



# CONSTITUTION

## ACHPER QLD BRANCH INC

Passed by Special Resolution 10 December 2018

## Contents

<b>INTRODUCTORY</b> .....	<b>1</b>
1 Interpretation .....	1
2 Name .....	1
3 Objects .....	1
4 Powers .....	2
<b>MEMBERSHIP</b> .....	<b>2</b>
5 Classes of members .....	2
6 How to become a member .....	3
7 National membership allocation criteria .....	3
8 Membership term .....	4
9 Membership fees .....	5
10 Resignation of members .....	5
11 Termination of membership .....	5
<b>ADMINISTRATION</b> .....	<b>6</b>
12 Register of members .....	6
13 Secretary .....	6
<b>THE BOARD</b> .....	<b>7</b>
14 Membership of the Board .....	7
15 Rotation and election of the Board at annual general meetings .....	8
16 Election to Board at special general meetings .....	8
17 How Board elections are held .....	9
18 When a Board member vacates office .....	10
19 Casual vacancies on the Board .....	10
20 Allocation of particular Board offices .....	11
21 Functions of the Board .....	11
22 Board meetings .....	12
23 Board resolutions by circular .....	13
24 Board resolutions by email .....	13
25 Conflicted Board members .....	14
26 Subcommittees .....	14
27 Acts not affected by defects or disqualifications .....	15
<b>GENERAL MEETINGS</b> .....	<b>15</b>
28 Annual general meetings .....	15
29 Business to be conducted at annual general meeting .....	15
30 Special general meeting .....	15
31 Notice of general meeting .....	16
32 Conduct of general meeting .....	16
33 Procedure at general meeting .....	17
34 Voting at general meeting .....	17
35 Proxies .....	18
36 Minutes of general meetings .....	18
<b>OTHER MATTERS</b> .....	<b>19</b>
37 By-laws .....	19
38 Alteration of constitution .....	19
39 Common seal .....	19
40 Financial matters .....	19
41 Documents .....	20
42 Financial year .....	20
43 Distribution of surplus assets to another entity .....	20
44 Methods of giving notices .....	20
45 Transitional provisions .....	21

## INTRODUCTORY

### 1 Interpretation

(1) In this constitution –

*Act* means the *Associations Incorporation Act 1981*.

*association* means ACHPER QLD Branch Inc (incorporated under the Act).

*Board*, see rule 14(1).

*Board positions*, see rule 14(1).

*candidate*, see rule 17(2).

*grace period*, see rule 8(6).

*membership term*, see rule 8(1).

*national body* means ACHPER Incorporated (incorporated in South Australia).

*national membership allocation criteria*, see rule 7.

*present* –

(a) at a Board meeting, see rule 22(8); or

(b) at a general meeting, see rule 33(3).

*president* means the member holding that office from time to time under rule 20.

*vacant Board positions*, see rule 15(3).

*Note* –

Not all definitions in this constitution are cross-referenced here. There may not be cross-references to definitions of terms that are only used in the rule containing the definition.

(2) A word or expression that is not defined in this constitution but is defined in the Act has, if the context permits, the meaning given by the Act.

### 2 Name

The name of the association is ACHPER QLD Branch Inc.

### 3 Objects

The objects of the association are –

(a) to study and promote health education, physical education, sport and recreation;

(b) to encourage and campaign for a high standard of professional preparation in the disciplines of the association;

- (c) to further the interests of health education, physical education, sport and recreation by such means as arranging conferences, seminars, discussion groups, training courses, research projects and promoting and sponsoring special interest groups;
- (d) to further research and disseminate knowledge concerning health education, physical education, sport and recreation;
- (e) to establish working groups that will promote the major areas of focus of the association;
- (f) to formulate position statements on issues of health education, physical education, sport and recreation and other related issues concerning the association;
- (g) to form partnerships with appropriate organisations;
- (h) to act for its members in the support and promotion of health education, physical education, sport and recreation; and
- (i) to undertake such courses of action as may foster the achievement of the purpose of the association.

#### **4 Powers**

- (1) The association has the powers of an individual.
- (2) The association may, for example –
  - (a) enter into contracts;
  - (b) acquire, hold, deal with and dispose of property;
  - (c) make charges for services and facilities it supplies; and
  - (d) do other things necessary or convenient to be done in carrying out its affairs.
- (3) The association may also issue secured and unsecured notes, debentures and debenture stock for the association.

