
Corporations Act 2001
A Company Limited by Guarantee

RAIL INDUSTRY SAFETY AND STANDARDS BOARD LIMITED
CONSTITUTION
2010

This Constitution was endorsed by the RISSB Board on 17 March 2010 and approved by the Member on 3 May 2010.



Tony Drake
Chairman
Rail Industry Safety and Standards Board

04 May 2010

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CONSTITUTION
of
Rail Industry Safety and Standards Board Limited

DATE: 2010

OPERATIVE CLAUSES:

1. PRELIMINARY

1.1 Interpretation

In this document, unless the context otherwise requires

- (a) **"Alternate Director"** means a person for the time being holding office as an alternate director of the Company under clause 5.4;
- (b) **"ARA"** means the Australasian Railway Association Inc. as represented by the CEO of ARA;
- (c) **"ARA Class 1 Member"** means an Class 1 member as determined by the ARA;
- (d) **"Australian Code of Practice (ACOP)"** means the term used to describe RISSB Products, namely standards, codes of practice, rules and guidelines;
- (e) **"Company"** means Rail Industry Safety and Standards Board Limited;
- (f) **"Corporations Act"** means the Corporations Act 2001 (Commonwealth), except to the extent of any exemption, modification, declaration or order made in respect of that legislation which applies to the Company;
- (g) **"Directors"** means the directors of the Company for the time being, and if the Company has only one director, that director;
- (h) **"Government"** means the Commonwealth of Australia as represented by the Department of Infrastructure, Transport, Regional Development and Local Government;
- (i) **"Industry"** means the Rail Industry in Australia including infrastructure owners and managers, rail operators and rail product and service suppliers.
- (j) **"Member"** means a person for the time being registered under clause 3 of the Constitution as a member of the Company;
- (k) **"Personal Representative"** means the legal personal representative, executor or administrator of the estate of a deceased person;
- (l) **"Register"** means the register of Members of the Company;
- (m) **"Related Company"** means any body corporate which is a related body corporate of the Company under the Corporations Act;

- (n) **"RISSB"** means the Rail Industry Safety and Standards Board Limited;
- (o) **"Secretary"** means a company secretary of the Company for the time being; and
- (p) **"Subsidiary"** means any company or corporation which is a subsidiary of the Company in accordance with the Corporations Act.

1.2 Words or expressions contained in this Constitution will be interpreted in accordance with the provisions of the Corporations Act as in force at the date when such interpretation is required.

1.3 In this Constitution, unless a contrary intention appears:

- (a) words importing the singular include the plural and vice versa;
- (b) words importing any gender include all other genders;
- (c) words importing persons include companies and corporations;
- (d) any headings inserted in this Constitution are included for convenience and shall not affect its construction;
- (e) the word "includes" in any form is not a word of limitation;
- (f) the word "person" includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust; and
- (g) where a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning.

1.4 **Name of Company**

The name of the Company is the Rail Industry Safety and Standards Board Limited.

1.5 **Nature of the Company**

- (a) The Company is limited by guarantee and does not have share capital.
- (b) The income and property of the Company, however derived or obtained, shall be applied solely towards the promotion of the objects of the Company as set forth in this Constitution, and, except as otherwise provided in this Constitution, no portion thereof shall be paid or transferred, directly or indirectly by way of dividend, bonus, or otherwise to the Member.

1.6 **Replaceable Rules**

The Replaceable Rules in the Corporations Act do not apply to the Company.

2. **OBJECTS & POWERS**

2.1 **Objects of the Company**

The objects for which the Company is established are to:

- (a) develop, own, amend and manage a suite of documents, "the Australian Code of Practice (ACOP)" including codes, standards, rules, guidelines and other documents necessary and desirable to promote railway industry standardisation in Australia;
- (b) publish, distribute and promote the ACOP to maximise its adoption across the industry;

- (c) promote and implement initiatives on behalf of the Australian rail industry where requested and supported by the Australasian Railways Association (ARA) including:
 - (i) rail safety;
 - (ii) rail level crossing safety;
 - (iii) industry harmonisation to promote efficiency; and
 - (iv) other initiatives as agreed between the Company and ARA from time to time.

