

# Table of Optional Provisions for a Company Limited by Shares (LTD)

## The common seal

**43(2).** Save as otherwise provided by this Act or by the constitution of the company (a) a company's seal shall be used only by the authority of its directors, or of a committee of its directors authorised by its directors in that behalf; and (b) any instrument to which a company's seal shall be affixed shall be – (i) signed by a director of it or by some other person appointed for the purpose by its directors or by a foregoing committee of them; and (ii) be countersigned by the secretary or by a second (if any) director of it or by some other person appointed for the purpose by its directors or by a foregoing committee of them.

**43(3).** Save as otherwise provided by the constitution of the company, if there be a registered person in relation to a company the company's seal may be used by such person and any instrument to which the company's seal shall be affixed when it is used by the registered person shall be signed by that person and countersigned – (a) by the secretary or a director of the company; or (b) by some other person appointed for the purpose by its directors or a committee of its directors authorised by its directors in that behalf.

## Power to convert shares into stock etc

**65(1) & (2).** A company may, by ordinary resolution - (a) convert any of its paid up shares into stock; and (b) reconvert any stock into paid up shares of any denomination.

**65(1) & (3).** Subject to *subsection (4)*, the holders of stock may transfer the stock, or any part of it, in the same manner and subject to the same regulations as, and subject to which the shares from which the stock arose might, previously to conversion, have been transferred, or as near thereto as circumstances admit.

**65(1) & (4).** The directors of a company may from time to time fix the minimum amount of stock that is capable of being transferred but any such minimum so fixed shall not exceed the nominal amount of each share from which the stock arose.

**65(1) & (5).** Subject to *subsection (6)*, the holders of stock shall, according to the amount of stock held by them, have the same rights, privileges and advantages in relation to dividends, voting at meetings of the company and other matters as if they held the shares from which the stock arose.

**65(1) & (6).** No such right, privilege or advantage (except participation in the dividends and profits of the company and in the assets on winding up) shall be conferred by an amount of stock which would not, if existing in shares, have conferred that right, privilege or advantage.

**65(1) & (7).** Such of the regulations of a company as are applicable to paid up shares shall apply to stock of the company, and the words "share" and "shareholder" in those regulations shall be read as including "stock" and "stockholder", respectively.

## Redeemable shares

**66(4).** Save to the extent that its constitution provides otherwise, a company may allot shares that are redeemable (which shall be known, and are referred to in this Act, as "redeemable shares").

## Allotment of shares

**69(4).** Save to the extent that the constitution of the company provides otherwise – (a) shares of a company may only be allotted by the directors of the company; (b) the directors of a company may allot, grant options over or otherwise dispose of shares to such persons, on such terms and conditions and at such times as they may consider to be in the best interests of the company and its shareholders.

## Calls on shares

**77(1) & (2).** Subject to *subsection (3)*, the directors of a company may from time to time make calls upon the members in respect of any moneys unpaid on their shares (whether on account of the nominal value of the shares or by way of premium).

**77(1) & (3).** *Subsection (2)* does not apply to shares where the conditions of allotment of them provide for the payment of moneys in respect of them at fixed times.

**77(1) & (4).** Each member shall (subject to receiving at least 30 days' notice specifying the time or times and place of payment) pay to the company, at the time or times and place so specified, the amount called on the shares.

**77(1) & (5).** A call may be revoked or postponed, as the directors of the company may determine.

**77(1) & (6).** A call shall be deemed to have been made at the time when the resolution of the directors authorising the call was passed and may be required to be paid by instalments.

**77(1) & (7).** The joint holders of a share shall be jointly and severally liable to pay all calls in respect of it.

**77(1) & (8).** If a sum called in respect of a share is not paid before or on the day appointed for payment of it, the person from whom the sum is due shall pay interest on the sum from the day appointed for payment of it to the time of actual payment of such rate, not exceeding the appropriate rate, as the directors of the company may determine, but the directors may waive payment of such interest wholly or in part.

**77(1) & 78(1).** Any sum which, by the terms of issue of a share, becomes payable on allotment or at any fixed date (whether on account of the nominal value of the share or by way of premium) shall, for the purposes of this Act, be deemed to be a call duly made and payable on the date on which, by the terms of issue, that sum becomes payable.

**77(1) & 78(2).** In case of non payment of such a sum, all the relevant provisions of this Act as to payment of interest and expenses, forfeiture or otherwise, shall apply as if such sum had become payable by virtue of a call duly made and notified.

**77(1) & 78(3).** The directors of a company may, on the issue of shares, differentiate between the holders of different classes as to the amount of calls to be paid and the times of payment.

**77(1) & 78(4).** The directors of a company may, if they think fit - (a) receive from any member willing to advance such moneys, all or any part of the moneys uncalled and unpaid upon any shares held by him or her; and (b) pay, upon all or any of the money so advanced (until the amount concerned would, but for such advance, become payable) interest at such rate (not exceeding, unless the company in a general meeting otherwise directs, the appropriate rate) as may be agreed upon between the directors and the member paying such moneys in advance.

**79.** Save to the extent that the company's constitution provides otherwise, a company may - (a) make arrangements on the issue of shares for a difference between the shareholders in the amounts and times of payment of calls on their shares; (b) accept from any member the whole or a part of the amount remaining unpaid on any shares held by him or her, although no part of that amount has been called up; (c) pay a dividend in proportion to the amount paid up on each share where a larger amount is paid up on some shares than on others; and (d) by special resolution determine that any portion of its share capital which has not been already called up shall not be capable of being called up except in the event and for the purposes of the company being wound up; upon the company doing so, that portion of its share capital shall not be capable of being called up except in that event and for those purposes.

