy and the general meeting in relation to which that person is appointed;

(c) is signed by or on behalf of the member appointing the proxy, or is authenticated in such manner as the directors may determine; and

(d) is delivered to the charity in accordance with the articles and any instructions contained in the notice of the general meeting to which they relate.

(2) The charity may require proxy notices to be delivered in a particular form, and may specify different forms for different purposes.

(3) Proxy notices may specify how the proxy appointed under them is to vote (or that the proxy is to abstain from voting) on one or more resolutions.
(4) Unless a proxy notice indicates otherwise, it must be treated as
(a) allowing the person appointed under it as a proxy
discretion as to how to vote on any ancillary or procedural
resolutions put to the meeting; and
(b) appointing that person as a proxy in relation to any
adjournment of the general meeting to which it relates as
well as the meeting itself.

Delivery of proxy notices

22A(1) A person who is entitled to attend, speak or vote (either on a
show of hands or on a poll) at a general meeting remains so
entitled in respect of that meeting or any adjournment of it,
even though a valid proxy notice has been delivered to the
charity by or on behalf of that person.

(2) An appointment under a proxy notice may be revoked by
delivering to the charity a notice in writing given by or on behalf
of the person by whom or on whose behalf the proxy notice
was given.

(3) A notice revoking a proxy appointment only takes effect if it is
delivered before the start of the meeting or adjourned meeting
to which it relates.

(4) If a proxy notice is not executed by the person appointing the
proxy, it must be accompanied by written evidence of the
authority of the person who executed it to execute it on the
appointor’s behalf.

Written resolutions

23 (1) A resolution in writing agreed by a simple majority (or in the
case of a special resolution by a majority of not less than 75%) of
the members who would have been entitled to vote upon it
had it been proposed at a general meeting shall be effective
provided that:

(a) a copy of the proposed resolution has been sent to every
eligible member;

(b) a simple majority (or in the case of a special resolution a
majority of not less than 75%) of members has signified
its agreement to the resolution; and

(c) it is contained in an authenticated document which has
been received at the registered office within the period of
28 days beginning with the circulation date.

(2) A resolution in writing may comprise several copies to which
one or more members have signified their agreement.

(3) In the case of a member that is an organisation, its authorised
representative may signify its agreement.
Notes

Votes of members

24 Subject to article 11, every member, whether an individual or an organisation, shall have one vote.

25 Any objection to the qualification of any voter must be raised at the meeting at which the vote is tendered and the decision of the person who is chairing the meeting shall be final.

26 (1) Any organisation that is a member of the charity may nominate any person to act as its representative at any meeting of the charity.

(2) The organisation must give written notice to the charity of the name of its representative. The representative shall not be entitled to represent the organisation at any meeting unless the notice has been received by the charity. The representative may continue to represent the organisation until written notice to the contrary is received by the charity.

(3) Any notice given to the charity will be conclusive evidence that the representative is entitled to represent the organisation or that his or her authority has been revoked. The charity shall not be required to consider whether the representative has been properly appointed by the organisation.

Directors

27 (1) A director must be a natural person aged 16 years or older.

(2) No one may be appointed a director if he or she would be disqualified from acting under the provisions of article 39.

28 There shall be a minimum of three and a maximum of twelve directors of the charity at any one time.

29 The first directors shall be those persons notified to Companies House as the first directors of the charity.

30 A director may not appoint an alternate director or anyone to act on his or her behalf at meetings of the directors.

Powers of directors

31 (1) The directors shall manage the business of the charity and may exercise all the powers of the charity unless they are subject to any restrictions imposed by the Companies Acts, the articles or any special resolution.

(2) No alteration of the articles or any special resolution shall have retrospective effect to invalidate any prior act of the directors.

(3) Any meeting of directors at which a quorum is present at the time the relevant decision is made may exercise all the powers exercisable by the directors.

Article 27(1) By 'natural person' we mean a human being, whereas a company which can in some circumstances be regarded as a 'person'. The minimum age for a director in this article is 16 years of age.