2.2 **ARA Directions**

The ARA shall from time to time give directions to the Company (Directions) and such Directions shall be binding on the Company

2.3 **Powers of the Company**

The Company has the powers set out in the Corporations Act but only to do all things that are necessary, convenient or incidental to carry out the objects set out in clause 2.1 and the Directions pursuant to clause 2.2.

3. **MEMBERSHIP**

3.1 The Company shall have one (1) Member.

3.2 The Member shall be the ARA.

3.3 The ARA agrees to provide a guarantee of not less than ten dollars (\$10.00) to defray such liabilities and expenses of the Company upon its winding up or dissolution.

3.4 The Company may pass a resolution by the Member signing a record in writing of that Resolution.

3.5 **Register of Member**

- (a) The Company Secretary must maintain a Register of Member of the Company at the registered office.
- (b) The address of the Member in the Register of Member will be the address of the Member for the purpose of service of any notices to the Member.
- (c) The rights of the Member are not transferable.

3.6 **Liability of Member**

The Liability of the Member is limited.

3.7 **Cessation of Membership**

- (a) Membership of the Company will terminate upon:
 - (i) the Company Secretary receiving from the Member a letter of resignation; or
 - (ii) the Member, that is a body corporate, has a liquidator, provisional liquidator or administrator appointed or otherwise takes steps to obtain protection, or is granted protection, from its creditors under any applicable legislation.
- (b) The Member whose membership of the Company is terminated will be liable for all moneys due by that Member to the Company in addition to any sum not exceeding ten dollars (\$10.00) for which the Member is liable under this Constitution.

- (c) The Member whose membership is terminated must not make any claim, monetary or otherwise, on the Company, its funds or property, except as a creditor of the Company.

4. MEETINGS OF THE MEMBER

4.1 Resolutions as a one Member Company

- (a) Since the Company has only one Member, the Company may pass a resolution without a meeting of the Member, by that Member signing a record in writing of that resolution.
- (b) The Company may pass a resolution without a meeting of the Member in accordance with Section 249A of the Corporations Act as if the Company were a proprietary company.

4.2 General Meetings

- (a) All meetings of the Company will be called General Meetings.
- (b) The Member is entitled to receive notice of and to attend and to vote at General Meetings.

4.3 Calling of Meetings of the Member

- (a) Subject to the Corporations Act, the Directors may call a meeting of the Member at a time and place as the Directors resolve.
- (b) The Directors must call and arrange to hold a general meeting on the request of the Member made in accordance with the Corporations Act.
- (c) The Member may call and arrange to hold a general meeting as provided by the Corporations Act.

4.4 Notice of Meetings

- (a) The Company must give not less than twenty one (21) days notice of a meeting of the Member.
- (b) A notice of a meeting of the Member is taken to be given three (3) days after it is posted. A notice of meeting of the Member sent by fax, or other electronic means, is taken to be given on the business day after it is sent.
- (c) Notice of a meeting of the Member must be given to the Member, each Director, each Alternate Director and any Auditor of the Company.
- (d) A notice of a meeting of the Member must:
 - (i) set out the place, date and time for the meeting;
 - (ii) state the general nature of the business of the meeting; and
 - (iii) set out or include any other information or documents specified by the Corporations Act.
- (e) With the consent in writing of the Member and as required by the Corporations Act, a meeting may be convened by a shorter notice and in any manner the Member may think fit.

- (f) The accidental omission to give notice to, or the non-receipt of notice by, the Member or another entitled Person, will not invalidate the proceedings or any resolution at any Company meeting.