## Lien

**80(1) & (2).** A company shall have a first and paramount lien on every share (not being a fully paid share) for all moneys (whether immediately payable or not) called, or payable at a fixed time, in respect of that share.

**80(1) & (3).** The directors of a company may at any time declare any share in the company to be wholly or in part exempt from *subsection (2)*.

**80(1) & 80(4).** A company's lien on a share shall extend to all dividends payable on it.

**80(1) & 80(5).** A company may sell, in such manner as the directors of the company think fit, any shares on which the company has a lien, but no sale shall be made unless - (a) a sum in respect of which the lien exists is immediately payable; and (b) the following conditions are satisfied.

**80(1) & 80(6).** Those conditions are - (a) a notice in writing, stating and demanding payment of such part of the amount in respect of which the lien exists as is immediately payable, has been given to the registered holder for the time being of the share, or the person entitled thereto by reason of his or her death or bankruptcy; and (b) a period of 14 days after the date of giving of that notice has expired.

**80(1) & (7).** The following provisions apply in relation to a sale referred to in *subsection (5)*: (a) to give effect to any such sale, the directors may authorise some person to transfer the shares sold to the purchaser of them; (b) the purchaser shall be registered as the holder of the shares comprised in any such transfer; (c) the purchaser shall not be bound to see to the application of the purchase money, nor shall his or her title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the sale; and (d) the proceeds of the sale shall be received by the company and applied in payment of such part of the amount in respect of which the lien exists as is immediately payable, and the residue, if any, shall (subject to a like lien for sums not immediately payable as existed upon the shares before the sale) be paid to the person entitled to the shares at the date of the sale.

## Forfeiture of shares

**81(1) & (2).** If a member of a company fails to pay any call or instalment of a call on the day appointed for payment of it, the directors of the company may, at any time thereafter during such time as any part of the call or instalment remains unpaid, serve a notice on the member requiring payment of so much of the call or instalment as is unpaid, together with any interest which may have accrued.

**81(1) & (3).** That notice shall - (a) specify a further day (not earlier than the expiration of 14 days after the date of service of the notice) on or before which the payment required by the notice is to be made; and (b) state that, if the amount concerned is not paid by the day so specified, the shares in respect of which the call was made will be liable to be forfeited.

**81(1) & (4).** If the requirements of that notice are not complied with, any share in respect of which the notice has been served may at any time after the day so specified (but before, should it occur, the payment required by that notice has been made) be forfeited by a resolution of the directors of the company to that effect.

**81(1) & (5).** A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the directors of the company think fit, and at any time before a sale or disposition the forfeiture may be cancelled on such terms as the directors think fit.

**81(1) & (6).** A person whose shares have been forfeited shall cease to be a member of the company in respect of the forfeited shares, but shall, notwithstanding, remain liable to pay to the company all moneys which, at the date of forfeiture, were payable by him or her to the company in respect of the shares, but his or her liability shall cease if and when the company shall have received payment in full of all such moneys in respect of the shares.

**81(1) & (7).** A statement in writing that the maker of the statement is a director or the secretary of the company, and that a share in the company has been duly forfeited on a date stated in the statement, shall be conclusive evidence of the facts stated in it as against all persons claiming to be entitled to the share.

**81(1) & (8).** The following provisions apply in relation to a sale or other disposition of a share referred to in *subsection (5)*: (a) the company may receive the consideration, if any, given for the share on the sale or other disposition of it and may execute a transfer of the share in favour of the person to whom the share is sold or otherwise disposed of (the "disponee"); (b) upon such execution, the disponee shall be registered as the holder of the share; (c) the disponee shall not be bound to see to the application of the purchase money, if any, nor shall his or her title to the share be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale or disposal of the share.

## Variation of company capital

**83(1).** Save to the extent that its constitution otherwise provides, a company may, by ordinary resolution, do any one or more of the following, from time to time - (a) consolidate and divide all or any of its shares into shares of a larger nominal value than its existing shares; (b) subdivide its shares, or any of them, into shares of a smaller nominal value, so however, that in the subdivision the proportion between the amount paid and the amount, if any, unpaid on each reduced share shall be the same as it was in the case of the share from which the reduced share is derived; (c) increase the nominal value of any of its shares by the addition to them of any undenominated capital; (d) reduce the nominal value of any of its shares by the deduction from them of any part of that value, subject to the crediting of the amount of the deduction to undenominated capital, other than the share premium account; (e) convert any undenominated capital into shares for allotment as bonus shares to holders of existing shares; (f) in the case of a company whose constitution states an authorised share capital (in addition to its power to do any of the foregoing things) - (i) increase its share capital by new shares of such amount as it thinks expedient; or (ii) cancel shares of its share capital which, at the date of the passing of the resolution, have not been taken or agreed to be taken by any person, and diminish the amount of its share capital by the amount of the shares so cancelled.

**83(3).** Save to the extent that its constitution otherwise provides, a company may, by special resolution, and subject to the provisions of this Act governing the variation of rights attached to classes of shares and the amendment of a company's constitution, convert any of its shares into redeemable shares.

