

Explanatory Notes on the proposed Special Resolution:

(The following notes are offered for the guidance of members. They do not have any legal standing and shall not be taken as affecting the interpretation of the Articles. Members should take such independent legal advice as they see fit on how they may individually be affected by the proposed amendments).

The amendments are being made principally to bring the Articles into line with changes that are required or desirable as a result of the coming into force of the Companies Act 2006. In explaining the amendments, they can be grouped as follows:

1. As members of companies are now entitled to vote by proxy, provisions dealing with this are introduced: those designated **(g)** and **(i)**. As proxy voting removes the likelihood of having to take a formal poll of members otherwise than during a General Meeting, there is no longer any need to make provision for this, so **(h)** is a consequential amendment.

As the *members* of FPRA are the various Residents' Associations, Residents' Management Companies, etc., *all* those attending General Meeting are, in a sense representatives. The 'credentials' of those attending has never presented any problem in practice. The Executive Committee has sought not to complicate matters by requiring the unduly formal appointment of all representatives: see proposed Art 26(i).

2. The appointment of proxies raised again the issue of whether individuals should any longer be eligible for membership of FPRA. Although the Articles have always made provision for 'Associate Membership' in practice there have been no such members for the past eight or nine years, and there were very few before that. FPRA promotes itself as a federation of members' organisations, so the Committee takes the view that it does not seem appropriate to continue with the possibility of having Associate Membership. This necessitates several amendments: **(b) (c) (d) (e) (j) and (k)**.
3. The Companies Act 2006 makes general provision for companies to communicate with its members and vice versa in electronic formats. **(a)** and **(f)** make provision for this, but no member can be required to accept electronic service of documents if it objects.
4. The Companies Act 2006 also no longer required private companies to have a Company Secretary. Amendment **(m)** removes the requirement for FPRA to have a Company Secretary, whilst allowing it to remain as an option.
5. Amendment **(n)** brings the Articles into line with the sealing requirements of the Companies Act 2006 and is based on the Model Articles promulgated thereunder.
6. Amendment **(o)** is taken from the Model Articles. FPRA has for a long time taken out such insurance, so it seems sensible to adopt this specific provision.
7. The current quorum for the Executive Committee is unrealistically high, especially given that a substantial proportion of those attending Committee Meetings are non-voting Consultants, i.e. not Directors. Amendment **(l)** addresses this.

To be proposed by the Executive Committee as a Special Resolution at the Annual General Meeting at 7.00pm on Wednesday, 9th November 2011.

That the Articles of Association be amended as follows:

[Note (not forming part of the Resolution): the words in italics and in square brackets do not form part of the Resolution but show the existing wording for comparison]

(a). The following definitions be inserted in Article 1 in their appropriate alphabetical locations:

‘Document includes, unless otherwise specified, any document sent or supplied in electronic form’

‘Electronic Form has the meaning given in section 1168 of the Companies Act 2006’

‘Writing means the representation or reproduction of words, symbols or other information in a visible form by any method or combination of methods, whether sent or supplied in electronic form or otherwise’

(b) Article 3 be deleted and replaced with the following:

‘3. A Member may be any association whether corporate or unincorporated representing tenants and/or leaseholders in dwellings whose members are tenants or lessees including those carrying out management or their own block or estate of flats or dwellings, and including Residents’ Management Companies (as defined in sub-clause (T) of Clause 3 of the Memorandum of Association).’

[3. There shall be the following classes of membership:

(i) Member Associations – consisting of any association whether corporate or unincorporated representing tenants and/or leaseholders in dwellings whose members are tenants or lessees including those carrying out management or their own block or estate of flats or dwellings, and including Residents’ Management Companies (as defined in sub-clause (T) of Clause 3 of the Memorandum of Association). A member Association shall be entitled to appoint one representative on its behalf and any such representative shall be entitled to exercise all rights on behalf of the Member Association.

(ii) Associate Membership – consisting of such persons being individual tenants or long leaseholders or owners of Commonhold units who support the objects of the Company.]

(c) In Article 4, the words ‘of all classes’ be deleted.

[4. The Executive Committee may from time to time prescribe the rates of subscription payable by members of all classes and any refund of subscription shall be at the discretion of the Executive Committee.]

(d) In Article 5 the word 'person' be deleted.

[The Executive Committee may at any time and from time to time in its absolute discretion admit to be a member any person corporation trust or unincorporated association who shall apply for such membership in the manner for the time being prescribed by the Executive Committee and who shall upon admission and while such membership continues pay to the Company as hereinbefore provided an annual subscription of such sum as the Executive Committee shall from time to time prescribe.]

(e) Article 6 be deleted and replaced with the following:

'6(a) A member shall cease to be such in any of the following circumstances:-

- (1) If an annual subscription in respect of any year shall remain payable and unpaid for two months after the end of the year in which it falls due; or
- (2) If the member resigns from membership by notice in writing.
- (3) If the member shall be removed by a majority of those present and voting at a duly convened meeting of the Executive Committee.

