

THE COMPANIES ACT 2006
CHARITABLE COMPANY LIMITED BY GUARANTEE
ARTICLES OF ASSOCIATION
of
FRIENDS OF WESTONBIRT ARBORETUM

As altered by Special Resolution dated 12 May 2018

1. Interpretation

1.1. In the articles:

‘the Arboretum’ means Westonbirt, The National Arboretum;

‘the Arboretum Director’ means the director appointed and employed by the Forestry Commission or such other person or body as may be responsible for the management of the Arboretum, to manage the Arboretum;

‘Arboretum staff’ means anyone employed to manage the Arboretum by the Forestry Commission or such other person or body as may be responsible for the management of the Arboretum;

‘address’ means a postal address or, for the purposes of electronic communication, an e-mail or postal address or a telephone number for receiving text messages in each case registered with the charity;

‘the articles’ means the charity’s articles of association;

‘the charity’ means the company to which these articles apply;

‘clear days’ in relation to the period of a notice means a period excluding:

- the day when the notice is given or deemed to be given; and
- the day for which it is given or on which it is to take effect;

‘the Commission’ means the Charity Commission for England and Wales;

‘Companies Act’ means the Companies Act 2006;

‘connected person’ means:

- (a) any spouse or civil partner of a trustee; and
- (b) any parent, child, brother, sister, grandparent or grandchild of a trustee and the spouses or civil partners or business partners of any of those categories; and
- (c) any institution controlled by a trustee or any parent, child, brother, sister, grandparent or grandchild of a trustee and the spouses or civil partners (or by any two of such categories acting together); and
- (d) any corporate body controlled by a trustee or any parent, child, brother, sister, grandparent or grandchild of a trustee and the spouses or civil partners (or by any two of such categories acting together);

For these purposes a child includes an adopted child or step-child or child living as part of the family of a trustee.

For these purposes a person controls:

- (i) an institution if that person is able to secure that the affairs of the institution are conducted in accordance with his wishes;
- (ii) a body corporate if that person is interested in shares or equity capital of that body of a nominal value of more than one-fifth of its total shares or equity capital or is entitled to exercise, or control the exercise of, more than one-fifth of the voting power at any general meeting of that body.

'directors' means the trustees of the charity, who are charity trustees for the purposes of charity law and company directors for the purposes of company law;

'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;

'general meeting' is a meeting of the members of the charity;

'member' means a member of the charity for the purposes of company law (unless the context otherwise requires);

'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.

2. Liability of members

2.1. The liability of the members is limited to a sum not exceeding £1, 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:

- 2.1.1. payment of the charity's debts and liabilities incurred before he, she or it ceases to be a member;
- 2.1.2. payment of the costs, charges and expenses of winding up; and
- 2.1.3. adjustment of the rights of the contributories among themselves.

3. Objects

- 3.1 The Friends of Westonbirt Arboretum aims to further public enjoyment and knowledge of this world renowned tree collection and to secure its sustainable future. It does this by engaging, informing and increasing its membership and also by giving financial and practical support to the management and development of Westonbirt, The National Arboretum and, in particular, by:
- 3.1.1. providing support to the National Arboretum at Westonbirt in promoting public understanding of the critical role of trees to the environment and society;
 - 3.1.2. providing support for the Arboretum's research and education in all fields relating to trees;
 - 3.1.3. providing support for the conservation, maintenance and development of the unique tree and collection and historic landscape for future generations;
 - 3.1.4. providing funds to enhance the public's experience at the Arboretum;
 - 3.1.5. acting as an advocate for the Arboretum, promoting its values and the need for continuing funding;
 - 3.1.6. providing support to the Arboretum by cultivating the Charity's relationship with its members so as to encourage long-term relationships and fundraising opportunities;
 - 3.1.7. promoting opportunities for access and participation to a diverse range of public individuals and groups;
 - 3.1.8. providing funds for such other charitable purposes as will further the work of the Arboretum;

4. Powers

- 4.1 The charity has power to do anything lawful in furtherance of its Objects (which are its charitable purposes for the purposes of charity law).

