

(2) The Minister may by notice, which shall be published in the **Gazette**, make regulations an amend, revoke and replace the provisions of the Ninth Schedule, and may make such other regulations, not inconsistent with the provisions of this Act as may be necessary for the purpose of -

(a) providing for anything required by this Act to be prescribed by regulations; and

(b) making such provision as he may deem expedient or necessary for carrying out the purposes of this Act.

References to the Ninth Schedule shall be construed as references to that Schedule as amended or replaced by notice under this sub-section.

313. (1) The Minister shall have power by notice in the Gazette to alter or add to the requirements of this Act as to the matters to be stated in a company's balance sheet, profit and loss account and group accounts, and in particular of those of the Sixth Schedule. A reference in this Act to the said Sixth Schedule shall be construed as a reference to that Schedule with any alternations or additions made by notice for the time being in force under this sub-section:

Alteration of
table and forms

Provided that no alternation or addition made in terms of this sub-section shall apply to an external company which is a banking company as defined in section **two hundred and eighty-five**.

(2) The Minister may by notice in the Gazette-

(a) alter Table A in the First Schedule; and

(b) alter the First to the Fifth Tables inclusive of the Seventh Schedule so that the amount of fees payable under those Tables in not increased, and

(c) alter or add to Tables B, B, and D, and E in the First Schedule and the form in the Fifth Schedule;

but no alternation on addition made by the Minister under this sub-section shall affect any company registered or form submitted before that alteration or addition, and no alteration or addition so made shall repeal, as respects such a company, and any portion of any of those Tables. A reference in this Act to a Table or form to which this sub-section applies shall be construed as a reference to that Table or form with any alternations or additions made by notice for the time being in force under this sub-section.

Act or Omissions of Government Officers

314. No act or omission whatever of the Registrar or of any officer, clerk or other person in the employment of the Government, having duties to perform under this Act, shall render the Government or the Registrar or any such officer, clerk or person liable in respect of any loss or damage sustained by any person in consequence of any such or omission unless such act or omission was **mala fide** or was due to want of reasonable care or

Exemption
from liability
for Acts or
omissions of
government
offices

diligence.

315. The laws specified in the Eighth Schedule (herein referred to as the repealed laws) are hereby repealed to the extent set out in third column of that Schedule. Repeals

FIRST SCHEDULE

(Sections two, ten, fourteen, fifteen, three hundred and seven, three hundred and thirteen)

TABLE A - PART I

Regulations for the Management of a Company Limited by Shares, not being a Private Company

Interpretation

1. In these regulation -

"the seal" means the seal of the company;

"secretary" means any person appointed to perform the duties of the secretary of the company;

"the office" means the registered office of the company;

"the Act" means the companies Act, 1967.

Unless the context otherwise requires, words or expressions contained in these regulations shall bear the same meaning as in the Act or any statutory modifications thereof in force at the date at which these regulations become binding on the company.

Share Capital and Variation of Rights

1. Without prejudice to any special rights previously conferred on the holders of any existing shares or class of shares, any share in the company may be issued with such preferred, deferred or other special rights or such restrictions, whether in regard to dividend, voting return of capital or otherwise as the company may from time to time by special resolution determine.

2. subject to the provisions of section sixty of the Act, any preference shares may, with the sanction of an ordinary resolution, be issued on the terms that they are, or at the option of the company are liable, to be redeemed on such terms and in such manner as the company before the issue of the shares may by special resolution determine.

3. If at any time the share capital is divided into different classes of shares, the rights attached to any class (unless otherwise

provided by the terms of issue of the shares of that class) may, whether or not the company is being wound up, be varied with the consent in writing of the holders of three-fourths of the issued shares of that class, or with the sanction of a special resolution passed at a separate general meeting, of the holders of the shares of the class. To every such separate general meeting the provisions of these regulations relating to general meetings shall apply, but so that the necessary quorum shall be two persons at least holding or representing by proxy one-third of the issued shares of the class and that any holder of shares of the class present in person or by proxy may demand a poll.

4. The rights conferred upon the holders of the shares of any class issued with preferred or other rights shall not, unless otherwise expressly provided by the terms of issue of the shares of that class, be deemed to be varied by the creation or issue of further shares ranking **pari passu** therewith.

5. The company may exercise the powers of paying commissions conferred by section fifty-seven of the Act, provided that the rate percent of the amount of the commission paid or agreed to be paid shall be disclosed in the manner required by the said section and the rate of the commission shall not exceed the rate of five percent of the price at which the shares in respect whereof the same is paid are issued or an amount equal to five percent of such price as the case may be. Such commission may be satisfied by the payment of cash or the allotment of fully or partly paid shares or partly in one way and partly in the other. The company may also on any issue of shares pay such brokerage as may be lawful.

6. (1) The company may in its discretion enter in its register the fact that any share held in trust.

- (2) There shall be no obligation on the company –
- (a) to verify the legal status of any trust or of any trustee who is registered as a member;
 - (b) to see the sue and proper carrying out of any trust, whether express, implied or constructive in respect of any share.

7. Every person whose name is entered as a member in the register of members shall be entitled without payment to receive within two months after allotment or lodgment of transfer (or within such other period as the conditions of issue shall provide) one certificate for all his shares or several certificates each for one or more of his shares upon payment of 25c for every certificate after the first or such less sum as the directors shall from time to time determine. Every certificate shall be under the seal, if any, and shall specify the shares to which it relates and the amount paid up thereon:

Provided that in respect of a share or shares held jointly by several persons the company shall not be bound to issue more than one certificate, and delivery of a certificate for a share to one of several joint holders shall be sufficient delivery to all such holders.

8. If a share certificate be defaced, lost or destroyed, it may be renewed on payment of a fee of 25c or such less sum and on such terms, if any as the directors think fit with regard to evidence of the loss, indemnity for the loss, and payment of out-of-pocket expenses of the company in investigating evidence.

9. The company shall not give, whether directly or indirectly, and whether by means of a loan, guarantee, the provision of security or otherwise, the provision of security or otherwise, any financial assistance for the purpose of or in connection with a purchase or subscription made or to be made by any person of for any shares in the company or in its holding company nor shall the company make a loan for any purpose whatsoever on the security of its shares or those of its holding company, but nothing in this regulation shall prohibit transaction mentioned in the proviso to sub-section (1) of section fifty-eight of the Act.

Lien

10. The company shall have a first and paramount lien on every share (not being a fully paid share) for all moneys (whether presently payable or not) called or payable at a fixed time in respect of that share, and the company shall also have a first and paramount lien on all shares (other than fully paid shares) standing registered in the name of a single person for all moneys presently payable by him or his estate to the company; but the company in general meeting may at any time declare any share to wholly or in part exempt from the provisions of this regulation. The company's lien, on a share shall extend to all dividends payable thereon.

11. The company may sell, in such manner as the directors think fit, any shares on which the company has in lien, but no sale shall be made unless a sum in respect of which the lien exists is presently payable, nor until the expiration of fourteen days after a notice in writing, stating and demanding payment of such part of the amount in respect of which the lien exists as is presently payable, has been given to the registered holder for the time being of the share, or the person entitled thereto by reason of his death or insolvency.

12. To give effect to any such sale the directors may authorize some person to transfer the shares sold to the purchaser thereof. The purchaser shall be registered as the holder of the shares comprised in any such transfer, and he shall not be bound to see to the application of the purchase money, nor shall his title

to the shares be affected by any irregularity or invalidity in the proceedings in reference to the sale.

13. The proceeds of the sale shall be received by the company and applied in payment of such part of the amount in respect of which the lien exists as is presently payable, and the residue, if any, shall (subject to a like lien for sums not presently payable as existed upon the share before the sale) be paid to the person entitled to the shares at the date of the sale.

Call on Shares

14. The directors may from time to time make calls upon the members in respect of any moneys unpaid on their shares (whether on account of the nominal value of the shares or by way of premium) and not by the conditions of allotment thereof made payable at fixed times, provided that no call shall exceed one-fourth of the nominal value of the share or be payable at less than one month from the date fixed for the payment of the last preceding call, and each member shall (subject to receiving at least fourteen days' notice specifying the time or times and place of payment) pay to the company at the time or times and place so specified the amount called on his shares. A call may be revoked or postponed as the directors may determine.

15. A call shall be deemed to have been made at the time when the resolution of the directors authorizing the call was passed and may be required to be paid by instalments.

16. The joint holders of a share shall be jointly and severally liable to pay all calls in respect thereof.

17. If a sum called in respect of a share is not paid before or on the day appointed for payment thereof, the person from whom the sum is due shall pay interest on the sum from the day appointed for payment thereof to the time of actual payment at such rate not exceeding six percent per annum as the directors may determine, but the directors shall be at liberty to waive payment of such interest wholly or in part.

18. Any sum which by the terms of issue of a share becomes payable on allotment or at any fixed date, whether on account of the nominal value of the share or by way of premium, shall for the purposes of these regulations be deemed to be a call duly made and payable on the date on which the terms of issue the same comes payable, and in case of non-payment all the relevant provisions of these regulations as to payment of interest and expenses, forfeiture or otherwise shall apply as if such sum had become payable by virtue of a call duly made and notified.

19. the directors may, on the issue of shares, differentiate between the holders as to the amount of calls to be paid and the times of payment.

20. The directors may, if they think fit, receive from any member willing to advance the same, all or any part of the moneys uncalled and unpaid upon any shares held by him, and upon all or any of the moneys so advanced may (until the same would, but for such advances, become payable) pay interest at such rate not exceeding (unless the company in general meeting shall otherwise direct) five percent per annum, as may be agreed upon between the directors and the member paying such sum in advance.

Transfer of Shares

21. The instrument of transfer of any share shall be executed by or on behalf of the transferor and transferee, and transferor shall be deemed to remain a holder of the share until the name of the transferee is entered in the register of members in respect thereof.

22. Subject to such of the restrictions of these regulations as may be applicable, any member may transfer all or any of his shares by instrument in writing in any usual or common form or any other form which the directors may approve.

23. The directors may decline to register the transfer of a share (not being a fully paid share) to a person of whom they do not approve, and they may also decline to register the transfer of a share on which the company has in lien.

24. The directors may also decline to recognize any instrument of transfer unless –

(a) a fee of 25c or such lesser sum as the directors may from time to time require is paid to the company in respect thereof;

(b) the instrument of transfer is accompanied by the certificate of the shares to which it relates, and such other evidence as the directors may reasonably require to show the right of the transferor to make the transfer; and

(c) the instrument of transfer is in respect of only one class of share.

25. If the directors refuse to register a transfer they shall within two months after the date on which the transfer was lodged with the company send to the transferee notice of the refusal.

26. The registration of transfers may be suspended at such times and for such period as the directors may from time to time determine:

Provided always that such registration shall not be suspended for more than thirty days in any year.

27. The company shall be entitled to charge a fee not exceeding 25c on the registration of every probate, letters of administration, certificate of death or marriage, power of attorney, deed of settlement, or other instrument.

Transmission of Shares

28. In the case of death of a member the survivor or survivors where the deceased was a joint holder, and the executor of the deceased where he was a sole holder, shall be the only persons recognized by the company as having any title to his interest in the shares; but nothing herein contained shall release the estate of the deceased joint holder from any liability in respect of any share which had been jointly held by him with other persons.

29. Any person becoming entitled to a share in consequence of the death or insolvency of a member may, upon such evidence being produced as may from the time to time properly be required by the directors and subject as hereinafter provided, elect either to be registered himself as a holder of the share or to have some person nominated by him registered as the transferee thereof, but the directors shall, in either case, have the same right to decline or suspend registration as they would have had in the case of a transfer of the share by that member before his death or insolvency as the case may be.

