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COMPANIES CODE ACT 1963 (Act 179) (Excerpts) (GHANA)

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Table B – Regulation of a Company Limited by Guarantee

COMPANIES CODE ACT 1963

8. Any one or more persons may form an incorporated company by complying with the provisions of this Code in respect of registration

9. (1) An incorporated company may be either,

- (a) a company having the liability of its members limited to the amount, if any, unpaid on the shares respectively held by them, in this Code referred to as a company limited by shares; or
- (b) a company having the liability of its members limited to such amount as the members may respectively undertake to contribute to the assets of the company in the event of its being wound up, in this Code referred to as a company limited by guarantee; or
- (c) a company not having any limit on the liability of its members, in this Code referred to as an unlimited company.

(2) A company of any of the foregoing types may either be a private company or a public company.

(3) A private company shall be a company which by its Regulations,

- (a) restricts the right to transfer its shares, if any;
- (b) limits the total number of its members and debentureholders to fifty, not including persons who are bona fide in the employment of the company and persons who, having been formerly bona fide in the employment of the company, were while in that employment, and have continued after the determination of that employment to be, members or debentureholders of the company;
- (c) prohibits the company from making any invitation to the public to acquire any shares or debentures of the company; and
- (d) prohibits the company from making any invitation to the public to deposit money for fixed periods or payable at call, whether bearing or not bearing interest;

Provided that where two or more persons hold one or more shares or debentures jointly, they shall, for the purposes of this subsection, be treated as a single member or debentureholder.

(4) Any other company shall be a public company.

(5) A company limited by guarantee shall not be registered with shares and shall not create or issue shares.

10. (1) A company limited by guarantee may not lawfully be incorporated with the object of carrying on business for the purpose of making profits.
(2) If any company limited by guarantee shall carry on business for the purpose of making profits, all officers and members thereof who shall be cognisant of the fact that it is so carrying on business shall be jointly and severally liable for the payment and discharge of all the debts and liabilities of the company incurred in carrying on such business and the company and every such officer and member shall be liable to a fine not exceeding five pounds for every day during which it shall carry on such business.
(3) The total liability of the members of a company limited by guarantee to contribute to the assets of the company in the event of its being wound up shall not at any time be less than one hundred pounds.
(4) Subject to compliance with subsection (3) of this section, the Regulations of a company limited by guarantee may provide that members can retire or be excluded from membership thereof.
(5) If in breach of subsection (3) of this section the total liability of the members of any company limited by guarantee shall at any time be less than one hundred pounds, every director and member of the company who is cognizant of the breach shall be liable to a fine not exceeding one hundred pounds.
11. (1) A company limited by shares may be converted into a company limited by guarantee if,
 - (a) there is no unpaid liability on any of its shares;
 - (b) all its members agree in writing to such conversion and to the voluntary surrender to the company for cancellation of all the shares held by them immediately prior to the conversion;
 - (c) new Regulations, appropriate to a company limited by guarantee, are adopted by the company pursuant to section 22 of this Code;
 - (d) a member or members agree in writing to contribute to the assets of the company in the event of its being wound up to an extent not less than that prescribed by subsection (3) of section 10 of this Code.
 - (2) Upon delivery to the Registrar for registration of,
 - (a) a copy of the said new Regulations and of the special resolution adopting the same, and

(b) a statutory declaration by a director and the secretary of the company confirming that the condition of the immediately preceding subsection have been complied with, the Registrar shall issue a new certificate of incorporation altered to meet the circumstances of the case; and as from the date mentioned in such certificate the company shall be converted into a company limited by guarantee, the shares therein shall be validly surrendered and cancelled notwithstanding the provisions of section 56 of this Code any members of the company in the event of its being wound up shall cease to be members thereof:

Provided that,

- (a) except in accordance with subsection (3) of section 15 of this Code, the company may not change the name under which it was registered prior to the conversion but the omission of the word “Limited” as the last word of the name of the company after conversion shall not be regarded as a change of name;
- (b) if the Registrar is of the opinion that the name under which the company is registered will be misleading or undesirable on its conversion to a company limited by guarantee he shall, in accordance with subsection (5) of section 15 of this Code, direct the company to change its name and shall not issue a new certification of incorporation until the direction has been complied with or cancelled in accordance with the provisions of that subsection;
- (c) until a new certificate of incorporation is issued the former Regulations shall continue to apply and neither the surrender of the shares of the company nor the agreement to contribute to the assets of the company in the event of its being wound up shall take effect.

(3) The conversion of a company pursuant to the provisions of the section shall not affect any rights or obligations of the company except as mentioned in this section or render defective any legal proceedings by or against the company.

14. After the commencement of this Code a company shall be formed in manner following, that is to say,

- (a) there shall be delivered to the Registrar for registration a copy of the proposed Regulations of the Company complying with sections 16 to 18 of this Code;
- (b) unless, in the opinion of the Registrar,
 - (i) the Regulations do not comply with this Code;
 - (ii) the objects for which the company is being formed or the business which it is to carry on, or any of them are unlawful;
 - (iii) any of the subscribers to the Regulations is an infant or of unsound mind; or
 - (iv) any of the directors named in the Regulations is under section 182 of this Code, incompetent to be appointed a director,the Registrar shall register the said Regulations;
- (c) upon registration of the Regulations, the Registrar shall certify under his seal that the company is incorporated and, in the case of a limited company, that the liability of its members is limited;
- (d) from the date of registration mentioned in the certificate of incorporation, the company shall be a body corporate by the name contained in the Regulations and, subject as provided in sections 27 and 28 of this Code, be capable forthwith of exercising all the functions of an incorporated company;
- (e) the Registrar shall insert a notice in the Gazette stating the issue of such certificate and the terms thereof;
- (f) the certificate of incorporation, or a copy thereof, certified as correct under the hand of the Registrar, or the Gazette containing the notice referred to in paragraph (e) of this section, shall be conclusive evidence that the company has been duly registered and incorporated under this Code and no proceedings shall be brought in any Court to cancel or annul such registration:

Provided that nothing in this paragraph contained shall prejudice the institution of proceedings to wind up the company in accordance with section 247 of this Code.

16. (1) This section shall apply to any company registered after the commencement of this Code and to an existing company which, pursuant to section 19 of this Code, adopts Regulations in lieu of its memorandum and articles of association.

(2) The Regulations of a company shall state,

(a) the name of the company, with “limited” as the last word of the name in the case of a company limited by shares;

(b) the nature of the business or businesses which the company is authorized to carry on, or if the company is not formed for the purpose of carrying on a business, the nature of the object or objects for which it is established;

(c) that the company has, for the furtherance of its authorized business or objects, all the powers of a natural person of full capacity except in so far as such powers are expressly excluded by the Regulations;

(d) the names of the first directors of the company;

(e) that the powers of the first directors are limited in accordance with section 202 of this Code.

(3) The Regulations of a company limited by shares or by guarantee shall also state that the liability of its members limited.

(4) In the case of a company having shares the Regulation shall also state the number of shares with which the company is to be registered.

(5) In the case of a company limited by guarantee the Regulations shall also,

(a) contain a regulation in the terms of regulation 3 of Table B in the Second Schedule to this Code, with such

modifications as the Registrar shall allow, stating that the income and property of the company shall be applied solely towards the promotion of its objects, and that no portion thereof shall be paid or transferred directly or indirectly to the members of the company except as therein permitted;

- (b) state that each member undertakes to contribute to the assets of the company in the event of its being wound up while he is a member or within one year after he ceases to be a member, for payment of the debts and liabilities of the company, and of the costs of winding up, such amount as may be required not exceeding a specified amount, and
- (c) state that if, upon the winding up of the company there remains after the discharge of all its debts and if liabilities any property of the company the same shall not be distributed among the members but shall be transferred to some other company limited by guarantee having objects similar to the objects of the company or applied to some charitable objects, such other company or charity to be determined by the members prior to the dissolution of the company.

(6) The Regulations may contain any other lawful provisions relating to the constitution and administration of the company.

(17). (1) In the case of a company registered after the commencement of this Code, or an existing company which, pursuant to section 19 of this Code, adopts Regulations in lieu of its memorandum and articles of association, the form of the Regulation of,

- (a) a private company limited by shares,
- (b) a public company limited by shares,
- (c) a company limited by guarantee,

shall be respectively in accordance with the forms set out in Table A Part I, Table A Part II, or Table B, in the Second Schedule to this Code or as near thereto as circumstances may admit and the form of the Regulations of an

unlimited company shall be in accordance with the form set out in Table A Part I, if a private company, or Table A Part II, if a public company, or as near thereto as circumstances may admit, but with such modifications as are necessary having regard to the fact that the liability of the members is unlimited.

(2) The regulations may adopt such of the provisions of the appropriate Table as are not required, by section 16 of this Code, to be stated in the Regulations, and in so far as the Regulations do not exclude or modify those provisions, they shall, so far as applicable, be part of the Regulations of the company.

(3) The Regulations shall be printed, type-written, or in some other legible form acceptable to the Registrar.

18. (1) The Regulations of any company registered after the commencement of this Code shall be signed by one or more subscribers in the presence of, and shall be attested by, one witness at least.

(2) In the case of Regulations of a company with shares the subscribers, or each subscriber if more than one, shall write opposite to his name the number of shares he takes and the cash price payable therefore, and shall take at least one share.

(3) The Regulations shall not be chargeable to any stamp duty,

19. (1) An existing company may, by special resolution, adopt Regulations in the form required by this Code in lieu of its memorandum and articles of association and may adopt such of the provisions of the appropriate Table in the Second Schedule hereto as are not required, by section 16 of this Code, to be stated in the Regulations.

(2) Any reference in this Code to the Regulations of a company shall, in the case of an existing company which has not adopted Regulations in lieu of its memorandum and articles, be deemed to be a reference to its memorandum and articles of association.

(3) 'Nothing' in subsection (1) of this section shall be deemed to authorize any company to alter the substance, as opposed to the form, for its Regulations except as mentioned in section 22 of this Code.

20. Where the Regulations of a company include without express repetition all or any of the provisions of Table A or B, a printed copy of the appropriate Table or, in the case of Table A, of the appropriate Part thereof shall be attached to every copy of such Regulations.

21. (1) Subject to the provisions of this Code, the Regulations, when registered, shall have the effect of a contract under seal between the company and its members and officers and between the members and officers themselves whereby they agree to observe and perform the provisions of the Regulations, as altered from time to time, in so far as they relate to the company, members, or officers as such.

(2) Where the Regulations empower any person to appoint or remove any director or other officer of the company such power shall be enforceable by that person notwithstanding that he is not a member or officer of the company.

(3) In any action by any member or officer to enforce any obligation owed under the Regulations to him and any other member or officer, such member or officer shall, if any other member or officer is affected by the alleged breach of such obligation, sue in a representative capacity on behalf of himself and all other members or officers who may be affected other than any who are defendants and the provisions of section 324 of this Code shall apply.

22. A company may, by special resolution, alter or add to its Regulations or adopt new Regulations:

Provide that,

- (a) the name of the company shall not be altered except with the consent of the Registrar in accordance with section 15 of this Code;
- (b) the number of the company's shares may be altered in accordance with the provisions of section 11, 57 to 63, 75 to 79, 218, or 231 of this Code but not otherwise;
- (c) the businesses which the company is authorized to carry on or, if the company is not formed for the purpose of carrying on a business, the objects for which it is established may be altered

or added to in accordance with the provisions of section 26 or 231 of this Code but not otherwise;

- (d) no alteration or addition shall be made which shall conflict with an order of the Court made under section 218 of this Code;
- (e) if at any time the shares of the company are divided into different classes the right attached to any class may be altered in accordance with section 47 or 231 of this Code but not otherwise;
- (f) the Regulations may restrict or exclude the company's power to alter all or any of its Regulations or to add thereto or may impose conditions for the alteration or addition thereto, in which event the Regulations may not be altered or added to except in accordance with the provisions thereof or added to except in accordance with the provisions thereof or of section 231 of this Code;
- (g) the Regulations as altered or added to shall be in accordance with the provisions of this Code and shall contain the statements and regulations required by section 16 of this Code;
- (h) except in accordance with section 231 of this Code no member of the company shall be bound by an alteration made in the Regulations after the date on which he became a member, if and in so far as the alteration requires him to take more shares than the number held by him on the date on which the alteration is made or in any way increase his liability as at that date of the alteration, unless he agrees in writing, either before or after the alteration is made, to be bound thereby;
- (i) no alteration shall be made which would have the effect of converting an unlimited company into a limited company or a company limited by guarantee into a company limited by shares;
- (j) an alteration may be restrained or cancelled by the court in accordance with section 217 or 218 of this Code.

23. (1) A company shall, on being so required by any member, send to him a copy of its Regulations on payment of the sum of two shillings and sixpence or such less sum as the company may prescribe.
- (2) Where an alteration is made to the Regulations every copy thereof issued after the date of the alteration and whether to a member or otherwise shall be in accordance with the alteration.
- (3) If a company makes default in complying with this section the company and every officer of the company who is in default shall be liable for each offence to a fine not exceeding ten pounds.
24. Except to the extent that a company's Regulations otherwise provide, every company registered after the commencement of this Code and every existing company which, pursuant to section 19 of this Code, adopts Regulations in lieu of its memorandum and articles of association shall have, for the furtherance of its objects and of any business carried on by it and authorized in its Regulations, all the powers of a natural person of full capacity.
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30. (1) The subscribers to the Regulations shall be deemed to be members of the company and on its registration shall be entered as members in the register of members referred to in section 32 of this Code.
- (2) Every other person who agrees with the company to become a member of the company and whose name is entered in the register of members shall be a member of the company.
- (3) Every member shall have such rights, duties and liabilities as are by this Code and the Regulations of the company conferred and imposed upon members.
- (4) In the case of a company with shares each member shall be a shareholder of the company and shall hold at least one share, and every holder of a share shall be a member of the company.
- (5) Membership of a company with shares shall continue until a valid transfer of all the share held by the member is registered by the company, or until all such shares are transmitted by operation of law

to another person or forfeited for non-payment of calls under a provision in the Regulations, or until the member dies.

(6) Membership of a company limited by guarantee shall continue, until the member dies, or validly retires or is excluded from membership in accordance with a provision to that effect in the Regulations.

31. Subject to section 49 of this Code, every member shall, notwithstanding any provision in the Regulations, have a right to attend any general meeting of the company and to speak and vote on any resolution before the meeting:

Provided that the company's Regulations may provide that a member shall not be entitled to attend and vote unless all calls or other sums presently payable by him in respect of shares in the company have been paid.