5. Application of income and property

- 5.1. The income and property of the charity shall be applied solely towards the promotion of the Objects.
- 5.2. In respect of directors the following shall apply:
- 5.2.1. 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.
 - 5.2.2. 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.
 - 5.2.3. A director may receive an indemnity from the charity in the circumstances specified in article 32.
 - 5.2.4. A director may not receive any other benefit or payment unless it is authorised by article 6.
- 5.3. Subject to article 6, 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 also a director receiving:

5.3.1. a benefit from the charity in the capacity of a beneficiary of the charity;

5.3.2. reasonable and proper remuneration for any goods or services supplied to the charity.

6. Benefits and payments to charity directors and connected persons

General provisions

6.1. No director or connected person may:

6.1.1. buy any goods or services from the charity by virtue of their position as a director on terms substantially preferential to those applicable to members of the public;

6.1.2. sell goods, services, or any interest in land to the charity;

6.1.3. be employed by, or receive any remuneration from, the charity;

6.1.4. receive any other financial benefit from the charity;

unless the payment is permitted under articles 6.2 to 6.9, or authorised by the court or the Charity Commission.

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

6.2. 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.

6.3. Not more than one of the directors of the charity at any one time being a solicitor, accountant or other professional person shall be entitled to be paid professional fees at such reasonable rate as the directors of the charity think fit from time to time for work undertaken by him on behalf of the charity, provided that such director shall absent himself from all meetings of the directors of the charity at which any question of remuneration is to be discussed.

6.4. A director may, in exceptional cases receive payment of money or other material benefit (whether directly or indirectly) from the charity (but only with the written approval of the Commission in advance), provided that such director shall absent himself from all meetings of the directors of the charity at which any question of remuneration is to be discussed.

6.5. 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.

6.6. Subject to the provisions of articles 6.10 to 6.11 of this article a director or connected person may provide the charity with goods that are not supplied in the ordinary course of or in connection with services provided to the charity by the director or connected person.

6.7. 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).

6.8. 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.

- 6.9. 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

6.10. The charity and its directors may only rely upon the authority provided by article 6.6 if each of the following conditions is satisfied:

- 6.10.1. 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.
- 6.10.2. 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.
- 6.10.3. 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.
- 6.10.4. 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.
- 6.10.5. 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.
- 6.10.6. The reason for their decision is recorded by the directors in the minute book.
- 6.10.7. A majority of the directors then in office are not in receipt of remuneration or payments authorised by article 6.

6.11. In articles 6.2 to 6.10:

- 6.11.1. 'charity' includes any company in which the charity:
 - 6.11.1.1. holds more than 50% of the shares; or
 - 6.11.1.2. controls more than 50% of the voting rights attached to the shares; or
 - 6.11.1.3. has the right to appoint one or more directors to the board of the company.
- 6.11.2. 'connected person' includes any person within the definition in article 1.1 'Interpretation'.

7. Declaration of directors' interests, conflicts of interests and conflicts of loyalties

- 7.1 A director shall comply with the duty to declare an interest in any proposed transactions and arrangements in accordance with section 177 of the Companies Act 2006 and the requirements to declare an interest in an existing transaction or arrangement in accordance with section 182 of the Companies Act 2006.
- 7.2 Directors shall declare matters of material personal interest and any matters where there is a conflict of loyalty or duty owed to another organisation, of which they are aware, that are relevant to the business of any directors' meeting at or before the start of the meeting. Any interested director shall be counted in the quorum and may vote unless the interest gives rise to a conflict between the director's personal interest, other duty or loyalty, and the interests of the charity, in which case the director must withdraw from the discussion and any decision.

- 7.3 In the event of any doubt as to whether a director should withdraw that director must do so and the chairman of the meeting shall require that the director does so. In the event that the chairman of the meeting has a conflict the chairman shall withdraw and another non-conflicted director shall be chosen by the other directors present to take the chair during his absence. Should the chairman of the meeting refuse to do so, the other directors may decide by resolution that the chairman must do so.
- 7.4 A director shall not be regarded as having a conflict of interest solely because that director is also a member of the charity or that director or anyone connected to that director is a beneficiary of the charitable activities of the charity. Such membership or beneficiary status shall not prevent a director from taking part in any directors' meeting unless a matter specific to him or a person connected to him is being discussed or decided, in which case the director must withdraw from the discussion and any decision. In the event of any doubt as to whether a director should withdraw, that director must do so and the chairman of the meeting shall require that the director does so.