30. If the person so becoming entitled shall elect to be registered himself, he shall deliver or send to the company a notice in writing signed by him stating that he so elects. If he shall elect to have another person registered he shall testify his selection by executing to that person a transfer of the share. All the limitations, restrictions and provisions of these regulations relating to the right of transfer and the registration of transfers of shares shall be applicable to any such notice or transfer as aforesaid as if the death or insolvency of the member had not occurred and the notice of transfer were a transfer signed by that member.

31. A person becoming entitled to a share by reason of the death or insolvency of the holder shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered holder of the share, except that he shall not, before being registered as a member in respect of the share, be entitled in respect of it to exercise any right conferred by membership in relation to meetings of the company:

Provided always that the directors may at any time give notice requiring any such person to elect either to be registered himself or to transfer the share, and if the notice is not complied with within ninety days the directors may thereafter withhold payment of all dividends, bonuses, or other moneys payable in respect of the share until the requirements of the notice have been

complied with.

Forfeiture of Shares

32. If member fails to pay any call or instalment of all call on the day appointed for payment thereof, the directors may, any time thereafter during such time as any part of the call instalment remains unpaid, serve a notice on him requiring payment of so much of the call or instalment as is unpaid, together with any interest which may have accrued.

33. The notice shall name a further day (not earlier than the expiration of fourteen days from the date of service of the notice) on or before which the payment required by the notice is to be made, and shall state that in the event of non-payment at or before the time appointed the shares in respect of which the call was made will be liable to be forfeited.

34. If the requirements of any such notice as aforesaid are not complied with, any share in respect of which the notice has been given may at any time thereafter, before the payment required by the notice has been made, be forfeited by resolution of the directors to that effect.

35. A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the directors think fit, and at any time before a sale or disposition the forfeiture may be cancelled on such terms as the directors think fit.

36. A person whose shares have been forfeited shall cease to be a member in respect of the forfeited shares, but shall notwithstanding, remain liable to pay to the company all moneys which, at the date of forfeiture were payable by him to the company in respect of the shares, 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.

37. An affidavit that the deponent is a director or the secretary of the company, and that a share in the company has been duly forfeited on a date stated in the declaration, shall, unless fraud or misstate be proved, be conclusive evidence of the facts therein stated as against all persons claiming to be entitled to the share. The company may receive the consideration, if any, given for the share on any sale or disposition thereof and may execute a transfer of the share in favour of the person to whom the share sold or disposed of and he shall thereupon be registered as the holder of the share, and shall not be bound to see to the application of the purchase money, if any, nor shall his title to the share be affected by irregularity or invalidity in the proceedings in reference to the forfeiture, sale or disposal of the share.

38. The provisions of these regulations as to forfeiture shall apply in the case of non-payment of any sum which, by the terms

of issue of a share, becomes payable at a fixed time, whether on account of the nominal value of the share or by way of premium, as if the same had been payable by virtue of a call duly made notified.

Conversion of Shares into Stock

39. The company may by ordinary resolution convert any paid-up shares into stock, and reconvert any stock into paid –up shares of any denomination.

40. The holders of stock may transfer the same, or any part thereof in the same manner, and subject to the same regulations, as and subject to which the shares from which the stock arose might previously to conversion have been transferred, or as near thereto as circumstances admit; and the directors may from time to time fix the minimum amount of stock transferable but so that such minimum shall not exceed the nominal amount of the shares from which the stock arose.

41. The holders of stock shall, according to the amount of stock held by them, have the same rights, privileges and advantages as regards dividends, voting and meetings of the company and other matters as if they held the shares from which the stock arose, but not such privilege or advantage (except participation in the dividends and profits of the company and in the assts on winding up) shall be conferred by an amount of stock which would not, if existing in shares, have conferred that privilege or advantage.

42. Such of the regulations of the company as are applicable to paid-up shares shall apply to stock, and the words “share” and “member” therein shall include “stock” and “stockholder”

Alteration of Capital

43. The company may from time to time by special resolution increase the share capital by such sum, to be divided into shares of such amount, as the resolution shall prescribe.

44. The company may by special resolution –

- (a) consolidate and divide all or any of its share capital into shares of larger amount than its existing shares;
- (b) sub-divide its existing shares, or any of them, into shares of smaller amount than is fixed by the memorandum of association;

- (c) cancel any shares which, at the date of the passing of the resolution, have not been taken or agreed to be taken by any person.

45. The company may by special resolution resource its share capital, any capital redemption reserve fund or any share premium account in any manner and with, and subject to, any incident authorized, and consent required, by law.

General Meetings

46. The company shall in each year hold a general meeting as its general meeting in addition to any other meetings in that year, and shall specify the meeting as such in the notices calling it; and not more than fifteen months shall elapse between the date of one annual general meeting of the company and that of the next.

Provided that so long as the 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. The annual general meeting shall be held at such time and place as the directors shall appoint.

47. All general meetings other than annual general meetings shall be called extraordinary general meetings.

48. The directors may, whenever they think fit, convene an extraordinary general meeting, and extraordinary general meetings shall also be convened on such requisition, or, in default, may be convened by such requisitions, as provided by section ninety-nine of the Act. It at any time there are not within Lesotho sufficient directors capable of acting to form a quorum, any director or any two members of the company may convene an extraordinary general meeting in the same manner as nearly as possible as that in which meetings may be convened by the directors.

Notice of General Meetings

49. An annual general meeting and a meeting called for the passing of a special resolution shall be called by twenty-one days' notice in writing at the least, and a meeting of the company other than an annual general meeting or a meeting for the passing of a special resolution shall be called by fourteen days' notice in writing at the least. The notice shall be exclusive of the day on which it is served or deemed to be served and of the day of which it is given, and shall specify the place, the day and the hour of meeting and, in case of special business, the general nature of that business, and shall be given, in manner hereinafter mentioned on in such other manner, if any, as may be described by the company in general meeting, to such persons as are, under the regulations of the company, entitled to receive such notices from the company:

Provided that a meeting of the company shall,

notwithstanding that it is called by shorter notice than that specified in this regulation, be deemed to have been duly called if it is so agreed-

- (a) in 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 together holding not less than ninety-five percent in nominal value of the shares giving that right.

50. 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.

Proceedings at General Meetings

51. All business shall be deemed special that is transacted at an extraordinary general meeting, and also all that is transacted at an annual general meeting, with the exception of declaring a dividend, the consideration of the accounts, balance sheets, and the reports of the directors and auditors, the election of directors in the place of those retiring and the appointment of, and the fixing of the remuneration of, the auditors.

52. No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business; save as herein otherwise provided, three members present in person shall be a quorum.

53. If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved; in any other case it shall stand adjourned to the same day in the next week, at the same time and place or to such other day and at any such other time and place as the directors may determine, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the members present shall be a quorum.

55. 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 the holding of the meeting or is unwilling to act, the directors present shall elect one of their number to be chairman of the meeting.

56. If at any meeting no director is willing to act as chairman or if no director is present within fifteen minutes after the time appointed for holding the meeting, the members present shall

choose one of their number of be chairman of the meeting.

57. The chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, 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. When a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid it shall not be necessary to give any notice of adjournment or of the business to be transacted at an adjourned meeting.

58. At any general meeting a resolution put to the vote of the 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-

- (a) by the chairman; or
- (b) by at least three members present in person or by proxy; or
- (c) by any member or members present in person or by proxy and representing not less than one-tenth of the total voting rights of all members having the right to vote at the meeting; or
- (d) by a member or members holding shares in the company conferring a right to vote at the meeting being shares on which an aggregate sum has been paid up equal to not less than one-tenth of the total sum paid up on all the shares conferring that right.

Unless a poll be so demanded a declaration by the chairman that resolution has on a show of hands been carried unanimously, or by a particular majority, or lost and an entry to that effect in the book containing the minutes of the proceedings of the company shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

The demand for a poll may be withdrawn:

59. Except as provided in regulation 61, if a poll is duly demanded it shall be taken in such manner as the chairman directs, and the result of the poll shall be deemed to be resolution of the meeting at which the poll was demanded.

60. In the case of an equality of votes, whether on a show of hands or on 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.

61. A poll demanded on the election of a chairman or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the chairman of the meeting directs, and any business other than that upon which a poll has been demanded may be proceeded with pending the taking of a poll.

Votes of Members

62. Subject to any rights or restrictions for the time being attached to any class or classes of shares; on a show of hands, every member present in person shall have one vote, and on a poll every member shall have one vote for each share of which he is the holder.

63. In the case of a 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 purposes seniority shall be determined by the order in which the names stand in the register of members.

64. A member of unsound mind, or in respect of whom an order has been made by any court having jurisdiction in insanity, may vote whether on a show of hands or on a poll, by his **curator bonis** or other person appointed by that court, and any such **curator bonis** or other person may, on a poll, vote by proxy.

65. No member shall be entitled to vote at any general meeting unless all calls or other sums presently payable by him in respect of shares in the company have been paid.

66. No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered, and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection made in due time shall be valid for all purposes. Any such objection made in due time shall be referred to the chairman of the meeting whose decision shall be final and conclusive.

67. On a poll votes may be given either personally or by proxy.

68. The instrument appointing a proxy shall be in writing under the hand of appointer or of his attorney duly authorized in writing, or, if the appointer is a corporation, either under seal, or under the hand of an officer or attorney duly authorized. A proxy need not be a member of the company.

69. 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 or authority shall be deposited at the registered office of the company or at such other place within Lesotho as is specified for that purpose in the notice convening the meeting, not less than forty-eight hours before the time for holding the meeting or adjourned meeting, at which the person named in the instrument proposes to vote, 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.

70. An instrument appointing a proxy shall be in the following form or a form as near thereto as circumstances admit:

“..... Limited.
I/We,, of
Being a member/members of the above-named company,
hereby appoint of
....., or failing him,
..... of
....., as
my/our proxy to vote for me/us on my/our behalf at the
(annual or extraordinary, as the case may be) general meeting
of the company to be held on the day of
..... 19 And at any adjournment
thereof.
Signed this Day of, 19....”

71. Where it is desired to afford members an opportunity of voting for or against resolution the instrument appointing a proxy shall be in the following form or a form as near thereto as circumstances admit:

“..... Limited.
I/We,, of
being a member/members of the above-named company,
hereby appointof
....., or failing him,
..... of
....., as
my/our proxy to vote for me/us on my/our behalf at the
(annual or extraordinary, as the case may be) general meeting
of the company to be held on the day of
..... 19 And at any adjournment
thereof.

This form is to be used in favour of/against* resolution No.
..... Unless otherwise instructed, the proxy will vote
as he thinks fit. (*Strike out whichever is not desired.)”
Signed this day of19.....

72. The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.

73. A vote given in accordance with the terms of an

instrument of proxy shall be valid notwithstanding the previous death, insolvency or insanity of the principal or revocation of the proxy or of the authority under which the proxy was executed, or the transfer of the share in respect of which the proxy is given, provided that no intimation in writing of such death, insolvency, insanity, revocation or transfer as aforesaid shall have been received by the company at its office before the commencement of the meeting or adjourned meeting at which the proxy was used.

Directors

74. The number of directors and the names of the first directors shall be appointed in writing by the subscribers of the memorandum of association or a majority of them and shall be set out in the list to be filed with the Registrar in terms of section one hundred and forty-two of the Act and the persons so named shall hold office only until directors are appointed by the company in general meeting.