32. (1) Every company shall keep in Ghana a register of its members and enter therein the following particulars, that is to say,
- (a) the names and addresses of the members and, in the case of a company having shares a statement of the shares held by each member distinguishing each share by a number so long as the share has a numbers, and of the amount paid or agreed to be considered as paid on the shares of each member and of the amount, if any, remaining payable on such shares;
 - (d) the date at which each person ceased to be member.
 - (e) The date at which any person ceased to be members.
- (2) The entry required under paragraph (a) or (d) of subsection (1) of this section shall be made within twenty-eight days of the conclusion of the agreement with the company to become a member or, in the case of a subscriber to the Regulations, within twenty-eight days of the registration of the company.
- (3) The entry required under paragraph (c) of subsection (1) of this section shall be made within twenty-eight days of the date when the person concerned ceased to be a member, or, if he ceased to be a member otherwise than as a result of action by the company, within

twenty-eight of days of production to the company of evidence satisfactory to the company of the occurrence of the event whereby he ceased to be a member, and all entries relating to such person may be deleted from the register after the expiration of six years from the date when such person ceased to a member.

(4) Where a company has more than fifty members the register shall contain an index of the numbers in such a form as to enable the account of each member to be readily found.

(5) Every existing company shall, within twenty-eight days of the coming into operation of this Code send to the Registrar for registration, notice in the prescribed form, of the place where its register of members is kept and every company shall within twenty-eight days of any change in the Registrar:

Provided that a company shall not be bound to send notice under this subsection where the register has, at all time since it came into existence, or in the case of a register in existence at the commencement of this Code, at all times since then, been kept at the registered office of the company.

(6) Where a company makes default in complying with this section, the company and every officer of the company who is in default shall be liable to a fine not exceeding five pounds for every day during which such default continue.

(7) The company may arrange with some other person, in this Code referred to as the registration officer, for the making up of the register to be undertaken on behalf of the company by the registration officer at his office; and if by reason of any default of the registration officer the company makes default in complying with this section or with section 33 of this Code, the registration officer shall be liable to the same penalties as if he were an officer of the company and the power of the Court under subsection (4) of section 33 of this Code shall extend to the making of orders against the registration officer and his officers and employees.

33. (1) Except when the register of members is closed in accordance with the provisions of section 34 of this Code, the register and index of the names of the members of the company shall, during business hours,

subject to such reasonable restrictions as the company may impose but so that not less than two hours in each day, other than Saturdays, Sundays and public holidays, shall be allowed for inspection, be open to the inspection of any member without charge and of any other person on payment of one shilling, or such less sum as the company may prescribe, for each inspection.

(2) Any member or other person may require a copy of the register or any part thereof, on payment of two shillings and six-pence, or such less sum as the company may prescribe, for every hundred words or part thereof required to be copied; and the company shall cause any copy so required by any person to be sent to that person within a period of ten days commencing on the day next after the day on which the requirement is received by the company.

(3) If any inspection required under this section is refused, or if any copy required under this section is not sent within the proper period, the company and every officer of the company who is in default shall be liable in respect of each offence to a fine not exceeding five pounds for every day during which the default continues.

(4) In the case of any such refusal or default the Court may by order compel an immediate production of the register for inspection or direct that the copies required be sent to the person requiring them.

34. A company may, on giving notice by advertisement in some daily newspaper circulating in the district in which the registered officer of the company is situated, close the register of members or that part thereof relating to any class of members for any times not exceeding in the whole thirty days in each year.

35. (1) If,

(a) the name of any person is, without sufficient cause entered in or omitted from the register of members of a company, or

(b) default is made in entering on the register any of the particulars which, under section 32 of this Code, are required to be entered thereon,

the person aggrieved, or any member of the company, or the company, may apply to the Court for rectification of the register.

- (2) Where an application is made under this section, the Court may either refuse the application or may order rectification of the register and payment by the company of compensation for any loss sustained by any aggrieved person.
- (3) On an application under this section being made, the Court may decide any question relating to the title of any person who is a party to the application to have his name entered in or omitted from the register, whether the question arises between members or alleged members, or between members or alleged members on the one hand and the company on the other hand, and generally may decide any question necessary or expedient to be decided for rectification of the register.
- (4) A company may, without application to the Court, at any time rectify any error or omission in the register of members but such a rectification shall not adversely affect any person unless he agrees to the rectification made.
36. The register of members shall be prima facie evidence of any matters by this Code directed or authorised to be inserted therein.
37. (1) Prior to the winding up of the company, a member of a company with shares shall be liable to contribute the balance, if any, of the amount payable in respect of the shares held by him in accordance with the terms of the agreement under which the shares were issued or in accordance with a call validly made by the company pursuant to the company's Regulations.
- (2) Where any contribution has become due and payable in accordance with subsection (1) of this section or where, under the terms of any agreement with the company, a member has undertaken personal liability to make future payments in respect of shares issued to him, the liability of the member shall continue notwithstanding that the shares held by him are subsequently transferred, or forfeited under a provision to that effect in the company's Regulations, but his liability shall cease if and when the company shall have received payment in full of all such moneys in respect of the shares.

(3) Subject as aforesaid no member or past member shall be liable to contribute to the assets of the company except in the event of its being wound up.

(4) In the event of a company being wound up every present or past member shall be liable to contribute to the assets of the company to an amount sufficient for payment of its debts and liabilities and for the costs, charges and expenses of the winding up and for the adjustment of the rights of the members and past members among themselves but subject to the following qualifications, that is to say,

- (a) a past members shall not be liable to contribute if he has ceased to be a member for a period of one year or upwards before the commencement of the winding up;
- (b) a past member shall not be liable to contribute unless it appears to the Court that the existing members are unable to satisfy the contributions required to be made by them in pursuance of this section;
- (c) in the case of a company limited by shares, no contribution shall be required from any member or past member exceeding the amount, if any, unpaid on the shares in respect of which he is liable as a present or past member;
- (d) in the case of a company limited by guarantee, no contribution shall be required from any member or past members exceeding the amount undertaken to be contributed by him to the assets of the company in the event of its being wound up;
- (e) any sum due from the company to a member or past member, in his character of member, by way of dividends or otherwise shall not be set-off against the amount for which he is liable to contribute in accordance with this section but any such sums shall be taken into account for the purposes of final adjustment of the rights of the members and former members amongst themselves.

(5) For the purpose of this section the expression “past member” includes the estate of a deceased members and where any person dies

after becoming liable as a member or past member such liability shall be enforceable against his estate.

(6) Except as aforesaid a member or past member of a company shall not be liable as member or past member for any of the debts and liabilities of the company.

38. If at any time a company ceases to have any member and it carries on business for more than six months without at least one member, every person who is a director of the company during the time that it so carries on business after those six months shall be jointly and severally liable for the payment of all the debts and liabilities of the company incurred during that period.

122. (1) Every company shall, once at least in every year, deliver to the Registrar for registration an annual return including particulars of every member of the company, and in the form and relating to the matters prescribed in the Third Schedule to this Code:

Provided that a company need not make a return under this section,

- (a) in the year of its incorporation; or
- (b) in any year ending less than eighteen months after the date of its incorporation, so long as it makes a return within forty-two day after the first dispatch to its members and debentureholders of the statements, accounts, and reports referred to in section 124 of this Code.

(2) The annual return shall be completed and made within forty-two days of the date on which the statements, accounts, and reports of the company are sent to the members and debentureholders pursuant to section 124 of this Code, and shall be signed by a director and the secretary of the company.

(3) The return shall state the position as at the date of the annual general meeting of the company or, if the holding of an annual general meeting is waived in accordance with subsection (3) of section 149 of this Code, as at the twenty-first day after the dispatch or the documents referred to in subsection (2) of this section.

(4) The Registrar, after registering the annual return, shall cause to be published in the Gazette a notice that the annual return in respect of the company has been registered.

(5) In the case of a private company the annual return shall be accompanied by the documents specified in section 269 of this Code and in the case of a public company by the documents specified in section 295 of this Code.

(6) If a company makes default in complying with this section, the company and every officer of the company who is in default shall be liable to a fine not exceeding five pounds for every day during which the default continues.

123. (1) Every company shall cause to be kept proper books of account with respect to its financial position and changes therein, and with respect to the control of and accounting for all property acquired whether for resale or for use in the company's business, and, in particular with respect to,

- (a) all sums of money received and expended by, or on behalf of, the company and the matters in respect of which the receipt and expenditure takes place;
- (b) all sales and purchases by the company of property, goods and services;
- (c) the assets and liabilities of the company and the interests of the members therein.

(2) Proper books of account shall not be deemed to be kept if there are not kept such books as are necessary to give a true and fair view of the state of the company's affairs and to prepare proper profit and loss accounts and balance sheets in accordance with section 125 to 131 of this Code.

(3) The books of account may be kept either by making entries in bound volumes, or, subject to compliance with subsections (2) and (3) of section 264 of this Code, by a system of mechanical recording, or otherwise.

(4) The books of account shall be kept at the registered office of the company or at such other place as the directors shall think fit, and shall at all times be open to inspection by the directors, secretary and auditors of the company.

124. (1) The directors of every company shall, at some date not later than eighteen months after the incorporation of the company and subsequently once at least in every calendar year at intervals of not more than fifteen months, cause to be prepared and sent to members of the company and to every holder of debentures of the company a copy of each of the following documents, namely:

- (a) a profit and loss account and balance sheet prepared and signed in accordance with section 125 to 131 of this Code.
- (b) a report by the directors thereon in accordance with section 132 of this Code:
- (c) a report by the auditors in accordance with section 133 of this Code:

Provided that this subsection shall not require a copy of such documents to be sent to a member or debentureholder of whose address the company is unaware, but such person shall be entitled to be furnished on demand without charge with a copy of the last of such profit and loss accounts and balance sheets and directors' and auditors' reports.

(2) Unless the holding of an annual general meeting is duly waived by the members in accordance with subsection (3) of section 149 of this Code, the documents referred to in subsection (1) of this section shall be laid before the company in general meeting.

(3) The Registrar, if for any reason he thinks fit so to do, may extend the period of eighteen months and fifteen months referred to in subsection (1) of this section, and, in the circumstances referred to in subsection (11) of section, and, may waive the requirements of this section in respect of any calendar year.

125. (1) The profit and loss account referred to in paragraph (a) of subsection (1) of section 124 of this Code shall, in the case of the first account since the incorporation of the company, cover the period since the preceding account and shall be made up to a date not earlier by more than nine months from the date on which it is to be sent to members and debentureholders pursuant to section 124 of this Code:

Provided that,

- (a) in the case of an existing company which has not previously prepared a profit and loss account and which was not required under its Regulations to prepare one, the first account need not cover a period commencing earlier than the date of commencement of this Code:
- (b) the Registrar, if for any reason he thinks fit so to do may extend the aforesaid period of nine months.

(2) The date to which the profit and loss account is to be made up in accordance with subsection (1) of this section is hereafter in this Code referred to as the end of the company's financial year.

(3) The profit and loss account shall, subject to subsection (5) of section 127 of this Code, relating to consolidated profit and loss accounts,

- (a) give a true and fair view of the profit or loss of the company for the period to which it relates: and
- (b) comply with the requirements of section 127 to 131 and Part I of the Fourth Schedule to this Code.

(4) The Registrar may, on the application or with the consent of the company's directors, modify in relation to that company any of the requirements in Part I of the Fourth Schedule to this Code for the purpose of adapting them to the circumstances of the company, but no such modification shall derogate from the obligation imposed by paragraph (a) of subsection (3) of this section to give a true and fair view of the profit or loss of the company.

126. (1) The balance sheet referred to in paragraph (a) of subsection (1) of section 124 of this Code shall give a true and fair view of the state of affairs of the company as the end of the company's financial year and shall comply with the requirements of sections 127 to 131 and Part II of the Fourth Schedule to this Code.

- (2) The Registrar may, on the application or with the consent of the company's directors, modify any of the requirements in Part II of the Fourth Schedule to this Code for the purpose of adapting them to the circumstances of the company, but no such modification shall derogate from the obligation imposed by section (1) of this section to give a true and fair view of the state of affairs of the company.

127. (1) The provisions of this section shall apply where, at the end of the company's financial year, a company has subsidiaries.

(2) Accounts and statements dealing, as hereinafter mentioned with the profit or loss and the state of affairs of the company and the subsidiaries, in this Code called group accounts, shall, subject to subsection (3) of this section, be sent to the members and debentureholders of the company with the company's own profit and loss account and balance sheet pursuant to section 124 of this Code.

(3) Notwithstanding anything contained in the foregoing subsection,

(a) group accounts shall not be required where the company at the end of the company's financial year is the wholly owned subsidiary of another company.

(b) subject to the approval of the Registrar, group accounts need not deal with a subsidiary of the company if this company's directors are of opinion that,

(i) it is impracticable or would be of no real value to the members and debentureholders of the company in view of the insignificance of the amount involved; or

(ii) it would involve expense or delay out of proportion to the value to members and debentureholders of the company;
or

(iii) the result would be misleading or harmful, to the business of the company or any of subsidiaries; or

(iv) the business of the holding company and that of the subsidiaries are so different that they cannot reasonably be treated as a single undertaking.

(4) Subject to subsection (5) of this section, the group accounts shall be consolidated accounts comprising,

(a) a consolidated profit and loss account dealing with the profit or loss of the company and all subsidiaries to be dealt with in the group accounts;

(b) a consolidated balance sheet dealing with the state of affairs of the company and those subsidiaries.

(5) If the company's directors are of the opinion that it is better for the purpose of presenting the same or equivalent information in a form which may be more readily appreciated by the members and debentureholders, the group accounts may be prepared in a form other than that required by subsection (4) of this section and, in particular, may consist of more than one set of consolidated accounts dealing respectively with the company and various groups of subsidiaries or of separate accounts, dealing with each of the subsidiaries, attached to the company's accounts or of statements expanding the information about the subsidiaries in the company's own accounts, or any combination of those forms.

(6) The group profit and loss account may be wholly or partly incorporated in the company's own profit and loss account and a consolidated profit and loss account dealing with the company and all or any of its subsidiaries shall be deemed to be a profit and loss account of the company complying with subsection (3) of section 125 of this Code, so long as it complies with the requirements of this section and shows how much of the consolidated profit or loss for the financial year is dealt with in the accounts of the company.

(7) The group accounts shall give a true and fair view of the profit or loss and of the state of affairs of the company and the subsidiaries dealt with thereby as a whole, so far as concerns the interests of the company.

(8) The accounts of the company and the group accounts, if any, shall comply with the requirements of Part III of the Fourth Schedule to this Code.

(9) The Registrar may, on the application or with the consent of the company's directors, modify in relation to that company any of the requirements in Part III of the Fourth Schedule for the purpose of adapting them to the circumstances of the company but no such modification shall derogate from the obligation imposed by subsection (7) of this section to give a true and fair view of the profit or loss and the state of affairs of the company and the subsidiaries as a whole, so far as concerns the interests of the company.