8. Members

- 8.1. Membership is open to other individuals or organisations who apply to the charity in the form required by the directors; and are approved by the directors or by such other person or group as the directors have specifically authorised to approve membership applications.
- 8.2. Where the directors have delegated authority to approve membership applications in accordance with these articles, if the persons or group to whom that delegated authority has been given consider any application should be rejected, they must refer that application to the directors for final decision. 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.
- 8.3. Where any application is rejected, the directors must inform the applicant in writing of the reasons for the refusal within twenty-one days of the decision.
- 8.4. 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.
- 8.5. Membership is not transferable.
- 8.6. The directors must ensure the charity keeps a Register of Members that complies with the relevant requirements of the Companies Act.
- 8.7. In the case of any joint membership (including any family class of membership), the individual named first as member in the Register of Members is entitled to exercise the one vote on that joint membership if both joint members are present at a general meeting of the members. Provided that only individuals aged 16 or over may do so.

9. Classes of membership

- 9.1. The directors may establish classes of membership with different rights. Provided that any matter of the company law rights of a member must be in accordance with the articles and in accordance with company law.
- 9.2. Where there are different classes of membership at any time, the class of membership of each member must be indicated in that member's record in the Register of Members.

- 9.3. The rights or obligations attached to a class of membership may only be altered with the prior consent of the class or classes affected, given as set out below.
- 9.4. The rights attached to a class of membership may only be varied if:
- 9.4.1. three-quarters of the members of that class consent in writing to the variation; or
- 9.4.2. a special resolution is passed at a separate general meeting of the members of that class agreeing to the variation.
- 9.5. 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.

10. Termination of membership

10.1. Membership is terminated if:

- 10.1.1. the member dies or, if it is an organisation, ceases to exist;
- 10.1.2. the member resigns by written notice to the charity unless, after the resignation, there would be less than two members;
- 10.1.3. any sum due from the member to the charity has not been paid in full before the date on which the current membership of that member expires;
- 10.1.4. the member is removed from membership by a resolution of the directors on the grounds that it is in the best interests of the charity that the membership is terminated. A resolution to remove a member from membership may only be passed if:
- 10.1.4.1. 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;
- 10.1.4.2. 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.

11. General meetings of the members

- 11.1. An annual general meeting must be held in each calendar year at such date, time and place as the directors decide.
- 11.2. The directors may call a general meeting of the members at any time.

12. Notice of general meetings of the members

- 12.1. The minimum period of notice required to hold a general meeting of the charity is fourteen clear days (unless otherwise require by the Companies Act or any other rule of law).
- 12.2. 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 per cent of the total voting rights.
- 12.3. 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 the articles.

- 12.4. The notice must be given to all the members and to the directors and to the auditors (if the charity has auditors).
- 12.5. 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.

13. Proceedings at general meetings

13.1 No business shall be transacted at any general meeting unless a quorum is present. A quorum is 25 members present in person or by proxy and entitled to vote upon the business to be conducted at the meeting. The authorised representative of a member organisation shall be counted in the quorum.

13.2 If :

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

13.2.2 during a meeting a quorum ceases to be present;

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

13.3 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.

13.4 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.

13.5 General meetings shall be chaired by the person who has been appointed to chair meetings of the directors.

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

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

13.8 If no director is present and willing to chair the meeting within fifteen minutes after the time appointed for holding it the meeting shall be adjourned and the directors must reconvene the meeting giving at least seven clear days' notice of the reconvened meeting stating the date, time and place of the meeting.

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

13.10 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.

13.11 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.