75. The remuneration of the directors shall from time to time be determined by the company in general meeting. Such remuneration shall be deemed to accrue from day to day. The directors may also be paid all traveling, hotel and other expenses properly incurred by them in attending and returning from meetings of the directors or any committee of the directors or general meetings of the company or in connection with the business of the company.

76. The shareholding qualification for directors may be fixed by the general meeting, and unless and until so fixed no qualification shall be required.

77. A director of the company may also become a director or other office of, or otherwise interested in, any company promoted by the company or in which the may be interested as shareholder or otherwise and no such director shall be accountable to the company for any remuneration or other benefits received by him as a director or officer of, or from his interest in, such other company unless the company otherwise directs.

Borrowing Powers

78. The directors may exercise all the powers of the company to borrow money, and to mortgage or charge its undertaking, property and uncalled capital, or any part thereof, and to issue debentures, debenture stock, and other securities whether outright or as security for any debt, liability or obligation of the company or of any third party:

Provided that the amount for the time being remaining undischarged of moneys borrowed or secured by the directors as aforesaid (apart from temporary loans obtained from the

company's bankers interordinary course of business) shall not at any time, without the previous sanction of the company in general meeting, exceed the nominal amount of the shared capital of the company for the time being issued, but nevertheless no lender or other person dealing with the company shall be concerned to see or inquired when this limit is observed. No debt incurred or security given in excess of such limit shall be invalid or ineffectual except in the case of express notice to the lender or the recipient of the security at the time when the debt was incurred or security given that the limit hereby imposed had been or was thereby exceeded.

Powers and Duties of Directors

79. The business of the company shall be managed by the directors, who may pay all expenses incurred in promoting in registering the company, and may exercise all such powers of the company as are not, by the Act or by these regulations, required to be exercised by the company in general meeting, subject, nevertheless, to any of these regulations, to the provisions of the Act and to such regulations, being not inconsistent with the aforesaid regulations or provisions, as may be prescribed by the company in general meeting; but no regulation made by the company in general meeting shall invalidate any prior Act for the directors which would have been valid if that regulation had not been made.

80. The directors may from time to time and at any time by power of attorney appoint any company, firm or person or body of persons, whether nominated directly or indirectly by the directors, to be the agent or agents of the company for such purposes and with such power, authorities and discretions (not exceeding those vested in or exercisable by the directors under these regulations) and for such period and subject to such conditions as they may think fit, and any such powers of attorney may contain such provisions for the protection and convenience of persons dealing with any such agent as the directors may think fit, and may also authorise any such agent to delegate all or any of the powers, authorities and discretions vested in him.

81. The company may exercise the powers conferred by section thirty-seven of the Act with regard to having an official seal for use abroad, and such powers shall be vested in the directors.

82. The company may exercise the powers conferred upon the company by section nine-four and ninety-five of the Act with regard to the keeping of a branch register, and the directors may (subject to the provisions of those section) make and vary such regulations as they may think fit respecting the keeping of any such register.

83. (1) A director who is in any way, whether directly or indirectly, interested in a contract or proposed contract with the company shall declare the nature of his interest at a meeting of the

directors in accordance with section **one hundred and fifty seven of the Act**.

- (2) A director shall not vote in respect of any contract or arrangement in which he is interested, and if he shall do so his vote shall not be counted, nor shall he be counted in the quorum present at the meeting, but neither of these prohibitions shall apply to –
- (a) any arrangement for giving any director any security or indemnity in respect of money lent by him to or obligations 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; or
 - (d) any contract or arrangement with any other company or association in which he is interested only as an officer of the company or as holder of shares or other securities;

and these prohibitions may at any time be suspended or relaxed to any extent, and either generally or in respect of any particular contract, arrangement or transaction, by the company in general meeting.

(3) A director may hold any other office or place of profit under the company (other than the office of auditor) in conjunction with his office of director or such period and on such terms (as to remuneration and otherwise) as the directors may determine and no director or intending director shall be disqualified by his office from contracting with the company either with regard to his tenure of any such other office or place of profit or as vendor, purchaser or otherwise, nor shall any such contract, or any contract or arrangement entered into or by or on behalf of the company in which any director is in any way interested, be liable to be avoided, nor shall any director so contracting or being so interested be liable to account to the company for any profit realized by any such contract or arrangement by reason of such director holding that office or of the fiduciary relation thereby established.

(4) A director, notwithstanding his interest, may be counted in the quorum present at any meeting whereat he or any other director is appointed to hold any such office or place of profit under the company or whereat the terms of any such appointment are arranged, and he may vote on any such appointment or arrangement other than his own appointment or the arrangement of the terms thereof.

(5) Any director may act by himself or his firm in a professional capacity for the company, and he or his firm shall be entitled to remuneration for professional services as if he were not a director.

Provided that nothing herein contained shall authorize a director or his firm to act as auditor to the company.

84. All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments, and all receipts for moneys paid to the company, shall be signed, drawn, accepted, endorsed, or otherwise executed, as the case may be, in such manner as the directors shall from time to time by resolution determine.

85. The directors shall cause minutes to be made in books provided for the purpose –

- (a) of all appointments of officers made by the directors;
- (b) of the names of the directors present at each meeting or the directors and of any committee of the directors;
- (c) of all resolutions and proceedings at all meetings of the company, and of the directors, and of committees of directors;

and every director present at any meeting of directors or committee of directors, shall sign his name in a book to be kept for that purpose.

86. The directors on behalf of the company may pay a gratuity or pension or allowance on retirement to any director who has held any other salaried office or place of profit with the company or to his widow or dependants and may make contributions to any fund and pay premiums for the purchase of provision of any such gratuity, pension or allowance.

Disqualification of Directors

87. the office of director shall be vacated if the director–

- (a) ceases to be a director by virtue of section one hundred and forty-three of the Act; or
- (b) becomes insolvent or makes any arrangement or composition with his creditors generally; or
- (c) becomes prohibited from being a director by the terms of section one-hundred and forty-four of the Act or by reason of any order made under section two hundred and ninety-nine of the Act; or

- (d) becomes of unsound mind; or
- (e) resigns his office by notice in writing to the company; or
- (f) shall for more than six months have been absent without permission of the directors from meetings of the directors held during that period.

Rotation of Directors

88. At the first annual general meeting of the company all the directors shall retire from office, and at the annual general meeting in every subsequent year one-third of the directors for the time being, or, if their number is not three of a multiple of three, then the number nearest one-third, shall retire from office.

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

90. a retiring director shall be eligible for re-election.

91. The company at the meeting at which a director retires in a manner aforesaid may fill the vacated office by electing a person thereto, and in default the retiring director shall if offering himself or re-election be deemed to have been re-elected, unless at such meeting it is expressly resolved not to fill such vacant office or unless a resolution for the re-election of such director shall have been put to the meeting and lost.

92. No person other than a director retiring at the meeting shall be eligible for election to the office of the director at any general meeting unless not less than three nor more than twenty-one days before the date appointed for the meeting three shall have been left at the registered office of the company notice in writing, signed by a member duly qualified to attend and vote at the meeting for which such notice is given, of his intention to propose such person for election, and also notice in writing signed by that person of his willingness to be elected.

93. The company may from time to time by ordinary resolution increase or reduce the number of directors, and may also determine in what rotation the increased or reduced number is to go out of office.

94. The directors shall have power at any time, and from time to time to appoint any person to be a director, either to fill a casual vacancy or as an addition to the existing directors, but so that the total number of directors shall not at any time exceed the number fixed in accordance with these regulations.

95. the company may by ordinary resolution, of which special

notice has been given in accordance with section one hundred and seven of the Act, remove any director before the expiration of his period of office notwithstanding anything in these regulations or in any agreement between the company and such director. Such removal shall be without prejudice to any claim such director may have not damages for breach of any contract of service between him and the company.

96. The company may by ordinary resolution appoint another person in place of a director removed from office under the immediately preceding regulation, and without prejudice to the powers of the directors under regulation 94 the company in general meeting may appoint any person to be a director either to fill a casual vacancy or as an additional director. A person appointed in place of a director so removed or to fill such vacancy shall be subject to retirement at the same time as if he had become a director or the day on which the director in whose place he is appointed was last elected a director.

Proceedings of Directors

97. The directors may meet together for the dispatch of business, adjourn, and otherwise regulate their meetings, as they think fit. Questions arising any meeting shall be decided by a majority of votes. In the case of an equality of votes, the chairman shall have a second or casting vote. A director may, and the secretary on the requisition of a director shall, at any time summon a meeting of the directors. It shall not be necessary to give notice of a meeting of directors to any director for the time being absent from Lesotho.

98. The quorum necessary for the transaction of the business of the directors may be fixed by the directors, and unless so fixed shall be two.

99. The counting directors may act notwithstanding any vacancy the number fixed by or pursuant to the regulations of the company as the necessary quorum of directors, the continuing directors or director may act for the purpose of increasing the number of in their body, but, if and so long as their number is reduced below director to that number, or of summoning a general meeting of the company, but for no purpose.

100. The directors may elect a chairman for their meetings and determine the period for which he is to hold office; but if no such chairman is elected, or if any meeting the chairman is not present within five minutes after the time appointed for holding the same, the directors present may choose one of their number to be chairman of the meeting.

101. The directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit; any committee so formed shall in the exercise of the powers so delegated conform to any regulations that may be

imposed on it by the directors.

102. A committee may elect a chairman of its meetings; if no such chairman is elected ;or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same, the members present may choose one of their number to be chairman of the meeting.

103. A committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members present, and in the case of an equally of votes the chairman shall have a second or casting vote.

104. All acts done by any meeting of the directors or of a committee of directors or by any person notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such director or person acting as aforesaid; or that they or any of them were disqualified; be as valid as if every such person had been and was qualified to be a director.

105. A resolution in writing ; signed by all the directors for the time being entitled to receive notice of a meeting of the directors; shall be as valid and effectual as if it had been passed at a meeting of the directors duly convened and held.

Managing Director

106. The directors may from time to time appoint one or more of their body to the office of managing such period and terms as they think fit; subject to the terms of any agreement entered into in any particular case; may revoke such appointment. A director so appointed shall not; whilst holding that office; be subject to retirement by rotation of retirement of directors; but his appointment shall be automatically determined if he cease from any cause to be a director.

107. A managing director shall receive such remuneration (whether by way of salary commission or partly in one way and partly another) as the directors may determine.

108. The directors may entrust to and confer upon a managing director any of the powers exercisable by them upon such fit; and either collaterally with or to the exclusion of their own powers and may from time to time revoke; withdraw; alter or vary all or any of such powers.

Secretary

109. The secretary shall be appointed by the directors for such terms remuneration and upon such condition as they may think fit; and any secretary so appointed may be removed by them.

110. No person shall be appointed or hold office as secretary who is-

- (a) the sole director of the company; or
- (b) a corporation the sole director of which is the director of the company.

111. A provision of the Act or these regulations requiring or authorizing a thing to be done by or to a director and the secretary shall not be satisfied by or to the same person acting both as; director and as; or in place of; the secretary.

The Seal

112. The company shall have a seal and the directors shall provide for its safe custody. Subject to provisions of section seventy-nine of the Act; it shall only be used by the authority of the directors or of a committee of the directors authorized by the directors in that behalf; and every instrument to which the seal to which the seal be affixed shall be signed by a director and shall be countersigned by the secretary or by a second director or by some other person appointed by the director for the purpose.

Dividends and Reserve

113. The company in general meeting may declare dividends; but no dividend shall exceed the amount recommended by the directors.

114. The directors may from time to time pay to the members such interim dividends as appear to the directors to be justified by the profits of the company.