Provided always that no member shall be removed unless:-

- (i) Such member shall have had at least twenty-eight days of the notice in writing of the date of the meeting and grounds on which his removal is sought.
 - (ii) Such member has had an opportunity of stating its case to, and of defending itself before the Executive Committee.
 - (iii) Each member of the Executive Committee shall have had at least seven days notice prior to the meeting that the business of the day will be or include the question of the removal of a member or members and
 - (iv) The member has conducted itself in a manner which in the discretion of the Executive Committee is prejudicial to the interests of the Company or unfits it for membership of the Company.
- (4) If the Executive Committee in its discretion declines to accept a renewal of the subscription of any member the Executive Committee shall not be required to state its reasons for its decision.
- (b) The rights of a member shall terminate on dissolution, winding up or liquidation and may not be transferred or transmitted.'

[6. (a) A member shall cease to be such in any of the following circumstances:-

(5) If an annual subscription in respect of any year shall remain payable and unpaid for two months after the end of the year in which it falls due; or

(6) If the member resigns from membership by notice in writing.

(7) If the member shall be removed by a majority of those present and voting at a duly convened meeting of the Executive Committee.

Provided always that no member shall be removed unless:-

(v) Such member shall have had at least twenty-eight days of the notice in writing of the date of the meeting and grounds on which his removal is sought.

(vi) Such member has had an opportunity of stating his case to, and of defending himself before the Executive Committee.

(vii) Each member of the Executive Committee shall have had at least seven days notice prior to the meeting that the business of the day will be or include the question of the removal of a member or members and

(viii) The member has conducted himself in a manner which in the discretion of the Executive Committee is prejudicial to the interests of the Company or unfits him for membership of the Company.

(8) If the Executive Committee in its discretion decline to accept a renewal of the subscription of any member and the Executive Committee shall not be required to state its reasons for its decision.

(c) The rights of a member shall terminate on death, or in the case of a member which is a corporation trust or unincorporated association, or dissolution, winding up or liquidation and may not be transferred or transmitted.]

(f) Insert additional Article 11A after Article 11:

'11A. All notices of General Meetings and any other documents which the Company may be required to give to members may be given in Electronic Form subject to the right of any member to require that such notices or other documents should thereafter be given to it in hard copy form (provided that the exercising of such right by any member shall not invalidate any notice in Electronic Form that has already have been given to it).'

(g) Article 13 be amended by deleting the words 'personally present' and replacing them with the words 'present personally (as described in Article 26(i)) or by proxy'

[13. No business shall be transacted at any General Meeting unless a quorum is present when the meeting proceeds to business. Save as herein otherwise provided fourteen members entitled to vote and personally present shall be a quorum.]

(h) Articles 22 and 23 be deleted and replaced with the following:

'22. A poll shall be taken forthwith. If a poll is demanded before the declaration of the result of a show of hands and the demand is duly withdrawn, the meeting shall continue as if the demand had not been made.'

[22. A poll shall be taken either forthwith or at such time and place as the Chairman directs not being more than thirty days after the poll is demanded. The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll was demanded. If a poll is demanded before the declaration of the result of a show of hands and the demand is duly withdrawn, the meeting shall continue as if the demand had not been made.

23. No notice need be given of a poll not taken forthwith if the time and place at which it is to be taken are announced at the meeting at which it is demanded. In any other case at least seven clear days notice shall be given specifying the time and place at which the poll is to be taken.]

(i) Articles 25, 26 and 27 be deleted, and replaced by the following Articles 25, 26, 27 and 27A:

'25. Votes on a poll may be given in person or by proxy in accordance with Articles 26, 27 and 27A.

26. Every member shall have one vote and this vote shall be exercised both at a General Meeting and when a resolution is to be passed in writing in the following ways:

- (i) A member may without any further formality be represented by any of the following: its Chairman, Secretary, Treasurer or (if different from the preceding) Main Contact, as advised to the Office of the Company in its application for membership, or to renew membership, or as otherwise advised in writing to the Office of the Company from time to time. In the event that more than one representative of a member attends a General Meeting, or if there is disagreement as to how a vote is to be cast on a written resolution, the representative who has the right to cast the vote shall be determined in the order of priority set out above.
- (ii) A member may alternatively appoint in accordance with Articles 27 and 27A any person as its proxy.

27. (1) Proxies may only validly be appointed by a notice in writing (a "proxy notice") which—

- (a) states the name and address of the member appointing the proxy;
- (b) identifies the person appointed to be that member's proxy and the general meeting in relation to which that person is appointed;
- (c) is signed by or on behalf of the member appointing the proxy, or is authenticated in such manner as the Executive Committee may determine; and
- (d) is delivered to the company in accordance with the articles and section 327 of the Companies Act 2006 (or of any statutory re-enactment thereof) and any instructions contained in the notice of the general meeting to which they relate.

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

(3) Proxy notices may specify how the proxy appointed under them is to vote (or that the proxy is to abstain from voting) on one or more resolutions.

(4) Unless a proxy notice indicates otherwise, it must be treated as—

- (a) allowing the person appointed under it as a proxy discretion as to how to vote on any ancillary or procedural resolutions put to the meeting, and
- (b) appointing that person as a proxy in relation to any adjournment of the general meeting to which it relates as well as the meeting itself.