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

13.13 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:

13.13.1 by the person chairing the meeting; or

- 13.13.2 by at least two members present in person or by proxy and having the right to vote at the meeting; or
- 13.13.3 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.
- 13.14 The declaration by the person who is chairing the meeting of the result of a vote shall be conclusive unless a poll is demanded.
- 13.15 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.
- 13.16 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.
- 13.17 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.
- 13.18 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.
- 13.19 The result of the poll shall be deemed to be the resolution of the meeting at which the poll is demanded.
- 13.20 A poll demanded on the election of a person to chair a meeting or on a question of adjournment must be taken immediately.
- 13.21 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.
- 13.22 The poll must be taken within thirty days after it has been demanded.
- 13.23 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.
- 13.24 If a poll is demanded the meeting may continue to deal with any other business that may be conducted at the meeting.

14. Content of proxy notices

- 14.1. Proxies may only validly be appointed by a notice in writing (a 'proxy notice') which:
- 14.1.1. states the name and address of the member appointing the proxy;
 - 14.1.2. identifies the person appointed to be that member's proxy and the general meeting in relation to which that person is appointed;
 - 14.1.3. is signed by or on behalf of the member appointing the proxy, or is authenticated in such manner as the directors may determine; and
 - 14.1.4. 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.

- 14.2. The charity may require proxy notices to be delivered in a particular form, and may specify different forms for different purposes.
- 14.3. 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.
- 14.4. Unless a proxy notice indicates otherwise, it must be treated as:
 - 14.4.1. 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
 - 14.4.2. 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.

15. Delivery of proxy notices

- 15.1. 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.
- 15.2. 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.
- 15.3. 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.
- 15.4. 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.

16. Votes of members

- 16.1. Subject to the other provisions of the articles, every member, whether an individual or an organisation, shall have one vote. For the avoidance of doubt, a joint membership has only one vote.
- 16.2. 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.
- 16.3. Any organisation that is a member of the charity may nominate any person to act as its representative at any meeting of the charity.
- 16.4. 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.
- 16.5. 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.

17. Directors

- 17.1. A director must be a natural person aged 16 years or older.
- 17.2. No one may be appointed a director if he or she would be disqualified from acting under the provisions of the articles or by order of the Charity Commission or otherwise disqualified by law.

- 17.3. The minimum number of directors shall be 7 but the maximum number of directors shall not exceed 12.
- 17.4 A director may not appoint an alternate director or anyone to act on his or her behalf at meetings of the directors.

18. Powers of directors

- 18.1. 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 Act, the Charities Act 2011, the articles or any special resolution.
- 18.2. No alteration of the articles or any special resolution shall have retrospective effect to invalidate any prior act of the directors.
- 18.3. 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.

19. Appointment of directors and terms of office

- 19.1 Only individuals aged 16 or over who are legally eligible to be appointed as company directors and charity trustees may be appointed as directors. No employee of the Forestry Commission may be appointed to be or serve as a director.
- 19.2 A candidate for appointment must provide such evidence as the directors require in order to establish their identity and their eligibility and suitability to be considered for appointment as a director. If a candidate fails to do so or if the evidence provided is considered unsatisfactory by the directors, that individual may not be proposed for appointment as a director.
- 19.3 A director may, provided there is a vacancy on the board, be appointed either by resolution of the members at a general meeting or by resolution of the directors at a meeting of the directors.
- 19.4 The term of office for a director is three years, commencing on the date of appointment. A director may be re-appointed to not more than two further terms of office,
- 19.5 The maximum permitted period of service as a director is nine years. At the end of that period the individual automatically ceases to be a director and cannot ever be considered for appointment as a director again.
- 19.6 For the purposes of transition:
 - 19.6.1 For the avoidance of doubt, any serving director, who was previously a 'Nominated Director' under the previous provisions of the charity's articles, and who is still in office at the passing of the Special Resolution that includes this article in the articles of the charity, remains in office as a director.
 - 19.6.2 In the case of any director who has completed one or two periods of three years in office as a director at the 2018 annual general meeting, those periods shall be counted as one (or two, as the case may be) terms of office for the purposes of the maximum permitted number of terms of office under the provision of articles 19.4 and 19.5 above. Such directors shall be deemed to begin a further term of office at that meeting and are subject to the maximum permitted period of service set out in article 19.5.
 - 19.6.3 Any other individual appointed as a new director at or after the 2018 annual general meeting shall be appointed to a first term of office under the provisions of these articles.
 - 19.6.4 Any director who at the commencement of the 2019 annual general meeting has served nine or more years in office (however they were appointed to the board) shall automatically cease to be a director at the end of that meeting. Their positions on the board may be filled at that meeting (provided that there are vacancies, taking into account, for the purposes of the maximum number of directors, the vacancies created by this article and any other vacancies on the board). Any individual appointed to such a vacancy shall become a director at the end of that meeting in place of the former director.