## Reduction on company capital

**84(1).** Save to the extent that its constitution otherwise provides, a company may, subject to the provisions of this section and *sections 85 to 87*, reduce its company capital in any way it thinks expedient and, without prejudice to the generality of the foregoing, may thereby - (a) extinguish or reduce the liability on any of its shares in respect of share capital not paid up; (b) either with or without extinguishing or reducing liability on any of its shares, cancel any paid up company capital which is lost or unrepresented by available assets; or (c) either with or without extinguishing or reducing liability on any of its shares, pay off any paid up company capital which is in excess of the wants of the company.

**88(10).** Save where the company's constitution provides otherwise, the rights conferred upon the holders of the shares of any class issued by a company with preferred or other rights shall not, unless otherwise expressly provided by the terms of issue of the shares of that class, be deemed to be varied by the creation or issue of further shares ranking *pari passu* therewith.

## Transfer of shares

**95(1).** Save where the constitution of the company provides otherwise - (a) the directors of a company may in their absolute discretion and without assigning any reason for doing so, decline to register the transfer of any share; (b) the directors' power to decline to register a

transfer of shares (other than on account of a matter specified in *subsection (2)*) shall cease to be exercisable on the expiry of 2 months after the date of delivery to the company of the instrument of transfer of the share.

### Transmission of shares

**96(1) & (2).** In the case of the death of a member, the survivor or survivors where the deceased was a joint holder, and the personal representatives of the deceased where he or she was a sole holder, shall be the only persons recognised by the company as having any title to his or her interest in the shares.

**96(1) & (3).** Nothing in *subsection (2)* shall release the estate of a deceased joint holder from any liability in respect of any share which had been jointly held by him or her with other persons.

**96(1) & (4).** Any person becoming entitled to a share in consequence of the death or bankruptcy of a member may, upon such evidence being produced as may from time to time properly be required by the directors of the company and subject to *subsection (5)*, elect either – (a) to be registered himself or herself as holder of the share; or (b) to have some person nominated by him or her (being a person who consents to being so registered) registered as the transferee thereof.

**96(1) & (5).** The directors of the company shall, in either of those cases, have the same right to decline or suspend registration as they would have had in the case of a transfer of the share by that member before his or her death or bankruptcy, as the case may be.

**96(1) & (6).** If the person becoming entitled as mentioned in *subsection (4)* – (a) elects to be registered himself or herself, the person shall furnish to the company a notice in writing signed by him or her stating that he or she so elects; or (b) elects to have another person registered, the person shall testify his or her election by executing to that other person a transfer of the share.

**96(1) & (7).** All the limitations, restrictions and provisions of this Chapter relating to the right to transfer and the registration of a transfer of a share shall be applicable to a notice or transfer referred to in *subsection (6)* as if the death or bankruptcy of the member concerned had not occurred and the notice or transfer were a transfer signed by that member.

**96(1) & (8).** Subject to *subsections (9)* and *(10)*, a person becoming entitled to a share by reason of the death or bankruptcy of the holder shall be entitled to the same dividends and other advantages to which he or she would be entitled if he or she were the registered holder of the share.

**96(1) & (9).** Such a person shall not, before being registered as a member in respect of the share, be entitled in respect of it to exercise any right conferred by membership in relation to meetings of the company.

**96(1) & (10).** The directors of the company may at any time serve a notice on any such person requiring the person to make the election provided for by *subsection (4)* and, if the person does not make that election (and proceed to do, consequent on that election, whichever of the things mentioned in *subsection (6)* is appropriate) within 90 days after the date of service of the notice, the directors may thereupon withhold payment of all dividends, bonuses or other moneys payable in respect of the share until the requirements of the notice have been complied with.

**96(1) & (11).** The company may charge a fee not exceeding €10.00 on the registration of every probate, letters of administration, certificate of death, power of attorney, notice as to stock or other instrument or order.

**97(3).** Save to the extent that the constitution of the second-mentioned company in *subsection (2)* provides otherwise and subject – (a) as mentioned in *subsection (2)*; and (b) in every case (that is to say, irrespective of what that constitution or those regulations provide), to any order made by the court in respect of the matter concerned under *Part 9*, those alternative procedures shall be such as the directors of that second-mentioned company determine.

(Note: 97(2) provides: “Without prejudice to this matter being provided for by the exercise of the Minister’s powers under *subsection (1)* (and subject, in that eventuality, to any regulations made in pursuance thereof), nothing in section [96] prejudices the adoption of alternative procedures to those specified in that section with respect to the registering of a transfer of shares in a company held by another company that are transmitted by operation of law in consequence of a merger between those companies.”)

### Dividends

**124(1) & (2).** A company may, by ordinary resolution, declare dividends but no dividend shall exceed the amount recommended by the directors of the company.

**124(1) & (3).** The directors of a company may from time to time – (a) pay to the members such interim dividends as appear to the directors to be justified by the profits of the company, subject to *section 117*; (b) before recommending any dividend, set aside out of the profits of the company such sums as they think proper as a reserve or reserves which shall, at the discretion of the directors, be applicable for any purpose to which the profits of the company may be properly applied, and pending such application may, at the like discretion either be employed in the business of the company or be invested in such investments as the directors may lawfully determine; (c) without placing the profits of the company to reserve, carry forward any profits which they may think prudent not to distribute.

**124(1) & (4).** Subject to the rights of persons, if any, entitled to shares with special rights as to dividend, all dividends shall be declared and paid according to the amounts paid or credited as paid on the shares in respect of which the dividend is paid.