115. No dividend shall be paid otherwise than out of profits.

116. The directors may, before recommending any dividend, set aside out of the profits of the company such sums as they think proper as a reserve or reserves which shall, at the discretion of the directors, be applicable for any purpose to which the profits of the company may be properly applied, and pending such application may, at the like discretion, either be employed in the business of the company or be invested in such investments (other than shares of the company) as the directors may from time to time think fit. The directors may also without placing the same to reserve carry forward any profits which they may think prudent not to divide.

117. Subject to the rights of persons, if any, entitled to shares with special rights as to dividends, all dividends shall be declared and paid according to the amounts paid or credit as paid on the shares in respect whereof the dividend is paid, but no amount paid or credited as paid on a share in advance of calls shall be treated for the purposes of this regulation as paid on the share. All dividends shall be apportioned and paid proportionately to the amounts paid or portions of the period in respect of which the dividend is paid: but if any share is issued on terms providing that it shall rank for dividend as from a particular date such share shall rank for dividend accordingly.

118. The directors may deduct from any dividend payable to

any member all sums of money, if any, presently payable by him to the company on account of calls or otherwise in relation to the shares of the company.

119. Any general meeting declaring a dividend or bonus may direct payment of such dividend or bonus wholly or partly by the distribution of specific assets and in particular of paid-up shares, debentures or debenture stock of any other company or in any one or more of such ways, and the directors shall give effect to such resolution and where any difficulty arises in regard to such distribution, the directors may settle the same they think expedient, and in particular may issue fractional certificates and fix the value for distribution of such specific assets or any part thereof and may determine that cash payment shall be made to any members upon the footing of the value so fixed in order to adjust the rights of all parties, and may vest any such specific assets in trustees as may seem expedient to the directors.

120. Any dividend, interest or other moneys payable in cash in respect of shares may be paid by cheque or warrant sent through the post directed to the registered address of the holder or, in the case of joint holders, to the registered address of that one of the joint holders who is first named on the register of members or to such person and to such address as the holder or joint holders may in writing direct. Every such cheque or warrant shall be made payable to the order of the person to whom it is sent. Any one of two or more joint holders may give effectual receipts for any dividends, bonuses or other moneys payable in respect of the shares held by them as joint holders.

121. No dividend shall bear interest against the company.

Accounts

122. The directors shall cause proper books of account to be kept with respect to-

- (a) all sums of money received and expended by the company and the matters in respect of which the receipt and expenditure takes place;
- (b) all sales and purchases of goods by the company;
and
- (c) the assets and liabilities of the company.

Proper books shall not be deemed to be kept if there are not kept such books of account as are necessary to give a true and fair view of the state of the company's affairs and to explain its transactions.

123. The books of account shall be kept at the registered office of the company, or, subject to section one hundred and

twelve of the Act, at such other place or places as the directors think fit, and shall always be open to the inspection of the directors.

124. The directors shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounts and books of the company or any of them shall be open to the inspection of members not being directors, and no member (not being a director) shall have any right of inspecting any account or book or document of the company except as conferred by statute or authorised by the directors or by the company in general meeting.

125. The directors shall from time to time, in accordance with this sections one hundred and thirteen, one hundred and fourteen, and one hundred and sixteen to **one hundred and nineteen** inclusive of the Act, cause to be prepared and to be laid before the company in general meeting such profit and loss accounts balance sheets, group accounts, if any, and reports as are referred to in those sections.

126. A copy of every balance sheet (including every document required by law to be annexed thereto) which is to be laid before the company in general meeting, together with a copy of the auditor's report, shall not less than twenty-one days before the date of the meeting be sent to every member of, and every holder of debentures of, the company and to every person registered under regulation 31:

Provided that this regulation shall not require a copy of those documents to be sent to any person of whose address the company is not aware or to more than one of the joint holders of any shares or debentures.

Capitalisation of Profits

127. The company in general meeting may upon the recommendation of the directors resolve that it is desirable to capitalise any part of the amount for the time being standing to the credit of any of the company's reserve accounts or to the credit of the profit and loss account or otherwise available for distribution, and accordingly that such sum be set free for distribution, and accordingly that such sum be set free for distribution amongst the members who would have been entitled thereto if distributed by way of dividend and in the same proportions on condition that the same be not paid in cash but be applied either in or towards paying up any amounts for the time being unpaid on any shares held by such members respectively or paying up in full unissued shares or debentures of the company to be allotted and distributed credited as fully paid up to and amongst such members in the proportion aforesaid, or partly in the one way and partly in the other, and the directors shall give effect to such resolution:

Provided that a share premium account and a capital redemption reserve fund may, for the purposes of this regulation, only be applied in the paying up of unissued shares to be issued to members of the company as fully paid bonus shares.

128. Whenever such a resolution as aforesaid shall have been passed the directors shall make all appropriations and applications of the undivided profits to be capitalised thereby and all allotments and issues of fully-paid shares or debentures, if any, and generally shall do all acts and things required to give effect thereto, with full power to the directors to make such provision by the issue of fractional certificates or by payment in cash or otherwise as they think fit for the case of shares or debentures becoming distributable in fractions, and also to authorise any person to enter on behalf of all the members entitled thereto into an agreement with the company providing for the allotment to them respectively, credited as fully paid up, of any further shares or debentures to which they may be entitled upon capitalisation, or (as the case may require) for the payment up by the company on their behalf, by the application thereto of their respective proportions of the profits resolved to be capitalised, of the amounts or any part of the amounts remaining unpaid on their existing shares, and any agreement made under such authority shall be effective and binding on all such members.

Notices

118. A notice may be given by the company to any member either personally or by sending it by post to him or to his registered address, or (if he has no registered address within Lesotho) to the address, if any, within the territory supplied by him to the company for the giving of notice to him. Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, pre-paying, and posting a letter containing the notice, and to have been effected in the case of a notice of a meeting at the expiration of forty-eight hours after the letter containing the same is posted, and in any other case at the time at which the letter would be delivered in the ordinary course of post.

130. A notice may be given by the company to the persons entitled to a share in consequence of the death or insolvency of a member by sending it through the post in a prepaid letter addressed to them by name, or by the title of representatives of the deceased, or trustee of the insolvent, or by any like description, at the address, if any, within Lesotho supplied for the purpose by the persons claiming to be entitled, or (until such an address has been so supplied) by giving the notice in any manner in which the same might have been given if the death or insolvency had not occurred.

132. Notice of every general meeting shall be given in any manner hereinbefore authorised to-

- (a) every member except those members who (having no registered address within Lesotho) have not supplied to the company an address within Lesotho for the giving of notices to them;
- (b) every person upon whom the ownership of a share devolves by reason of his being executor, trustee or assignee of a member where the member but for his death or insolvency would be entitled to receive notice of the meeting; and
- © the auditor for the time being of the company.

No other person shall be entitled to receive notices of general meetings.

Winding Up

133. If the company is wound up the liquidator may, with the sanction of a special resolution of the company and any other sanction required by the Act, divide amongst the members in specie of kind the whole or any part of the assets of the company (whether they shall consist of property of the same kind or not and may for such purposes set such value as he deems fair upon any property to be divided as aforesaid and may determine how such division shall be carried out as between the members or different classes of members. The liquidator may, with the like sanction, vest the whole or any part of such assets in trustees upon such trusts for the benefit of the contributories as the liquidator, with the like sanction, shall think fit, but so that no member shall be compelled to accept any shares or other securities whereon there is any liability.

Indemnity

134. Every director, managing director, agent, auditor, secretary and other officer for the time being of the company shall be indemnified out of the assets of the company against any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgement is given in his favour or in which he is acquitted or in connection with any application under section **three hundred and three** of the Act in which relief is granted to him by the court.

TABLE A - PART II

Regulations for the management of a Private Company Limited by Shares

1. The regulations contained in Part I of Table A (with

the exception of regulations 24, 53 and 74) shall apply.

2. The company is a private company and accordingly-
 - (a) the right to transfer shares is restricted in manner hereinafter prescribed;
 - (b) the number of the company is limited to fifty exclusive of persons who are in the employment of the company and of persons who having been formerly in the employment of the company while in such employment and have continued after the termination of such employment to be members of the company:

Provided that where two or more persons hold one or more shares in the company they shall for the purpose of this regulation be treated as a single member;

© Any invitation to the public to subscribe for any shares or debentures of the company is prohibited.

3. The directors may, in their absolute discretion and without assigning any reason therefor, decline to register any transfer of any share, whether or not it is a fully paid share.

4. No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business; save as herein otherwise provided two members present in person or by proxy shall be a quorum.

5. Subject to the provisions of the Act, a resolution in writing signed by all the members for the time being entitled to receive notice of and to attend and vote at general meetings (or being corporations by their duly authorised representatives) shall be as valid and effective as if the same had been passed at a general meeting for the company duly convened and held.

6. The subscribers to the memorandum of association shall be the directors of the company and shall hold office until directors are appointed by the company in general meeting.

7. The directors may at any time require any person whose name is entered in the register of members of the company to furnish them with any information, supported (if the directors so require) by a statutory declaration, which they may consider necessary for the purpose of determining whether or not the certificate required by sub-section (4) of section ninety-six of the Act and may properly be given.

Note - Regulations 3 and 4 of this part are alternatives to regulations 24 and 53 respectively of Part I.

TABLE B

**Form of Memorandum of Association of a company
Limited by Shares**

- 1st. The name of the company is "The
Company, Limited".
- 2nd. The objects for which the company is established are,
.....
- 3rd. The liability of the members is limited.
- 4th. The share capital of the company is
and divided into shares of
and each.

We, the several persons whose names, and addresses are subscribed, are desirous of being formed into a company, in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the company set opposite our respective names.

Names, Addresses and Description of subscribers	Number of shares taken by each subscriber
Total shares taken
Dated the day of, 19	
Witness to the above Signatures	Address
.....

TABLE C

**Form of Articles of Association of a Company Having
No Share Capital**

1. In these articles -
"Act" means the Companies Act, 1967;
"Secretary" means any person appointed to perform the duties of the secretary of the company.
- Expressions referring to writing shall, unless the contrary intention appears, be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form.
- Unless the context otherwise requires, words or expressions contained in these articles shall bear the same meaning as in the Act or any statutory modification thereof in force at the date at which these articles become binding on company.

Members

2. The number of members with which the company proposes to be registered is five hundred, but the directors may from time to time register an increase of members.

3. The subscribers to the memorandum of association and such other persons as the directors shall admit to membership shall be the members of the company.

General Meetings

4. The 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 meeting as such in the notices calling it; and not more than fifteen months shall elapse between the date of one annual general meeting of the company and that of the next:

Provided that so long as the 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. The annual general meeting shall be held at such time and place as the directors shall appoint.

4. All general meetings other than annual general meetings shall be called extraordinary general meetings.

6. The directors may, whenever they think fit, convene an extraordinary general meeting, and extraordinary general meetings shall be convened on such requisition, or, in default, may be convened by such requisitionists, as provided by section ninety-nine of the Act. If at any time there are not within Lesotho sufficient directors capable of acting to form a quorum, any director or any two members of the company may convene an extraordinary general meeting in the same manner as nearly as possible as that in which meetings may be convened by the directors.

Notice of General Meetings

7. An annual general meeting and a meeting called for the passing of a special resolution shall be called by twenty-one days' notice in writing at the least, and a meeting of the company other than an annual general meeting or a meeting for the passing of a special resolution shall be called by fourteen days' notice in writing at the least. The notice shall be exclusive of the day on which it is served or deemed to be served and of the day and the hour of meeting and, in the case of special business, the general nature of that business shall be given, in manner herein after mentioned or in such other manner, if any, as may be prescribed by the company in general meeting, to such persons as are, under the articles of the company, entitled to receive such notices from the company:

Provided that a meeting of the company shall, notwithstanding that it is called by shorter notice than that

specified in this article 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 together representing not less than ninety-five percent of the total voting rights at that meeting of all the members.