20. Disqualification and removal of directors

20.1 A director shall cease to hold office if that individual:

20.1.1 becomes an employee of the Forestry Commission;

20.1.2 ceases to be a director by virtue of any provision in the Companies Act or is prohibited by law from being a director;

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

20.1.4 is removed from acting as a charity trustee by decision of the Commission;

20.1.5 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;

20.1.6 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

20.1.7 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.

20.1.8 the directors resolve to end the individual's directorship on the grounds that it is not in the best interests of the charity for that individual to remain a director, provided that:

20.1.8.1 Before doing so the directors must make the individual aware of their reasons for considering doing so and give the individual the opportunity to make representations to the directors before they make their decision;

20.1.8.2 The individual may be permitted to attend the meeting for an initial period to answer questions (if the directors have questions they wish to ask);

20.1.8.3 The individual must not be present when the directors discuss the proposed removal and make the decision (if attending to answer questions before the matter is discussed, they must leave before the discussions begins); and

20.1.8.4 At least 75% of the votes cast must be in favour for the resolution to be passed (the individual in question cannot vote and must not be present when the vote is taken).

21. Remuneration of directors

21.1 The directors must not be paid any remuneration for holding the office of director.

22. Proceedings of board of directors

22.1 The directors may regulate their proceedings as they think fit, subject to the provisions of the articles.

22.2 Any director may call a meeting of the directors.

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

22.4 Questions arising at a meeting shall be decided by a majority of votes.

- 22.5 In the case of an equality of votes, the person who is chairing the meeting shall have a second or casting vote.
- 22.6 A meeting may be held by suitable electronic means agreed by the directors in which each participant may communicate with all the other participants.
- 22.7 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
- 22.8 The quorum shall be four 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
- 22.9 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.
- 22.10 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.
- 22.11 The directors shall appoint a director as chairman of the board to chair their meetings and may at any time revoke such appointment.
- 22.12 The directors may also appoint a vice-chairman.
- 22.13 If no-one has been appointed as chairman 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.
- 22.14 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.
- 22.15 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.
- 22.16 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.

23. Delegation

- 23.1 The directors may delegate the day to day management and administration of the charity to the Chief Executive in accordance with the job description and terms and conditions agreed by the directors from time to time for the Chief Executive and in accordance with any scheme of delegated authority approved by the board from time to time. The directors shall oversee and monitor such delegation in accordance with their legal duties and responsibilities. The Chief Executive shall report to the board of directors.
- 23.2 The directors may also delegate any of their functions and powers (but not their legal duties and responsibilities as directors and charity trustees) to panels comprising such individuals (which must include at least two directors). The chairman of a panel must be a director. The directors shall determine the terms of reference of each panel and may vary those or terminate a panel at any time. Panels shall report to the board of directors as required by the board from time to time.

24. Task groups

- 24.1 The directors may establish temporary task groups to undertake such activities as the directors specify in the terms of reference of the relevant task group. A task group shall report to the board of directors.
- 24.2 A task group may make recommendations to the board of directors but shall not have any decision-making powers.

25. Arboretum Director

- 25.1 The Arboretum Director may not be appointed as or serve as a director of the charity.
- 25.2 The Arboretum Director may be invited to all or any part of any board meeting and may speak on any matter and make reports to the board as invited by the chairman of the meeting. The individual attends in their capacity as Arboretum Director and shall not be deemed a director of the charity and may not vote on any matter at any board meeting. The individual must withdraw from the meeting if asked to do so by the meeting chairman.