**124(1) & (5).** However no amount paid or credited as paid on a share in advance of calls shall be treated for the purposes of this section as paid on the share.

**124(1) & (6).** All dividends shall be apportioned and paid proportionally to the amounts paid or credited as paid on the shares during any portion or portions of the period in respect of which the dividend is paid, but if any share is issued on terms providing that it shall rank for a dividend as from a particular date, such share shall rank for dividend accordingly.

**124(1) & (7).** The directors may deduct from any dividend payable to any member, all sums of money (if any) immediately payable by him or her to the company on account of calls or otherwise in relation to the shares of the company.

**124(1) & 125(1).** A general meeting of a company declaring a dividend or bonus may direct payment of such dividend or bonus wholly or partly by the distribution of specific assets and, in particular, paid up shares, debentures or debenture stock of any other company or in any one or more of such ways.

**124(1) & 125(2).** The directors of the company shall give effect to such resolution, and where any difficulty arises in regard to such distribution, the directors may settle the matter as they think expedient and, in particular, may – (a) issue fractional certificates and fix the value for distribution of such specific assets or any part of them; (b) determine that cash payments shall be made to any members upon the footing of the value so fixed, in order to adjust the rights of all the parties; and (c) vest any such specific assets in trustees as may seem expedient to the directors.

**124(1) & 125(3).** Any dividend, interest or other moneys payable in cash in respect of any shares may be paid – (a) by cheque or negotiable instrument sent by post directed to or otherwise delivered to the registered address of the holder, or where there are joint holders, to the registered address of that one of the joint holders who is first named on the register or to such person and to such address as the holder or the joint holders may in writing direct;

or (b) by agreement with the payee (which may either be a general agreement or one confined to specific payments), by direct transfer to a bank account nominated by the payee **124(1) & 125(4).** Any such cheque or negotiable instrument shall be made payable to the order of the person to whom it is sent.

**124(1) & 125(5).** Any one of two or more joint holders may give valid receipts for any dividends, bonuses or other moneys payable in respect of the shares held by them as joint holders, whether paid by cheque or negotiable instrument or direct transfer.

**124(1) & 125(6).** No dividend shall bear interest against the company.

### Bonus issue

**126(1) & (2).** In *subsections (3)* and *(4)* “relevant sum” means– (a) any sum for the time being standing to the credit of the company’s undenominated capital; (b) any of the company’s profits available for distribution; or (c) any sum representing unrealised revaluation reserves.

**126(1) & (3).** The company in general meeting may, on the recommendation of the directors, resolve that any relevant sum be capitalised and applied on behalf of the members who would have been entitled to receive that sum if it had been distributed by way of dividend and in the same proportions in or towards paying up in full unissued shares of the company of a nominal value equal to the relevant sum capitalised (such shares to be allotted and distributed credited as fully paid up to and amongst such holders and in the proportions as aforementioned).

**126(1) & (4).** The company in general meeting may, on the recommendation of the directors, resolve that it is desirable to capitalise any part of a relevant sum which is not available for distribution, by applying such sum in paying up in full unissued shares to be allotted as fully paid bonus shares, to those members of the company who would have been entitled to that sum if it were distributed by way of dividend (and in the same proportions).

**126(1) & (5).** The directors of the company shall give effect to any resolution under *subsection (3)* or *(4)*.

**126(1) & (6).** For that purpose the directors shall make – (a) all appropriations and applications of the undivided profits resolved to be capitalised by the resolution; and (b) all allotments and issues of fully paid shares, if any, and generally shall do all acts and things required to give effect to the resolution.

**126(1) & (7)** Without limiting the foregoing, the directors may – (a) make such provision as they think fit for the case of shares becoming distributable in fractions (and, again, without limiting the foregoing, may sell the shares represented by such fractions and distribute the net proceeds of such sale amongst the members otherwise entitled to such fractions in due proportions); and (b) authorise any person to enter, on behalf of all the members concerned, into an agreement with the company providing for the allotment to them, respectively credited as fully paid up, of any further shares to which they may become entitled on the capitalisation concerned or, as the case may require, for the payment by the application thereto of their respective proportions of the profits resolved to be capitalised of the amounts remaining unpaid on their existing shares.

**126(1) & (8).** Any agreement made under such authority shall be effective and binding on all the members concerned.

**126(1) & (9)** Where the directors of a company have resolved to approve a *bona fide* revaluation of all the fixed assets of the company, the net capital surplus in excess of the previous book value of the assets arising from such revaluation may be – (a) credited by the directors to undenominated capital, other than the share premium account; or (b) used in paying up unissued shares of the company to be issued to members as fully paid bonus shares.

### Appointment of directors

**144(3)** Save to the extent that the company’s constitution provides otherwise and subject to *subsection (5)* in the case of a single-member company – (a) subsequent directors of a company may be appointed by the members in general meeting, provided that no person other than a director retiring at the meeting shall, save where recommended by the directors, be eligible for election to the office of director at any general meeting unless the requirements of *subsection (4)* as to his or her eligibility for that purpose have been complied with; (b) the directors of the company may from time to time appoint any person to be a director of the company, either to fill a casual vacancy or as an addition to the existing directors, but so that the total number of directors of the company shall not at any time exceed the number, if any, provided for in its constitution; (c) any director appointed as mentioned in *paragraph (b)* shall hold office only until the next following annual general meeting, and shall then be eligible for re-election; (d) the company may from time to time, by ordinary resolution, increase or reduce the number of directors; (e) the company may, by ordinary resolution, appoint another person in place of a director removed from office under *section 146* and, without prejudice to the powers of the directors under *subsection (3)(b)*, the company in general meeting may appoint any person to be a director either to fill a casual vacancy or as an additional director.