### **MEMBERSHIP**

#### **5 Classes of members**

- (1) The membership of the association consists of the following classes of members –
  - (a) ordinary members;
  - (b) life members.
- (2) The number of members within each class is unlimited.
- (3) Only a natural person may become a life member.
- (4) A person may become a life member only if –
  - (a) the Board considers that the person has rendered outstanding service in furthering the objects of the association or objects of a similar nature;
  - (b) the Board resolves to approve the person's nomination as a life member; and
  - (c) the person agrees to accept the conferral of life membership.

## 6 How to become a member

- (1) A person may become an ordinary member of the association by either –
  - (a) meeting the national membership allocation criteria; or
  - (b) applying for membership, and having their application accepted by the Board or a delegate, under this rule 6.
- (2) A person who is not already a member of the association may apply to become an ordinary member of the association by making an application for membership in the form that the Board prescribes from time to time.
- (3) If a person makes an application for membership under rule 6(2) –
  - (a) the Board will consider the application at or before its next meeting or the one after that;
  - (b) the Board is to decide whether to accept or reject the application;
  - (c) if the Board decides to accept the application, the person becomes an ordinary member of the association; and
  - (d) if the Board decides to reject the application or does not make a decision on it, the applicant has no right of appeal.
- (4) The Board may from time to time make and revoke a delegation of the Board's power under rule 6(3) to make a decision on an application for membership. Such a delegation –
  - (a) may only be given to –
    - (i) a member of the Board;
    - (ii) the secretary of the association; or
    - (iii) an employee of the association;
  - (b) is automatically revoked if the delegate ceases to be any of these –
    - (i) a member of the Board;
    - (ii) the secretary of the association; or
    - (iii) an employee of the association;
  - (c) does not change the time limit for deciding an application for membership under rule 6(3)(a);
  - (d) may be given subject to reservations or conditions; and
  - (e) does not stop the Board from itself making a decision on an application for membership.
- (5) The secretary of the association must, as soon as practicable after the Board or a delegate of the Board decides to accept or reject an application, give the applicant a written notice of the decision.

## 7 National membership allocation criteria

- (1) The *national membership allocation criteria* are the criteria that are determined by the Board from time to time by which a person may become an ordinary member of the association through dealings with the national body.
- (2) The Board's power to determine criteria as national membership allocation criteria includes the power to –

- (a) amend those criteria; and
- (b) revoke those criteria as national membership allocation criteria.

*Note –*

The revocation of criteria as national membership allocation criteria can mean there are no national membership allocation criteria at all, if the Board does not determine new ones.

- (3) Until the Board determines new criteria to be the national membership allocation criteria, or revokes these as the national membership allocation criteria, after the date on which this constitution becomes the rules of the association under the Act, the ***national membership allocation criteria*** are that a person becomes a member of the association if –
  - (a) the person becomes a member of the national body;
  - (b) the person agrees or applies, when or in conjunction with becoming a member of the national body, to become a member of the association;
  - (c) the national body either –
    - (i) notifies the association that the person has satisfied the two criteria above; or
    - (ii) includes information to that effect in a database or other source of information that is available to the association on a real-time basis; and
  - (d) among the information in the notification or in the database or other source of information is the following –
    - (i) the person's name;
    - (ii) the person's address;
    - (iii) any email address nominated by the person for communications with the person;
    - (iv) the person's date of birth; and
    - (v) the date when the person became a member of the national body.

## **8 Membership term**

- (1) The ***membership term*** for a member is –
  - (a) for a person becoming a member by fulfilling the national membership allocation criteria – 1 year starting on the date when the person became a member of the national body, plus any grace period; or
  - (b) for another member – 1 year starting on the date when the person became a member, plus any grace period.
- (2) The Board's power to set a grace period includes the power to amend or revoke the decision setting the grace period, even if that means there is no grace period.
- (3) If the Board sets, amends or revokes a grace period, that has the effect of reducing or enlarging the members' then current membership terms.
- (4) A person may become a member again at or before the end of their membership term and in that case, a new membership term starts immediately after the previous one ends.
- (5) Otherwise, a person ceases to be a member at the end of their membership term.
- (6) In this rule 8 –

*grace period* means any period set by the Board from time to time as a period during which a member's membership can remain current to give the member more time to renew their membership.