4.5 **Right to Attend Meetings**

- (a) The Member and any Auditor of the Company is entitled to attend any meetings of the Member.
- (b) Subject to this Constitution, each Director may be invited to attend and speak at meetings of the Member.

4.6 **Quorum**

- (a) A quorum for a meeting of the Member is one (1).
- (b) In determining whether a quorum for a meeting of the Member is present:
 - (i) where more than one proxy, attorney or representative of a Member is present, only one of those persons is counted;
 - (ii) where a person is present as a Member and as a proxy, attorney or representative of another Member, that person is counted once for the purposes of the quorum.
- (c) A quorum for a meeting of the Member must be present at all times during the meeting.
- (d) If a quorum is not present within thirty (30) minutes after the time appointed for a meeting of the Member:
 - (i) if the meeting was called under clause 4.3(b) or clause 4.3(c), the meeting is dissolved; and
 - (ii) another meeting is adjourned to the date, time and place as the Directors may by notice to the Member appoint, or failing any appointment, to the same day in the next week at the same time and place as the meeting adjourned.

4.7 **Chairperson for General Meetings**

The Chairperson or another Director is to act as Chairperson for all General Meetings but does not hold a vote.

4.8 **Adjourned Meetings**

- (a) The Chairperson of any General Meeting may, with the consent of any meeting in which a quorum is present (and shall as directed by that meeting), adjourn the meeting to another time and/or another place, but no further business may be transacted at the meeting from which the adjournment took place until the meeting is resumed.
- (b) Where a meeting is adjourned, new notice of the resumed meeting must be given if the meeting is adjourned for one month or more.

4.9 **General Conduct of Meetings**

- (a) Subject to the Corporations Act, the Chairperson of a meeting of the Member is responsible for the general conduct of that meeting and for the procedures to be adopted at that meeting.

- (b) The chairperson of a meeting of the Member may delegate any power conferred by this Constitution in respect of the conduct of the meeting to any person.
- (c) Only unfinished business is to be transacted at a meeting resumed after an adjournment.

4.10 Resolutions of the Member

- (a) Subject to the Corporations Act, a resolution is passed if the Member vote is cast in favour of the resolution.
- (b) A challenge to a right to vote at a meeting of the Member may only be made at the meeting and must be determined by the Chairperson, whose decision is final.
- (c) A Member who is entitled to attend and cast a vote at a meeting of the Member may appoint a person as the Member's proxy to attend and vote for the Member at the meeting. Such appointment must be in writing and include the name of the Member, the name of the proxy and the signatures of both. Scanned copies of originals are acceptable.
- (d) Unless the Company has received written notice of the matter before the start or resumption of the meeting at which a proxy votes, a vote cast by the proxy will be valid even if, before the proxy votes:
 - (i) the appointing Member dies; or
 - (ii) the Member is mentally incapacitated; or
 - (iii) the Member revokes the proxy's appointment; or
 - (iv) the Member revokes the authority under which the proxy was appointed by a third party.

A proxy's authority to vote is suspended while the Member is present at the meeting.

4.11 Electronic Meetings of Members

A Meeting of the Member may be called or held using any technology that provides contemporaneous linking together by an instantaneous communication device.

5. COMPANY BOARD

5.1 The affairs of the Company shall be controlled and managed by or under the direction of the Board constituted pursuant to clause 5.3.

5.2 The Board shall control and manage the affairs of the Company and may:

- (a) subject to these clauses and the Corporations Act, exercise all such powers of the Company other than those powers and functions that are required by these clauses to be exercised by General Meetings of the Member;
- (b) subject to these clauses and the Corporations Act, has power to perform all such acts and things as appear to the Board to be desirable or essential for the proper management of the business affairs of the Board including the arrangement of all compulsory insurances;
- (c) appoint such other working groups as it deems necessary. Such working groups may include persons who are not the Member;
- (d) appoint from time to time the General Manager to fulfil the duties of that office; and

- (e) refer certain issues to the ARA Board where such issues would impact on the strategic priorities of the ARA.