**144(4).** The following are the requirements mentioned in *subsection (3)(a)* for the eligibility of a person (the “person concerned”) for election as a director at a general meeting, namely, not less than 3 nor more than 21 days before the day appointed for the meeting there shall have been left at the company’s registered office – (a) notice in writing signed by a member of the company duly qualified to attend and vote at the meeting for which such notice is given, of his or her intention to propose the person concerned for such election; and (b) notice in writing signed by the person concerned of his or her willingness to be so elected.

### Vacation of office by directors

**148(2).** Save to the extent that the company’s constitution provides otherwise, the office of director shall be vacated if – (a) the director resigns his or her office by notice in writing to the company; or (b) the health of the director is such that he or she can no longer be reasonably regarded as possessing an adequate decision making capacity; or (c) a declaration of restriction is made in relation to the director and the directors, at any time during the currency of the declaration, resolve that his or her office be vacated; or (d) the director is sentenced to a term of imprisonment following conviction of an indictable offence; or (e) the director is for more than 6 months absent, without the permission of the directors, from meetings of the directors held during that period.

Note: 148(3) states: “In *subsection (2)(d)* the reference to a term of imprisonment includes a reference to such a term that is suspended.”

**155(1) & (2).** The remuneration of the directors of a company shall be such as is determined, from time to time, by the board of directors and such remuneration shall be deemed to accrue from day to day.

**155(1) & (3).** The directors of a company may also be paid all travelling, hotel and other expenses properly incurred by them – (a) in attending and returning from – (i) meetings of the directors or any committee referred to in *section 160(9)*; or (ii) general meetings of the company, or (b) otherwise in connection with the business of the company.

### General power of management and delegation

**157 & 158(1).** The business of a company shall be managed by its directors, who may pay all expenses incurred in promoting and registering the company and may exercise all such powers of the company as are not, by this Act or by the constitution, required to be exercised by the company in general meeting, but subject to – (a) any regulations contained in the

constitution; (b) the provisions of this Act; and (c) such directions, not being inconsistent with the foregoing regulations or provisions, as the company in general meeting may (by special resolution) give.

**157 & 158(2).** However, no direction given by the company in general meeting under *subsection (1)(c)* shall invalidate any prior act of the directors which would have been valid if that direction had not been given.

**157 & 158(3).** Without prejudice to the generality of that subsection, subsection (1) operates to enable, subject to a limitation (if any) arising under any of paragraphs (a) to (c) of it, the directors of the company to exercise all powers of the company to borrow money and to mortgage or charge its undertaking, property and uncalled capital, or any part thereof.

**157 & 158(4).** Without prejudice to *section 40*, the directors may delegate any of their powers to such person or persons as they think fit, including committees; any such committee shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on it by the directors.

**157 & 158(5).** The reference in *subsection (1)* to a power of the company required to be exercised by the company in general meeting includes a reference to a power of the company that, but for the power of the members to pass a written resolution to effect the first-mentioned power's exercise, would be required to be exercised by the company in general meeting.

#### **Managing director**

**157 & 159(1).** The directors of a company may from time to time appoint one or more of themselves to the office of managing director (by whatever name called) for such period and on such terms as to remuneration and otherwise as they see fit, and, subject to the terms of any agreement entered into in any particular case, may revoke such appointment.

**157 & 159(2).** Without prejudice to any claim the person so appointed may have for damages for breach of any contract of service between the person and the company, the person's appointment shall cease upon his or her ceasing, from any cause, to be a director of the company.

**157 & 159(3).** A managing director of a company shall receive such remuneration whether by way of salary, commission or participation in the profits, or partly in one way and partly in another, as the directors may determine.

**157 & 159(4).** Without prejudice to *section 40*, the directors may confer upon a managing director any of the powers exercisable by them upon such terms and conditions and with such restrictions as they may think fit.

**157 & 159(5).** In conferring any such powers, the directors may specify that the conferral is to operate either - (a) so that the powers concerned may be exercised concurrently by them and the managing director; or (b) to the exclusion of their own such powers.

**157 & 159(6).** The directors may - (a) revoke any conferral of powers under *subsection (4)*; or (b) amend any such conferral (whether as to the powers conferred or the terms, conditions or restrictions subject to which the conferral is made).

#### **Meetings of directors and committees**

**157 & 160(1).** The directors of a company may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit.

**157 & 160(2).** Questions arising at any such meeting shall be decided by a majority of votes and where there is an equality of votes, the chairperson shall have a second or casting vote.

**157 & 160(3).** A director may, and the secretary on the requisition of a director shall, at any time summon a meeting of the directors.

**157 & 160(4).** All directors shall be entitled to reasonable notice of any meeting of the directors but, if the directors so resolve, it shall not be necessary to give notice of a meeting of directors to any director who, being resident in the State, is for the time being absent from the State.

**157 & 160(5).** Nothing in *subsection (4)* or any other provision of this Act enables a person, other than a director of the company concerned, to object to the notice given for any meeting of the directors.

**157 & 160(6).** The quorum necessary for the transaction of the business of the directors may be fixed by the directors, and unless so fixed shall be 2 but, where the company has a sole director, the quorum shall be one.