## **9 Membership fees**

- (1) The membership fee for each ordinary membership –
  - (a) is the amount decided by the Board from time to time; and
  - (b) is payable when, and in the way, the Board decides.
- (2) The membership fees decided by the Board may differ according to any characteristics of the members concerned, even within a class of members.

*Example –*

The Board may decide to allow discounts or exemptions to particular members, such as members who are in receipt of government benefits.

- (3) A membership fee may be nil. The membership fee is nil if the Board has not decided an amount for the membership fee.
- (4) A decision by the Board to set or change a membership fee does not affect any member for the membership term that has started but not yet ended at the time of the decision.

## **10 Resignation of members**

- (1) A member may resign as a member of the association by giving a written notice of resignation to the secretary.
- (2) The resignation takes effect at –
  - (a) the time the notice is received by the secretary; or
  - (b) if a later time is stated in the notice – the later time.

## **11 Termination of membership**

- (1) The Board may terminate a member's membership if the member –
  - (a) is convicted of an indictable offence;
  - (b) does not comply with any of the provisions of this constitution;
  - (c) has membership fees in arrears for at least 2 months; or
  - (d) conducts himself or herself in a way considered to be injurious or prejudicial to the character or interests of the association.
- (2) Before the Board terminates a member's membership under rule 11(1), the Board must give the member a fair opportunity to show why the membership should not be terminated.
- (3) If, after considering any representations made by the member, the Board decides to terminate the membership, the secretary of the association must give the member a written notice of the decision. The membership ends when the notice is given.

- (4) A person may give the secretary written notice of the person's intention to appeal against a decision of the Board to terminate the member's membership under rule 11(1).
- (5) A notice of intention to appeal may only be given to the secretary within 1 month after the person is given written notice of the decision.
- (6) If the secretary receives a notice of intention to appeal, the secretary must, within 1 month after receiving the notice, call a general meeting to decide the appeal.
- (7) The general meeting to decide the appeal must be held within 3 months after the secretary receives the notice of intention to appeal.
- (8) At the meeting, the appellant must be given a fair opportunity to show why his or her membership should not have been terminated.
- (9) Also, the Board and its members must be given a fair opportunity to show why the membership was rightly terminated.
- (10) The appeal must be decided by a majority vote of the members present and eligible to vote at the meeting.

## **ADMINISTRATION**

### **12 Register of members**

- (1) The Board must keep a register of members of the association.
- (2) The Board may delegate this responsibility to –
  - (a) a member of the Board;
  - (b) the secretary of the association; or
  - (c) an employee of the association.
- (3) The register of members must include the following data for each member –
  - (a) the member's name;
  - (b) the date of admission of the member;
  - (c) the dates of any renewals or terminations of membership;
  - (d) the member's contact details.
- (4) The register of members must be kept in the form decided by the Board from time to time. That form may be the keeping of the data described in rule 12(3) in a manner that enables the generation of a report summarising that data.

### **13 Secretary**

- (1) The Board must ensure that the association has a secretary at all times.
- (2) If a vacancy happens in the office of secretary, the members of the Board must ensure a secretary is appointed or elected for the association within 1 month after the vacancy happens.

- (3) A person who is not a member of the Board does not become a member of the Board just because he or she is appointed as secretary.
- (4) A person who is not a member of the association does not become a member of the association just because he or she is appointed as secretary.
- (5) The Board may at any time remove a person appointed by the Board as the secretary. If that person is a member of the Board, he or she does not lose her position as a member of the Board only by being removed as the secretary.
- (6) The secretary's functions include, but are not limited to –
  - (a) calling meetings of the association, including preparing notices of a meeting and of the business to be conducted at the meeting in consultation with the president of the association;
  - (b) keeping minutes of each meeting;
  - (c) keeping copies of all correspondence and other documents relating to the association; and
  - (d) maintaining the register of members of the association.

## THE BOARD

### 14 Membership of the Board

- (1) The management committee of the association (**Board**) consists of the people occupying up to 9 positions (**Board positions**) from time to time.

*Note –*

Refer to the transitional provision in rule 45(2).

- (2) A person may be elected or appointed to a Board position only –
  - (a) by being elected under rule 15 or 16; or
  - (b) by being appointed under rule 19.
- (3) A person may be elected or appointed to a Board position only if the person –
  - (a) is a member of the association;
  - (b) is an adult;
  - (c) is not made ineligible by section 61A of the Act;
  - (d) is not a member of the management committee of, or an employee of, the national body; and
  - (e) at the time of election or appointment, is not disqualified by rule 14(4), 14(5) or 14(7).
- (4) A person is disqualified from being elected to a Board position if at the time the election is being held, the person has already occupied a Board position (or two or more Board positions in aggregate) for a continuous period longer than 9 years (counting the day of the election).