5.3 The Board shall consist of a maximum of eleven (11) Directors and shall be appointed by the Company upon the recommendation of the RISSB Board and the endorsement of the ARA Board. Directors shall be selected from rail industry companies which are ARA Members.

5.4 A Director must be a natural person nominated by their employer or sponsoring organisation. While Directors may represent their sponsors positions in discussion on issues considered by the Board they are required to act in the interests of the Company as a whole when deciding issues.

5.5 Each Director shall, subject to these clauses, hold office as a director until they resign or are replaced in accordance with clause 8 of this Constitution.

6. PROCEEDINGS OF THE BOARD

6.1 The Board shall meet at least four (4) times each calendar year at such places and such times as the Board may determine.

6.2 Meetings of the Board may be convened by the Chairperson or by any four (4) Directors including no less than two (2) Directors nominated by an ARA Class 1 Member.

6.3 50% of Directors (personally present or participating by telephonic or electronic media) constitute a quorum for the business of a meeting of the Board. For certainty, Directors include Alternate Directors where Directors are not available.

6.4 No business shall be transacted at a Board meeting unless a quorum is present and if, within thirty (30) minutes of the time appointed for the meeting a quorum is not present, the meeting shall be dissolved.

6.5 Questions arising at a meeting of the Board or of any working group appointed by the Board shall be determined on a show of hands or, if demanded by a Director, by a poll taken in such a manner as the person presiding at the meeting may determine.

6.6 Each Director present at a meeting of the Board (including the person presiding at the meeting) is entitled to one (1) vote and, in the event of an equality of votes on any question, the Chairperson shall have a second or casting vote.

6.7 Written notice of each meeting of the Board shall be served on each Director at least seven (7) business days before the meeting by:

- (a) delivering it to them personally; or
- (b) sending it by facsimile or electronic transmission to a number or email address nominated by the Director.

6.8 If it is afterwards discovered that there was some defect in the election or appointment of a person to be an officer or a Director by the Board, or to act in that capacity, or that a person so elected or appointed was disqualified, all acts done by that person are valid as if the person had been duly elected or appointed and was qualified to act in that capacity.

6.9 A Meeting of Directors may be called or held using any technology that provides contemporaneous linking together by an instantaneous communication device.

7. OUT OF SESSION DECISIONS

7.1 A resolution in writing agreed and signed by a majority of the Directors for the time being entitled to receive notice of a meeting of the Board, shall be as valid and effectual as if it has been passed at a meeting of the Board duly convened and held. Any such resolution may consist of several documents in like form, each signed by one (1) or more Directors. Electronic

copies of scanned originals of signed copies will be sufficient evidence of a signed assent by Directors.

8. VACATION OF OFFICE

8.1 For the purposes of the Constitution, the office (as a Board Director or Chairperson) becomes vacant if:

- (a) the Director or Chairperson:
 - (i) dies or ceases to be employed within the Industry;
 - (ii) becomes bankrupt or insolvent;
 - (iii) resigns their office by notice in writing given to the Secretary;
 - (iv) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under a law relating to mental health;
 - (v) fails to attend three (3) consecutive meetings without prior notice of absence having been approved by the Board; or
- (b) where an organisation or association is entitled to nominate a Director and:
 - (i) fails to do so under clause 5.4 within one (1) month after receiving written notice from the Secretary requesting that such an appointment be made; or
 - (ii) becomes bankrupt.

9. ALTERNATE DIRECTOR

9.1 A Director may appoint a person as an Alternate Director of that Director to exercise some or all of the Director's powers for a specified period.