(10) A holding company's directors shall secure that, except where in their opinion there are good reasons against it, in which case their reasons shall be

stated in a note on the company's accounts, the financial year of each of its subsidiaries shall coincide with the company's own financial year, and the group accounts shall deal with the affairs of the holding company and the subsidiaries for the same financial year.

(11) Where it appears to the Registrar desirable for a holding company or subsidiary company to extend its financial year so that the subsidiary's financial year may end with that of the holding company, and for that purpose to postpone the dispatch of the accounts and reports referred to in section 124 of this Code from one calendar year to another, the Registrar may direct that the dispatch thereof by one or other of these companies shall not be required in the earlier of the said calendar years.

(12) If the financial year of a subsidiary does not coincide with that of the holding company the group accounts shall, unless the Registrar shall otherwise direct, deal with the subsidiary's profit or loss for, and the state of affairs as at the end of its financial year ending last before that of the holding company.

128. (1) In a note to the account of a company there shall be shown, in accordance with the provisions of this section, the following information in so far as it is contained in the company's books or papers or the company has obtained the information from the persons concerned or has the right to obtain it under section 130 of this Code namely,

- (a) the aggregate amount of the director's emoluments;
- (b) the aggregate amount of directors' or past directors' pensions; and
- (c) the aggregate amount of any compensation to directors or past directors in respect of loss of office.

(2) The amount to be shown under paragraph (a) of subsection (1) of this section shall include fees, salaries and percentages, expense allowances, contributions paid under any pension scheme, and the estimated value of benefits in kind, except benefits of such character and value as are customarily afforded to employees other than director, paid to, or receivable by, any director in respect of his services as an officer of the company or any associated company.

(3) The amount to be shown under paragraph (b) of subsection (1) of this section, shall include any pension paid or receivable in respect of services as

a director or past director of the company, or in respect of services, while a director of the company, in connection with the management, or as an officer of the company or any associated company, whether that pension is paid to, or receivable by, the director or past director or any other person:

Provided that it shall not be necessary to include a pension paid or receivable under a pension scheme which is such that the contributions thereunder are substantially adequate for the maintenance of the scheme.

(4) The amount to be shown under paragraph (c) of subsection (1) of this section, shall include any sums paid to or receivable by, a director or past director by way of compensation for the loss of office as director of the company or for the loss, while a director of company, or in connection with his ceasing to be a director of the company, or of any other office in the company or of any office in any associated company; and any sum and the value of any other valuable consideration paid or receivable in connection with retirement from office or as damages for breach of a contract of service, shall be deemed to be paid or receivable by way of compensation for loss of office.

(5) The amounts to be shown under each paragraph of subsection (1) of this section shall include all relevant sums paid by, or receivable from, the company or any other person.

(6) The amounts to be shown under this section for any financial year shall be the sums receivable in respect of that year whenever paid or, in the case of sums not receivable in respect of a period, the sums paid during that year:

Provided that any sums paid in advance of the financial years to which they are expressed to relate shall be shown in the accounts for the financial year in which they are paid.

(7) Where it is necessary to do so for the purpose of making any distinction required by this section, the directors may apportion, in such manner as they think appropriate, any payments between the matters in respect of which they have been paid or are receivable.

129. (1) In a note to the accounts of a company there shall, subject to the provisions of this section, be separately shown,

- (a) the aggregate amount of all sums due to the company officers or any associated company at the end of the company or any associated company;
- (b) the maximum amount of all sums due to the company and any associated companies at any time during the company's financial year from any officers of the company or any associated company.

(2) If the company or any associated company shall have given a guarantee or security to any person in respect of any indebtedness of an officer of the company or any associated company the amount guaranteed or in respect of which the security was given shall be included in the amounts to be shown under subsection (1) of this section.

(3) Notwithstanding subsections (1) and (2) of this section, the following shall not require to be separately shown, namely,

- (a) any indebtedness incurred as a result of a transaction in the ordinary course of business by the company or any associated company unless the indebtedness shall not have been discharged within three months from the date of such transaction;
- (b) any loan made in the ordinary course of business by a company, the ordinary business of which includes the lending of money;
- (c) a loan made by the company or any associated company to any officer of the company or associated company if the loan does not exceed two thousand pounds or two per centum of the stated capital of the company concerned, whichever is the less, and is certified by the directors of the company concerned to have been made in accordance with any practice adopted, or about to be adopted, by that company with respect to loans to such employees:

Provided that paragraphs (b) and (c) of this subsection shall not include in either case a loan made by a company under a guarantee form or on security provided by any associated company.

(4) References in this section to an associated company shall be taken as referring to any company which is an associated company at the end of the company's financial year, whether or not an associated company at the date of the transaction concerned.

(5) Nothing in this section shall derogate from section 301 of this Code prohibiting loans by public companies to their directors or directors of their associated companies.

130. (1) Any reference in this Code to a profit and loss account or balance sheet or to the accounts of a company shall include any notes thereon and any document annexed thereto giving information which is required by this Code.

(2) Any reference in this Code to a profit and loss account shall be taken, in the case of a company limited by guarantee or other company not trading for profit, as referring to its income and expenditure account, and references to profit and loss and to a consolidated profit and loss and to a consolidated profit and loss account shall be construed accordingly.

(3) If any person, being a director of a company, fails to take all reasonable steps to secure compliance with the provisions of sections 123 to 129 of this Code he shall, in respect of each offence, be liable to imprisonment for a term not exceeding two years or to a fine not exceeding two hundred pounds or to both such imprisonment and fine:

Provided that,

(a) in any proceedings against a person for any such offence it shall be a defence to prove that he has reasonable cause to believe, and did believe, that a competent and reliable person was charged with the duty of seeing that the said provisions were complied with and was in a position to discharge that duty; and

(b) a person shall not be sentenced to imprisonment for any such offence unless, in the opinion of the Court, the offence was committed wilfully.

(4) It shall be the duty of every director and former director of the company to give notice in writing to the company of such matters relating to himself as may be necessary to enable the company to comply with sections

128 and 129 of this Code; and if notice is given by a director it shall be his duty to secure that it is brought up and read at the next meeting of the directors after it is given:

Provided that it shall not be necessary for any person to give written notice of loans, guarantees or securities made or given by the company itself.

(5) Any person who makes default in complying with subsection (4) of this section shall be liable to a fine not exceeding one hundred pounds.

(6) It shall be the duty of every company to give such written notice to any associated company relating to any transaction entered into by the first named company as may be necessary to enable the associated company to comply with sections 128 and 129 of this Code.

(7) If any company shall make default in complying with subsection (6) of this section the company, and every officer of the company, who is in default shall be liable to a fine not exceeding one hundred pounds.

131. (1) A company shall not issue, publish or circulate a copy of any profit and loss account or balance sheet unless,

(a) it shall have attached thereto a copy of each of the other documents referred to in paragraphs (a), (b) and (c) of subsection (1) of section 124 of this Code and of any group accounts required under section 127 of this Code; and

(b) the said accounts and balance sheet shall have been approved by the board of directors and, after such approval, signed on their behalf by two directors.

(2) The foregoing subsection shall not prohibit the publication of;

(a) a fair and accurate summary of any profit and loss account and balance sheet and the auditors' report thereon after such profit and loss account and balance sheet shall have been approved by, and signed on behalf of, the board of directors;

(b) a fair and accurate summary of the profit or loss figures for part of the company's financial year.

(3) In the event of any breach of subsection (1) of this section the company and every officer of the company who is in default shall be liable to a fine not exceeding fifty pounds.

132. (1) The report of the directors referred to in paragraph (b) of subsection (1) of section 124 of this Code shall consist of a report by the directors on the state of the company's affairs and, if the company is a holding company, on the state of affairs of the company and its subsidiaries as a group, and the amount, if any, which they recommended shall be paid by way of dividend.

(2) The report shall be approved by the board of directors and signed on behalf of the board by two directors.

(3) The report shall deal, so far as is material for the appreciation of the state of the company's affairs, with any change during the financial year in the nature of the business of the company or of the company's associated companies, or in the classes of the business in which the company has an interest, whether as member of another company or otherwise.

(4) The report shall contain a list of bodies corporate in relation to which either of the following conditions is fulfilled at the end of the company's financial year, that is to say,

- (a) the body corporate is a subsidiary of the company,
- (b) although the body corporate is not a subsidiary of the company, the company is beneficially entitled to equity shares of the body corporate conferring the right to exercise more than twenty-five per centum of the votes exercisable at a general meeting of the body corporate.

(5) The list referred to in the immediately preceding subsection shall distinguish between bodies corporate falling within paragraph (a) and paragraph (b) thereof and shall state as regards each such company,

- (a) its name;
- (b) its country of incorporation;
- (c) the nature of the business carried on by it.

(6) If the company is, at the end of its financial year, the subsidiary of another, the report shall also state the name and country of incorporation of its holdings company.

(7) If, on application being made by the directors, the Registrar is satisfied that mention of any of the matters referred to in subsections (3), (4), (5) and (6) of this section would be harmful to the business of the company or any of its associated companies, he may direct that such matter need not be mentioned in the report of a financial year.

(8) If any director fails to take reasonable steps to comply with the provisions of this section he shall be liable to a fine not exceeding one hundred pounds.

133. (1) The report by the auditors referred to in paragraph (c) of subsection (1) of section 124 of this Code, shall consist of a report, addressed to the members of the company, by an auditor or auditors duly qualified and appointed as auditors of the company in accordance with section 134 of this Code, on the books of account of the company, and on every balance sheet, profit and loss account, and all group accounts to be sent to the members and debentureholders of the company in accordance with sections 124 and 127 of this Code, and shall contain statements as to the matters mentioned in the Fifth Schedule to this Code.

(2) If, in the case of any accounts, any of the particulars required to be shown under section 128 and 129 of this Code are not shown, the report, in addition to stating that the accounts do not give all the information required by this Code, shall contain a statement giving the required particulars so far as auditors are reasonably able to do so.

(3) The report shall, at all times, be open to inspection by any member or debentureholder of the company at the registered office of the company during usual business hours and shall be read at any annual general meeting of the company held within three months after it is sent to members and debentureholders in accordance with section 124 of this Code.

134. (1) No person shall be appointed as auditor of a company unless,

- (a) he shall prior to such appointment have consented in writing to be appointed: and

- (b) he is duly qualified in accordance with the provisions of section 270 of this Code, if appointed as auditor of a private company, or section 296 of this Code if appointed as auditor of a public company.

(2) A partnership firm may be appointed, in the name of the firm, as auditors of a company, but, whether or not such firm is a body corporate, such appointment shall be deemed to be an appointment of such of the partners of the firm as, at the time of the appointment, are duly qualified.

(3) The first auditors of a company incorporated after the commencement of this Code shall be appointed within three months of the incorporation of the company or prior to the delivery to the Registrar of the particulars required under section 27 of this Code, and every existing company shall, unless it already had duly qualified auditors, appoint auditors within three months after the commencement of this Code.

(4) Notwithstanding any contrary provision in the company's Regulations, auditors shall be appointed by ordinary resolution of the company and not otherwise:

Provided that,

- (a) the directors may appoint the first auditors of a company and may fill any casual vacancy in the office of auditor;
 - (b) if a company shall have no auditor for a continuous period of three months the Registrar may appoint auditors.
- (5) Every existing auditor shall continue in office until,
- (a) he ceases to be qualified for appointment; or
 - (b) he resigns his office by notice in writing to the company; or
 - (c) an ordinary resolution is duly passed at an annual general meeting in accordance with section 135 of this Code removing him from office or appointing some other person in his place as from the conclusion of the annual general meeting;

and when any casual vacancy occurs in the office of auditor the surviving or continuing auditor or auditors, if any, may act.

(6) Notice of the names and addresses of the first auditors of a company incorporated after the commencement of this Code shall be given to the Registrar in accordance with section 27 of this Code.

(7) Within three months after the commencement of this Code, every existing company shall give notice in the prescribed form to the Registrar for registration of the names and addresses of its auditors.

(8) Within twenty-eight days after the occurrence of any change in the auditors of any company, the company shall give notice thereof in the prescribed form to the Registrar for registration.

(9) Every company shall give notice to the Registrar if at any time after the commencement of this Code a continuous period of three months shall have elapsed without the company having a duly qualified auditor.

(10) The remuneration of the auditors,

- (a) in the case of an auditor appointed by the directors or by the Registrar, may be fixed by the directors or the Registrar, as the case may be, for this period expiring at the conclusion of the next annual general meeting of the company;
- (b) subject as aforesaid, shall be fixed by an ordinary resolution of the company or in such manner as the company by ordinary resolution may determine.

(11) For the purposes of the immediately preceding subsection, any sums paid or payable as the company in respect of the auditors' expenses shall be deemed to be included in the expression "remuneration".

(12) If any company shall commit a breach of any of the provisions of this section or describe as auditor of the company any person who has not been duly appointed, the company and any officer of the company who is in default shall be liable to a fine not exceeding one hundred pounds.

(13) For the purposes of subsections (6), (7) and (8) of this section, where a partnership firm is appointed auditors in the name of the firm, the firm name and business address shall be given to the Registrar and, for the purposes of such subsections a change in the constitution of the firm or of the partners

therein who are auditors of the company shall not be deemed to be a change in the auditors.

135. (1) A resolution to remove any auditor or to appoint any other person in his place shall not be effected unless,

- (a) it is passed at an annual general meeting of the company;
- (b) written notice shall have been given to the company of the intention to move it not less than thirty-five days before the annual general meeting at which it is to be moved and on its receipt the company shall have forth-with sent a copy thereof to the auditor concerned; and
- (c) the company shall have given its members notice of such resolution at the same time and in the same manner as it gives notice of the meeting or, if that is not practicable, shall have given them notice thereof in the same manner as notices of meetings are required to be given not less than twenty-one days before the meeting;

Provided that

- (a) if after notice of the intention to move the resolution is given to the company, an annual general meeting is called for a date thirty-five days or less after the notice has been given to the company, the notice shall be deemed to have been properly given for the purposes of this subsection;
- (b) in the case of a resolution to remove any auditor appointed by the directors in accordance with subsection (4) of section 134 of this Code, or to appoint any other person in place of an auditor so appointed under this subsection, shall have effect with the substitution of fourteen days for thirty-five days in paragraph (b) and seven days for twenty-one days paragraph (c).

(2) The auditor concerned shall be entitled,

- (a) to be heard on the resolution at the meeting; and
- (b) to send to the company a written statement, copies of which the company shall send every notice of the annual general meeting

or, if the statement is received too late, shall forthwith circulate to every person entitled under section 154 of this Code to notice of the meeting in the same manner as notices of meetings are required to be given:

Provided that the company need not send or circulate such statement,

- (a) if it received by the company less than seven days before the meeting; or
- (b) if the Court on application being made by the company or any other person who claims to be aggrieved, so orders upon being satisfied that the statement is unreasonably long or that the rights conferred by this section are being abused to secure needless publicity for defamatory matter; and the Court may order the costs of the applicant to be paid in whole or in part by the auditor notwithstanding that he is not a party to the application.