*Note –*

Refer to the transitional provisions in rules 45(5) and 45(6).

- (5) A person is disqualified from being appointed to fill a casual vacancy in a Board position if at the

end of the term for that Board position (assuming the person stays in the Board position until then), the person will have occupied a Board position (or two or more Board positions in aggregate) for a continuous period longer than 9 years.

*Note –*

Refer to the transitional provisions in rules 45(5) and 45(6).

(6) In rule 14(5) –

**term** means, for that Board position, the period of 3 years expiring when that Board position will become a vacant Board position because of rule 15(2).

(7) If a person becomes disqualified by rule 14(4) or 14(5), the person continues to be disqualified for 3 years from the commencement of the disqualification.

## **15 Rotation and election of the Board at annual general meetings**

(1) The Board positions are numbered from 1 to 9.

(2) The following Board positions become vacant at the following annual general meetings of the association –

(a) Board positions 1, 2 and 3 – at the 2019 annual general meeting and every third annual general meeting thereafter;

(b) Board positions 4, 5 and 6 – at the 2020 annual general meeting and every third annual general meeting thereafter;

(c) Board positions 7, 8 and 9 – at the 2021 annual general meeting and every third annual general meeting thereafter.

(3) At each annual general meeting, an election is to be held for the Board positions (***vacant Board positions***) that –

(a) under rule 15(2), become vacant at that annual general meeting; or

(b) under rule 15(2), became vacant at either of the two preceding annual general meetings and are unfilled as at the date of the notice being given of the annual general meeting in question.

## **16 Election to Board at special general meetings**

(1) A special general meeting may be called to –

(a) consider a motion to appoint a person to a Board position that is not then occupied; or

(b) hold an election to fill a Board position that is not then occupied.

*Note –*

The reference to a Board position includes multiple Board positions.

(2) The special general meeting may be called only if –

(a) the Board directs that it be called; or

(b) it is requested under rule 30(1)(b) for the purpose described in rule 16(1).

(3) Each Board position that is the subject of a motion or an election at the special general meeting is a

*vacant Board position.*

**17 How Board elections are held**

- (1) This rule 17 governs how an election is to be held for the purposes of –
  - (a) rule 15(3) at an annual general meeting; and
  - (b) rule 16(1)(b) at a special general meeting.
- (2) Any 2 members of the association may nominate a person described in rule 14(3) (*candidate*) to serve in a vacant Board position.
- (3) The nomination must be –
  - (a) in writing;
  - (b) signed by the candidate and the members who nominated him or her; and
  - (c) given to the secretary at least 14 days before the general meeting at which the election is to be held.
- (4) If at a general meeting the number of candidates equals or is less than the number of vacant Board positions, then each candidate who was nominated before the general meeting is elected to a vacant Board position if –
  - (a) the members present at the general meeting resolve to confirm the candidate's election; and
  - (b) the vacant Board position (by its number under rule 15(1)) is identified in the resolution.
- (5) If at a general meeting not all vacant Board positions are filled under rule 17(4) –
  - (a) nominations may be taken from the floor of the general meeting for the vacant Board position or positions remaining unfilled; and
  - (b) an election only for the vacant Board position or positions remaining unfilled is to be held.
- (6) If at a general meeting the number of candidates exceeds the number of vacant Board positions, an election is to be held.
- (7) For the purposes of an election under rule 17(5)(b) or 17(6) –
  - (a) each member of the association present and eligible to vote at the general meeting may vote for 1 candidate for each vacant Board position for which the election is being held;
  - (b) the election is to be conducted on the first-past-the-post system on the following basis –
    - (i) the vacant Board position for which the election is being held that has the lowest number under rule 15(1) out of those vacant Board positions that will next become vacant under rule 15(2) at the longest period after the general meeting in question is filled first with the candidate receiving the highest number of votes elected to that vacant Board position;
    - (ii) the vacant Board position for which the election is being held that has the second lowest number under rule 15(1) out of those vacant Board positions that will next become vacant under rule 15(2) at the longest period after the general meeting in question is filled first with the candidate receiving the second highest number of votes elected to that vacant Board position; and
    - (iii) the others of the vacant Board positions for which the election is being held are filled sequentially according to the same system; and

- (c) except as provided above, the person chairing the general meeting may decide the manner in which the election is conducted.