Article 28 As good operational practice we recommend a minimum of three directors. This will help with the quality of decision making and the carrying out of directors' responsibilities and duties. Note that article 42(2) requires a quorum of at least two directors.
Notes

Retirement of directors

At the first annual general meeting all the directors must retire from office unless by the close of the meeting the members have failed to elect sufficient directors to hold a quorate meeting of the directors. At each subsequent annual general meeting one-third of the directors or, if their number is not three or a multiple of three, the number nearest to one-third, must retire from office. If there is only one director he or she must retire.

Board members may remain on the board for a maximum of three years. After three years, they must stand down and, if they wish, can stand for re-election. Board members can stand for re-election twice, with a total potential board tenure of nine years.

33 (1) The directors to retire by rotation shall be those who have been longest in office since their last appointment. If any directors became or were appointed directors on the same day three to retire shall (unless they otherwise agree among themselves) be determined by lot.

(2) If a director is required to retire at an annual general meeting by a provision of the articles the retirement shall take effect upon the conclusion of the meeting.

Appointment of directors

34 The charity may by ordinary resolution:

(1) appoint a person who is willing to act to be a director; and

(2) determine the rotation in which any additional directors are to retire.

35 No person other than a director retiring by rotation may be appointed a director at any general meeting unless:

(1) he or she is recommended for re-election by the directors; or

(2) not less than fourteen nor more than thirty-five clear days before the date of the meeting, the charity is given a notice that:

(a) is signed by a member entitled to vote at the meeting;

(b) states the member’s intention to propose the appointment of a person as a director;

(c) contains the details that, if the person were to be appointed, the charity would have to file at Companies House; and

(d) is signed by the person who is to be proposed to show his or her willingness to be appointed.

36 All members who are entitled to receive notice of a general meeting must be given not less than seven nor more than twenty-eight clear days’ notice of any resolution to be put to the meeting to appoint a director other than a director who is to retire by rotation.

Article 34 - Our guide to finding new trustees. What charities need to know (CC30) provides guidance on effective methods of recruiting new charity trustees or directors and of familiarising them with the charity.

Article 35(2)(b) - Certain details of newly appointed directors must be sent to Companies House on Form APP. This includes details of current and any former name, address, occupation and consent to act.

18
Notes

37  (1) The directors may appoint a person who is willing to act to be a director.

(2) A director appointed by a resolution of the other directors must retire at the next annual general meeting and must not be taken into account in determining the directors who are to retire by rotation.

38 The appointment of a director, whether by the charity in general meeting or by the other directors, must not cause the number of directors to exceed any number fixed as the maximum number of directors.

Disqualification and removal of directors

39 A director shall cease to hold office if he or she:

(1) ceases to be a director by virtue of any provision in the Companies Acts or is prohibited by law from being a director;

(2) is disqualified from acting as a trustee by virtue of sections 178 and 179 of the Charities Act 2011 (or any statutory re-enactment or modification of those provisions);

(3) ceases to be a member of the charity;

(4) in the written opinion, given to the company, of a registered medical practitioner treating that person, has become physically or mentally incapable of acting as a director and may remain so for more than three months;

(5) resigns as a director by notice to the charity (but only if at least two directors will remain in office when the notice of resignation is to take effect); or

(6) is absent without the permission of the directors from all their meetings held within a period of six consecutive months and the directors resolve that his or her office be vacated.

Remuneration of directors

40 The directors must not be paid any remuneration unless it is authorised by article 7.

Proceedings of directors

41 (1) The directors may regulate their proceedings as they think fit, subject to the provisions of the articles.

(2) Any director may call a meeting of the directors.

(3) The secretary (if any) must call a meeting of the directors if requested to do so by a director.

(4) Questions arising at a meeting shall be decided by a majority of votes.
Notes

[Optional]

(5) In the case of an equality of votes, the person who is chairing the meeting shall have a second or casting vote.]

