

Transitional Provisions



THE COMPANIES ACT 2006

The Association for Project Safety Limited
(Company Number SC155374)

TRANSITIONAL PROVISIONS
supplementary to, and deemed
incorporated into, the articles of association
of The Association for Project Safety
Limited

Adopted by Special Resolution passed on 14 December
2022

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**THE COMPANIES ACT 2006
PRIVATE COMPANY LIMITED BY GUARANTEE
TRANSITIONAL PROVISIONS
OF**

The Association for Project Safety Limited (the "Association")

(Adopted by special resolution passed on 14 December 2022 (the "Resolution Date"))

Interpretation

1 Interpretation

1.1 In these Transitional Provisions, unless the context otherwise requires:

Act: means the Companies Act 2006;

Adoption Date: means 1 February 2023;

Appointed Director: means a Director appointed in accordance with Article 23 of the New Articles or, in the case of each Appointed Director as at the Adoption Date, paragraph 3.4 of these Transitional Provisions;

Articles: means the Association's articles of association for the time being in force;

Board: the board of Directors from time to time;

Business Day: means any day (other than a Saturday, Sunday or public holiday in England) when banks in London are open for business;

Chair: means a Director appointed in accordance with Article 23 of the New Articles or, in the case of the Chair as at the Adoption Date, paragraph 4 of these Transitional Provisions;

Director: means a director of the Association and includes any person occupying the position of director, by whatever name called;

Existing Articles: means the Association's articles of association in force immediately prior to the Resolution Date;

Incumbent Directors: means the incumbent Directors as at the Resolution Date;

Member: means a person whose name is entered in the Register of Members of the Association and **Membership** shall be construed accordingly;

Member Director: means a Director appointed in accordance with Article 26 of the New Articles, or, in the case of the Member Director as at the Adoption Date, paragraph 6 of these Transitional Provisions;

New Articles: means the articles of association of the Association annexed to the Resolution and to be adopted with effect from the Adoption Date;

New Rules: means the rules of the Association to be adopted by the Board with effect from the Adoption Date;

NMRG: means the National Members' Representative Group to be constituted in accordance with these Transitional Provisions and the New Rules as the representative body of the Members;

NMRG Member: means each Member who is a member of the NMRG from time to time;

President: means the president of the Association appointed in accordance with the New Articles or, in the case of the President as at the Adoption Date, paragraph 5.1 of these Transitional Provisions;

President Elect: means the president elect of the Association appointed in accordance with the New Articles or, in the case of the President as at the Adoption Date, paragraph 5.3 of these Transitional Provisions;

Resolution: the resolution of the Association pursuant to which these Transitional Provisions, the New Articles and the New Rules are to be adopted;

Transitional Election Period: means the period from the Resolution Date until 31 January 2023;

Transitional Provisions: these supplementary provisions to the Articles which relate to the composition and appointment of the Board and the NMRG, to apply in the Transitional Period.

- 1.2 Save as otherwise specifically provided in these Transitional Provisions, words and expressions which have particular meanings in the Act shall have the same meanings in these Transitional Provisions.
- 1.3 Headings in these Transitional Provisions are used for convenience only and shall not affect the construction or interpretation of these Transitional Provisions.
- 1.4 A reference in these Transitional Provisions to a **paragraph** is a reference to the relevant paragraph of these Transitional Provision unless expressly provided otherwise.
- 1.5 Unless expressly provided otherwise, a reference to a statute or statutory provision shall include any subordinate legislation from time to time made under that statute or statutory provision.
- 1.6 Any word following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

Transitional Provisions

2 Transitional Provisions

These Transitional Provisions are supplemental to and shall be deemed incorporated into the Existing Articles and will apply during the Transitional Election Period. In the event of any conflict between the provisions of these Transitional Provisions and the Existing Articles, these Transitional Provisions will prevail, but subject to that the Existing Articles will remain in full force and effect.