(3) Without prejudice to the auditor's right to be heard orally on such resolution he may, unless the Court shall have made an order under the immediately preceding subsection also require that the written statement by him be read to the meeting.

(4) If the resolution is passed it shall not take effect until the conclusion of the annual general meeting.

136. (1) The auditors of a company while acting in performance of their duties under this Code shall not be deemed to be officers or agents of the company, but shall stand in a fiduciary relationship to the members of the company as a whole and shall act in such manner as faithful, diligent, careful, and ordinarily skillful auditors would act in the circumstances.

(2) No provision, whether contained in the Regulations of a company, or in any contract, or in any resolution of a company shall relieve an auditor from the duty to act in accordance with subsection (1) of this section or relieve him from any liability incurred as a result of any breach thereof.

(3) Every auditor shall have a right of access at all times to the books and accounts and vouchers of the company and shall be entitled to require from the officers of the company such information and explanation as he thinks necessary for the performance of his duties.

(4) The auditors of a company shall be entitled to attend any general meeting of the company and to receive all notices of, and other communications relating to, any general meeting and to be heard at any general meeting on any part of the business of the meeting which concerns them as auditors.

(5) The auditors of a company may apply to the court for directions in relation to any matter arising in connection with the performance of their functions under this Code; and on any such application the Court may give such directions as the Court thinks just; and unless the court shall otherwise direct, the costs to any such application shall be paid by the company.

(6) Before accepting appointment as auditor of a company the auditor shall communicate with the retiring auditor, if any, and invite him to make any representations and supply any information about the company which he may care to make and supply.

(7) The auditors, in addition to their statutory duties to the members under subsection (1) of this section, may, under the terms of their contract with the company, expressly or impliedly undertake obligations to the company in relation to the detection of defalcations, and advise on accounting, costing taxation, raising of finance and other matters.

137. (1) A company shall act through its members in general meeting or its board of directors or through officers or agents, appointed by, or under authority derived from, the members in general meeting or the board of directors.

(2) Subject to the provisions of this Code, the respective powers of the members in general meeting and the board of directors shall be determined by the company's Regulation.

(3) Except as otherwise provided in the company's Regulations, the business of the company shall be managed by the board of directors who may exercise all such powers of the company as are not by this Code or the Regulations required to be exercised by the members in general meeting.

(4) Unless the Regulations shall otherwise provide, the board of directors when acting within the powers conferred upon them by this Code or the Regulations shall not be bound to obey the directions or instructions of the members in general meeting.

(5) Notwithstanding the provisions of subsection (3) of this section, the members in general meeting may,

- (a) act in any matter if the members of the board of directors are disqualified or are unable to act by reason of a deadlock on the board or otherwise;
- (b) institute legal proceedings in the name and on behalf of the company if the board of directors refuse or neglect to do so;
- (c) ratify or confirm any action taken by the board of director; or
- (d) make recommendations to the board of directors regarding action to be taken by the board.

(6) No alteration of the Regulations shall invalidate any prior act of the board of directors which would have been valid if that alteration had not been made.

138. Unless otherwise provided in the Regulations, the board of directors,

- (a) may exercise their powers through committees consisting of such members or members of their body as they think fit, and
- (b) may from time to time appoint one or more of their body to the office of managing director and may delegate all or any of their powers to such managing director.

139. Any act of the members in general meeting, the board of directors, or a managing director while carrying on in the usual way the business of the company shall be treated as the act of the company itself; and accordingly the company shall be criminally and civilly liable therefor to the same extent as if it were a natural person:

Provided that,

- (a) the company shall not incur civil liability to any person if that person had actual knowledge at the time of the transaction in question that the general meeting, board of directors, or managing director, as the case may be, had no power to act in the matter or had acted in an irregular

manner or if, having regard to his position with, or relationship to, the company, he ought to have known of the absence of power or of the irregularity;

- (b) if in fact a business is being carried on by the company, the company shall not escape liability for acts undertaken in connection therewith merely because the business in question was not among the business authorized by the company's Regulations,

140. (1) Except as provided in section 139 of this Code, the acts of any officer or agent of a company shall not be deemed to be acts of the company, unless,

- (a) the company, acting through its members in general meeting, board of directors, or managing director, shall have expressly or impliedly authorized such officer or agent to act in the matter; or
- (b) the company, acting as aforesaid, shall have represented the officer or agent as having its authority to act in the matter, in which event the company shall be civilly liable to any person who has entered into the transaction in reliance on such representation, unless such person had actual knowledge that the officer or agent had no authority or unless, having regard to his position with, or relationship to the company, he ought to have known of such absence of authority.

(2) The authority of an officer or agent of the company may be conferred prior to action by him or by subsequent ratification; and knowledge of action by such officer or agent and acquiescence therein by the managing director for the time being, shall be equivalent to ratification by the members in general meeting, board of directors, or managing director, as the case may be.

(3) Nothing in this section shall derogate from the vicarious liability of a company for the acts of its employees while acting within the scope of their employment.

141. Except as mentioned in section 118 of this Code, regarding particulars in the register of particulars of charges, a person shall not be deemed to have knowledge of any particulars, documents, or the contents of documents by

reason only that such particulars or documents are registered by the Registrar or referred to in any particulars or documents so registered.

142. Any person having dealings with a company or with someone deriving title under the company shall be entitled to make the following assumptions, that is to say,

- (a) that the company's Regulations have been duly complied with;
- (b) that every person described in the particulars filed with the Registrar pursuant to sections 27 and 197 of this Code as a director, managing director or secretary of the company, or represented by the company, acting through its members in general meeting, board of directors, or managing director, as an officer or agent of the company, has been duly appointed and has authority to exercise the powers and perform the duties customarily exercised or performed by a director, managing director, or secretary of a company carrying on business of the type carried on by the company or customarily exercised or performed by an officer or agent of the type concerned;
- (c) that the secretary of the company, and every other officer or agent of the company having authority to issue documents or certified copies of documents on behalf of the company has authority to warrant the genuineness of the documents or the accuracy of the copies so issued;
- (d) that a document has been duly sealed by the company if it bears what purports to be the seal of the company attested by what purport to be the signatures of two persons who, in accordance with paragraph (b) of this section, can be assumed to be a director and the secretary of the company;

and the company and those deriving title under it shall be stopped from denying the truth of any such assumption:

Provided that,

- (a) a person shall not be entitled to make such assumptions as aforesaid if he had actual knowledge to the contrary or if, having regard to his position with, or relationship to, the company, he ought to have known the contrary;

- (b) a person shall not be entitled to assume that any one or more of the directors of the company have been appointed to act as a committee of the board of directors or that an officer or agent of the company has the company's authority by reason only that the company's Regulations provide that authority to act in the matter may be delegated to a committee or an officer or agent.

143. Where, in accordance with sections 139 to 142 of this Code, a company would be liable for the acts of any officer or agent, the company shall be liable notwithstanding that the officer or agent has acted fraudulently or forged a document purporting to be sealed by, or signed on behalf of, the company.

144. Contracts on behalf of a company may be made, varied or discharged as follows, that is to say,

- (a) any contract which, if made between individuals would be by law required to be in writing under seal, or which could be varied or discharged by writing under seal only, may be made, varied or discharged, as the case may be, in writing under the common seal of the company;
- (b) any contract which, if made between individuals would be by law required to be in writing or to be evidenced in writing by the parties to be charged therewith or which could be varied by the parties to be charged therewith or which could be varied or discharged only by, writing or written evidence signed by the parties to be charged, may be made, evidenced, varied or discharged, as the case may be, in writing signed in the name or on behalf of the company;
- (c) any contract which, if made between individuals would be valid although made by parol only and not reduced to writing or which could be varied or discharged by parol, may be made, varied or discharged, as the case may be, by parol on behalf of the company.

145. (1) A bill of exchange or promissory note shall be deemed to have been made, accepted, or endorsed, on behalf of a company if made, accepted or endorsed in the name of the company or if expressed to be made, accepted or endorsed on behalf or on account of the company.

(2) The company and its successors shall be bound thereby if the company is, in accordance with sections 139 to 143 of this Code, liable for the acts of those who made, accepted or endorsed in its name or on its behalf or account; and a signature by a director or the secretary on behalf of the company shall not be deemed to be a signature by procuration for the purposes of section 23 of the Bills of Exchange Act, 1961 (Act 55).

146. A document or proceeding requiring authentication by a company may be signed on its behalf by an officer of the company and need not be under its common seal.

147. (1) A company may, by writing under its common seal, empower any person, either generally or in respect of any specified matters, as its attorney to execute deeds on its behalf in any place outside Ghana.

(2) A deed signed by such an attorney on behalf of the company and under his seal shall bind the company and have the same effects as if it were under its common seal.

148. (1) A company whose objects require or comprise the transaction of business in countries other than Ghana may, if authorized by its Regulations, have for use in any territory, district, or place not situate in Ghana, an official seal which shall be a facsimile of the common seal of the company with the addition on its face of the name of the territory, district or place where it is to be used.

(2) Every document to which an official seal is duly affixed shall bind the company as if it had been sealed with the common seal of the company.

(3) The company may, by writing under its common seal, authorize any agent appointed for that purpose to affix the official seal to any document to which the company is a party in the territory, district or place.

(4) Any person dealing with such an agent in reliance on the writing conferring the authority shall be entitled to assume that the authority of the agent continues during the period, if any mentioned in the writing or, if no period is there mentioned, then until that person has actual notice of the revocation or determination of the authority.

(5) The person affixing any such official seal shall, by writing under his hand, certify on the document to which the seal is affixed, the date on which and the place at which it is affixed.

149. (1) Except as provided in subsection (3) of this section, every company shall in each year hold a general meeting as its annual general meeting in addition to any other meetings in that year, and shall specify the meetings as the annual general meeting in the notices calling it; and not more than fifteen months shall elapse between the date of one annual general meeting and the next:

Provided that, so long as a company holds its first annual general meeting within eighteen months of its incorporation, it need not hold it in the year of its incorporation or in the following year.

(2) The annual general meeting shall be held not earlier than twenty-one days after the company's profit and loss account and balance sheet, any group accounts, and the reports of the directors and auditors' thereon shall have been dispatched to members and debentureholders of the company in accordance with section 124 of this Code; and the said statements, accounts, and reports shall be laid before the annual general meeting for consideration.

(3) If the auditors of the company and all the members of the company entitled to attend and vote at any annual general meeting shall agree in writing that an annual general meeting shall be dispensed with in any year, it shall not be necessary for that company to hold an annual general meeting that year.

(4) If default is made in holding the annual general meeting in accordance with subsection (1) of this section, the Registrar may, of his own motion or on the application of any officer or member of the company, call, or direct the calling of, an annual general meeting of the company, and may give such ancillary or consequential directions as he thinks fit, including direction modifying or supplementing, in relation to the calling, holding and conducting of that meeting, the operation of the company's Regulations and sections 151 to 155, 161, 163, 166, 167 and 169 to 173 of this Code.

(5) Where a meeting held in pursuance of subsection (4) of this section is not held in the year in which occurred the default in holding the company's annual general meeting, the meeting so held shall be treated as the annual general meeting for that year, but shall not be treated as the annual general meeting for the year in which it is held unless, at that meeting, the company resolves that it shall be so treated.

(6) Where a company so resolves, a copy of the resolution shall, within twenty-eight days of the passing thereof, be forwarded to the Registrar for registration.

(7) If default is made in holding an annual general meeting of the company in accordance with subsection (1) of this section, or in complying with any directions of the Registrar under subsection (4) of this section, or in complying with subsections (2), (5) or (6) of this section, the company, and every officer of the company who is in default shall be liable to a fine not exceeding fifty pounds.

150. (1) Extraordinary general meetings may be convened by the directors whenever they think fit.

(2) If at any time there are not within Ghana sufficient directors capable of acting to form a quorum, any director may convene a meeting.

(3) An extraordinary general meeting of a private company may be requisitioned in accordance with section 297 of this Code.

151. Unless the company's Regulations otherwise provide, all general meetings shall be held in Ghana.

152. (1) Meetings, other than adjourned meetings, shall be convened by notice in writing to the persons who are, under section 154 of this Code, entitled to receive notice of general meetings.

(2) Subject to subsections (3) and (4) of this section, twenty-one days notice at the least or in the case of a special resolution under section 2 of the Bodies Corporate (Official Liquidations) Act, 1963 (Act 180), seven days notice exclusive of the day on which the notice is served, but inclusive of the day for which notice is given, shall be given.

(3) The company's Regulations may provide for a period of notice longer, but not shorter, than that specified in subsection 2 of this section.

(4) A meeting of a company shall, notwithstanding that it is called by shorter notice than that specified in subsection (2) of this section, or in the company's Regulations, be deemed to have been duly called if it is so agreed,

- (a) in the case of a meeting called as the annual general meeting, by all the members entitled to attend and vote thereat; and
- (b) in the case of any other meeting, by a majority in number of the members having a right to attend and vote at the meeting, being a majority holding not less than ninety-five per centum of the shares giving a right to attend and vote at the meetings or, in the case of a company limited by guarantee, by a nine-five per centum majority in number of the members:

Provided that where any members are entitled to vote only on some resolutions to be moved at the meeting and not on others, those members shall be taken into account for the purposes of this subsection in respect of the former resolutions and not in respect of the latter.

153. (1) The notice of a meeting shall specify the place, date and hour of the meeting, and the general nature of the business to be transacted thereat in sufficient detail to enable those to whom it is given to decide whether to attend or not; and where the meeting is to consider a special resolution shall set out the terms of the resolution.

(2) In the case of notice of an annual general meeting, a statement that the purpose is to transact the ordinary business of an annual general meeting shall be deemed to be a sufficient specification that the business is,

- (a) to declare a dividend;
- (b) consideration of the accounts and reports of the directors and auditors;
- (c) the election of directors in the place of those retiring;
- (d) the fixing of the remuneration of the auditors; and
- (e) if the requirements of section 135 and 185 are duly complied with, the removal and election of auditors and directors.

(3) No business may be transacted at any general meeting unless notice of it has been duly given.

(4) In every case in which a member is entitled, pursuant to section 163 of this Code, to appoint a proxy to attend and vote instead the member has the right to appoint a proxy to attend and vote instead of him and that the proxy need not be a member of the company; and if default is made in complying with this subsection as respects any meeting, every officer of the company who is in default shall be liable to a fine not exceeding fifty pounds.

154. The following persons shall be entitled to receive notice of general meeting,

- (a) every member;
- (b) every person upon whom the ownership of a share devolves by reason of his being a legal personal representative, receiver or a trustee in bankruptcy of a member;
- (c) every director of the company;
- (d) every auditor for the time being of the company.

155. (1) Notice may be given by the company to any member or director either personally or by sending it through the post addressed to him at his registered address, or by leaving it for him with some person apparently over the age of sixteen years at such address.