9.2 The appointing Director may terminate the appointment of his or her Alternate Director at any time.

9.3 An Alternate Director is an officer of the Company and not an agent of his or her appointing Director.

10. INTERESTS OF DIRECTORS

10.1 If a Director has a material personal interest in a matter that relates to the affairs of the Company and

- (a) the Director discloses the nature and extent of the interests and its relation to the affairs of the Company at a meeting of the Directors in accordance with the Corporations Act; or
- (b) the interest is one that does not need to be disclosed; then
 - (i) the Director may vote on matters that relate to the interest; and
 - (ii) any transaction that relates to the interest may proceed; and
 - (iii) the Director may retain benefits under the transaction even though the Director has the interest; and
 - (iv) the Company cannot avoid the transaction merely because of the existence of the interest.

10.2 If disclosure is required in accordance with the Corporations Act, clauses 10.1(a)(iii) and 10.1(a)(iv) apply only if the disclosure is made before the transaction is entered into.

11. CHAIRPERSON

11.1 An independent Chairperson shall be appointed by the Board and endorsed by ARA and shall hold office immediately on appointment for a period of three (3) years. The appointment may be renewed or extended for a specific period by the ARA.

11.2 The Member may remove the Chairperson at any time.

11.3 The Directors may recommend to the Member that the Chairperson be removed.

11.4 The Chairperson must (if present within fifteen (15) minutes after the time appointed for the holding of the meeting and willing to act) chair each meeting of Directors.

11.5 The Chairperson must maintain oversight of the Company and the performance of the General Manager and keep the Board informed of any issues relevant to the Company.

11.6 The Directors present must elect one of themselves to chair all or part of the meeting of Directors if:

- (a) there is no Chairperson; or
- (b) the Chairperson is not present within 15 minutes after the time appointed for the holding of a meeting of Directors; or
- (c) the Chairperson is present within that time but is not willing to chair all or part of that meeting.

12. SECRETARY

12.1 The Secretary shall be the person appointed as General Manager.

12.2 The Secretary of the Board shall:

- (a) arrange to keep minutes of the resolutions and proceedings of each general meeting and each Board meeting in books provided for that purpose, together with a record of the names of persons present at meetings;
- (b) arrange to retain copies of all board papers and if in electronic form to be kept backed up on separate medium on separate systems;
- (c) shall collect and receive all moneys due to the Board and make all payments on behalf of the Board;
- (d) shall keep correct accounts and books showing the financial affairs of the Board with full details of all receipts and expenditure connected with the activities of the Board; and
- (e) prepare and file on behalf of the Board all Company returns required by the Corporations Act.

12.3 The accounts and books shall be available for inspection at all reasonable times by the Member.

13. GENERAL MANAGER

13.1 The ARA shall approve the remuneration of the General Manager upon recommendation by the Board.

- 13.2 The General Manager shall be responsible for the day to day running of RISSB including:
- (a) financial management including the preparation and lodgement of tax and other returns required by law;
 - (b) human resource management;
 - (c) marketing and public relations;
 - (d) project management;
 - (e) assisting the Board in its development of its strategic plan; and
 - (f) developing operational plans to give effect to the Company's strategic plan.

14. EXECUTION OF DOCUMENTS

14.1 If the Company has a common seal, the Company may execute a document if that seal is fixed to the document and the fixing of that seal is witnessed by:

- (a) two (2) Directors;
- (b) a Director and a Secretary;
- (c) a Director and another person appointed by the Directors for that purpose.

14.2 The Company may execute a document without a common seal if the document is signed by:

- (a) two (2) Directors;
- (b) a Director and a Secretary;
- (c) a Director and another person appointed by the Directors for that purpose;

14.3 The Company may execute a document as a Deed if the document is expressed to be executed as a Deed and is executed in accordance with clause 14.1 or clause 14.2 or is executed by a person duly appointed as an attorney of the Company under a valid Power of Attorney.

14.4 The Directors may resolve, generally or in a particular case, that any signature on certificates for securities of the Company may be affixed by mechanical or other means.

14.5 Negotiable instruments may be signed, drawn, accepted, endorsed or otherwise executed by or on behalf of the Company in the manner and by the persons as the Directors resolve.