Appointment of Directors

3 Number and composition of Directors

3.1 During the Transitional Election Period, the Board shall, where appropriate, seek applications for, and shall select appropriate individuals to assume, the following positions in accordance with these Transitional Provisions:

- 3.1.1 a Chair;
- 3.1.2 four Appointed Directors;
- 3.1.3 the President;
- 3.1.4 the President Elect;
- 3.1.5 the Member Director.

3.2 The Directors appointed to the positions on the Board set out in paragraph 3.1 pursuant to these Transitional Provisions shall, as at the Adoption Date, automatically be appointed as a Director and assume those positions until resignation, removal or retirement pursuant to the New Articles.

3.3 Subject to paragraph 3.4, the Incumbent Directors (other than the President and the President Elect who shall remain in office), shall automatically resign as a Director as at the Adoption Date, unless re-appointed pursuant to paragraph 3.2 and the New Articles.

3.4 In the event that:

- 3.4.1 the Incumbent Directors are unable to appoint at least two Appointed Directors and a Chair pursuant to paragraph 4.1 by the Adoption Date; and/or
- 3.4.2 the NMRG is unable to appoint a Member Director pursuant to paragraph 6.1 by the Adoption Date;

(each resulting unfilled position on the Board being **an Unfilled Post**)

then the Incumbent Directors shall, by majority, elect such of their number to remain in office as shall be necessary to ensure that the Board comprises at least five Directors with effect from the Adoption Date, but such Incumbent Directors shall then automatically resign on the appointment of each Director to the relevant Unfilled Post in accordance with the New Articles.

4 Appointed Directors and Chair

4.1 The Board shall select and appoint up to four Appointed Directors and one Chair.

4.2 The Board shall:

- 4.2.1 appoint the Appointed Directors from amongst the Members, unless insufficient suitable candidates can be found from amongst the Members; and
- 4.2.2 only if unable to find sufficient suitable candidates from amongst the Members, seek applications from appropriate individuals outside of the Members for appointment as Appointed Directors; and
- 4.2.3 seek applications from appropriate individuals for appointment as the Chair.

4.3 The Board shall adopt such procedure, follow such timetable during the Transitional Period and take such steps as the Directors shall from time to time determine necessary or appropriate to identify candidates suitable for appointment as Appointed Directors and the Chair.

- 4.4 Each Appointed Director and the Chair shall automatically be appointed as a Director with effect from the Adoption Date.

5 President and President Elect

- 5.1 The President as at the Resolution Date shall remain the President with effect from the Adoption Date and shall hold office until the second Retirement Date following the Adoption Date but shall then retire when determined by the New Articles.
- 5.2 The Board shall, during the Transitional Election Period, in accordance with the Existing Articles seek applications from the Membership for nominees as President Elect.
- 5.3 The Members shall, during the Transitional Election Period, elect from nominees selected by the Board in accordance with the Existing Articles, a Member who is willing to act to be appointed as the President Elect who shall take office and serve with effect from the Adoption Date and shall hold office until he or she retires and, where applicable, is appointed as President in accordance with the New Articles.

6 Member Director

- 6.1 The NMRG shall as soon as practicable once constituted in accordance with paragraph 7, and so far as possible no less than 1 week prior to the Adoption Date, convene a meeting to select from one of their number the Member Director, such meeting to be held in accordance with the following provisions:
- 6.1.1 the quorum for the meeting of the NMRG shall be 7 NMRG Members;
 - 6.1.2 each NMRG Member other than the President and the President Elect shall have one vote on any resolution put to the meeting;
 - 6.1.3 where both the President and President Elect are present at the meeting, the President shall have one vote on any resolution put to the meeting and the President Elect shall not be entitled to any vote;
 - 6.1.4 where only one of the President or the President Elect are present at the meeting, the person present shall have one vote on any resolution put to the meeting;
 - 6.1.5 any resolution or question arising at the meeting shall be decided by a majority of votes;
 - 6.1.6 subject to the foregoing provisions of this paragraph 6.1, the NMRG may otherwise regulate the meeting as it thinks fit.
- 6.2 The NMRG shall, within 2 Business days of the meeting held pursuant to paragraph 6.1 and in any event no less than 3 Business Day prior to the Adoption Date, provide written notice to the Board of the Member Director.
- 6.3 The Member Director elected shall automatically be appointed as a Director and the Member Director with effect from the Adoption Date.