(2) Notice may be given to the joint holders of a share by giving the notice to the joint holder named first in the register of members in respect of the share.

(3) Notice may be given to a person upon whom ownership of a share has devolved by reason of his being a legal personal representative, receiver or trustee in bankruptcy of a member either personally or by sending it through the post addressed to him by name, or by the title of representatives of the deceased or receiver or trustee of the bankrupt, or by any like description, at the address, if any, supplied for the purpose by such person, or by leaving it for him with some person apparently over the age of sixteen years at such address, or, until such address has been supplied, by giving the notice in any manner in which the same might have been given if the death, receivership or bankruptcy had not occurred.

(4) Where a notice is sent by post, service shall be deemed to be effected by properly addressing, pre-paying, and posting a letter containing the notice and to have been effected at the expiration of forty-eight hours after the letter containing the same is posted.

(5) The letter need not be registered but where it is sent to an address outside Ghana it shall be dispatched by airmail.

156. 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 that meeting.

157. (1) A company shall at its own expense, on the request in writing of any member entitled to attend and vote at a general meeting, include in the notice of that general meeting notice of any resolution which may properly be moved and is intended to be moved at that meeting and, at the like request, include with such notice a statement of not more than five hundred words with respect to the matter referred to in the proposed resolution or any other business to be dealt with at the meeting;

Provided that if the proposed resolution is not passed at that meeting the same resolution or one substantially to the same effect shall not be moved at any general meeting within three years thereafter, unless the directors shall otherwise agree or unless the request within three years is supported in writing by members of the company representing between them not less than one-twentieth of the total voting rights of all the members of all the members having at the date of the request a right to vote on the resolution to which the request relates.

(2) A company shall not be bound to give notice of any such resolution or to circulate such statement unless the written request or requests, signed by the member or members concerned, together with the resolution and statement, are deposited at the registered office of the company not less than six weeks before the meeting;

Provided that if, after such documents have been deposited a general meeting is called for a date six weeks or less thereafter, the document shall be deemed to have been properly deposited.

158. (1) A company shall, at the request in writing of any member entitled to attend and vote at a general meeting but, unless the company otherwise resolves, at the expense of that member, circulate to members of the

company a statement of not more than one thousand words with respect to any business to be dealt with at that meeting.

(2) The statement shall be circulated to members of the company in any manner permitted for service of notice of the meeting and, so far as practicable, at the same time as notice of the meeting, or, if that is impracticable, as soon as possible thereafter.

(3) A company shall not be bound to circulate such statement unless,

(a) the written request, signed by the member concerned, together with the statement, is deposited at the registered office of the company not less than ten days before the meeting;

(b) there is also deposited with the request a sum reasonably sufficient to meet the company's expenses in giving effect thereto.

159. (1) A company shall not be bound under either section 157 or 158 of this Code to circulate any resolution or statement if, on the application either of the company or of any other person who claims to be aggrieved, the Court is satisfied that the rights conferred by those sections are being abused to secure needless publicity for defamatory matter; and the Court may order to company's costs on an application under this section to be paid in whole or in part by the member making the request, notwithstanding that he is not a party to the application.

(2) In the event of any default in complying with section 157 or 158 of this Code, every officer of the company who is in default shall be liable to a fine not exceeding fifty pounds.

160. Notwithstanding any contrary provision in the company's Regulations the following persons shall be entitled to attend any general meeting of the company, namely,

(a) every member of the company;

(b) every director of the company;

(c) the secretary of the company; and

(d) every auditor for the time being of the company;

Provided that,

- (a) if the company's Regulations so provide a member shall not be entitled to attend unless all calls or other sums presently payable by him in respect of shares in the company have been paid;
- (b) any member who is holder of preference shares only shall not be entitled to attend if his right to do so is validly suspended in accordance with section 49 of this Code;
- (c) nothing herein contained shall be deemed to preclude other persons from attending any general meeting with the permission of the chairman thereof.

161. (1) No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to discuss that business; but provided that a quorum is then present the meeting may validly proceed with that business notwithstanding that a quorum is not present throughout:

Provided that where any members present are entitled to vote only on some resolutions and not on others such members shall be counted towards a quorum in respect of the former resolutions but not in respect of the latter.

(2) Unless otherwise provided in the company's Regulations, the following shall constitute a quorum, that is to say,

- (a) if the company has only one member, that member present in person or, where proxies are allowed, by proxy;
- (b) in any other case two members present in person or, where proxies are allowed, by proxy, or one member so present holding shares representing more than fifty per centum of the total voting rights of all the members having a right to vote at the meeting.

(3) Unless otherwise provided in the company's Regulations, if a quorum is not present within half an hour after the time appointed for the meeting, the meeting if convened upon the requisition of members in accordance with section 27 or 297 or its Code, shall be dissolved, and in any other case shall stand adjourned to the same day, in the next week at the same time and place or to such other day, place and time as the directors may determine, and if at the adjourned meeting a quorum is not present within half an hour after the time appointed the member or members present shall constitute a quorum.

(4) where the meeting is adjourned to the same day, place and time in the following week no notice need be given; otherwise notice of the adjourned meeting shall be published in at least one daily newspaper circulating in the district in which is situated the registered office of the company.

(5) Provided that a quorum is present the meeting shall be deemed to be duly conducted notwithstanding that only one member or one proxy is present.

162. (1) If for any reason it is impracticable to call a meeting of a company in any manner in which meetings of that company may be called, or to conduct the meeting of the company in the manner prescribed by the Regulations or this Code, the Court may, on the application of any director or member of the company, or of the Registrar, order a meeting of the company to be called, held and conducted in such manner as the Court thinks fit; and where any such order is made may give such ancillary or consequential directions as it thinks expedient.

(2) Any meeting called, held and conducted in accordance with an order under the foregoing subsection shall, for all purposes be deemed to be a meeting of the company dully called, held and conducted.

163. (1) Any member of a company entitled to attend and vote at a meeting of the company shall be entitled to appoint another person, whether a member of the company or not, as proxy to attend and vote instead of him and such proxy shall have the same rights as the member to speak at the meeting:

Provided that unless the company's Regulations shall otherwise provide, this subsection shall not apply in the case of a company limited by guarantee.

(2) The instrument appointing the proxy shall be in writing under the hand of the appointor or his agent duly authorized in writing or, if the appointor is a body corporate, either under seal or under the hand of an officer or agent duly authorized.

(3) An instrument appointing a proxy shall be in the form prescribed by Table A in the Second Schedule hereto or in such form as the company's Regulations may provide; but, notwithstanding any provision in the

company's Regulations, an instrument in the form prescribed by Table A shall be sufficient,

(4) Unless the company's Regulations shall otherwise provide the instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a notarially certified copy of that power of authority shall be deposited at the registered office of the company or at such other place within Ghana as specified in the notice convening the meeting not less than forty-eight hours before the time for holding the meeting or adjourned meeting or, in the case of a poll, not less than twenty-four hours before the time appointed for the taking of the poll, and in default the instrument of proxy shall not be treated as valid:

(5) Where instruments of proxy have been deposited in accordance with the immediately preceding subsection, any person entitled, in his own right or as proxy for another member or members or partly in one way and partly in another, to more than ten per centum of the total voting rights of all members entitled to vote at the meeting shall be entitled, at any time during business hours prior to the conclusion of the meeting or the taking of the poll, but subject to such reasonable restrictions as the company may impose, to inspect such deposited instruments of proxy and the original or copy powers of attorney or other authority under which they are signed.

(6) The appointment of a proxy shall be terminated by the death or insanity of the appointor or by his revocation of the proxy or the authority under which it was executed; and the personal attendance, of a member at the meeting or the later appointment of another proxy in respect of the same share shall be deemed to be a revocation:

Provided that a vote given in accordance with the terms of an instrument of proxy may be treated by the company as valid notwithstanding the termination or revocation of the appointment so long as no intimation in writing of the termination or revocation or of the events causing the same shall have been received by the company, at its registered office or other place appointed for the deposit of instruments of proxy, before the commencement of the meeting or adjourned meeting or more than twenty-four hours before a poll.

(7) If, for the purpose of any meeting of a company, invitations to appoint as proxy a person or one of a number of persons specified in the invitations are issued at the company's expense then,

- (a) such invitations shall be sent to all members entitled to attend and vote at the meeting;
- (b) such invitations shall be accompanied by forms for the appointment of a proxy which shall entitle the members to direct the proxy to the meeting;
- (c) where instruments of proxy are duly completed and returned in accordance with the instructions in the invitation and are not revoked then,
 - (i) it shall be the duty of the chairman of the meeting to demand a poll after any vote by show of hands unless the result on the show of hands is in accord with the directions, if any, given in all such instruments of proxy; and
 - (ii) on any poll the votes of the members concerned shall be deemed to be cast in accordance with the directions, if any, in such instruments of proxy notwithstanding the absence, abstention, or purported vote to the contrary of the proxy.

(8) Where a member, not having been invited so to do, requests the company to issue him with a form of appointment of proxy or a list of persons willing to act as proxy, the company may issue such form or list to him without doing so to all the other members entitled to attend and vote; but such form or list shall be available on request in writing to every such member and any forms of appointment so issued shall comply with paragraph (b) of subsection (7) of this section and shall be deemed to be an instrument of proxy to which paragraph (c) thereof applies.

(9) Every officer of the company who knowingly authorizes or permits any breach or non-observance of subsection (5), (6), (7) or (8) or this section shall be liable to a fine not exceeding one hundred pounds and in the event of a refusal to permit inspection in accordance with subsection (5) of this section the Court may by order compel an immediate inspection.

164. (1) The vote of a proxy shall not be rejected at a meeting on the ground that the appointment of a proxy was obtained by misrepresentation.

(2) The Court may, on the application of the company or any member entitled to vote at the meeting or the Registrar, annul the appointment of a proxy if satisfied that the appointment was obtained by any material misrepresentation of fact whether made fraudulently or not.

(3) Where any such order is made the Court may further order that the holding of the meeting shall be postponed until such date as the Court may order and may give such ancillary or consequential directions as it thinks fit.

165. (1) A body corporate, whether a company within the meaning of this Code or not, may, by resolution of its directors or other governing body, authorize such person as it thinks fit to act as its representative,

(a) if it is a member of a company, at any meeting of the company;

(b) if it is a creditor, including a debentureholder, of company, at any meeting of any creditors of the company held in pursuance of this Code or of the Bodies Corporate (Official Liquidations) Act, 1963 (Act 180), or of any rules made hereunder, or in pursuance of the provisions contained in any debenture or trust deed, as the case may be.

(2) A person authorized as aforesaid, upon production of a copy or the resolution by which he was authorized, shall be entitled to exercise the same powers on behalf of the body corporate which he represents as that body corporate could exercise if it were an individual shareholder, creditor, or holder of debentures of that other company.

(3) This section shall not be deemed to preclude any body corporate form appointing a proxy to attend and vote on its behalf.

166. Unless otherwise provided in the company's Regulations the chairman, if any, of the board of directors shall preside as chairman at every general meeting of the company, or if there is no such chairman or, if he shall not be present within fifteen minutes after the time appointed for holding the meeting or is unwilling to act, the directors present shall elect one of their members to be chairman of the meeting, or, if no director is present or willing to act, the members present shall choose one of their members to be chairman of the meeting.

167. (1) The chairman may, with the consent of any meeting at which a quorum is present, and shall if so directed by an ordinary resolution passed

at the meeting, adjourn the meeting from time to time and from place to place; but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place and any additional business of which due notice shall be given as in the case of an original meeting.

(2) When a meeting is adjourned for thirty days or more, notices of the adjourned meeting shall be given as in case of an original meeting.

(3) Save as aforesaid and unless the company's Regulations otherwise provide, it shall not be necessary to give notice of the adjournment of any meeting at which a quorum was present, or of the business to be transacted at the adjournment.

168. (1) A resolution shall be an ordinary resolution when it has been passed by a simple majority of votes cast by such members of the company as, being entitled so to do, vote in person or, where proxies are allowed, by proxy at a general meeting.

(2) A resolution shall be a special resolution when it has been passed by not less than three-fourths of the votes cast by such members of the company as, being entitled so to do, vote in person or, where proxies are allowed, by proxy at a general meeting of which, notice specifying the intention to propose the resolution as a special resolution, has been duly given.

(3) A reference in the Code or in any Regulations, debentures or debenture trust deed to an ordinary or special resolution of a meeting of any class of shareholders, creditors, or debentureholders shall bear a like meaning to that specified in subsection (1) or (2) of this section, as the case may be, with the substitution of the members of the class for the members of the company.

169. The terms of any resolution, special or ordinary, before a general meeting may be amended by ordinary resolution moved at the meeting:

Provided that the terms of the resolution as amended will still be such that adequate notice of the intention to pass the same can be deemed to have been given in accordance with section 153 of this Code.

170. (1) Unless the company's Regulations shall otherwise provide, a resolution put to the vote of a meeting shall be decided on a show of hands

unless a poll is, before or on the declaration of the result of the show of hands, demanded by,

- (a) the chairman,
- (b) at least three members present in person or by proxy, or
- (c) any member or members present in person or by proxy and representing not less than one-twentieth of the total voting rights of all the members having the right to attend and vote on the resolution:

Provided that any provision contained in the company's Regulations shall be void in so far as it would have the effect,

- (a) of excluding the right to demand a poll on any question other than the election of the chairman or the adjournment of the meeting; or
- (b) of making ineffective a demand for a poll on any such question which is made by the persons specified in any of paragraphs (a), (b) or (c) of this subsection.

(2) The demand for a poll may be withdrawn.

(3) On a show of hands each member who is personally present and entitled to vote and each proxy for any member entitled to vote shall have one vote.

(4) Unless a poll is effectively demanded, a declaration by the chairman that 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 meeting shall be conclusive evidence of the fact without proof of the number or proportion of votes recorded in favour of or against such resolution.

(5) If a poll is effectively demanded it shall be taken at such time and in such manner as the chairman shall direct.

(6) In lieu of directing that a poll shall be taken of those members present in person or by proxy at the poll, the chairman may direct that voting shall be by postal ballot of all the members entitled to attend and vote on the resolution; and in that event, ballot papers shall be served on members entitled to attend and vote on the resolution in the

same manner notice of the meeting is required to be given to them and such members may cast their votes either by personally completing the ballot papers or by having the same completed, in accordance with subsection (4) of section 163 of this Code, not less than twenty-four hours before the time appointed for the closing of the ballot.

(7) Notwithstanding subsection (5) of this section, a postal ballot in accordance with the immediately preceding subsection shall be directed by the chairman if,

(a) the company's Regulations so provide; or

(b) on or after the chairman has directed a poll, an ordinary resolution in favour of a postal ballot under this subsection is moved at the meeting and passed on a show of hands.