**157 & 160(7).** The continuing directors may act notwithstanding any vacancy in their number but, if and so long as their number is reduced below the number fixed by or pursuant to this Act as the necessary quorum of directors, the continuing directors or director may act for the purpose of increasing the number of directors to that number or of summoning a general meeting of the company but for no other purpose.

**157 & 160(8).** The directors may elect a chairperson of their meetings and determine the period for which he or she is to hold office, but if no such chairperson is elected, or, if at any meeting the chairperson is not present within 15 minutes after the time appointed for holding it, the directors present may choose one of their number to be chairperson of the meeting.

**157 & 160(9).** The directors may establish one or more committees consisting in whole or in part of members of the board of directors.

**157 & 160(10).** A committee established under *subsection (9)* (a "committee") may elect a chairperson of its meetings; if no such chairperson is elected, or if at any meeting the chairperson is not present within 15 minutes after the time appointed for holding it, the members of the committee present may choose one of their number to be chairperson of the meeting.

**157 & 160(11).** A committee may meet and adjourn as it thinks proper.

**157 & 160(12).** Questions arising at any meeting of a committee shall be determined by a majority of votes of the members of the committee present, and where there is an equality of votes, the chairperson shall have a second or casting vote.

**157 & 161(1).** A resolution in writing signed by all the directors of a company, or by all the members of a committee of them, and who are for the time being entitled to receive notice of a meeting of the directors or, as the case may be, of such a committee, shall be as valid as if it had been passed at a meeting of the directors or such a committee duly convened and held.

**157 & 161(2).** Subject to *subsection (3)*, where one or more of the directors (other than a majority of them) would not, by reason of - (a) this Act or any other enactment; (b) the company's constitution; or (c) a rule of law, be permitted to vote on a resolution such as is referred to in *subsection (1)*, if it were sought to pass the resolution at a meeting of the directors duly convened and held, then such a resolution, notwithstanding anything in *subsection (1)*, shall be valid for the purposes of that subsection if the resolution is signed by those of the directors who would have been permitted to vote on it had it been sought to pass it at such a meeting.

**157 & 161(3).** In a case falling within *subsection (2)*, the resolution shall state the name of each director who did not sign it and the basis on which he or she did not sign it.

**157 & 161(4).** For the avoidance of doubt, nothing in the preceding subsections dealing with a resolution that is signed by other than all of the directors shall be read as making available, in the case of an equality of votes, a second or casting vote to the one of their number who would, or might have been, if a meeting had been held to transact the business concerned, chairperson of that meeting.

**157 & 161(5).** The resolution referred to in *subsection (1)* may consist of several documents

in like form each signed by one or more directors and for all purposes shall take effect from the time that it is signed by the last director.

**157 & 161(6).** A meeting of the directors or of a committee referred to in *section 160(9)* may consist of a conference between some or all of the directors or, as the case may be, members of the committee who are not all in one place, but each of whom is able (directly or by means of telephonic, video or other electronic communication) to speak to each of the others and to be heard by each of the others and: (a) a director or member of the committee taking part in such a conference shall be deemed to be present in person at the meeting and shall be entitled to vote and be counted in a quorum accordingly; and (b) such a meeting shall be deemed to take place - (i) where the largest group of those participating in the conference is assembled; (ii) if there is no such group, where the chairperson of the meeting then is; (iii) if neither subparagraph (i) or (ii) applies, in such location as the meeting itself decides.

**157 & 161(7).** Subject to the other provisions of this Act, a director may vote in respect of any contract, appointment or arrangement in which he or she is interested and he or she shall be counted in the quorum present at the meeting.

**157 & 161(8).** The directors of a company may exercise the voting powers conferred by the shares of any other company held or owned by the company in such manner in all respects as they think fit and, in particular, they may exercise the voting powers in favour of any resolution - (a) appointing the directors or any of them as directors or officers of such other company; or (b) providing for the payment of remuneration or pensions to the directors or officers of such other company.

**157 & 161(9).** Any director of the company may vote in favour of the exercise of such voting rights notwithstanding that he or she may be or may be about to become a director or officer of the other company referred to in *subsection (8)* and as such or in any other way is or may be interested in the exercise of such voting rights in the foregoing manner.

**157 & 162(1).** A director of a company may hold any other office or place of profit under the company (other than the office of statutory auditor) in conjunction with his or her office of director for such period and on such terms as to remuneration and otherwise as the directors of the company may determine.

**157 & 162(2).** No director of a company or intending such director shall be disqualified by his or her office from contracting with the company either with regard to his or her tenure of any such other office or place of profit or as vendor, purchaser or otherwise.

**157 & 162(3).** In particular, neither shall - (a) any contract with respect to any of the matters referred to in *subsection (2)*, nor any contract or arrangement entered into by or on behalf of the company in which a director is in any way interested, be liable to be avoided; nor (b) a director so contracting or being so interested be liable to account to the company for any profit realised by any such contract or arrangement, by reason of such director holding that office or of the fiduciary relation thereby established.

#### **Counting of director in quorum and voting**

**157 & 163.** A director of a company, notwithstanding his or her interest, may be counted in the quorum present at any meeting at which - (a) that director or any other director is appointed to hold any such office or place of profit under the company as is mentioned in *section 162(1)*; or (b) the terms of any such appointment are arranged, and he or she may vote on any such appointment or arrangement other than his or her own appointment or the arrangement of the terms of it.

