

Malvern Hills Bill

Clause 7 and Schedule 1 showing Lords filled Bill amendments having been accepted and additional proposed amendments track changed

7 Administration of the Trust

- (1) The trustees must make (and may amend, revoke or replace) rules about the matters ~~specified~~mentioned in Part 1, and paragraph 14(3), of Schedule 1.
- (2) The trustees may, ~~for the purposes of make provision for~~ the administration and management of the Trust, make regulations (including about the matters ~~specified~~mentioned in Part 1, ~~and~~ paragraph 14(3), of Schedule 1) ~~in regulations or other documents provided that any but~~ such regulations ~~or other documents~~ must not include provision that is ~~be~~ inconsistent with anything in ~~the~~ rules made under subsection (1).
- (3) Part 2 of Schedule 1 makes provision about matters which may be included in regulations ~~and documents~~ under subsection (2) (but not in rules made under subsection (1)), Part 3 of Schedule 1 makes provision about the method of holding meetings and Part 4 of Schedule 1 makes general provision about rules and regulations.
- (4) The trustees must not make provision in rules under subsection (1), ~~or or make provision~~ in regulations ~~or documents~~ under subsection (2), which is ~~which are~~ inconsistent with anything in this Act, including the provisions of any enactments applied to the Trust by subsection (12).
- (5) Unless the Charity Commission otherwise agrees in writing in any particular case or type of case, the written agreement of the Charity Commission is required for the making, amendment, revocation and replacement of rules under subsection (1).
- (6) The powers in subsection (1) are exercisable by the passing of a special resolution at a meeting of the Trust of which not less than 15 clear business days' notice has been given.
- (7) A notice under subsection (6) must set out the terms of the proposed rule, regulation, amendment, revocation or replacement rule or regulation.
- (8) The Trust must—
 - (a) ensure that each exercise of the power under subsection (1) is identified in a written memorandum prepared by the Trust and that the memorandum is signed, at the meeting at which the power is exercised, by the person chairing the meeting,
 - (b) send to the Charity Commission a copy of the memorandum certified by a person authorised by the Trust to do so within three months of the date of the meeting, and
 - (c) retain a copy of the memorandum.
- (9) This section is without prejudice to the powers of the Charity Commission to settle a scheme under section 73 of the Charities Act 2011.
- (10) Any provision made in rules ~~rules made~~ under subsection (1) or in regulations under subsection (2) must be consistent with sections 185 to 188 of the Charities Act 2011.
- (11) It is not necessary in legal proceedings to prove that the person or persons who sealed, signed or executed any document in accordance with this section or rules or regulations made under this section was or were duly authorised to do so, and such document is to be presumed to be duly signed, sealed or executed unless the contrary is proved.
- (12) The enactments specified in column 1 of Schedule 2 apply to the Trust in the manner specified in column 2 of that Schedule.

SCHEDULE 1
ADMINISTRATIVE PROVISIONS

PART 1

MATTERS WHICH MUST BE INCLUDED IN RULES

Introduction

~~1. Matters about which, in accordance with section 7(1), provision must be made in rules made by the Trust under section 7 are those mentioned in paragraphs 2 to 12A and paragraph 14(3).~~

1. (1) Paragraphs 2 to 12A and 14(3) specify matters about which the Trust must make provision in rules under section 7.

(2) Paragraphs 5, 8(2) and 12A(2) specify, but without limiting the powers of the Trust to make rules under section 7, provision that may be included in such rules with respect to the matters referred to in sub-paragraph (1).

Benefits to trustees

2. The payment, transfer or application of income or property of the Trust by way of benefit to trustees and connected persons including provision about contracts for the supply of goods and services by trustees and connected persons.

~~*Contracts*~~

~~2A. Contracts for the supply of goods or services by trustees and connected persons.~~

Interests of trustees

3. (1) The declaration of interests of trustees and of connected persons.
- (2) The management of conflicts of interest, including the participation by trustees in discussions or decisions of the trustees and the receipt of information by trustees.

Meetings of the trustees

4. (1) The frequency of ordinary meetings of the trustees.
- (2) The means by which meetings of the trustees are held (including holding such meetings in such a way that persons who are not present together at the same place may by electronic means attend, speak and vote at the meetings). ~~(including by electronic means).~~

Calling meetings

5. (1) The making of arrangements for the date, giving of notice, time and place of meetings.
- (2) The arrangements referred to in sub-paragraph (1) which may include different provision about different types of meeting).

Chairing of meetings

6. (1) The election of the chair and vice-chair of the Trust and their responsibilities.
- (2) Arrangements if there is a vacancy in the position of chair or vice-chair, or in the absence of the chair or vice-chair ~~or in their absence~~.
- (3) The removal of the chair or vice-chair from office.

Quorum

7. (1) The quorum required for a vote at a meeting of the trustees.
- (2) The making of decisions by the trustees during any period in which requirements as to quorum made in rules under sub-paragraph (1) ~~as to quorum~~ cannot be met.

Decisions of the trustees

8. (1) Requirements for the making of decisions of the trustees.
- (2) The requirements referred to in ~~Requirements under~~ sub-paragraph (1) may include provision for—
 - (a) the chair of a meeting of the trustees to have ~~the meeting having~~ a casting vote,
 - (b) the making of a decision where the decision is to elect the chair or vice-chair of the Trust and in circumstances where there is a tied vote,
 - (c) the making of decisions on urgent business, including the making and validity of such decisions ~~about the requirements for and validity of decisions made~~ otherwise than at a meeting.
- (3) The validity of any proceedings of the trustees or any committee in cases where there is a vacancy among the trustees or committee members or a defect in the appointment of a trustee or committee member.