(8) For all the purposes of this Code a postal ballot in accordance with subsection (6) of this section shall be deemed to be a poll.

(9) Except as otherwise lawfully provided in the company's Regulations, on a poll each shareholder entitled to vote shall have one vote for each share held by him and each member of a company limited by guarantee shall have one vote.

(10) On a poll a member entitled to more than one vote, or a proxy representing more than one member or a member entitled to more than one vote, or a proxy representing more than one vote, need not, if he votes, use all his votes or cast all the votes he uses in the same way.

(11) Unless the company's Regulations otherwise provide in the case of an equality of votes, whether on a show of hands or a poll, the chairman 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.

171. In the case of joint holders 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 stand in the register of members.

172. A member of unsound mind may vote, whether on a show of hands or a poll, by such person as may be appointed for the purpose by the Court and the person so appointed may vote by proxy.

173. (1) Where a resolution is passed at an adjourned meeting, the resolution shall, for all purposes, be deemed to have been passed on the date on which it was in fact passed at the adjourned meeting.

(2) Where a resolution is passed on a poll it shall for all purposes be deemed to have been passed on the day on which the result of the poll is declared, and not on any earlier day.

174. (1) Except as provided in subsection (3) of this section, a resolution in writing signed by all the members of the time being entitled to attend and vote on such resolution at a general meeting, or being bodies corporate by their duly authorized representatives, and, if the company has only one such member by that member, shall be as valid and effective for all purposes as if the same had been passed at a general meeting of the company duly convened and held; and if described as a special resolution shall be deemed to be a special resolution within the meaning of this Code.

(2) The resolution shall be deemed to have been passed on the date on which the same was signed by the last member to sign, and where the resolution states a date as being the date of his signature thereof such statement shall be prima facie evidence that it was signed by that member on that date.

(3) Subsections (1) and (2) of this section shall not apply to a resolution to remove an auditor, which can be passed only at an annual general meeting in accordance with section 135 of this Code, or to remove a director, which can be passed only at a general meeting in accordance with section 185 of this Code.

175. (1) Sections 152 to 174 of this Code shall apply to meetings of any class of members in like manner as they apply to general meetings of companies, but so that the necessary quorum shall be as set out in subsection (2) of this section and that any member of the class present in person or by proxy may demand a poll.

(2) At any meeting of any class of members the necessary quorum shall be,

- (a) if there are not more than two members of that class, one member present in person or by proxy;
- (b) in any other case, two members, present in person or by proxy, holding not less than one-third of the total voting rights of that class:

Provided that the company's Regulations may provide for a larger, but not for a smaller, quorum.

176. (1) A certified true copy of every special resolution of a general meeting or of a class of members and of every resolution to which a specified proportion of a class of members have consented in which writing and which would not have been effective for its purpose, unless such written consent had been given, without the passing of a special resolution, shall be forwarded to the Registrar for registration within twenty-eight days after the passing or making thereof.

(2) Such copy shall be printed, typewritten, or in some other legible form acceptable to the Registrar.

(3) A copy of every special resolution of a general meeting of the company for the time being in force shall be embodied in or annexed to every copy of the Regulations issued after the passing of the resolution:

Provided that, where the sole effect of the special resolution is to amend the Regulations, this subsection shall be sufficiently complied with if every copy of the Regulations issued thereafter embodies the effect of the amendment and refers to the date of the passing of the special resolution.

(4) If a company fails to comply with this section the company and every officer of the company who is in default shall be liable to a fine not exceeding five pounds for each default.

177. (1) Every company shall cause minutes of all proceedings of general meetings and meetings of any class of members to be entered in a book or books kept for the purpose.

(2) Any such minute, if purporting to be signed by the chairman of the meeting at which the proceedings took place or of the next succeeding meeting, shall be prima facie evidence of the proceedings.

(3) Where minutes have been made in accordance with the provisions of this section then, until the contrary is proved, the meeting shall be deemed to be duly held, convened and conducted.

(4) If a company fails to comply with subsection (1) of this section the company and every officer of the company who is in default shall be liable to a fine not exceeding one hundred pounds.

178. (1) The books containing the minutes of proceedings of every general meeting or class meeting of a company held after the commencement of this Code, shall be kept at the registered office of the company and shall, during business hours, subject to such reasonable restrictions as the company's Regulations may impose, but so that not less than two hours in each day, other than a Saturday, Sunday or public holiday, be allowed for inspection, be open to the inspection of any member without charge.

(2) Any member shall be entitled to be furnished, within ten days after he has made a request in that behalf to the company with a copy of any such minutes at a charge not exceeding one shilling for every hundred words.

(3) If any inspection required under this section is refused or if any copy required under this section is not sent within the proper time, the company and every officer of the company who is in default shall be liable in respect of each offence to a fine not exceeding five pounds for every day during which the default continued and the Court may, by order, compel an immediate inspection or furnishing of a copy, as the case may be.

179. (1) For the purposes of this Code the expression "director" means those persons, by whatever name called, who are appointed to direct and administer the business of the company.

(2) Any person, not being a duly appointed director of a company,

(a) who shall hold himself out or knowingly allow himself to be held out as a director of that company, or

(b) on whose directions or instructions the duly appointed directors are accustomed to act,

shall be subject to the same duties and liabilities as if he were a duly appointed director of the company:

Provided that nothing in this subsection contained shall be deemed to derogate from the duties or liabilities of the duly appointed directors, including the duty not to act on the directions or instructions of any other person.

(3) If any person, not being a duly appointed director of a company, shall hold himself out, or knowingly allow himself to be held out, as a director of the company, or if the company shall hold out such person or knowingly allow such person to hold himself out, as a director of the company, such person or the company, as the case may be, shall be liable to a fine not exceeding one hundred pounds.

(4) For the purposes of subsections (2) and (3) of this section a person who is described as director of a company, whether such description is qualified by the word “local”, “special”, “executive”, or in any other way, shall be deemed to be held out as a director of that company.

180. (1) Every company incorporated after the commencement of this Code shall have at least two directors.

(2) Every company incorporated prior to the commencement of this Code shall, after the expiration of six months from the commencement of this Code, have at least two directors.

(3) If at any time the number of directors is less than two in breach of either of the foregoing subsections of this section and the company continues to carry on business for more than four weeks thereafter, the company and every director and member of the company who is in default shall be liable to a fine not exceeding five pounds for every day during which it so carries on business after the expiration of such four weeks without having at least two directors; and every director and member of the company who is cognizant of the fact that it is and carrying on business with fewer than two directors shall be jointly and severally liable for all the debts and liabilities of the company incurred during that time.

(4) Subject as aforesaid the number of directors shall be fixed by or in accordance with, the company’s Regulations.

181. (1) No person shall be appointed a director of a company unless he shall prior to such appointment, have consented in writing to be appointed.

(2) The first directors of a company shall be named in the company's Regulations.

(3) Subject to the following subsections of this section and to sections 182 and 183 of this Code, the appointment of directors shall be regulated by the company's Regulations and except as otherwise provided in the Regulations, section 272 of this Code shall regulate the appointment of directors of a private company and sections 298 and 299 of this Code the appointment of directors of a public company.

(4) The Regulations of a company may provide for the appointment of a director or directors by any class of shareholders, debentureholders, creditors, employees or any other person.

(5) Notwithstanding any provision in the company's Regulations, any casual vacancy in the number of directors may be filled by,

- (a) the continuing director or directors notwithstanding that their number may have been reduced below that fixed as the necessary quorum of directors; or
- (b) by an ordinary resolution of the company in general meeting:

Provided that,

- (a) in exercising their power to fill such vacancy the directors shall observe the rules laid down in sections 203 and 204 of this Code and shall not appoint any person to be a director unless they have taken reasonable steps to satisfy themselves that he is a person of integrity and suitable to be a director of the company;
- (b) if the casual vacancy so filled is one which, under the terms of the company's Regulations, should be filled by an appointment by any class of shareholders, debentureholders, creditors, employees, or other person, the director appointed by the continuing directors or by an ordinary resolution of the company in general meeting, as the case may be, shall cease to hold office so soon as any other director is duly appointed in accordance with the Regulations.

182. (1) The following persons shall not be competent to be appointed or to act as directors of a company, namely,

- (a) an infant;
- (b) anyone found by a competent court to be a person of unsound mind;
- (c) a body corporate;
- (d) anyone in respect of whom an order shall have been made under section 186 of this Code so long as such order remains in force unless leave to act as director has been given by the Court in accordance with that section;
- (e) an undischarged bankrupt, unless he shall have been granted leave to act as director by the Court by which he was adjudged bankrupt.

(2) If any of the persons specified in subsection (1) of this section, other than a body corporate, or person of unsound mind, shall act as a director of any company or knowingly allow himself to be appointed a director, he shall be liable on conviction to imprisonment for a term not exceeding five years or to a fine not exceeding five hundred pounds or to both such imprisonment and fine; and if any body corporate shall act as a director or allow itself to be appointed a director, the body corporate and every officer thereof who knowing permitted it so to act or to be appointed shall be liable to a fine not exceeding five hundred pounds.

(3) If any company shall appoint any person as director in contravention of this section the company and every director of the company who is in default shall be liable to a fine not exceeding five hundred pounds.

(4) The company's Regulations may lawfully provide that classes of persons additional to those provided in subsection (1) of this section shall be incompetent to be directors of the company.

183. (1) Unless the company's Regulations otherwise provide, a director need not be a member of the company or hold any shares therein,

(2) Where the Regulations require a director to hold a specified share qualification, every director shall obtain his qualification within two months after his appointment or such shorter period as may be fixed by the Regulations; and his office shall be vacated if he shall fail to do so, or if at

any time after the expiration of that period he ceases to hold his qualification:

Provided that if the company amends its Regulations so as to introduce or increase the requirement of a share qualification every director holding office at the date of such alteration shall have two months thereafter to obtain his qualification and shall not vacate office under this section unless he fails to do so.

(3) A person vacating office under this section shall be incapable of being re-appointed a director of the company until he has obtained his qualification.

184. (1) The office of director shall be vacated if the director becomes incompetent to act as a director by virtue of the provisions of section 182 of this Code, or if he ceases to hold office by virtue of section 183 of this Code, or if he resigns his office by notice in writing to the company.

(2) The company's Regulations may lawfully provide for the termination or vacation of office in circumstances additional to those specified in the foregoing subsection.

185. (1) Subject to the provisions of section 300 of this Code and to the following subsections, a company may by ordinary resolution at any general meeting remove from office all or any of the directors notwithstanding anything in its Regulations or in any agreement with any director.

(2) A resolution to remove any director shall not be moved at any general meeting unless notice of the intention to move it has been given to the company not less than thirty-five days before the meeting at which it is to be moved:

Provided that if after notice of the intention to move the resolution is given to the company, a meeting is called for a date thirty-five days or less after the notice has been given, the notice shall be deemed to have been properly given for the purposes of this subsection.

(3) The company shall give its members notice of such resolution at the same time and in the same manner as it gives notice of the meeting or, if that is not practicable, shall give them notice thereof in the same manner as notices of meetings are required to be given not less than twenty-one days before the meeting.

(4) On receipt of notice of an intended resolution to remove a director under this section the company shall forthwith send a copy thereof the director concerned and such director, whether or not he is a member of the company, shall be entitled,

(a) to be heard on the resolution at the meeting; and

(b) to send to the company a written statement, copies of which the company shall send with every notice of the general meeting or, if the statement is received too late, shall forthwith circulate to every person entitled under section 154 of this Code to notice of the meeting in the same manner as notices of meetings are required to be given:

Provided that the company need not send or circulate such statement,

(a) if it is received by the company less than seven days before the meeting, or

(b) if the Court, on application by the company or any other person who claims to be aggrieved, so orders upon being satisfied that the statement is unreasonably long or that the rights conferred by this section are being abused to secure needless publicity for defamatory matter; and the Court may order the costs of the applicant to be paid in whole or in part by the director notwithstanding that he is not a party to the application.

(5) Without prejudice to the director's right to be heard orally on such resolution, he may, unless the Court shall have made an order under the immediately preceding subsection, also require that the written statement by him be read to the meeting.

(6) A vacancy created by the removal of any director under this section, if not filled at the meeting at which he is removed, may be filled as a casual vacancy in accordance with section 181 of this Code,

(7) Nothing in this section shall be taken as depriving any director who has a service agreement with the company of any right to compensation to which he may lawfully be entitled under such agreement on the termination of his directorship or of any right to

damages if his removal from his directorship constitutes a breach of such service agreement.

201. (1) Every company shall cause minutes of all proceedings of meetings of its directors and any committee of directors to be entered in a book or books kept for the purpose.

(2) Any such minute, if purporting to be signed by the chairman of the meeting at which the proceedings took place or of the next succeeding meeting, shall be prima facie evidence of the proceedings.

(3) Where minutes have been made in accordance with the provisions of this section then, until the contrary is proved, the meeting shall be deemed to be duly convened, held, and conducted and all appointments of directors shall be deemed to be valid.

(4) If a company fails to comply with subsection (1) of this section the company and every officer of the company who is default shall be liable to a fine not exceeding one hundred pounds.

202. (1) Notwithstanding subsection (3) of section 137 of this Code or any provision in the company's Regulations, the directors of a company with shares shall not, without the approval of an ordinary resolution of the company,

- (a) sell, lease or otherwise dispose of the whole, or substantially the whole, of the undertaking or of the assets of the company;
- (b) issue any new or unissued shares, other than treasury shares, in the company unless the same shall first have been offered on the same terms and conditions to all the existing shareholders or to all the holders of the shares of the class or classes being issued in proportion as nearly as may be to their existing holding;
- (c) make voluntary contributions to any charitable or other funds, other than pension funds for the benefit of employees of the company or any associated company, of any amounts the aggregate of which will, in any financial year of the company, exceed one thousand pounds or two per centum of the income

surplus of the company at the end of the immediately preceding financial year, whichever is the greater:

Provided that,

- (a) no resolution of the company shall be effective as approving of such transaction as is referred to in paragraph (a) of this subsection unless it authorizes in terms the specific transaction proposed by the directors;
- (b) no resolution of the company shall be effective as approving of such a transaction as is referred to in paragraph (a) of this subsection if passed more than one year before the issue of the said shares unless such issue is in accordance with a scheme for the time being in force relating to the issue of shares to or for the benefit of persons bona fide in the employment of the company or any of its associated companies.

(2) Notwithstanding any provisions of this Code or in the company's Regulations or in any resolution of the company in general meeting, no new or unissued shares or treasury shares shall be issued to any director or past director of the company or of any associated Company or to his nominee or to any body corporate controlled by him unless the shares shall first have been offered on the same terms and conditions to all the existing shareholders or to all the holders of the shares of the class or classes being issued in proportion to their existing holdings or, in the case of a public company, to members of the public.