*Example for rule 17(7)(b) –*

Suppose that at the 2021 annual general meeting the vacant Board positions are positions 7, 8 and 9 (under rules 15(3)(a) and 15(2)(c)) and positions 3 and 5 (under rule 15(3)(b) because they were not filled at earlier annual general meetings).

Suppose further that there are 7 candidates for those 5 vacant Board positions, and that the candidates' numbers of votes in order from highest to lowest are for candidates A, B, C, D, E, F and G.

Candidates A, B and C will be elected to positions 7, 8 and 9 for 3 year terms.

Candidate D will be elected to position 5 for the remaining 2 year term for that position.

Candidate E will be elected to position 3 for the remaining 1 year term for that position.

- (8) The Board must ensure that, before a candidate is elected as a member of the Board, the candidate is advised –
  - (a) whether or not the association has public liability insurance; and
  - (b) if the association has public liability insurance – the amount of the insurance.

## **18 When a Board member vacates office**

- (1) A member of the Board vacates office at the end of the annual general meeting at which the Board position that he or she occupies becomes vacant under rule 15(2).
- (2) A member of the Board may resign from the Board by giving written notice of resignation to the secretary. The resignation takes effect –
  - (a) at the time the notice is received by the secretary; or
  - (b) if a later time is stated in the notice – at the later time.
- (3) A member of the Board immediately vacates office –
  - (a) in the circumstances mentioned in section 64(2) of the Act;
  - (b) if the member ceases to be a member of the association; or
  - (c) if the member becomes a member of the management committee of, or an employee of, the national body.

## **19 Casual vacancies on the Board**

- (1) If a casual vacancy happens on the Board, the continuing members of the Board may appoint another member of the association, who is eligible under rule 14(3), to fill the vacancy until the next annual general meeting.
- (2) The continuing members of the Board may act despite a casual vacancy on the Board.
- (3) However, if the number of Board members is less than 5, the continuing members may act only to –
  - (a) increase the number of Board members to the number required for a quorum; or
  - (b) call a general meeting of the association.
- (4) In this rule 19 –

*casual vacancy* means a vacancy that happens when an elected member of the Board resigns, dies or otherwise stops holding office, but does not include a vacancy arising because of rule 15(2).

## **20 Allocation of particular Board offices**

- (1) At the first Board meeting after an annual general meeting, the Board must elect –
  - (a) one of their number as the association's president; and
  - (b) one of their number as the association's treasurer.
- (2) If there is a vacancy in either office before the end of the next annual general meeting, the Board must elect one of their number to fill the vacancy at or before the next Board meeting after the vacancy arises.
- (3) A member holding the office of president or treasurer does so until the earliest of –
  - (a) the end of the next annual general meeting after being elected to the office;
  - (b) the member ceasing to be a member of the Board;
  - (c) the member resigning from the office by written notice to the secretary; or
  - (d) the member's removal from the office by resolution of the Board.
- (4) The same member of the Board cannot hold both the president and the treasurer at the same time.

## **21 Functions of the Board**

- (1) Subject to this constitution or a resolution of the members of the association carried at a general meeting, the Board has the general control and management of the administration of the affairs, property and funds of the association.
- (2) The Board has authority to interpret the meaning of this constitution and any matter relating to the association on which this constitution is silent, but any interpretation must have regard to the Act, including any regulation made under the Act.

*Note –*

The Act prevails if this constitution is inconsistent with the Act – see section 1B of the Act.

- (3) The Board may exercise the powers of the association –
  - (a) to borrow, raise or secure the payment of money;
  - (b) to secure the amounts mentioned in rule 21(3)(a) or the payment or performance of any debt, liability, contract, guarantee or other engagement incurred or to be entered into by the association in any way, including by the issue of debentures (perpetual or otherwise) charged upon the whole or part of the association's property, both present and future;
  - (c) to purchase, redeem or pay off any securities issued;
  - (d) to borrow amounts from members and pay interest on the amounts borrowed;
  - (e) to mortgage or charge the whole or part of its property;
  - (f) to issue debentures and other securities, whether outright or as security for any debt, liability or obligation of the association;
  - (g) to provide and pay off any securities issued; and

- (h) to invest.
- (4) For rule 21(3)(d), the rate of interest must not be more than the current rate being charged for overdrawn accounts on money lent (regardless of the term of the loan) by –
  - (a) the financial institution for the association; or
  - (b) if there is more than 1 financial institution for the association – the financial institution nominated by the Board.