**157 & 164.** Each - (a) cheque, promissory note, draft, bill of exchange or other negotiable instrument; and (b) receipt for moneys paid to the company, shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by such person or persons and in such manner as the directors of the company shall from time to time by resolution determine.

#### **Alternate directors**

**157 & 165(1).** Any director (the "appointer") of a company may from time to time appoint any other director of it or, with the approval of a majority of its directors, any other person to be an alternate director (the "appointee") as respects him or her.

**157 & 165(2).** Only one person may stand appointed at a particular time to be an alternate director as respects a particular director.

**157 & 165(3).** The appointee, while he or she holds office as an alternate director, shall be entitled - (a) to notice of meetings of the directors of the company; (b) to attend at such meetings as a director; and (c) in place of the appointer, to vote at such meetings as a director, but shall not be entitled to be remunerated otherwise than out of the remuneration of the appointer.

**157 & 165(4).** Any appointment under this section shall be effected by notice in writing given by the appointer to the company.

**157 & 165(5).** Any appointment so made may be revoked at any time by the appointer or by a majority of the other directors or by the company in general meeting.

**157 & 165(6).** Revocation of such an appointment by the appointer shall be effected by notice in writing given by the appointer to the company.

#### **Participation in general meetings by use of electronic communications**

**176A(1).** Save to the extent that the company's constitution provides otherwise, a company need not hold a general meeting at a physical venue but may conduct the meeting wholly or partly by the use of electronic communications technology as long as all attendees have a reasonable opportunity to participate in the meeting in accordance with this section.

**178(1) & (2).** One or more members of a company holding, or together holding, at any time not less than 50 per cent (or such other percentage as may be specified in the constitution) of the paid up share capital of the company as, at that time, carries the right of voting at general meetings of the company may convene an extraordinary general meeting of the company.

#### **Notice of general meetings**

**180(5).** Unless its constitution provides otherwise, no person, other than any person specified in the preceding subsections, shall be entitled to receive notices of general meetings of a company but this is without prejudice to *subsection (6)*.

*Note: section 180(1) specifies (a) every member; (b) the personal representative of a deceased member of the company, which member would, but for his or her death, be entitled to vote at the meeting; (c) the assignee in bankruptcy of a bankrupt member of the company (being a bankrupt member who is entitled to vote at the meeting); and (d) the directors and secretary of the company; subsection (6) confers a right on the statutory auditor (if any) to notice too.*

**181(6).** Save to the extent that the company's constitution provides otherwise, the accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any person entitled to receive notice shall not invalidate the proceedings at the meeting.

#### **Quorum at general meetings**

**182(2).** Save to the extent that its constitution provides otherwise or in a case falling within *subsection (3)*, 2 members of a company present in person or by proxy at a general meeting of it shall be a quorum.

**182(4) & (5).** Save to the extent that the company's constitution provides otherwise, if within 15 minutes after the time appointed for a general meeting a quorum is not present, then - (a) where the meeting has been convened upon the requisition of members, the meeting shall

be dissolved; (b) in any other case - (i) the meeting shall stand adjourned to the same day in the next week, at the same time and place or to such other day and at such other time and place as the directors may determine; and (ii) if at the adjourned meeting a quorum is not present within half an hour after the time appointed for the meeting, the members present shall be a quorum.

**183(3).** Unless the company's constitution otherwise provides, a member of a company shall not be entitled to appoint more than one proxy to attend on the same occasion.

#### **The business of the AGM**

**186(c).** The business of the AGM shall include ... (c) save where the company's constitution provides otherwise - (i) the declaration of a dividend (if any) of an amount not exceeding the amount recommended by the directors; and (ii) the authorisation of the directors to approve the remuneration of the statutory auditors (if any);

#### **Proceedings at meetings**

**187(1) & (2).** The chairperson, if any, of the board of directors shall preside as chairperson at every general meeting of the company, or if there is no such chairperson, or if he or she is not present within 15 minutes after the time appointed for the holding of the meeting or is unwilling to act, the directors present shall elect one of their number to be chairperson of the meeting.

**187(1) & (3).** If at any meeting no director is willing to act as chairperson or if no director is present within 15 minutes after the time appointed for holding the meeting, the members present shall choose one of their number to be chairperson of the meeting.

**187(1) & (4).** The chairperson may, with the consent of any meeting at which a quorum is present, and shall if so directed by the meeting, adjourn the meeting from time to time and from place to place.

**187(1) & (5).** However no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

**187(1) & (6).** When a meeting is adjourned for 30 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting but, subject to that, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

**187(1) & (7).** Unless a poll is demanded in accordance with *section 189*, at any general meeting - (a) a resolution put to the vote of the meeting shall be decided on a show of hands; and (b) a declaration by the chairperson that a resolution has, on a show of hands, been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the company shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

**187(1) & (8).** Where there is an equality of votes, whether on a show of hands or on a poll, the chairperson of the meeting at which the show of hands takes place or at which the poll is demanded, shall be entitled to a second or casting vote.

#### **Notes of members**

**188(1) & (2).** Subject to any rights or restrictions for the time being attached to any class or classes of shares, where a matter is being decided - (a) on a show of hands, every member present in person and every proxy shall have one vote, but so that no individual member shall have more than one vote; and (b) on a poll, every member shall, whether present in person or by proxy, have one vote for each share of which he or she is the holder or for each £15 of stock held by him or her, as the case may be.