(3) For the purposes of the immediately preceding subsection a body corporate shall be deemed to be controlled by a director if such body corporate or its directors are accustomed to act in accordance with the directions or instructions of such director or his nominee or if at a general meeting of such body corporate such director or his nominee is entitled to exercise or control the exercise of one-third or more of the voting power.

(4) Nothing in the foregoing subsections of this section shall prohibit,

- (a) the issue of any shares under a bona fide underwriting agreement; or

(b) the issue to a director at a fair price payable in cash of such shares, if any, as under the Regulations of the company, he is required to hold by way of share qualification.

(5) Unless the company's Regulations shall otherwise provide the directors of a company with shares shall not, without the approval of an ordinary resolution of the company, exercise the company's power to borrow money or to charge any of its assets where the moneys to be borrowed or secured, together with the amount remaining undischarged of moneys already borrowed or secured, apart from temporary loans obtained from the company's bankers in the ordinary course of business, will exceed the stated the stated capital for the time being of the company.

(6) No person dealing with the company in good faith or registering any disposition of, or title to, property shall be concerned to see whether the conditions, of this section have been fulfilled and the provisions of sections 139 to 143 of this Code shall apply to any transactions of the type referred to in this section notwithstanding that such conditions have not been fulfilled.

203. (1) A director of a company stands in a fiduciary relationship towards the company and shall observe the utmost good faith towards the company in any transaction with it or on its behalf.

(2) A director shall act at all times in what he believes to be the best interests of the company as a whole so as to preserve its assets, further its business, and promote the purposes for which it was formed, and in such manner as a faithful, diligent, careful and ordinarily skillful director would act in the circumstances.

(3) In considering whether a particular transaction or course of action is in the best interests of the company as a whole a director may have regard to the interests of the employees, as well as the members of the company, and, when appointed by, or as representative of, a special class of members, employees, or creditors may give special, but not exclusive, consideration to the interests of that class.

(4) No provision, whether contained in the Regulations of a company, or in any contract, or in any resolution of a company shall relieve any

director from the duty to act in accordance with this section or relieve him from any liability incurred as a result of any breach thereof.

204. The directors shall not, without the approval of an ordinary resolution of the company, exceed the powers conferred upon them by this Code and the company's Regulations or exercise such powers for a purpose different from that for which such powers were conferred notwithstanding that they may believe such exercise to be in the best interests of the company.

205. Notwithstanding any provision in the company's Regulations, a director shall not, without the consent of the company in accordance with section 206 of this Code place himself in a position in which his duty to the company conflicts or may conflict with his personal interests or his duties to other persons, and in particular, without such consent a director shall not,

- (a) use for his own advantage any money or property of the company or any confidential information or special knowledge obtained by him in his capacity of director;
- (b) be interested directly or indirectly, otherwise than merely as a shareholder or debentureholder in a public company, in any business which competes with that of the company; or
- (c) be personally interested, directly or indirectly, in any contract or other transaction entered into by the company except as provided by section 207 of this Code.

206. (1) For the purposes of section 205 of this Code the company shall not be deemed to have consented unless after full disclosure of all material facts, including the nature and extent of any interests of the directors, the transaction concerned shall have been specifically authorized by an ordinary resolution of the company which shall either have been agreed to by all the members of the company entitled to attend and vote at a general meeting or have been passed at a general meeting at which neither the director concerned nor the holders of any shares in which he is beneficially interested, either directly or indirectly, shall have voted as members on such resolution.

(2) Consent in accordance with subsection (1) of this section may be given either before or after the occurrence of the transaction to which it relates:

Provided that a resolution of the company ratifying a transaction or series of related transactions which has already taken place shall not be effective for the purposes of such subsection unless it was passed not later than fifteen months after the date when the transaction or first of such transactions took place.

207. (1) Unless otherwise provided in the company's Regulations a director, notwithstanding section 205 of this Code, shall be entitled to enter into a contract with the company and, subject to compliance with section 203 of this Code and with subsection (2) to (7) of this section, such contract or any other contract by the company in which any director is in any way interested shall not be liable to be avoided nor shall any director be liable to account for any profit made thereby by reason of such director holding that office or of the directors held after the, director becomes so interested.

(2) Every director who is in any way, whether directly or indirectly, materially interested in any contract or proposed contract entered into or to be entered into by or on behalf of the company shall declare the nature and extent of his interest at a meeting of the directors of the company.

(3) In the case of a proposed contract the declaration required by this section to be made by a director shall be made at the meeting of the directors at which the question of entering into the contract is first taken into consideration or, if the director was not at the date of that meeting interested in the proposed contract, at the next meeting after he became so interested, and in a case where the director becomes interested in a contract after it is made the said declaration shall be made at the first meeting of the directors held after the director becomes so interested.

(4) For the purposes of this section, a general notice in writing given to the directors of the company by a director to the effect that he is member of a specified company or firm and is to be regarded as interested in any contract which may, after the date of the notice, be made with that company or firm, shall be deemed to be a sufficient declaration of interest in relation to any contract or proposed contract so made or to be made:

Provided that,

- (a) there is stated in the said notice the nature and extent of the interest of the director in such company or firm;

- (b) at the time the question of confirming or entering into contract is first taken into consideration the extent of his interest in such company or firm is not greater than is stated in the notice;
 - (c) no such general notice shall be of any effect unless either it is given at a meeting of the directors, or the director giving notice takes all reasonable steps to the secure that it is brought up and read at the next meeting of directors after it is given;
 - (d) such a general notice shall not be effective for more than twelve months but may from time to time be renewed.
- (5) A director of the company shall not enter into any contract on its behalf in which he or, to his knowledge, any director of the company or any associated company is in any way materially interested, whether directly or indirectly, until a resolution has been passed by the directors approving thereof.

(6) In the case of any proposed contract in which such officer is himself interested he shall, prior to the passing of the approving resolution, declare the nature and extent of his interest therein at a meeting of directors or by written notice given to the directors.

(7) A director shall not vote in respect of any contract or arrangement in which he is materially interested and if he shall do so his vote shall not be counted, nor shall he be counted in the quorum required for that business, but neither of these prohibitions shall apply to,

- (a) any arrangement for giving any director any security and indemnity in respect of money lent by him to or obligation undertaken by him for the benefit of the company; or
- (b) any arrangement for the giving by the company of any security to a third party in respect of a debt or obligation of the company for which the director himself has assumed responsibility in whole or in part under a guarantee or indemnity or by the deposit of a security; or
- (c) any contract by a director to subscribe for or underwrite shares or debentures of the company.

(8) A copy of every declaration made and notice given in pursuance of this section shall, within three days after the making or giving thereof, be entered in a book kept for this purpose.

(9) Such book shall be open for inspection without charge by any director, secretary, auditor or member of the company at the registered office of the company and shall be produced at every general meeting of the company, and at any meeting of the directors if any director so requests in sufficient time to enable the book to be available at meeting.

(10) Any director who fails to comply with any of the provisions of this section and any officer who fails to comply with subsections (5) and (6) of this section shall be liable to a fine not exceeding one hundred pounds.

(11) If a company fails to comply with subsections (8) and (9) of this section the company and every officer of the company who is in default shall be liable to a fine not exceeding one hundred pounds and if any inspection or production required hereunder is refused the Court may by order compel an immediate inspection or production.

(12) For the purpose of this section an interest merely as holder of debentures, or of not more than two per centum of the shares or any class of shares, of a public company shall not be deemed to be a material interest.

208. Unless otherwise provided in the company's Regulations, any director may, notwithstanding section 205 of this Code, act by himself or his firm in a professional capacity for the company, except as auditor, and he or his firm shall be entitled to proper remuneration for professional services as if he were not a director.

209. If a director commits any breach of his duties under sections 203 to 205 of this Code, of

(a) the director and any other person who knowingly participated in the breach shall be liable to compensate the company for any loss it suffers as a result of such breach;

(b) the director shall account to the company for any profit made by him as a result of such breach; and

- (c) any contract or other transaction entered into between the director and the company in breach of such duties may be rescinded by the company.

210. (1) Proceedings to enforce the liabilities referred to in the immediately preceding section or to restrain a threatened breach of any duty under sections 203 to 205 of this Code or to recover from any director of the company any property of the company may be instituted by the company or by any member of the company.

(2) Proceedings may be instituted by the company on the authority of the board of directors or of any receiver and manager or liquidator of the company, or of an ordinary resolution of the company which shall either have been agreed to by all the members of the company entitled to attend and vote at a general meeting or have been passed at a general meeting.

(3) At such general meeting neither the proposed defendants nor the holders of any shares in which they or any of them are beneficially interested shall vote on such resolution and if they do vote their votes shall not be counted.

(4) After an investigation of the affairs of the company, proceedings may, pursuant to section 225 of this Code, also be instituted in the name of the company by the Registrar.

(5) Where proceedings are instituted by a member he shall sue in a representative capacity on behalf of himself and all other members, except any that are defendants to the action, and shall join the company as a defendant; and to any such representative action the provisions of section 324 of this Code shall apply.

(6) The Court, on the application of any defendant, may stay proceedings by such member if satisfied that, in all the circumstances, including his participation in transaction complained of and the circumstances in which he became a member, it is inequitable that he should be allowed to have the conduct of the action, and may, if it shall think fit order such member to give security for payment of the costs of the defendants and may direct that the action or any part of it shall be heard in chambers.

(7) No period of limitation shall apply to any proceedings under this section, but in any such proceedings the Court may relieve a director from

liability in whole or in part and on such terms as it thinks fit if, in all the circumstances including lapse of time, the Court thinks it equitable so to do.

(8) In any proceedings under this section the Court shall have power when justice so requires, to order that any sum found to be payable by any defendant shall be restored, in whole or in part, to members or former members of the company instead of to the company itself; and in that event the Court may order that the necessary enquiries shall be made to ascertain the identity of the members and former members concerned and may give such consequential directions as may be necessary or expedient.

(9) No proceedings under this section shall be dismissed, settled or compromised without the approval of the Court after notice of the proposed dismissal, settlement or compromise has been given to all members of the company and to the Registrar in such manner as the Court directs.

(10) Within the time prescribed by such notice any member of the company and the Registrar may appear and call the attention of the Court to any matters which seem relevant and may give evidence and call witnesses.

(11) If the Court shall not approve the dismissal or compromise it may give the conduct of the action to any member willing to continue the same, or to the Registrar in the name of the company, making such consequential orders regarding the parties to the action or otherwise as may be necessary or expedient.

Table B. - Regulations of a Company Limited by Guarantee

1. The name of the company is the Ghana Historical Society hereinafter called the "Society".

2 The objects from which the Society is formed are,

- (a) to promote the study of history and in particular the history of Ghana and of the African continent;
- (b) to provide a central organization in Ghana for teachers, students and research workers in historical studies;

- (c) to provide opportunities for the reading of papers, the delivering of lectures, and for the acquisition and dissemination of historical information;
- (d) to sponsor historical research and to provide fellowships, grants scholarships and bursaries for students of history;
- (e) to publish or assist in the publication of the proceedings of the Society and of books, articles and papers on historical subjects.

3. The income and property of the Society, whencesoever derived, shall be applied solely towards the promotion of the objects of the Society as set forth in the immediately preceding regulation and no portion thereof shall be paid or transferred, directly or indirectly, by way of dividend, bonus or profit to any person who is a member of the Society or of its Council:

Provided that,

- (a) nothing herein contained shall prevent the payment in good faith, of reasonable and proper remuneration to any officer of the “Society” or to any member of the Society in return for any services actually rendered to the Society nor prevent the payment of interest at a rate not exceeding six per centum per annum on money lent, or reasonable and proper rent for premises let to the Society;
- (b) no member of the Council of the Society shall be appointed to any salaried office of the Society or office of the Society paid by fees;
- (c) no remuneration of other benefit in money or moneys worth shall be given by the Society to any member of the Council except repayment of out-of-pocket expenses and interest at the rate aforesaid on money lent or reasonable and proper rent for premises let to the Society.

4. Pursuant to section 24 of the Companies Code, 1963 (Act 179), the Society has, for the furtherance of its authorized objects, all the powers of a natural person of full capacity except in so far as such powers are expressly excluded by these Regulations.

5. (1) The board of directors of the Society shall be known as the Council.

(2) The first members of the Council are,

John Mensah

George Kojo

Kwame Kofi

William Kwaku

John Harold Brown

Charles Crabbe

Thomas Kobina

Henry Jones, and

Herbert Henry Smith.

6. The powers of the Council are limited in accordance with section 202 of the Code.

7. The liability of the members is limited.

8. Each member of the Society undertakes to contribute to the assets of the Society in the event of its being wound up while he is a member or within one year after he ceases to be member, for payment of the debts and liabilities of the Society and of the costs of winding up such amount as may be required not exceeding ten pounds.

9. If upon the winding up or dissolution of the Society there remains after the discharge of its debts and liabilities any property of the Society, the same shall not be distributed among the members but shall be transferred to some other company limited by guarantee having objects similar to the objects of the Society or applied to some charitable object, such other company or charity to be determined by ordinary resolution of the members in general meeting prior to the dissolution of the Society.

Ordinary members

10. (1) The subscribers of these Regulations and such other persons as the Council shall admit to ordinary membership shall be members of the Society.

(2) The members in general meeting may by ordinary resolution prescribe qualifications for membership of the Society and unless the resolution otherwise provides no person shall thereafter be admitted to membership by the Council unless he has the prescribed qualifications.

Associate Members

11. (1) The Society in general meeting may resolve by ordinary resolution that the Council may admit to associate membership of the Society and may prescribe qualifications for such associate membership.

(2) Associate members shall be permitted to take part in such proceeding and functions of the Society as the resolution shall prescribe or, in default of prescription, as the Council shall think fit, but shall not be members of the Society in its corporate capacity and shall not have any vote on any resolution at any general meeting of the society, or be counted towards a quorum.

Honorary Membership

12. (1) The Society in general meeting may resolve by ordinary resolution that the Council may admit to honorary membership of the Society any person, who in the opinion of the Council has rendered signal service to the Society or to any of the objects which the Society is formed to promote.

(2) An honorary member, unless also admitted as an ordinary member of the Society, shall have the same rights as an associate member and if also admitted as an ordinary member shall have the same rights as an ordinary member but shall not be liable to pay any subscription to the Society.

Resignation or Exclusion of Members

25. Subject, in the case of ordinary members of the Society, to compliance with section 10 of the Code,

(a) any ordinary associate or honorary member may resign, his membership by notice in writing to the Council;

(b) the Council may in its discretion exclude from membership of the Society any ordinary or associate member;

- (i) if the subscription payable to the Society by such ordinary or associate member shall be unpaid six months after the same shall have become due and payable; or
- (ii) if in the opinion of the Council the continued membership of such person would be detrimental to the interests of the Society or to the furtherance of its objects.