15. OTHER COMMITTEES

The Board may appoint such committees as it deems appropriate and which may include Persons who are not the Member of the Company.

16. ADMINISTRATION

16.1 Minutes and Board Papers

- (a) The Board will cause minutes to be made in books in accordance with the Corporations Act and to be provided for the purpose of:
 - (i) all appointments of officers made by the Board;
 - (ii) the names of the Directors present at each Board meeting and at any committee meetings; and

- (iii) all resolutions and proceedings at all meetings of the Company and the Member of the Company and of the Directors and of committees
- (b) The minutes book must be held at the registered office of the Company.
- (c) The minutes and Board papers must be made available on request to any current and former Director and may be used by a Director or former Director in any legal proceeding except a proceeding instituted by the Director against the Company.

16.2 **Accounts**

- (a) A separate bank account shall be established in which all of the Company's income and expenditure is recorded.
- (b) The Board will cause proper books of account to be kept in which shall be kept full, true and complete accounts of the affairs and transactions of the Company. Proper books will not be deemed to be kept unless the books give true and fair view of the state of the Company's affairs and explain the transactions.
- (c) Subject to any reasonable restrictions as to the time and manner of inspecting the same that may be imposed in accordance with the Constitution, the books of account must be kept at the registered office and any other place the Board requires and will be open to the inspection of the Board at any time.
- (d) The Board will provide financial reports, which comprise a balance sheet and an income statement in respect of the last completed financial year of the Company and as required by the Corporations Act.

16.3 **Income**

The bulk of the Company's income is received from the rail industry and the Government (under the cover of a funding MOU between the ATC and the Member). Other revenue is obtained through conferences and the sale of RISSB products.

16.4 **Payments**

All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments for payment shall be signed by at least two (2) accredited officers authorised to do so by the Board or if electronic via two independent electronic signoffs by separate accredited officers.

16.5 **Audit**

- (a) The books of account, and financial reports and records shall be audited each year by an Auditor or Auditors appointed by the the ARA (the Member) in accordance with the Corporations Act.
- (b) The remuneration of the Auditor must be fixed and the Auditor's duties regulated in accordance with the Corporations Act.
- (c) If any casual vacancy occurs in the office of the Auditor the ARA shall appoint the Auditor and fix the Auditor's fee within one month of the vacancy. The Auditor so chosen will hold Office as Auditor of the Company until the next General Meeting following their appointment.
- (d) The Auditor or the Auditor's agent so authorised in writing is entitled:
 - (i) to attend any General Meeting;
 - (ii) for that purpose to receive all notices of and other communications relation to any General Meeting which the Member is entitled to receive; and

- (iii) to be heard at any General meeting which he or she attends on any part of the business of the meeting which concerns the Auditor as Auditor, and is entitled to be heard.

16.6 Custody of Records

- (a) Except as otherwise provided in the Constitution, the Secretary shall keep in their custody or under their control all books, documents and securities of the Company, which shall be available for inspection at all reasonable times by the Member.
- (b) Upon the request of a Member and the payment of the fee prescribed by the Board, the Secretary will arrange to provide the Member with copies of:
 - (i) the current Constitution of the Company; and
 - (ii) the Deeds of any trust of the Company.

16.7 Inspection of Records

Subject to the Corporations Act, the Directors must determine whether and to what extent, and at what time and places and under what conditions, the accounting records and other documents of the Company or any of them will be open to the inspection of the Member, and the Member does not have any right to inspect any document of the Company except as provided by law or authorised by the Directors or by the Company in meeting of the Company's Member.

17. WINDING UP AND LIABILITY

17.1 Liability of the Member

The liability of the the Member is limited.

The Company may be dissolved by a special resolution of the Member at a meeting of the Member.