Records

9. (1) The keeping of records of the proceedings at meetings, including the means of doing so.
- (2) The approval of records.

Committees and advisory panels

10. (1) The establishment and dissolution by the Board of committees and advisory panels.
- (2) The composition of committees and advisory panels, including ~~provision about~~ the inclusion, on committees and advisory panels, of persons who are not trustees.
- (3) The delegation of any functions to committees except—
 - (a) setting the amount of the levy under section 33,
 - (b) approving the Trust's budget,
 - (c) appointing trustees,

(d) exercising the powers in section 7.5

~~(e) such other functions as may be specified in regulations or other documents under section 7(2).~~

(4) Requirements on committees, including requirements about reporting to trustees.—

~~(a) acting in accordance with any regulations or other documents under section 7(2),~~

~~(b) reporting to the trustees.~~

Delegation to employees

11. (1) The delegation (subject to the provisions of this Act) of any of the trustees' functions to such employees of the Trust as the trustees think fit except the functions specified in ~~sub-paragraphs 10(3)(a) to (d) and such other functions as may be specified in regulations or other documents under section 7(2) for the purposes of paragraph 11(3)(a).~~

(2) Reporting by employees to the trustees in accordance with any instructions given by the Trust.

Financial controls

12. Financial controls and accounting policies and procedures.

Authentication of documents

12A. (1) Procedures~~The laying down of procedures~~ for the sealing, signature or execution on behalf of the Trust of documents of any kind.

(2) The procedures referred to in sub-paragraph (1) may be different ~~Rules may lay down different procedures~~ for different kinds of documents, and may specify the person or persons, being trustees or employees of the Trust, who may seal, sign or execute different kinds of ~~documents of the kinds specified in the rules.~~

(3) If rules made under section 7(1) permit records of the Trust to be kept in electronic form and require any such record to be signed by a trustee, a method of recording the trustee's signature.

~~(3) If rules permit records of the Trust to be kept in electronic form and require a trustee to sign a record, the rules must specify a method of recording the signature that enables it to be properly authenticated.~~

PART 2

MATTERS ABOUT WHICH PROVISION MAY BE MADE ~~MAY BE INCLUDED IN REGULATIONS AND OTHER DOCUMENTS~~

13. (1) [Deleted in filled bill]

(2) Without prejudice to the generality of section 7(2), regulations ~~and other documents~~ made under that section may include provision—

- (a) specifying the quorum for any committee or advisory panel,
 - (b) about voting rights for members of committees who are not trustees,
 - (c) about the calling of meetings,
 - (d) for methods of making decisions in ~~order to deal with~~ cases of urgency when a meeting is impractical,
 - (e) about the custody of documents, ~~and~~
 - ~~(f)~~ about the keeping of records, and
 - ~~(f)(g)~~ enabling any committee or advisory panel to regulate its own procedure.
- ~~(2) Subject to any provision made in the rules under section 7(1), regulations and other documents under section 7(2) may enable any committee or advisory panel of the trustees to regulate their own procedure.~~

PART 3

METHOD OF HOLDING OF MEETINGS

Method of holding of meetings

14. (1) Meetings of the trustees may be held—
- ~~(a) involving only the physical presence of those trustees who attend the meeting,~~
 - ~~(b) by electronic means only, or~~
 - ~~(c) by a combination of the methods described in sub-paragraphs (a) and (b).~~
 - (a) in such a way that only persons who are present together at the same place may attend, and speak and vote at, such meetings, or
 - (b) in such a way that persons who are not present together at the same place may by electronic means attend, and speak and vote at, such meetings.
- ~~(2) At least one of the meetings of the trustees in each year (in addition to the meeting to be held under section 37(3)) must involve only the physical presence of those trustees who attend the meeting unless there are exceptional circumstances which in the opinion of the chief executive prevent the physical presence of all the trustees at all the meetings in that year.~~
- (2) At least one meeting of the trustees in each year (in addition to the meeting referred to in section 37(3)) must be held in accordance with sub-paragraph (1)(a) unless there are exceptional circumstances which, in the opinion of the chief executive, prevent this.
- (3) The Trust must make provision in rules ~~Rules made~~ under section 7 must include provision about the following matters as regards meetings of the trustees held in accordance with sub-paragraph (1)(b) wholly or partly by electronic means —
- (a) ensuring that trustees who attend such meetings ~~participating trustees~~ are able to communicate with each other,

- (aa) the means by which trustees who attend such meetings are to participate trustees communicate with each other,
- (b) the giving of notice of meetings,
- (c) the method of casting votes,
- (d) how a person is to be regarded as being present or in attendance at a meeting,
- (e) in the case of a meeting which, by virtue of section 7(12) and Schedule 2 (which apply certain provisions of local government legislation to the Trust), is open to the public, ensuring that any trustee who by electronic means attends and speaks at the meeting can be seen and heard by members of the public who attend the meeting.
- ~~(e) in the case of meetings which by virtue of section 7(12) (which applies certain provisions of local government legislation to the Trust) are open to the public, ensuring that the public is able to see and hear the trustees if any of the trustees is using electronic means.~~

PART 4

GENERAL

Interpretation

15. (1) In this Schedule—

"electronic means" includes any means which uses or is facilitated by electronic or similar communication or information technology,

“signature” includes an electronic signature.

- (2) References in this Schedule to a committee are references to a committee of the trustees and include references to a sub-committee of the trustees.