Subscriptions

14. (1) Ordinary and associate members shall pay such annual subscriptions as the members in general meeting on the recommendation of the Council shall determine by ordinary resolution from time to time.

(2) The subscription shall be due and payable on admission to membership and thereafter on the first day of January in each year or on such other date as the resolution shall provide.

(3) The subscription may differ as between ordinary and associate members and a different subscription may be prescribed in the case of corporate bodies admitted to membership or in the case of any person admitted to membership as representing any institution or unincorporated association.

Accounts and Audit

15. The Council shall cause proper books of account to be kept and an income and expenditure account and balance sheet to be prepared, audited and circulated in accordance with sections 123 to 133 of the Code.

16. Auditors, qualified in accordance with section 296 of the Code, shall be appointed and their duties regulated in accordance with section 134 to 136 of the Code.

General Meetings and Resolutions

17. Annual general meetings shall be held in accordance with section 149 of the Code.

18. Extraordinary general meetings may be convened by the Council whenever they think fit in accordance with section 150 of the Code, and shall be convened on the requisition of ordinary members in accordance with section 297 of the Code.

19. Notice of general meetings shall be given in accordance with sections 15 to 159 of the Code and accompanied by any statements required to be circulated therewith in accordance with sections 157 to 159 of the Code.

20. General meetings may be attended by the persons referred to in section 160 of the Code and the quorum required shall be as stated section 161 of the Code.

21. A member shall not be entitled to attend or vote at any general meeting by proxy.

22. A body corporate which is a member of the Society may attend and vote at any general meeting by a representative appointed in accordance with section 156 of the Code.

23. (1) General meetings shall be conducted in accordance with sections 166 to 173 of the Code.

(2) The President, or in his absence the Vice-President of the Society, shall preside as chairman at every general meeting but if neither is present within five minutes after the time appointed for holding the meeting the members present shall choose one of their number to be chairman of the meeting.

(3) On a poll being demanded on any resolution at a general meeting the chairman of the meeting may direct a postal ballot of the ordinary members in accordance either subsections (6), (7) and (8) of section 170 of the Code and shall so direct if an ordinary resolution to that effect is moved at the meeting and passed on a show of hands or if the resolution concerned is,

(a) a special resolution, or

(b) any such resolution as is referred to in regulation 9, 10, 11, 12 or 14 of these Regulations.

24. In accordance with section 174 of the Code a resolution in writing signed by all the members, or being bodies corporate by their duly authorized representatives, shall be as valid and effective for all purposes, except as provided by such section 174, as if the same had been passed at a general meeting of the Society duly convened and held, and if described as a

special resolution shall be deemed to be a special resolution within the meaning of the Code and these Regulations.

25. Minutes of general meetings shall be kept in accordance with section 177 of the Code.

Votes of Members

26. Each ordinary member present at any general meeting shall have one vote on a show of hands or a poll and if a postal ballot is directed in accordance with regulation 23 hereof and subsections (6), (7) and (8) of section 170 of the Code, each ordinary member, whether or not present at the meeting, shall have one vote.

The Council

27. The number of members of the Council, not being less than two or more than twelve, shall be determined by ordinary resolution of the members in general meeting and until so determined shall be nine.

28. The continuing members of the Council may act notwithstanding any vacancy in their body; but if and so long as their number is reduced below two or below the number fixed by the Council as the necessary quorum, they may act for four weeks after the number is so reduced, but thereafter may act only for the purpose of increasing their number to that number or of summoning a general meeting of the Society and for no other purpose.

29. Members of the Council shall be appointed from among the ordinary members of the Society in manner following, that is say,

(a) at the first annual general meeting of the Society all the members of the Council shall retire from office and at the annual general meeting in any subsequent year one-third of their number or, if their number is not three or a multiple of three, then the number nearest one-third, shall retire from office;

(b) the members of the Council to retire in every year shall be those who have been longest in office since their last election, but as between persons who became members on the same day those to retire shall, unless they otherwise agree among themselves, be determined by lot:

(c) election to the Council shall be by secret ballot which shall be conducted in the following manner, that is to say.

(i) any ordinary member wishing to nominate another ordinary member or members for election to the Council shall notify the Secretary in writing, accompanied by the nominee's consent in writing, at least twenty-one clear day before the date of the annual general meeting of the Society. A retiring member shall be eligible for re-election without nomination and shall be deemed to offer himself for re-election unless he notified the Secretary in writing at least twenty-one days before the date of the annual general meeting, that he does not wish to stand for re-election;

(ii) if the number of nominees competent for appointment as members of the Council and retiring members offering themselves for re-election exceeds the number of vacancies to be filled, the Secretary shall, at least fourteen days before the date of the general annual meeting, send to each ordinary members a ballot paper containing a list of the names of such nominees and retiring members offering themselves for re-election requesting him to indicate by means of a distinctive mark on the ballot paper the names of the persons of the persons for whom he votes. Each member may vote for one or more persons not exceeding in number the number of vacancies to be filled;

(iii) no ballot paper shall be valid unless returned to the registered office of the Society not less than twenty-four hours before the time appointed for the annual general meeting and shall be counted by scrutineers appointed at the meeting who shall inform the chairman of the meeting of the votes obtained by each candidate. The chairman shall then announce the names of the successful candidates to the meeting. No ballot paper shall be valid on which votes have been cast in excess of the number of vacancies, and in case of doubt as to the validity of a ballot paper or the intention of the voter the decision of the chairman of the meeting shall be final and conclusive;

(iv) if the number of competent nominees and retiring members offering themselves for re-election does not exceed the number of vacancies, the chairman of the

meeting shall declare the candidates duly elected. If the number so elected is less than the number of vacancies, the remaining vacancies may be filled as casual vacancies.

(d) any casual vacancy in the number of members of the Council may be filled by the Council or by ordinary resolution of the members in general meeting in accordance with section 181 of the Code.

30. The persons referred to in section 182 of the Code shall not be competent to be appointed members of the Council.

31. Membership of the Council shall be vacated in accordance with section 184 of the Code and any member may be removed from the Council in accordance with section 185 of the Code.

32. (1) The proceedings of the Council shall be regulated by section 200 of the Code.

(2) At all meetings of the Council the President, or in his absence, the Vice-President if present, shall be chairman.

33. Minutes of meetings of the Council and of any committee of the Council shall be kept in accordance with section 201 of the Code.

Powers and Duties of the Council

34. (1) The activities of the Society shall be managed by the Council who may pay all expenses incurred in promoting and registering the Society.

(2) Subject to section 202 of the Code, the Council may exercise all such powers of the Society, including power to borrow money and to mortgage or charge any property and to issue debentures, as are not by the Code or these Regulations required to be exercised by the members in general meeting.

35. In any transaction with the Society or on its behalf and in the exercise of their powers the members of the Council shall observe the duties and obligations imposed on them by sections 203 to 205 of the Code.

36. To the extent permitted by regulation 3 of these Regulations and subject to compliance with section 207 of the Code, a member of the Council may enter into a contract with the Society and such contract or any other contract of the Society in which any member of the Council is in any way interested

shall not be liable to be avoided, nor shall any member of the Council be liable to account for any profit made thereby by reason of his being a member of the Council or of the fiduciary relationship thereby established.

President and Vice-President.

37.(1) The Council at their first meeting and at their first meeting held after each annual general meeting shall elect from their members a President and Vice-President of the Society who shall hold office for the ensuing year or until their successors are elected.

(2) Any vacancy occurring in these offices shall be filled in like manner at the next meeting of the Council held after the occurrence of the vacancy.

Committees

(1) The Council may appoint committees from among their own members or from the members of the Society or from a combination of both.

(2) The President, or if he is unable or unwilling to act, the Vice-President, shall ex-officio be a member of every committee.

(3) The terms of reference and duration of office of all committees shall be prescribed by the Council and such committees shall be deemed to be committees of the Council for the purposes of the Code.

Secretary and Treasurer and Officers

39. (1) The Council shall appoint a Secretary and a Treasurer or a Secretary Treasurer who may be one of their own members or a member of the Society or neither.

(2) If one of their own number is appointed the office shall be an honorary one without remuneration.

(3) The Council may also appoint such other officers and agent as may be necessary or expedient.

The Seal

40. (1) The Council shall be empowered to adopt a common seal for use by the Society and shall provide for the safe custody thereof.

(2) The seal shall only be used by the authority of the Council or of a committee of the council authorized by the Council in that behalf, and every instrument to which the seal shall be affixed shall be signed by a member of the Council and shall be counter signed by the Secretary or a second member of the Council or by some other person appointed by the Council for the purpose.

41. Any document may be served by the Society on any ordinary member, debentureholder or member of the Council in manner provided by section 262 of the Code and may be served in like manner on any associate or honorary member either personally or at the address supplied by him to the Society for the purpose of service of notices.

Interpretation

42. In those Regulations, unless the context otherwise requires,
- (a) "Code" means the Companies Code, 1963 (Act 170), or any statutory modification or re-enactment thereof;
 - (b) words or expression shall have the same meaning as in the Code;
 - (c) references to section of the Code shall mean such sections as modified or re-enacted from time to time,

We the undersigned are desirous of forming an incorporated company in pursuance of these Regulations and we agree to become members thereof and to accept liability in accordance with regulation 8 of these Regulations.

Names, Addresses and Descriptions or Occupation

John Mensah of the University College of Ghana, Legon, Accra,
University Teacher

George Kojo of the University College of Ghana, Legon, Accra,
University Teacher.

Kwame Kofi of the University College of Ghana, Legon, Accra,
University Teacher.

William Kiraku of the University College of Ghana, Legon, Accra,
University Teacher.

John Harold Brown of Achimota School, Achimota, Accra, School
Teacher

Charles Crabbe of Mfantsipim School, Cape Coast, School School
Teacher

Patrick Kobina of St. Augustine's School, Cape Coast, School
Teacher

Henry Jones of Adisadel School, Cape Coast, School Teacher

Herbert Henry Smith of 117 First Avenue, Cantonments, Accra,
Author

Margaret Ward of Aburi Girls' School, Aburi School Teacher.

Dated the 22nd day of November, 1961.

Witness to the above signatures:

Name: Charles Robinson

Address: Nkrumah Circle, Accra
Description or Occupation: Legal Practitioner:

NOTES ON TABLE B

Regulations in the form of regulations 1 to 9 must be expressly stated in the Regulations lodged for registration. The remaining regulations may be adopted by reference by stating:

“10, Regulations 10 to 42 in Table B in the Second Schedule to the Companies Code, 1963 (Act 179), shall apply”.

If it is desired to exclude any such regulations insert after Companies Code, 1963 (Act 179), the words “except regulations”.

If it is desired to exclude Table B completely insert instead of the above:

“10. The regulations contained in Table B in the Second Schedule to the Companies Code, 1963 (Act 179), shall not apply except in so far as they are repeated or contained in these Regulations”.

1. Regulation 1. ___ “Association”, “Club”, “College”, “School” or the like should be substituted for “Society” as appropriate. If Table B is adopted there should then be added to the adopting clause given above “but so that any reference therein to “the Society” shall be deemed to be a reference to “the Association” (or “the Club”.

2. Regulation 3. ___ In accordance with section 16 (5) of the Code the Registrar may permit modifications to the form of this regulation where appropriate. In some circumstances it might be appropriate to allow some of the following additions to the proviso:

“nor shall prevent the gratuitous distribution among, or sale at a discount to, members of the Society of any books or other publications, whether published by the Society or otherwise, relating to any of its foregoing object”.

“nor shall prevent the bona fide relieving or assisting of persons, or the wives, widows, families or relations of persons who, having been members of the Society, have ceased to be so and have become poor and necessitous, or are dead”.

“nor be deemed to exclude any member of the Society from the benefit of any fellowship, grant, scholarship or bursary made in furtherance of any object of the Society”.

“nor shall prevent any member who may be a successful exhibitor at any exhibition or show held or promoted by the society from receiving as such exhibitor any prize, medal or other recognitions which may be awarded to him”.

“nor shall prevent the payment of reasonable fees for acting as an examiner appointed by (the College)”.

3. Regulation 5. ___ “In some cases, for example, if the company is to run a school or college, it may be appropriate to substitute “Board of Governors” for “Council”. In that event, if Table B is adopted there should be added to the adopting clause given above “but so that any reference therein to the Council or “the member of the Council” shall be deemed to be a reference to the Board of Governors the Governors as the case may be”.

4. Regulation 8. ___ Provided the total amount guaranteed by the subscribers is at least one hundred pounds, the amount of the individual guarantee may be smaller or larger than ten pounds.

5. After Regulation 9. ___ If the company is to be a private company insert here:

9A. The Society is a private company and accordingly,

(a) the number of members and debentureholders of the Society, exclusive of persons who are bona fide in the employment of the Society and of persons who having been formerly bona fide in the employment of the Society were while in such employment and have continued after the determination of such employment to be members or debentureholders of the Society, is limited to fifty:

Provided that where two or more persons hold one or more debentures jointly they shall for the purpose of this regulation be treated as a single debentureholder;

(b) the Society is prohibited from making any invitation to the public to acquire any of its debentures;

(c) the Society is prohibited from making any invitation to the public to deposit money for fixed periods or payable at call, whether hearing or not hearing interest”.

6. Regulation 16___ If the company is a private company, this regulation should be deleted and the following substituted:

“16. Auditors, qualified in accordance with section 270 of the Code, shall be appointed and their duties regulated in accordance with section 134 to 136 of the Code.”

7. Regulation 18 ___ If the company is a private company, this regulation should be deleted and another substituted in similar terms except that the final words should read “in accordance with section 271 of the Code”.

8. Regulation20 ___ If it is desired to increase the size of the quorum this regulation should be deleted and another substituted stating the larger quorum required. If, however, the provisions in regulation 23 regarding a postal ballot are retained, a small quorum is unlikely to matter.

9. Regulation 21 ___ Proxy voting is not compulsory in the case of guarantee companies (section 163) and is usually regarded as inappropriate. If it is desired to provide for it this regulation should be deleted and another substituted based on regulation 50 of Table A Part 1 and regulation 52 of Table A Part II.

10. Regulation 22 ___ If proxy voting is allowed, this regulation should be deleted and another substituted based on regulation 51 of Table A part I and regulation 53 of Table A Part II.

11. Regulation 29 ___ It will often be desirable to delete this regulation and to substitute an alternative method of election. The method provided in the regulation provides a suitable procedure for clubs, societies and associations but will rarely be appropriate for schools or colleges, which may prefer to rely on sections 181 and 272 or 298 and 299 of the Code.

12. Regulations 37 and 38 ___ These regulations may be inappropriate (without amendment) in the case of clubs, schools and colleges.

13. Subscription of Regulations ___ There is no minimum or maximum number of subscribers but the total guaranteed by the subscribers must not be less than one hundred pounds. Since the amount of the guarantee has been fixed by regulation 8 at ten pounds, in this model there are ten subscribers.