8. 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.

Proceedings at General Meetings

9. All business shall be deemed special that is transacted at an extraordinary general meeting, and also all that is transacted at an annual general meeting, with the exception of the consideration of the accounts, balance sheets, and the reports of the directors and auditors, the election of directors in the place of these retiring and the appointment of , and the fixing of the remuneration, of any, of the auditors.

10. No business shall be transacted any general meeting unless a quorum of members is present at the time when the meeting proceeds to business; save as herein otherwise provided, three members present in person shall be a quorum.

11. If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved; in any other case it shall stand adjourned tot he same day in the next week, at the same time and place, or to such other day and at such other time and place as the directors may determine, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting the members present shall be a quorum.

12. 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 the holding of the meeting or is unwilling to act, the directors present shall elect one of their number to be chairman of the meeting.

13. If at any meeting no director is willing to act as chairman or if no director is present within fifteen minutes after the time appointed for holding the meeting, the members present shall choose one of their number to be chairman of the meeting.

14. The chairman may with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but not business shall be transacted at any adjourned meeting other than the

business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

15. At any general meeting resolution put to the vote of the 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 –

- (a) by the chairman; or
- (b) by at least three members present in person or by proxy; or
- © by any member or members present in person or by proxy and representing not less than one-tenth of the total voting rights of all the members having the right to vote at the meeting.

Unless a poll be so demanded a declaration by the chairman that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost and an entry to that effect in the book containing the minutes of proceedings of the company shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

The demand for a poll may be withdrawn.

16. Except as provided in article 1(c), if a poll is duly demanded it shall be taken in such manner as the chairman direct, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

17. In the case of an equality of votes, whether on a show of hands or on 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.

18. A poll demanded on the election of a chairman, or on a question of adjournment, shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the chairman of the meeting directs, and any business other than that upon which a poll has been demanded may be proceeded with pending the taking of the poll.

19. Subject to the provisions of the Act, a resolution in writing signed by all the members for the time being entitled to reviewed notice of and to attend and vote at general meetings (or being corporations by their duly authorised representatives) shall be as valid and effective as if the same had been passed at a general meeting of the company duly convened and held.

Votes of Members

20. Every member shall have one vote.

21. A member of unsound mind, or in respect of whom an order has been made by any court having jurisdiction in insanity, may vote, whether on a show of hands or on a poll, by his **curator bonis** or any other person appointed by that court and any such **curator bonis** or other person may, on a poll, vote by proxy.

22. No member shall be entitled to vote at any general meeting unless all moneys presently payable by him to the company have been paid.

23. On a poll votes may be given either personally or by proxy.

24. The instrument appointing a proxy shall be in writing under the hand of the appointer or of his attorney duly authorised in writing or if the appointer is a corporation, either under seal or under the hand of an officer or attorney duly authorised. A proxy need not be a member of the company.

25. 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 or authority shall be deposited at the registered offices of the company or at such other place within Lesotho as is specified for that purpose in the notice convening the meeting, not less than forty-eight hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, or, in the case of a poll not less than twenty-four hours before the time appointed of the taking of the poll, and in default the instrument of proxy shall not be treated as valid.

26. Following form or a form as near thereto as circumstances admit.

“I/We,.....,of being a member/members An instrument appointing a proxy shall be in the of the above named company, hereby appoint.....of or failing him,..... of as my/our proxy to vote me/us on my/our behalf at the (annual or extraordinary, as the case may be) general meeting of the company to be held on the day of 19,..... and at any adjournment thereof.

Signed this day of, 19

27. Where it is desired to afford members an opportunity of voting for or against a resolution that instrument appointing a proxy shall be in the following form or a form as near thereto as circumstances admit.

“I/We,, of being a member/members of the above named company, hereby appoint....., of or failing him of of my/our proxy to vote for me/us on my/our behalf at the (annual or extraordinary, as the case may be) general meeting of the temporary

to be held on the of, 19
....., and at any adjournment thereof.

This form is to be used ***in favour** of the resolution.

Against

Signed otherwise instructed, the proxy will vote as he thinks fit.

*Strike out whichever is not desired.”

Signed this day of, 19.....

28. The instrument appointing a proxy shall be deemed to confer authority to demand or joint in demanding a poll.

29. A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or insanity of the principal or revocation of the proxy or of the authority under which the proxy was executed, provided that no intimation in writing of such death, insanity or revocation as aforesaid shall have been received by the company at the office before the commencement of the meeting or adjourned meeting at which the proxy is used.

Corporation Acting by Representatives at Meetings

30. Any corporation which is a member of the company may by resolution of its directors or other governing body authorise such a person as it thinks fit to act as its representative at any meeting of the company, and the person so authorised shall be entitled to exercise the same powers on behalf of the corporation which he represents as that corporation could exercise if it were an individual member of the company.

Directors

30. The number of directors and the names of the first directors shall be determined in writing by the subscribers of the memorandum of association or a majority of them.

32. The remuneration of the directors, if any, shall from time to time be determined by the company in general meeting. Such remuneration shall be deemed to accrue from day to day. The directors may also be paid all travelling, hotel and other expenses properly incurred by them in attending and returning from meetings of the directors or any committee of the directors or general meetings of the company or in connection with the business of the company.

Borrowing Powers

33. The directors may exercise all the powers of the company to borrow money, and to mortgage or charge its undertaking and property, or any part thereof, and to issue debentures, debenture stock and other securities, whether outright or as security for debt, liability or obligation of the company or of any third party.

Powers and Duties of Directors

34. The business of the company shall be managed by the directors, who may pay all expenses incurred in promoting and registering the company, and may exercise all such powers of the company as are not, by the Act or by these articles, required to be exercised by the company in general meeting, subject nevertheless to the provisions of the Act of these articles and to such regulations, being not inconsistent with the aforesaid provisions, as may be prescribed by the company in general meeting; but no regulation made by the company in general meeting shall invalidate any prior act of the directors which would have been valid if that regulation had not been made.

35. The directors may from time to time and at any time by power of attorney appoint any company, firm or person or body of persons whether nominated directly or indirectly by directors, to be the attorney or attorneys of the company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the directors, under these articles) and for such period and subject to such conditions as they may think fit, and any such powers of attorney may contain such provisions for the protection and convenience of persons dealing with any such attorney as the directors may think fit and may also authorise any such attorney to delegate all or any of the powers, authorities and discretions vested in him.

36. All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments, and all receipts for monies paid to the company, shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, in such manner as the directors shall from time to time by resolution determine.

37. The directors shall cause minutes to be made in books provided for the purpose –

- (a) of all appointments of officers made by the directors;
- (b) of the names of the directors present at each meeting of the directors and of any committee of the directors;
- (c) of all resolutions and proceedings at all meetings of the company and of the directors, and of committees of directors;

and every director present at any meeting of directors or committee of directors shall sign his name in a book to be kept for that purpose.

Disqualification of Directors

38. The office of director shall be vacated if the director -

- (a) without the consent of the company in general meeting holds any other office of profit under the company; or
- (b) becomes insolvent or makes any arrangement, assignment or composition with his creditors generally; or
- © becomes prohibited from being a director by the terms of section **one hundred and forty-four** of the Act or by reason

of an order made under section **two hundred and ninety-nine** of the Act; or

- (d) becomes of unsound mind; or
- (e) resigns his office by notice in writing to the company; or
- (e) resigns his office by notice in writing to the company; or
- (f) ceases to be a director by virtue of section **one hundred and forty-three** of the Act; or
- (g) is directly or indirectly interested in any contract with the company and fails to declare the nature of his interest in manner required by section **one hundred and fifty-seven** of the Act; or
- (h) is removed in terms of section **one hundred and forty-six** of the Act.

A director shall not vote in respect of any contract in which he is interested or any matter arising thereout, and if he does so his vote shall not be counted.

Rotation of Directors

39. At the first annual general meeting of the company all the directors shall retire from office, and at the annual general meeting in every subsequent year one-third of the directors for the time being, or if their number is not three or a multiple of three, then the number nearest one-third, shall retire from office.

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

41. A retiring director shall be eligible for re-election.

42. The company at the meeting at which a director retires in manner aforesaid may fill the vacated office by electing a person thereto, and in default the retiring director shall, if offering himself for re-election, be deemed to have been re-elected, unless at such meeting it is expressly resolved not to fill such vacated office or unless a resolution for the re-election of such director shall have been put to the meeting and lost.

43. No person other than a director retiring at the meeting shall, unless recommended by the directors, be eligible for election to the office of director at any general meeting unless, not less than three nor more than twenty-one days before the date appointed for the meeting, there shall have been left at the registered office of the company notice in writing, signed by a member duly qualified to attend and vote at the meeting for which such notice is given, of his intention to propose such person for election, and also notice in writing signed by that person of his willingness to be elected.

44. The company may from time to time by ordinary resolution increase or reduce the number of directors, and may also determine in what rotation the increased or reduced number is to go out of office.

45. The directors shall have power at any time, and from time to time, to appoint any person to be a director, either to fill a casual vacancy or as an addition to the existing directors, but so that the total number of directors shall not at any time exceed the number fixed in accordance with these articles. Any director so appointed shall hold office only till the next following annual general meeting, and shall then be eligible for re-election, but shall not be taken into account in determining the directors who are to retire by rotation at such meeting.

46. The company may by ordinary resolution, of which special notice has been given in accordance with section one hundred and seven of the Act, remove any director before the expiration of his period of office notwithstanding anything in these articles or in any agreement between the company and such director. Such removal shall be without prejudice to any claim such director may have to damages for breach of any contract of service between him and the company.

47. The company may by ordinary resolution appoint another person in place of a director removed from office under the immediately preceding article. Without prejudice to the powers of the directors under article 45 the company in general meeting may appoint any person to be a director either to fill a casual vacancy or as an additional director. The person appointed to fill such a vacancy shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last elected a director.

Proceedings of Directors

48. The directors may meet together for the despatch of business, adjourn, and otherwise regulate their meetings, as they think fit. Questions arising at any meeting shall be decided by a majority of votes. In the case of an equality of votes the chairman shall have a second or casting vote. A director may, and the secretary on the requisition of a director shall, at any time summon a meeting of the directors. It shall not be necessary to give notice of a meeting of directors to any director for the time being absent from Lesotho.

49. The quorum necessary for the transaction of the business of the directors may be fixed by the directors, and unless so fixed shall be two.

50. The continuing directors may act notwithstanding any vacancy in their body, but, if and so long as their number is reduced below the number fixed by a pursuant to the articles of the company as the necessary quorum of directors, the continuing directors or director may act for the purpose of increasing the number of directors to that number, or of summoning a general meeting of the company, but for no other purpose.

51. The directors may elect a chairman of their meetings and determine the period for which he is to hold office; but, if no such chairman is elected, or if any meeting the chairman is not present within five minutes after the time appointed for holding the same, the directors present may choose one of their number to be chairman of the meeting.

52. The directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit: any committee so formed shall in the exercise of the powers so delegated conform to any regulations that may be imposed on it by the directors.

53. A committee may elect a chairman of its meetings if no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same, the members present may choose one of their number to be chairman of the meeting.

54. A committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members present, and in the case of an equality of votes the chairman shall have a second or casting vote.

55. All acts done by any meeting of the directors or of a committee of directors, or by any person acting as a director shall notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such director or person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

56. A resolution in writing, signed by all the directors for the time being entitled to receive notice of a meeting of the directors, shall be as valid and effectual as if it had been passed at a meeting of the directors duly convened and held.