Constitution of NMRG

7 Number and composition of NMRG

- 7.1 The Association will, as soon as reasonably practicable following the Resolution Date constitute the NMRG comprising:
- 7.1.1 up to two Members elected from each Region in accordance with paragraph 7.2 of these Transitional Provisions and thereafter Rule 16 of the New Rules;

- 7.1.2 the President; and
- 7.1.3 the President Elect.
- 7.2 The NMRG, once constituted in accordance with these Transitional Provisions, shall:
 - 7.2.1 during the Transitional Election Period convene to appoint the Member Director in accordance with paragraph 6 above but for no other purpose, and, save in order to deal with administrative matters, shall have no further rights or powers;
 - 7.2.2 with effect from the Adoption Date, have the rights, powers and remit set out in the New Articles and New Rules.
- 7.3 The NMRG Members elected pursuant to these Transitional Provisions shall hold office from the Adoption Date until resignation, removal or retirement pursuant to the New Articles or the New Rules.
- 8 Election of NMRG Members**
 - 8.1 The Board shall procure that during the Transitional Period, there shall be 12 Members elected to the NMRG, and no more than 2 Members elected from each Region, in each case with effect from the Adoption Date and in accordance with the provisions of this paragraph 7.2.
 - 8.2 NMRG Members shall be elected by postal Ballot held in each Region (each a **Regional Ballot**).
 - 8.3 A Regional Ballot shall be made following such procedure, following such timetable during the Transitional Election Period and in such manner and way as the Directors shall determine.
 - 8.4 On a Regional Ballot:
 - 8.4.1 each Member (other than any Member who is disqualified from voting pursuant to the Existing Articles) shall be entitled to vote only in the Regional Ballot held in the Region in which that Member's residential address, as noted in the Directory of Members maintained pursuant to the Existing Articles, is located;
 - 8.4.2 each Member (other than any Member who is disqualified from voting pursuant to the Existing Articles) shall have the same number of votes as the number of vacancies to be filled in the Regional Ballot (or, if lower, the same number of votes as the number of candidates standing for election in that Region).
 - 8.5 Any candidate for election as an NMRG Member must:
 - 8.5.1 be a Member;
 - 8.5.2 only stand for election in the Regional Ballot for the Region in which that Member's residential address, as noted in the Directory of Members maintained pursuant to the Existing Articles, is located;
 - 8.5.3 have agreed to be proposed for election as a NMRG Member;
 - 8.5.4 be proposed for election as an NMRG Member for a Region by not less than six Members residing within that Region (other than any Member who is disqualified from voting pursuant to the Existing Articles).
 - 8.6 The outcome of the Regional Ballot shall, subject always to paragraphs 8.7 and 8.8 below, be determined according to the number of votes in favour of each candidate and:
 - 8.6.1 the two successful candidates shall be the candidates in whose favour the greatest and second-greatest number of votes is cast by Members in that Region;

8.6.2 the candidate with:

- (a) the greatest number of votes cast by Members in that Region shall be appointed with effect from the Adoption Date to serve until the second Retirement Date which follows the Adoption Date;
- (b) the second-greatest number of votes cast by Members in that Region shall be appointed with effect from the Adoption Date to serve until the first Retirement Date which follows the Adoption Date;

and in each case shall then automatically retire and be eligible for reappointment in accordance with the New Rules.

8.7 No candidate for election as an NMRG Member shall be successful in the Regional Ballot unless in aggregate 10 or more Members (other than any Member who is disqualified from voting pursuant to the Existing Articles) in that Region vote in the Regional Ballot in favour of that candidate.

8.8 Any vote cast in the regional ballot by any Member who is disqualified from voting pursuant to the Existing Articles shall not be counted.