17.2 Contribution of the Member on Winding Up

Every person who is or has been a Member undertakes to contribute to the assets of the Company in the event of the Company being wound up while he or she is a Member, or within one year of ceasing to be a Member, such amount as may be required not exceeding ten dollars (\$10.00), for the payment of the debts and liabilities of the Company contracted whilst the Member or past Member as the case may be was a Member of the Company, and the costs, charges and expenses of winding up and for the adjustment of the rights of the contributors amongst themselves.

17.3 Distribution of Property on Winding Up

Where on the winding up of the Company or dissolution of the Company there is a surplus of assets after satisfying all the Company's liabilities and expenses, the surplus will not be paid or distributed to the Member but will be given or transferred to another institution or company having similar objects to those described in clause 2 hereof, being an institution or body that prohibits the distribution of income, profit or assets to its Members, or to the Commonwealth of Australia.

17.4 Officers Indemnities and Insurance

- (a) To the extent permitted by the Corporations Act:
 - (i) the Company indemnifies every person who is or has been an Officer of the Company or of a wholly-owned subsidiary of the Company against any liability for costs and expenses incurred by that person in defending any

proceedings in which judgement is given in that person's favour, or in which the person is acquitted, or in connection with an application in relation to any proceedings in which the Court grants relief to the person under the Law; and

- (ii) the Company indemnifies every person who is or has been an Officer of the Company or of a wholly-owned subsidiary of the Company against any liability incurred by that person, as an Officer of the Company or of a wholly-owned subsidiary of the Company, to another person (other than the Company or a related body corporate of the Company) unless the liability arises out of conduct involving a lack of good faith.
- (b) The Company may pay, or agree to pay, a premium in respect of a contract insuring a person who is or has been an Officer of the Company or of a subsidiary of the Company against a liability:
- (i) incurred by the person in their capacity as an Officer of the Company or of a subsidiary of the Company or in the course of acting in connection with the affairs of the Company of a subsidiary of the Company or otherwise arising out of the Officer holding such office provided that the liability does not arise out of conduct involving a wilful breach of duty in relation to the Company or a subsidiary of the Company or a contravention of Sections 182 and 183 of the Corporations Act; or
 - (ii) for costs and expenses incurred by that person in defending proceedings, whatever their outcome.
- (c) In this clause 17.4:
- (i) the term "proceedings" means any proceedings, whether civil or criminal, being proceedings in which it is alleged that the person has done or omitted to do some act, matter or thing in their capacity as Officer, or in the course of acting in connection with the affairs of the Company or a wholly-owned subsidiary or subsidiary of the Company, or otherwise out of the Officer holding such office, including proceedings alleging that he or she was guilty of negligence, default, breach of trust or breach of duty in relation to the Company or a wholly-owned subsidiary or subsidiary of the Company, and
 - (ii) The term "Officer" has the meaning given to that term in section 9 of the Corporations Act.

18. BY-LAWS

18.1 The Board may make By-Laws as it may deem appropriate for the proper conduct, control and management of the Company and, in particular:

- (a) the management and good governance of the affairs of the Company;
- (b) the conduct of the Company's employees;
- (c) the setting apart of any part or parts of the Company's premises or properties for particular purposes;
- (d) the procedure at meetings of the Company and its committees;
- (e) the formation of any committee including the composition, terms of reference and other relevant matters of such committees;
- (f) generally, all such matters as are commonly the subject matter of regulations for the proper conduct of companies similar to the Company and are not expressly dealt with in this Constitution and

- (g) capacity to establish and administer the Rail Industry and Safety Standards Board Foundation.

19. VARIATION OF CONSTITUTION

The Constitution may not be varied except by a special resolution passed at a General Meeting of the Company.

20. SEVERING INVALID PROVISIONS

20.1 If at any time any provision of this Constitution is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that does not affect or impair:

- (a) the legality, validity or enforceability in that jurisdiction of any other provision of this Constitution; or
- (b) the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of this Constitution.