26. Validity of directors' decisions

- 26.1. Subject to the other provisions of these articles all acts done by a meeting of directors, or of a panel, shall be valid notwithstanding the participation in any vote of a director:
- 26.1.1 who was disqualified from holding office;
 - 26.1.2 who had previously retired or who had been obliged by the articles to vacate office;
 - 26.1.3 who was not entitled to vote on the matter, whether by reason of a conflict of interests or otherwise;
- if without:
- (a) the vote of that director; and
 - (b) that director being counted in the quorum;
- the decision has been made by a majority of the directors at a quorate meeting.
- 26.1 A director or a connected person is not permitted to keep any benefit that may be conferred upon them by a resolution of the directors or of a committee of directors if, but for article 26.1 above, the resolution would have been void, or if the director has not complied with their obligations to declare interests.

27 Seal

- 27.1 If the charity has a seal it must only be used by the authority of 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.

28 Minutes

- 28.1 The directors must keep minutes of all:
- 28.1.1 appointments of officers made by the directors;
 - 28.1.2 proceedings at meetings of the charity;

28.1.3 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.

29. Public accountability

29.1 The directors shall ensure the charity files such documents, makes such returns and provides such accounts and annual trustees' report to the Commission and to Companies House as are required by the Companies Act, the Charities Act 2011 and otherwise by law from time to time.

30. Accounting records

30.1 The directors shall ensure the charity keeps such accounting records as are required by the Companies Act, the Charities Act 2011 and otherwise by law from time to time.

31 Means of communication to be used

31.1 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.

31.2 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.

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

31.3.1 must be in writing; or

31.3.2 must be given in electronic form.

31.4 The charity may give any notice to a member either:

31.4.1 personally; or

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

31.4.3 by leaving it at the address of the member;

31.4.4 by giving it in electronic form to the member's address; or

31.4.5 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.

31.5 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.

31.6 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.

- 31.7 Proof that an envelope containing a notice was properly addressed, prepaid and posted shall be conclusive evidence that the notice was given.
- 31.8 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.
- 31.9 In accordance with section 1147 of the Companies Act 2006 notice shall be deemed to be given:
- 31.9.1 48 hours after the envelope containing it was posted; or
- 31.9.2 in the case of an electronic form of communication, 48 hours after it was sent.

32. Indemnity

- 32.1 Subject to the next following Article, a relevant director of the charity or an associated company may be indemnified out of the charity's assets against:
- 32.1.1 Any liability incurred by that director in connection with any negligence, default, breach of duty or breach of trust in relation to the charity or an associated company;
- 32.1.2 Any liability incurred by that director in connection with the activities of the charity or an associated company in its capacity as a trustee of an occupational pension scheme (as defined in section 235(6) of the Companies Act 2006);
- 32.1.3 Any other liability incurred by that director as an officer of the charity or an associated company.
- 32.2 The Articles do not authorise any indemnity which would be prohibited or rendered void by any provision of the Companies Act 2006 or by any other provision of law.
- 32.3 For the purposes of this Article 32:
- 32.3.1 Companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate; and
- 32.3.2 A "relevant director" means any director or former director of the charity or an associated company.

33 Rules

- 33.1 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. Provided that rules and bye laws must not conflict with and are subsidiary to the articles and also provided that the company law rights of members may only be altered in accordance with relevant provisions of the articles and the Companies Act.
- 33.2 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.
- 33.3 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.

34 Disputes

- 34.1 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.

35 Dissolution

- 35.1 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:
- 35.1.1 directly for the Objects; or
 - 35.1.2 by transfer to any charity or charities for purposes similar to the Objects; or
 - 35.1.3 to any charity or charities for use for particular purposes that fall within the Objects.
- 35.2 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:
- 35.1.1 directly for the Objects; or
 - 35.1.2 by transfer to any charity or charities for purposes similar to the Objects; or
 - 35.1.3 to any charity or charities for use for particular purposes that fall within the Objects.
- 35.3 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 35.1 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.