(6) A meeting may be held by suitable electronic means agreed by the directors in which each participant may communicate with all the other participants.

42 (1) No decision may be made by a meeting of the directors unless a quorum is present at the time the decision is purported to be made. ['Present' includes being present by suitable electronic means agreed by the directors in which a participant or participants may communicate with all the other participants.]

(2) The quorum shall be two or the number nearest to one third of the total number of directors, whichever is the greater, or such larger number as may be decided from time to time by the directors.

(3) A director shall not be counted in the quorum present when any decision is made about a matter upon which that director is not entitled to vote.

43 If the number of directors is less than the number fixed as the quorum, the continuing directors or director may act only for the purpose of filling vacancies or of calling a general meeting.

44 (1) The directors shall appoint a director to chair their meetings and may at any time revoke such appointment.

(2) If no-one has been appointed to chair meetings of the directors or if the person appointed is unwilling to preside or is not present within ten minutes after the time appointed for the meeting, the directors present may appoint one of their number to chair that meeting.

(3) The person appointed to chair meetings of the directors shall have no functions or powers except those conferred by the articles or delegated to him or her by the directors.

45 (1) A resolution in writing or in electronic form agreed by all of the directors entitled to receive notice of a meeting of the directors and to vote upon the resolution shall be as valid and effectual as if it had been passed at a meeting of the directors duly convened and held.

(2) The resolution in writing may comprise several documents containing the text of the resolution in like form to each of which one or more directors has signified their agreement.
Delegation

46 (1) The directors may delegate any of their powers or functions to a committee of two or more directors but the terms of any delegation must be recorded in the minute book.

(2) The directors may impose conditions when delegating, including the conditions that:

(a) the relevant powers are to be exercised exclusively by the committee to whom they delegate;

(b) no expenditure may be incurred on behalf of the charity except in accordance with a budget previously agreed with the directors.

(3) The directors may revoke or alter a delegation.

(4) All acts and proceedings of any committees must be fully and promptly reported to the directors.

Validity of directors' decisions

47 (1) Subject to article 47(2), all acts done by a meeting of directors, or of a committee of directors, shall be valid notwithstanding the participation in any vote of a director:

(a) who was disqualified from holding office;

(b) who had previously retired or who had been obliged by the constitution to vacate office;

(c) who was not entitled to vote on the matter, whether by reason of a conflict of interests or otherwise;

if without:

(d) the vote of that director; and

(e) that director being counted in the quorum;

the decision has been made by a majority of the directors at a quorate meeting.

(2) Article 47(1) does not permit a director or a connected person to keep any benefit that may be conferred upon him or her by a resolution of the directors or of a committee of directors if, but for article 47(1), the resolution would have been void, or if the director has not complied with article 8.
48 If the charity has a seal it must only be used by the authority of the directors or of a committee of directors authorised by the directors. The directors may determine who shall sign any instrument to which the seal is affixed and unless otherwise so determined it shall be signed by a director and by the secretary (if any) or by a second director.

Minutes

49 The directors must keep minutes of all:

1. appointments of officers made by the directors;
2. proceedings at meetings of the charity;
3. meetings of the directors and committees of directors including:
   a. the names of the directors present at the meeting;
   b. the decisions made at the meetings; and
   c. where appropriate the reasons for the decisions.

Accounts

50 (1) The directors must prepare for each financial year accounts as required by the Companies Acts. The accounts must be prepared to show a true and fair view and follow accounting standards issued or adopted by the Accounting Standards Board or its successors and adhere to the recommendations of applicable Statements of Recommended Practice.

(2) The directors must keep accounting records as required by the Companies Act.