Secretary

57. The secretary shall be appointed by the directors for such term, at such remuneration, if any, and upon such conditions as they may think fit; and any secretary so appointed may be removed by them.

58. A provision of the Act or these articles requiring or authorising a thing to be done by or to a director and the secretary shall not be satisfied by its being done by or to the same person acting both as director and as, or in the place of, the secretary.

The Seal

59. The directors shall provide for the safe custody of the seal, which shall only be used by the authority of the director or a committee of the directors authorised by the directors in that behalf, and every instrument to which the seal shall be affixed shall be signed by a director and shall be countersigned by the secretary or by a second director or by some other person appointed by the directors for that purpose.

Accounts

60. The directors shall cause proper books of account to be kept with respect to -

- (a) all sums of money received and expended by the company and the matters in respect of which the receipt and expenditure takes place;
- (b) all sales and purchases of goods by the company; and
- (c) the assets and liabilities of the company.

Proper books shall not be deemed to be kept if there are not kept such books of account as are necessary to give a true and fair view of the state of the company's affairs and to explain its transactions.

61. The books of account shall be kept at the registered office of the company, or, subject to sub-section (3) of section one hundred and twelve of the Act, at such other place or places as the directors think fit, and shall always be open to the inspection of the directors.

62. The directors shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounts and books of the company or any of them shall be open to the inspection of members not being directors, and no member (not being a director) shall have any right of inspecting any account or book or document of the company except as conferred by statute or authorised by the directors or by the company in general meeting.

63. The directors shall from time to time in accordance with sections one hundred and thirteen, one hundred and fourteen, and sections one hundred and sixteen to one hundred and nineteen of the Act, cause to be prepared and to be laid before the company in general meeting such profit and loss accounts, balance sheets, group accounts (if any) and reports as are referred to in those sections.

64. A copy of every balance sheet (including every document required by law to be annexed thereto) which is to be laid before the company in general meeting, together with a copy of the auditor's report, shall not less than twenty-one days before the date of the meeting be sent to every member of, and every holder of debentures of, company:

Provided that this article shall not require a copy of those documents to be sent to any person of whose address the company is not aware or to more than one of the joint holders of any debentures.

Audit

65. Auditors shall be appointed and their duties regulated in accordance with sections one hundred and twenty-two to one hundred and twenty-four of the Act.

Notices

66. A notice may be given by the company to any member either personally or by sending it by post to him or to his registered address, or (if he has not registered address within Lesotho) to the address, if any, within Lesotho supplied by him to the company for the giving of notice to him. Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying and posting a letter containing the notice, and to have been effected in the case of a notice of a meeting at the expiration of forty-eight hours after the letter containing the same is posted, and any other case at the time at which the letter would be delivered in the ordinary course of post.

67. Notice of every general meeting shall be given in any manner hereinbefore authorised to –

- (a) every member except those members who (having no registered address within Lesotho) have not supplied to the company an address within Lesotho for the giving of notices to them;
- (b) every person upon whom the ownership of a share devolves by reason of his being the executor, trustee or assignee of a member where the member but for his death or insolvency would be entitled to receive notice of the meeting; and
- (b) the auditor for the time being of the company.

No other person shall be entitled to receive notices of general meetings.

**Signatures, Full Names Addresses and Occupations
of Subscribers**

Dated the day of, 19
Witness to the above signatures,
Full residential or business address
.....
Occupation

TABLE D

**Form of Memorandum of Association of a Company
Having No Share Capital**

Memorandum of Association

- 1st. The name of the company is “.....”
- 2nd. The objects for which the company is established are toand the doing of all such other things as are incidental or conducive to the attainment of the above object.
- 3rd. The liability of members is limited.
- 4th. Every member of the company 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, contracted before he ceases to be a member, and of the costs charges and expenses of winding up the same and for the adjustment of the rights of the contributories amongst themselves, such amounts as may be required, not exceeding rand.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a company, in pursuance of this memorandum of association.

**Signatures, Full Names Addresses and Occupation
of Subscribers**

Dated the day of, 19
Witness to the above signatures,

Full residential or business address
.....
Occupation

TABLE E

**Form of Memorandum and Articles of Association of
an Unlimited Company Having a Share Capital**

Memorandum of Association

1. The name of the company is
2. The objects for which the company is established are

.....
We, the several persons whose names, addresses and occupations are subscribed,
are desirous of being formed into a company in pursuance of this memorandum of
association and we respectively agree to take the number of shares in the capital of
the company set out opposite our respective names.

**Signatures, full Names,
Address and Occupation
of Subscribers**

**Number (in words) of
Shares taken by each
Subscriber**

.....
.....

Total shares taken

Dead the day of, 19

Witness to the above signature:

Signature:

Occupation:

Address:

.....
.....

**Articles of Association to Accompany the Preceding
Memorandum of Association**

1. The share capital of the company is rand,
divided into shares of rand, each.
2. All the articles of Table A in the First Schedule to the Companies Act, 1967,
shall, so far as they are applicable to an unlimited company, be deemed to be
incorporated with these articles and to apply to the company.

Signatures of Subscribers:

.....

Signatures of Witnesses:

.....
.....

Full names and Addresses of Witnesses:

.....

.....
Occupations of Witnesses:
.....
.....

Dated the day of, 19

SECOND SCHEDULE

(Section thirty-two and three hundred and seven)

**Form of Statement in Lieu of Prospectus to be delivered to
Registrar by a Private Company on ceasing to be a Private
Company and Reports to be set out therein**

PART I

**FORM OF STATEMENT AND PARTICULARS TO BE
CONTAINED THEREIN**

THE COMPANIES ACT, 1967

Statement in lieu of Prospectus delivered for registration by

.....
(insert the name of the company)

Pursuant to section thirty-two of the Companies Act, 1967

Delivered for registration by

1. Names, descriptions and addresses of directors or proposed directors.
2. (a) The nominal share capital of the company

R

Divided into	Shares of R	each.
	Shares of R	each.
	Shares of R	each.

(b) Amount, if any, of above capital which consists of redeemable preference shares

	Shares of R	each.
--	-------------	-------

(c) The earliest date on which the company has power to redeem these shares

3. (a) Amount of shares issued
- | | | |
|--------------------|-------------|-------|
| Divided into | Shares | |
| | Shares of R | each. |
| | Shares of R | each. |
| | Shares of R | each. |

(b) Amount of commission paid in Connection therewith.

4. Unless more than one year has elapsed since the date on which the company was entitled to commence business:-
 - (a) Amount of preliminary expenses By whom those expenses have been paid or are payable

- (b) Amount paid to any promoter
- (c) Consideration for the payment
- (d) Any other benefit given to any
- (e) Consideration for giving of benefit

Name of promoter:
 Amount, R
 Consideration:
 Name of promoter:
 Nature and value of benefit:
 Consideration:

5. If the share capital of the company is divided into different classes of shares, the right of voting at meetings of the company conferred by, and the rights in respect of capital and dividends attached to, the several classes of shares respectively.
6. Number and amount of shares and debentures issued within the two years preceding the date of this statement as fully or partly paid-up otherwise than for cash or agreed to be so issued at the date of this statement. Consideration for the issue of those shares or debentures.
7. The substance of any contract or arrangement or proposed contract or arrangement, whereby any option of preferential right of any kind has been or is proposed to be given to any person to subscribe for any shares in or debentures of a company or to acquire them from a person to whom they have been allotted or agreed to be allotted with a view to his offering them for sale: giving the number, description and amount of any such shares or debentures and including the following particulars of the option or right.

- 1. shares of R fully paid
- 2.shares upon which R per share credited as paid.
- 3. debenture R
- 4. Consideration:
 - 1.
 - 2. Shares of R and Debentures of R

- (a) the period during which it is exercisable
- (b) The price to be paid for shares or debentures subscribed for under it.
- (c) The consideration, if any, given or to be given for it or for the right to it.
- (d) The names and addresses of the persons to whom it or the right to it was given or if given to existing members or debentures holders as such, the relevant shares or debentures
- (e) Any other material fact or circumstance relevant to the grant of such option or right.

- 3. Until
- 4.
- 5. Consideration:
- 6. Names and addresses:

8. (a) Names and addresses of vendors of property (1) purchased or acquired by the company within the two years preceding the date of this statement, or (2) agreed or proposed to be purchased or acquired by the company, except where the contract for its purchase

7.

or acquisition was entered into in the ordinary course of business and there is no connection between the contract and the company ceasing to be a private company or where the amount of the purchase money is not material.

- (b) Amount (in cash, shares or debentures) paid or payable to each separate vendor.
- (c) Amount paid or payable in cash, shares or debentures for any such property, specifying the amount paid or payable for goodwill.

Total purchase price	R
Cash	R
Shares	R
Debentures	R
Goodwill	R

- (d) Short particulars of any transaction relating to any such property which was completed within the two preceding years and in which any vendor to the company or any person who is, or was at the time thereof, a promoter, director or proposed director of the company had any interest direct or indirect with particulars of such interest.

9. (a) Dates of, parties to, and general nature of every material contract (other than contracts entered into in the ordinary course of business or entered into more than two years before the delivery of this statement).

- (b) Time and place at which the contracts or copies thereof may be inspected or (i) in the case of a contract not reduced to writing, a memorandum giving full particulars thereof, and (2) in the case of a contract wholly or partly in foreign language a copy of a translation thereof in English or Sesotho or embodying a translation in English or Sesotho of the parts in a foreign language, as the case may be, being translation certified in the prescribed manner.

10. Name and address of the auditors of the company.

11. Full particulars of the nature and extent of the interest, if any, of every director or promoter in the promotion of, or in the property acquired within two years of the date of the

12.(a) Rates of the dividends, if any, paid by the company in respect of each

class of shares in the company in each of the five financial years immediately preceding the date of this statement or since the incorporation of the company, which ever period is the shorter.

(b) Particulars of the cases in which no dividends have been paid in respect of any class of shares in any of these years.

(Signatures of the persons above-named as directors or proposed directors or of their agents authorised in writing).

Date
.....
.....

PART II

Reports to be Set Out

1. If unissued shares or debentures of the company are to be applied in the purchase of a business, a report made by accountants (who shall be named in the statement) upon -

- (a) the profits or losses of the business in respect of each of the five financial years immediately preceding the delivery of the statement to the Registrar, and
- (b) the assets and liabilities of the business at the last date to which the accounts of the business were made up.

2. (1) If unissued shares or debentures of the company are to be applied directly or indirectly in any manner resulting in the acquisition or anything to be done in consequence thereof or in connection therewith will become a subsidiary of the company, a report made by accountants (who shall be named in the statement) with respect to the profits and losses and assets and liabilities of the other body corporate in accordance with sub-paragraph (2) or (3) of this paragraph, as the case requires, indicating how the profits or losses of the other body corporate dealt with by the report would, in respect of the shares to be acquired, have concerned members of the company, and for holders of other shares, what adjustments would have fallen to be made, in relation to assets and liabilities so dealt with, if the company had at all material times held the shares to be acquired.

(2) If the other body corporate has no subsidiaries, the report referred to in the foregoing sub-paragraph shall -

- (a) so far as regards profits and losses, deal with the profits or losses of the body corporate in respect of the five financial years immediately preceding the delivery of the statement of the Registrar; and
- (b) so far as regards assets and liabilities, deal with the assets and liabilities of the body corporate at the last date to which the accounts of the body corporate were made up.