27A.—(1) A member who is entitled to attend, speak or vote (either on a show of hands or on a poll) at a general meeting remains so entitled in respect of that meeting or any adjournment of it, even though a valid proxy notice has been delivered to the company by or on behalf of that member.

(2) An appointment under a proxy notice may be revoked by delivering to the company a notice in writing given by the member on whose behalf the proxy notice was given.

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

[25. Subject to Article 27 votes on a poll may be given in person only.]

26. Every member shall have one vote and in the case of a Member Association this vote shall be exercised by its representative.

27. A member in respect of whom an order has been made by any court having jurisdiction (whether in the United Kingdom or elsewhere) in matters concerning mental disorder may vote, whether on a show of hands or on a poll, by his receiver, curator bonis or other person authorized in that behalf appointed by that court, and any such appointee may vote by proxy.]

(j) Article 34 be amended by replacing ‘Member Association’ with ‘member’ in the three instances which it there appears.

[34. No person other than a member of the Executive Committee retiring by rotation shall be appointed or reappointed a member of the executive Committee at any general meeting unless:-

(a) he is recommended by the Executive Committee or

(b) his nomination has been given to the Secretary not less than one calendar month before the date fixed for the Annual General Meeting.

All such nominations must be seconded and in the case of a representative of a Member Association his nomination must be seconded by the committee or governing body of that Member Association. No Member Association shall nominate more than one of its own members for election.]

(k) In Article 41, the word ‘receiver’ (in Art 41(c)(ii) be deleted and replaced with ‘deputy’, and sub-article (f) be deleted.

[41. The office of a member of the Executive Committee shall be vacated if:-

(a) he ceases to hold office by virtue of an provision of the Act or he becomes prohibited by law from holding office

(b) he becomes bankrupt or makes any arrangement or composition with his creditors generally or if being a Company is wound up whether voluntarily or compulsorily or

(c) he is, or may be, suffering from mental disorder and either -

(i) he is admitted to hospital in pursuance of an application for admission for treatment under the Mental Health Act 1983 or, in Scotland, an application for admission under the Mental Health (Scotland) Act; or

(ii) an order is made by a court having jurisdiction (whether in the United Kingdom or elsewhere) in matters concerning mental disorder for his detention or for the appointment of a receiver, curator bonis or other person to exercise powers with respect to his property or affairs; or

(d) he resigns his office by notice in writing to the Company; or

(e) he shall for more than six consecutive months have been absent without permission of the members of the Executive Committee from meetings of the Executive Committee held during that period and the members of the Executive Committee resolve that his office be vacated.

(f) he ceases to be a member of the Company or is not a member of the Company.]

(l) In Article 43 the word 'eight' be deleted and the word 'three' substituted for it.

[43. The Executive Committee may meet together for the dispatch of business, adjourn and otherwise regulate its meetings as it thinks fit, and determine the quorum necessary for the transaction of business. Unless otherwise determined, eight shall be a quorum. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes the Chairman shall have a second or casting vote.]

(m) In Article 50, the words 'The Secretary shall' be deleted, and the words 'A Secretary may' be substituted therefore.

[50. The Secretary shall be appointed by the Executive Committee for such time, and upon such conditions as it may think fit and may be removed by them. The provisions of Sections 282 and 284 of the Act shall apply and be observed. The Executive Committee may from time to time by resolution appoint (or remove) a deputy Secretary and an assistant Secretary, and any person so appointed may act in place of the Secretary if there be no Secretary or no Secretary capable of acting.]

(n) Article 52 be deleted and replaced with the following:

'52. (a) The seal of the Company shall not be affixed to any instrument except by the authority of a resolution of the Executive Committee, and, unless otherwise decided by the directors, the instrument must also be signed by at least one authorised person in the presence of a witness who attests the signature.

(b) For the purposes of this article, an authorised person is –

- (i) any director of the company;
- (ii) the Secretary (if any).

(c) In favour of any purchaser or person bona fide dealing with the Company such signatures shall be conclusive evidence of the fact that the seal has been properly affixed.'

[52. The seal of the Company shall not be affixed to any instrument except by the authority of a resolution of the Executive Committee, and in the presence of at least one member of the Executive Committee and of the Secretary and the said member and Secretary shall sign every instrument to which the sea shall be so affixed in their presence, and in favour of any purchaser or person bona fide dealing with the Company such signatures shall be conclusive evidence of the fact that the seal has been properly affixed.]

(o) Insert additional Article 65A after Article 65:

'65A.—(1) The Executive Committee may decide to purchase and maintain insurance, at the expense of the company, for the benefit of any relevant member of the Executive Committee or employee or consultant engaged by the Company in respect of any relevant loss.

(2) In this article—

(a) a "relevant member of the Executive Committee" means any member of the Executive Committee or former member of the Executive Committee of the Company,

(b) a "relevant loss" means any loss or liability which has been or may be incurred by a relevant member of the Executive Committee in connection with that member's duties or powers in relation to the Company.