Annual Report and Return and Register of Charities

51 (1) The directors must comply with the requirements of the Charities Act 2011 with regard to the:

a. transmission of a copy of the statements of account to the Commission;

b. preparation of an Annual Report and the transmission of a copy of it to the Commission;

(2) The directors must notify the Commission promptly of any changes to the charity's entry on the Central Register of Charities.
Means of communication to be used

52 (1) Subject to the articles, anything sent or supplied by or to the charity under the articles may be sent or supplied in any way in which the Companies Act 2006 provides for documents or information which are authorised or required by any provision of that Act to be sent or supplied by or to the charity.

(2) Subject to the articles, any notice or document to be sent or supplied to a director in connection with the taking of decisions by directors may also be sent or supplied by the means by which that director has asked to be sent or supplied with such notices or documents for the time being.

53 Any notice to be given to or by any person pursuant to the articles:

(1) must be in writing; or

(2) must be given in electronic form.

54 (1) The charity may give any notice to a member either:

(a) personally; or

(b) by sending it by post in a prepaid envelope addressed to the member at his or her address; or

(c) by leaving it at the address of the member; or

(d) by giving it in electronic form to the member's address.

(e) by placing the notice on a website and providing the person with a notification in writing or in electronic form of the presence of the notice on the website. The notification must state that it concerns a notice of a company meeting and must specify the place, date and time of the meeting.

(2) A member who does not register an address with the charity or who registers only a postal address that is not within the United Kingdom shall not be entitled to receive any notice from the charity.

55 A member present in person at any meeting of the charity shall be deemed to have received notice of the meeting and of the purposes for which it was called.

56 (1) Proof that an envelope containing a notice was properly addressed, prepaid and posted shall be conclusive evidence that the notice was given.

(2) Proof that an electronic form of notice was given shall be conclusive where the company can demonstrate that it was properly addressed and sent, in accordance with section 1147 of the Companies Act 2006.
Notes

Article 57 - This provision is about the extent to which the directors should be protected (incurred liability) from liability. It reflects changes in the law made by the Companies Act 2006. These options are given for indemnifying directors. It may be helpful to consult your own legal adviser about which approach is best for your charity.

The options here cater for the needs of most charities. The main differences are to do with whether the company wishes to indemnify its directors in individual cases, or whether this protection should be a right to which they are automatically entitled. Note that none of these options gives the company the power to grant a blanket indemnity to its directors - they are all limited to what is allowed by law and can only be exercised in the interests of the charity.

After considering the bullet points below, choose one option and delete the others.

• Option 1 gives the company the option to indemnify directors in any circumstances permitted by the Companies Act 2006. It does not confer a right to an indemnity. This option does not explicitly cover officers other than directors, but the general law implies an ability to indemnify them.

• Option 2 enables the company to provide a right to an indemnity for directors. A power to indemnify other officers may be implied.

• Option 3 enables the company to confer on directors the right to a limited indemnity as set out in the article

Article 57A - This article is optional but would permit the company to indemnify an auditor in the limited circumstances permitted by section 533 of the Companies Act 2006.

(3) In accordance with section 1147 of the Companies Act 2006 notice shall be deemed to be given:

(a) 48 hours after the envelope containing it was posted; or

(b) in the case of an electronic form of communication, 48 hours after it was sent.

Indemnity

[Option 1]

(57) (1) The charity may indemnify a relevant director against any liability incurred in that capacity, to the extent permitted by sections 232 to 234 of the Companies Act 2006.

(2) In this article a 'relevant director' means any director or former director of the charity.

[Option 2]

(57) (1) The charity shall indemnify a relevant director against any liability incurred in that capacity, to the extent permitted by sections 232 to 234 of the Companies Act 2006.

(2) In this article a 'relevant director' means any director or former director of the charity.

[Option 3]

(57) (1) The charity shall indemnify a relevant director against any liability incurred in successfully defending legal proceedings in that capacity, or in connection with any application in which relief is granted by the Court from liability for negligence, default, or breach of duty or breach of trust in relation to the charity.

(2) In this article a 'relevant director' means any director or former director of the charity.