(3) If the other body corporate has subsidiaries, the report referred to in sub-paragraph (1) of this paragraph shall -

- (a) so far as regards profits and losses deal separately with the other body corporate's profits or losses as provided by the last foregoing sub-paragraph, and in addition deal -
 - (i) as a whole with the combined profits or losses of its subsidiaries, so far they concern members of the other body corporate; or

- (ii) individually with the profits or losses of each subsidiary, so far as they concern members of the other body corporate;

or, instead of dealing separately with the other body corporate's profits or losses, deal as a whole with the profits or losses of the other corporate and, so far as they concern member of the other body corporate with the combined profits or losses of its subsidiaries; and

- (b) so far as regards assets and liabilities, deal separately with the other body corporate's assets and liabilities as provided by the last foregoing sub-paragraph and, in addition, deal either -
 - (i) as a whole with the combined assets and liabilities of its subsidiaries, with or without the other body corporate's assets and liabilities; or
 - (ii) individually with the assets and liabilities of each subsidiary;and shall indicate as respect the assets and liabilities of the subsidiaries the allowance to be made for persons other than members of the company.

PART III

Provisions Applying to Parts I and II of this Schedule

3. In this Schedule the expression 'vendor' includes a vendor as defined in Part III of the Third Schedule to this Act, and the expression 'financial year' has the mean assigned to it in that Part of that Schedule.

4. If in the case of a business which has been carried on, or of a body corporate which has been carrying on business, for less than five years, the accounts of the business or body corporate have only been made up in respect of four years, three years, two years or one year, Part II of this Schedule shall have effect as if references to four years, three years, two years or one year, as the case may be, were substituted for references to five years.

5. Any report required by Part II of this Schedule shall either indicate by way of note and adjustments as respects the figures of any profits or losses or assets and liabilities dealt with by the report which to the persons making the report appear necessary, or shall make those adjustments and indicate that adjustments have been made.

6. Any report by accountants required by Part II of this Schedule shall not be made by any accountant who is an officer or servant, or a partner or employer of or in the employment of an officer or servant, of the company, or of the company's holding company; and for the purposes of this paragraph the expression 'officer' shall include a proposed director but not an auditor.

THIRD SCHEDULE

(Section forty, forty-two, forty-eight, fifty-one, two hundred and ninety and two hundred and ninety-one)

Matters to be specified in Prospectus and Reports to be Set out Therein

PART I

Matters to be Specified

1. Except where the prospectus is issued prior to the incorporation of the company, the date of incorporation of the company and the address of its registered office.

2. The number of shares, if any, fixed by the articles as the qualification of a director, and any provisions as to the remuneration of directors whether for their services to the company as directors, managing directors or otherwise, whether under the articles or under contract or otherwise.

3. (1) The names, occupations and addresses of the directors, or proposed directors.

(2) The name and address of the auditor, if any.

(3) The term for which any present director and managing director holds office and the manner in and term for which any future director and managing director will be appointed, including information as to any exclusive or special right held in respect of the appointment of any director and managing director.

4. Where shares are offered to the public for subscription, particulars as to-

(a) the minimum amount which, in the opinion of the directors, be raised by the issue of those shares in order to provide the sums, or, if any part thereof is to be defrayed in any other manner, the balance of the sums required to be provided in respect of each of the following matters -

- (i) the purchase price of any property rights (including goodwill, if any) purchased or to be purchased which is to be defrayed in whole or in part out of the proceeds of the issue;
- (ii) any preliminary expenses payable by the company, and any commission so payable to any person in consideration of his agreeing to subscribe for, or of his

- procuring or agreeing to procure subscriptions for, any shares in the company;
- (iii) the repayment of any moneys borrowed by the company in respect of any of the foregoing matters;
- (iv) any other expenditure, stating the nature and purpose thereof and the estimated amount in each case; and

- (b) the amounts to be provided in respect of the matters aforesaid otherwise than out of the proceeds of the issue and the sources out of which those amounts are to be provided.

5. The time of the opening of the subscription lists.

6. (1) The amount payable on application and allotment on each share, and in the case of a second or subsequent offer of shares, the amount offered for subscription on each previous allotment made within the two preceding years, the amount actually allotted and the amount, if any, paid on the shares so allotted.

(2) The amount payable by way of premium, if any, on each share which has been or is to be issued stating the dates of issue, the reasons for any such premium, and, where some shares have been or are to be issued at a premium and other shares at par or at a lower premium, also the reasons for the differentiation, and how any premium has been or is to be disposed of.

7. The substance of any contract or arrangement or proposed contract or arrangement, whereby any option or preferential right of any kind has been or is proposed to be given to any person to subscribe for any shares in or debentures of any company; giving the number, description and amount of any such shares or debentures and including the following particulars of the option or right.

- (a) the period during which it is exercisable;
- (b) the price to be paid for shares or debentures subscribed for under it;
- (c) the consideration, if any, given or to be given for it or for the right to it;
- (d) the names and addresses of the persons to whom it or the right to it was given or if given to existing members or debenture holders as such, the relevant shares or debentures;
- (e) any other material fact or circumstance relevant to the grant of such option or right.

Subscribing for shares or debentures shall, for the purpose of this paragraph, include acquiring them from a person to whom they have been allotted or agreed to be allotted with a view to his offering them for sale.

8. The number and amount of shares and debentures which within the two preceding years have been issued, or agreed to be issued, as fully or

partly paid up otherwise than in cash, and in the latter case the extent to which they are so paid up, and in either case the consideration for which those shares or debentures have been issued or are proposed for intended to be issued.

9. (1) As respects any property to which this paragraph applies-
 - (a) the names and addresses of the vendors;
 - (b) the amount payable in cash, shares or debentures to the vendor and, where there is more than one separate vendor, or the company is a sub-purchaser, the amount so payable to each vendor;
 - (c) short particulars of any transaction relating to the property completed within the preceding two years in which any vendors of the property to the company, or any person who is or was, at the time of the transaction, a promoter or a director or a proposed director of the company, had any interest, direct or indirect. When the vendors, or any of them, are in partnership, the members of the partnership shall not be treated as separate vendors.

(2) The property to which this paragraph applies is property purchased or acquired by the company or proposed so to be purchased or acquired, which is to be paid for wholly or partly out of the proceeds of the issue offered for subscription by the prospectus or the purchase or acquisition of which has not been completed at the date of the issue of the prospectus, other than property -

- (a) the contract for the purchase or acquisition whereof was entered into in the ordinary course of the company's business, the contract not being made in contemplation of the issue nor the issue in consequence of the contract; or
- (b) as respects which the amount of the purchase money is not material.

10. The amount, if any, paid to payable as purchase money in cash, shares or debentures for any property to which the last foregoing paragraph applies, specifying the amount, if any, payable for goodwill.

11. The amount, if any, and the nature and extent of any consideration, paid within the two preceding years, or payable as commission to any person (including commission so paid or payable to any sub-underwriter, who is a promoter or director or other officer of the company but excluding commission so paid or other officer of the company but excluding commission so paid or payable to any other sub-underwriter) for subscribing or agreeing to subscribe, or procuring or agreeing to procure subscriptions for any shares in, or debentures of the company, the name, occupation and address of each person, particulars of the amounts which each has underwritten or sub-underwritten, of the rate of the commission payable for such underwriting, or sub-underwriting, and any other material term or condition of the underwriting or sub-underwriting contract with such person; and when such person is a company, the name of the directors

of such company and the nature and extent of any interest, direct or indirect, in such company of any promoter, director or other officer of the company in respect of which the prospectus is issued.

12. The amount or estimated amount of preliminary expenses and the persons by whom any of the expenses have been paid or are payable, and the amount or estimated amount of the expenses of the issue and the persons by whom any of these expenses have been paid or are payable.

13. Any amount or benefit paid or given within the two preceding years or intended to be paid or given to any promoter, with his name and address, or to any partnership, syndicate or other association of which he is or was at any material time a member, and the consideration for such payment or the giving of such benefit.

14. The dates of, parties to and general nature of every material contract, not being a contract entered into in the ordinary course of the business carried on or intended to be carried on by the company or a contract entered into more than two years before the date of issue of the prospectus and a reasonable time and place at which any such contract or copy thereof may be inspected.

15. Full particulars of the nature and extent of the interest, if any, of every director or promoter in the promotion of, or in the property acquired within two years of the date of the prospectus or proposed to be acquired by the company or, where the interest of such director or promoter consists in being a member of a partnership, company, syndicate or other association of persons, the nature and extent of the interest of such partnership, company syndicate or other association, with a statement of all sums paid or agreed to be paid to him or it in cash or shares or otherwise by any person either to induce him to become, or to qualify as a director or otherwise for services rendered by him or by it in connection with the promotion or formation of the company.

16. (1) The number of founders' and management or deferred shares, if any, and any special rights attaching thereto, and the nature and extent of the interest of the holders in the property and profits of the company.

(2) Particulars of the share capital, nominal issued, paid up and held in reserve the number and classes of shares and the nominal value thereof; and if the prospectus invites the public to subscribe for shares in the company, a description of the respective voting rights, preference, conversion and exchange rights, rights to dividends, profits or capital of each class, including redemption rights and rights on liquidation or distribution of capital assets.

17. In the case of a company which has been carrying on business, or of a business which has been carried on for less than five years, the length of time during which the business of the company or the business to be acquired, as the case may be, has been carried on.

PART II

Reports to be Set Out

18. (1) A report by the auditors of the company with respect to -
- (a) profits and losses and assets and liabilities, in accordance with sub-paragraph (2) or (3) of this paragraph as the case requires; and
 - (b) The rates of the dividends, if any, paid by the company in respect of each class of shares in the company in respect of each of the five financial years immediately preceding the issue of the prospectus, giving particulars of each such class of shares on which such dividends have been paid and particulars of the cases in which no dividends have been paid in respect of any class of shares in respect of any of those years;
- and, if no accounts have been made up in respect of any part of the period of five years ending on a date three months before the period of five years ending on a date three months before the issue of the prospectus, containing a statement of that fact.
- (2) If the company has no subsidiaries, the report shall -
- (a) so far as regards profits and losses, deal with the profits or losses of the company in respect of each of the five financial years immediately preceding the issue of the prospectus; and
 - (b) so far as regards assets and liabilities, deal with the assets and liabilities of the company at the last date to which the accounts of the company were made up.
- (3) If the company has subsidiaries, the report shall -
- (a) so far as regards profits and losses, deal separately with the company's profits or losses as provided by the last foregoing sub-paragraph, and in addition, deal -
 - (i) as a whole with the combined profits or losses of its subsidiaries, so far as they concern members of the company; or
 - (ii) individually with the profits or losses of each subsidiary, so far as they concern members of the company;or instead of dealing separately with the company's profits or losses, deal as a whole with the profits or losses of the company and, so far as they concern members of the company, with the combined profits or losses of its subsidiaries; and
 - (b) so far as regards assets and liabilities, deal separately with the company's assets and liabilities as provided by the last foregoing sub-paragraph and, in addition, deal either -

- (i) as a whole with the combined assets and liabilities of its subsidiaries, with or without the company's assets and liabilities; or
- (ii) individually with the assets and liabilities of each subsidiary;
and shall indicate as respects the assets and liabilities of the subsidiaries the adjustments to be made for persons other than members of the company.

19. If the proceeds, or any part of the proceeds, of the issue of the shares or debentures are or is to be applied directly or indirectly in the purchase of any business, a report made by accountants (who shall be named in the prospectus) upon -

- (a) the profits or losses of the business in respect of each of the five financial years immediately preceding the issue of the prospectus; and
- (b) the assets and liabilities of the business at the last date to which the accounts of the business were made up.