**188(1) & (3).** Where there are joint holders of a share, the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders; and for this purpose, seniority shall be determined by the order in which the names of the joint holders stand in the register of members.

**188(1) & (4).** Each of the following - (a) a member of unsound mind; (b) a member who has made an enduring power of attorney; (c) a member in respect of whom an order has been made by any court having jurisdiction in cases of unsound mind, may vote, whether on a show of hands or on a poll, by his or her committee, donee of an enduring power of attorney, receiver, guardian or other person appointed by the foregoing court.

**188(1) & (5).** Any such committee, donee of an enduring power of attorney, receiver, guardian, or other person may speak and vote by proxy, whether on a show of hands or on a poll.

**188(1) & (6).** No member shall be entitled to vote at any general meeting of a company unless all calls or other sums immediately payable by him or her in respect of shares in the company have been paid.

**188(1) & (7).** No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered, and every vote not disallowed at such meeting shall be valid for all purposes.

**188(1) & (8).** Any such objection made in due time shall be referred to the chairperson of the meeting, whose decision shall be final and conclusive.

#### **Service of notices on members**

**218(1) & (3).** A notice referred to in *subsection (1)* shall, save where the means of serving or giving it specified in *paragraph (d)* is used, be in writing and may be served on or given to the member in one of the following ways: (a) by delivering it to the member; (b) by leaving it at the registered address of the member; (c) by sending it by post in a prepaid letter to the registered address of the member; or (d) if the company's constitution permits the use of electronic means to serve or give the notice or the conditions specified in *subsection (4)* are satisfied, by electronic means.

**218(1) & (4).** The conditions referred to in *subsection (3)(d)* are— (a) the member has consented in writing to the company, or the officer of it, using electronic means to serve or give notices in relation to him or her; (b) at the time the electronic means are used to serve or give the notice in relation to the member, no notice in writing has been received by the company or the officer concerned from the member stating he or she has withdrawn the consent referred to in paragraph (a); and (c) the particular means used to serve or give the notice electronically are those that the member has consented to.

**218(5).** Any notice served or given in accordance with *subsection (3)* shall be deemed, in the absence of any agreement to the contrary between the company (or, as the case may be, the officer of it) and the member, to have been served or given— (a) in the case of its being delivered, at the time of delivery (or, if delivery is refused, when tendered); (b) in the case of its being left, at the time that it is left; (c) in the case of its being posted (to an address in the State) on any day other than a Friday, Saturday or Sunday, 24 hours after despatch and in the case of its being posted (to such an address)— (i) on a Friday — 72 hours after despatch; or (ii) on a Saturday or Sunday — 48 hours after despatch; (d) in the case of electronic means being used in relation to it, 12 hours after despatch, but this subsection is without prejudice to *section 181(3)*.

#### **Other interests of directors**

**229(1).** Save to the extent that the company's constitution provides otherwise, a director of a company may be or become a director or other officer of, or otherwise interested in, any company promoted by the company or in which the company may be interested as shareholder or otherwise; but neither this subsection nor anything in the company's constitution governing the foregoing matter overrides *section 228*.

**230.** Save to the extent that the company's constitution provides otherwise - (a) any director may act by himself or herself, or his or her firm, in a professional capacity for the company of which he or she is a director, and (b) any director, in such a case, or his or her firm, shall be entitled to remuneration for professional services as if he or she were not a director, but nothing in this section authorises a director, or his or her firm, to act as statutory auditor of a company of which he or she is director.

#### **Statutory financial statements**

**338(5).** Unless the company's constitution provides otherwise, copies of the foregoing documents are also to be treated, for the purposes of this section, as sent to a person where— (a) the company and that person have agreed to his or her having access to the documents on a website (instead of their being sent to him or her); (b) the documents are documents to which that agreement applies; and (c) that person is notified, in a manner for the time being agreed for the purpose between him or her and the company, of - (i) the publication of the documents on a website, (ii) the address of that website, and (iii) the place on that website where the documents may be accessed, and how they may be accessed.

**338(5) & (6).** For the purposes of this section documents treated in accordance with *subsection (5)* as sent to any person are to be treated as sent to him or her not less than 21 days before the date of a meeting if, and only if— (a) the documents are published on the website throughout a period beginning at least 21 days before the date of the meeting and ending with the conclusion of the meeting; and (b) the notification given for the purposes of *paragraph (c)* of that subsection is given not less than 21 days before the date of the meeting.

**339(7).** Any obligation by virtue of *subsection (1)* or *(2)* to furnish a person with a document may, unless the company's constitution provides otherwise, be complied with by using electronic communications for sending that document to such address as may for the time being be notified to the company by that person for that purpose.

*Note: this obligation relates to furnishing members and debenture holders with copies of the financial statements and reports.*

#### **Winding up**

**618(1)(b).** Subject to the provisions of this Act as to preferential payments, the property of a company on its winding up ... (b) shall, subject to such application, and unless the constitution of the company otherwise provides, be distributed among the members according to their rights and interests in the company.

*Disclaimer: This table is intended to be an indicative guide to what the optional provisions are within the meaning of the Companies Act 2014. It is not a legal interpretation and while every care has been taken in compiling this table, there is an element of subjective judgment involved in its compilation and no responsibility is accepted by Courtney Governance Limited or Dr Thomas B Courtney for any loss or damage, whether directly or indirectly, from reliance upon this table.*