[Optional]

57A The charity may indemnify an auditor against any liability incurred by him or her or it

(1) in defending proceedings (whether civil or criminal) in which judgment is given in his or her or its favour or he or she or it is acquitted; or

(2) in connection with an application under section 1157 of the Companies Act 2006 (power of Court to grant relief in case of honest and reasonable conduct) in which relief is granted to him or her or it by the Court.
Notes

Rules

58 (1) The directors may from time to time make such reasonable and proper rules or bye laws as they may deem necessary or expedient for the proper conduct and management of the charity.

(2) The bye laws may regulate the following matters but are not restricted to them:

(a) the admission of members of the charity (including the admission of organisations to membership) and the rights and privileges of such members, and the entrance fees, subscriptions and other fees or payments to be made by members;

(b) the conduct of members of the charity in relation to one another, and to the charity's employees and volunteers;

(c) the setting aside of the whole or any part or parts of the charity's premises at any particular time or times or for any particular purpose or purposes;

(d) the procedure at general meetings and meetings of the directors in so far as such procedure is not regulated by the Companies Acts or by the articles;

(e) generally, all such matters as are commonly the subject matter of company rules.

(3) The charity in general meeting has the power to alter, add to or repeal the rules or bye laws.

(4) The directors must adopt such means as they think sufficient to bring the rules and bye laws to the notice of members of the charity.

(5) The rules or bye laws shall be binding on all members of the charity. No rule or bye law shall be inconsistent with, or shall affect or repeal anything contained in, the articles.

Disputes

59 If a dispute arises between members of the charity about the validity or propriety of anything done by the members of the charity under these articles, and the dispute cannot be resolved by agreement, the parties to the dispute must first try in good faith to settle the dispute by mediation before resorting to litigation.
Notes

Article 60. The charity has power under the Companies Act 2006 to wind up. The directors must comply with Companies Act 2006 in using that power and provide Companies House with the required documentation. In these circumstances, directors will need to wind up promptly a copy of the relevant resolution and a copy of the final accounts.

Dissolution

60 (1) The members of the charity may at any time before, and in expectation of, its dissolution resolve that any net assets of the charity after all its debts and liabilities have been paid, or provision has been made for them, shall on or before the dissolution of the charity be applied or transferred in any of the following ways:

(a) directly for the Objects; or
(b) by transfer to any charity or charities for purposes similar to the Objects; or
(c) to any charity or charities for use for particular purposes that fall within the Objects.

(2) Subject to any such resolution of the members of the charity, the directors of the charity may at any time before and in expectation of its dissolution resolve that any net assets of the charity after all its debts and liabilities have been paid, or provision made for them, shall on or before dissolution of the charity be applied or transferred:

(a) directly for the Objects; or
(b) by transfer to any charity or charities for purposes similar to the Objects; or
(c) to any charity or charities for use for particular purposes that fall within the Objects.

(3) In no circumstances shall the net assets of the charity be paid to or distributed among the members of the charity (except to a member that is itself a charity) and if no resolution in accordance with article 60(1) is passed by the members or the directors the net assets of the charity shall be applied for charitable purposes as directed by the Court or the Commission.

Interpretation

61. In article 7, sub-clause (2) of article 9 and sub-clause (2) of article 47 ‘connected person’ means:

(1) a child, parent, grandchild, grandparent, brother or sister of the director;
(2) the spouse or civil partner of the director or of any person falling within sub-clause (1) above;
(3) a person carrying on business in partnership with the director or with any person falling within sub-clause (1) or (2) above;
(4) an institution which is controlled –
   (a) by the director or any connected person falling within sub-clause (1), (2), or (3) above; or
   (b) by two or more persons falling within sub-clause 4(a), when taken together.

(5) a body corporate in which –
   (a) the director or any connected person falling within sub-clauses (1) to (3) has a substantial interest; or
   (b) two or more persons falling within sub-clause (5)(a) who, when taken together, have a substantial interest.

(c) Sections 350 – 352 of the Charities Act 2011 apply for the purposes of interpreting the terms used in this article.