20. (1) If -

- (a) the proceeds, or any part of the proceeds, of the issue of the shares or debentures are or to be applied directly or indirectly in any manner resulting in the acquisition by the company of shares in any other body corporate; and
- (b) by reason of that acquisition or anything to be done in consequence thereof or in connection therewith that body corporate will become a subsidiary of the company;

a report made by accountants (who shall be named in the prospectus) upon -

- (i) the profits or losses of the other body corporate in respect of each of the five financial years immediately preceding the issue of the prospectus; and
- (ii) the assets and liabilities of the other body corporate at the last date to which the accounts of the body corporate were made up.

(2) the said report shall -

- (a) indicate how the profits or losses of the other body corporate dealt with by the report would, in respect of the shares to be acquired, have concerned members of the company, and for holders of other shares, what allowances would have fallen to be made, in relation to assets and liabilities so dealt with, if the company had at all material times held the shares to be acquired; and
- (b) where the other body corporate has subsidiaries, deal with the profits or losses and the assets and liabilities of the body corporate and its subsidiaries in the manner provided by subparagraph (3) of paragraph 18 of this Schedule in relation to the company and its subsidiaries.

PART III
Provisions Applying to Parts I and II of Schedule

21. Paragraph 2 and paragraph 12 (so far as it relates to preliminary expenses) and paragraph 15 of this Schedule shall not apply in the case of a prospectus issued more than three years after the date at which the company is entitled to commence business.

21. Every person shall for the purpose of this Schedule, be deemed to be a vendor who has entered into any contract, absolute or conditional for the sale or purchase, or for any portion of purchase, of any property to be acquired by the company, in any case where-

- (a) the purchase money is not fully paid at the date of the issue of the prospectus;
- (b) the purchase money is to be paid or satisfied wholly or in part out of proceeds of the issue offered for subscription by the prospectus; or
- (c) the contract depends for its validity or fulfilment on the result of that issue.

23. Where any property to be acquired by the company is to be taken on lease, this Schedule shall have effect as if the expression "vendor" included the lessor, and the expression "purchase money" included the consideration for the lease, and the expression "sub-purchaser" included as sub-lease.

24. If in the case of a company which has been carrying on business, or of a business which has been carried on for less than five years, the accounts of the company or business have only been made up in respect of four years or one year, as the case may be, were substituted for references to five years.

25. The expression "financial year" in Part III of this Schedule means the year in respect of which the accounts of the company or of the business, as the case may be, are made up, and where by reason of any alteration of the date on which the financial year of the company or business terminates the accounts of the company or business have been made up for a period greater or less than a year, that greater or less period shall for the purpose of that Part of this Schedule be deemed to be a financial year.

26. Any report required by Part II of this Schedule shall either indicate by way of note any adjustments as respects the figures of any profits or losses or assets and liabilities dealt with by the report which appear to the persons making the report necessary, or shall make those adjustments and indicate that adjustments have been made.

27. Any report by accountants required by Part II of this Schedule shall not be made by any accountant who is an officer or servant, or a partner or employer of or in the employment of an officer or servant, of the company or of the company's subsidiary or holding company or of a subsidiary of the company's holding company; and for the purposes of this paragraph that the expression "officer" shall include a proposed director but not an auditor.

FOURTH SCHEDULE

(Sections fifty-two and three hundred and seven)

**Form of Statement in Lieu of Prospectus to be Delivered
to Registrar by a company which does not issue a Prospectus
or which does not go to Allotment on a Prospectus issued,
and Reports to be set out therein**

PART I

Form of Statement and Particulars to be Contained Therein

THE COMPANIES ACT, 1967

Statement in lieu of Prospectus delivered for registration by
.....
(Insert the name of the Company)

Pursuant to section thirty-two of the Companies Act, 1967
Delivered for registration by

1. Names, description and addresses of directors or proposed directors.

2. (a) The nominal share capital of the company R

divided into	shares of R	each
	shares of R	each
	shares of R	each

 (b) Amount, if any, of above capital which consists of redeemable Shares of R each

© The earliest date on which the company has power to redeem these shares	
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3. If the share capital of the company is divided into different classes of shares, the right of voting at meetings of the company of capital and dividends attached to, the several classes of shares respectively.

4. (a) Number and amount of shares and debentures agreed to be issued as

1.	share of R
	fully paid.

fully or partly paid up otherwise than in cash.

2. shares upon which R..... per share credited..... as paid.

3. debenture R

4. consideration:

(b) The consideration for the intended issue of those shares and debentures.

5. The substance of any contract or arrangement or proposed contract or arrangement, whereby any option or preferential right of any kind has been or is proposed to be given to any person to subscribe for any shares in or debentures of a company or to acquire them from a person to whom they have been allotted or agreed to be allotted with a view to his offering them for sale: giving the number description and amount of any such shares or debentures and including the following particulars of the option or right:-

1.

2. Shares of R and Debentures of R

(a) the period during which it is exercisable

3. Until

(b) the price to be paid for shares or debentures subscribed for under it.

4.

(c) The consideration, if any, given or to be given for it or for the right to it.

5. Consideration:

(d) The names and addresses of the person to whom it or the right to it was given or if given to existing members or debenture holders as such, the relevant shares or debentures.

6. Names and addresses:

(e) any other material fact or circumstances relevant to the grant of such option or right.

7.

6. (a) Names and addresses of vendors of property purchased or acquired or proposed to be purchased or acquired by the company except where the contract for its purchase or a acquisition was entered into in the ordinary course of the business intended to be carried on by the company or the amount of the purchase money is not material.

(b) Amount (in cash, shares or debentures) payable to each separate vendor.

(c) The amount payable by way of premium, if any, on each share which has been or is to be issued stating the reasons for any such premium, and where some shares have been or are to be issued at a

premium and other shares at a lesser or no premium, also the reasons for the differentiation, and how any premium is to be or has been disposed of.

- (d) Amount if any, paid or payable (in cash or shares or debentures) for any such property, specifying amount, if any paid or payable for goodwill.
- | | |
|----------------------|----------|
| Total purchase price | R |
| Cash | R |
| Shares | R |
| Debentures | <u>R</u> |
| Goodwill | <u>R</u> |
- (e) Short particulars of any transaction relating to any such property which was completed within the two preceding years and in which any vendor to the company or any person who is, or was at the time thereof, a promoter, director or proposed director direct or indirect with particulars of such interest.
7. (a) amount, if any, paid or payable as commission for subscribing or agreeing to subscribe or procuring or agreeing to procure subscriptions for any shares or debentures in the company: or
- (b) Rate of the commission.
- (c) The number of shares, if any, which persons have agreed for a commission to subscribe absolutely.
8. (a) Estimated amount of preliminary expenses
- R
- (b) By whom those expenses have been paid or are payable.
- (c) amount paid or intended to be paid to any promoter
- Name of promoter
Amount R
- Consideration for the payment
- Consideration:
- (d) any other benefit given or intended to be given to any promoter
- Name of promoter
Nature and value of benefit:
- Consideration for giving of benefit
- Consideration:
9. (a) Dates of, parties to and general nature of every material contract (other than contracts entered into in the ordinary course of the company or entered into more than two years before the delivery of this statement).
- (b) Time and place at which the contracts or copies thereof may be inspected (1) in the case of a contract not reduce to writing a memorandum giving full particulars thereof, and (2) in the case of a contract wholly or partly in a foreign language, a copy of a translation thereof in English or

Sesotho embodying a translation in English or Sesotho of the Parts in a foreign language, as the case may be, being a translation certified in the prescribed manner.

10. Names and addresses of the auditors of the company, if any.
11. full particulars of the natures and extent of the interest, if any, of every director or promoter in the promotion of, or in the property acquired within two years of the date of the prospectus or proposed to be acquired by, the company, or where the interest of such director or promoter consists in being a member of a partnership, company, syndicate or other association and the nature and extent of such director's or promoter's interest in the partnership, company, syndicate or other association, with a statement of all sums paid or agreed to be paid to him or to it in cash or shares or otherwise by any person either to induce him to become, or to qualify him as, a director or otherwise for services rendered by him or by it in connection with the promotion or formation of the company. (Signature of the persons above-named as directors or proposed directors or of their agents authorised in writing).

Date
.....
.....

PART II
Reports to be Set Out

1. Where it is proposed to acquire a business, a report made by accountants (who shall be named in the statement) upon -
 - (a) the profits or losses of the business in respect of each of the five financial years immediately preceding the delivery of the statement to the Registrar; and
 - (b) the assets and liabilities of the business at the last date to which the accounts of the business were made up.

2. (1) Where it is proposed to acquire shares in a body corporate which by reason of the acquisition or anything to be done in consequence thereof or in connection therewith will become a subsidiary of the company, a report made by accountants (who shall be named in the statement) with respect to the profits and losses and assets and liabilities of the other body corporate in accordance with sub-paragraph (2) or (3) of this paragraph, as the case requires indicating how the profits or losses of the body corporate dealt with by the report would, in respect of the shares to be acquired, have concerned members of the company, and what allowance would have fallen to be made in relation to assets and liabilities so dealt with, for holders of other shares, if the company had at all material times held the shares to be acquired.

(2) If the other body corporate has no subsidiaries, the report referred to in the foregoing sub-paragraph shall -

- (a) so far as regards profits and losses, deal with the profits or losses of the body corporate in respect of each of the five financial years immediately preceding the delivery of the statement to the Registrar; and
- (b) so far as regards assets and liabilities, deal with the assets and liabilities of the body corporate at the last date to which the accounts of the body corporate were made up.

(3) If the other body corporate has subsidiaries the report referred to in sub-paragraph 91) of this paragraph shall -

- (a) so far as regards profits and losses, deal separately with the other body corporate's profits or losses as provided by the last foregoing sub-paragraph, and in addition deal -
 - (i) as a whole with the combined profits or losses of its subsidiaries, so far as they concern members of the other body corporate; or
 - (ii) individually with the profits or losses of each subsidiary, so far as they concern members of the other body corporate; orinstead of dealing separately with the other body corporate's profits or losses, deal as a whole with the profits or losses of the other body corporate and, so far as they concern members of the other body corporate, with the combined profits or losses of its subsidiaries; and
- (b) so far as regards assets and liabilities, deal separately with the other body corporate's assets and liabilities as

provided by the last foregoing sub-paragraph and, in addition, deal either -

- (i) as a whole with the combined assets and liabilities of its subsidiaries, with or without the other body corporate's assets and liabilities; or
- (ii) individually with the assets and liabilities of each subsidiary;

and shall indicate as respects the assets and liabilities of the subsidiaries the allowance to be made for persons other than members of the company.

PART III

Provisions Applying to Parts I and II of this Schedule

3. In this Schedule the expression "vendor" includes a vendor as defined in Part III of the Third Schedule to the Act, and the expression "financial year" has the meaning assigned to it in that Part of that Schedule.

4. If in the case of a business which has been carried on, or of a body corporate which has been carrying on business for less than five years, the accounts of the business or body corporate have only been made up in respect of four years, three years, two years or one year, Part II of this Schedule shall have effect as if references to four years, three years, two years or one year, as the case may be, were substituted for references to five years.

5. Any report required by Part II of this Schedule shall either indicate by way of note any adjustment as respects the figures of any profits or losses or assets and liabilities dealt with by the report which appear to the persons making the report necessary or shall make those adjustments and indicate that adjustments have been made.

6. Any report by accountants required by Part II of this Schedule shall not be made by any accountant who is an officer, or servant, or a partner or employer of or in the employment of an officer or servant, of the company or of the company's subsidiary or holding company or of a subsidiary of the company's holding company, and for the purposes of this paragraph the expression "officer" shall include a proposed director but not an auditor.