## **22 Board meetings**

- (1) Subject to this rule 22, the Board may meet and conduct its proceedings as it considers appropriate.
- (2) The Board must meet at least once every 3 months to exercise its functions.
- (3) The Board must decide how a Board meeting is to be called.
- (4) However, a Board meeting must be called if a number of members of the Board equalling one-third of the number of Board positions that are occupied at the time (disregarding any fractions of a number) require the meeting to be called.

*Example –*

If there are 7 Board positions that are occupied, the number of them who can require a meeting to be called is 2.

- (5) Notice of a meeting is to be given in the way decided by the Board. The way for giving notices of Board meetings may be decided by the Board on a standing basis until a different way is decided.
- (6) The quorum for a Board meeting is a bare majority of the number of Board positions that are occupied as at the date of the Board meeting. A Board meeting cannot proceed without a quorum.
- (7) The Board may hold meetings, or permit a Board member to take part in its meetings, by using any technology that reasonably allows the member to hear and take part in discussions as they happen.
- (8) A Board member who participates in the meeting as mentioned in rule 22(7) is taken to be present at the meeting.
- (9) A question arising at a Board meeting is to be decided by a majority vote of members of the Board present at the meeting and, if the votes are equal, the question is decided in the negative.
- (10) The president is to preside as chairperson at a Board meeting.
- (11) If there is no president or if the president is not present within 10 minutes after the time fixed for a Board meeting, the members at the meeting may choose 1 of their number to preside as chairperson at the meeting.
- (12) The secretary must ensure full and accurate minutes of all questions, matters, resolutions and other proceedings of each Board meeting are entered in a minute book.
- (13) To ensure the accuracy of the minutes, the minutes of each Board meeting must be signed by the chairperson of the meeting, or the chairperson of the next Board meeting, verifying their accuracy.

## **23 Board resolutions by circular**

- (1) A written resolution signed by each member of the Board is as valid and effectual as if it had been passed at a Board meeting that was properly called and held.
- (2) A resolution mentioned in rule 23(1) may consist of several documents in like form, each signed by 1 or more members of the Board.

## **24 Board resolutions by email**

- (1) A member of the Board or the secretary may propose that the Board pass a resolution by email. To do so –
  - (a) the proponent must send an email to the email address for each director who would be entitled to vote on the proposed resolution if it was put at a Board meeting;
  - (b) the email must state the terms of the proposed resolution and may include other information;
  - (c) the email sent to each director must be the same; and
  - (d) the email must be worded to clearly indicate to the recipients of the email that a formal resolution of the Board is being proposed.
- (2) If it is proposed under rule 24(1) that the Board pass a resolution by email –
  - (a) a member of the Board who would be entitled to vote on the proposed resolution if it was put at a Board meeting may send an email to the email addresses of the proponent of the resolution that the member supports the proposed resolution;
  - (b) if all of those members of the Board do so, the resolution is taken to have been passed when the last member sends such an email and the resolution must be noted in the minutes of the Board; and
  - (c) a member of the Board who would be entitled to vote on the proposed resolution if it was put at a Board meeting may ask the secretary to convene a Board meeting to discuss the matter of the proposed resolution and if so –
    - (i) the secretary must do that; and
    - (ii) the business to be transacted at that Board meeting must include the matter of the proposed resolution.
- (3) For the purposes of this rule 24 –
  - (a) the email address to be used by a proponent to send an email to a member of the Board is the email address that the member has notified the other members of the Board, the secretary or the association to use for sending emails about business of the Board to that member;
  - (b) an email appearing to have been sent from such an email address will be taken to have been sent by that member of the Board;
  - (c) a member of the Board may at any time notify the other members of the Board, the secretary or the association that an email address previously notified by that member to use for sending emails about business of the Board is no longer current and –
    - (i) unless the notification was to the other members of the Board, the secretary must promptly advise the other members of the Board of that notification; and
    - (ii) the member giving the notification must also notify of a new email address to be

used for sending emails about the business of the Board to that member.

## 25 Conflicted Board members

- (1) A member of the Board who has a personal interest in a matter to be decided by the Board must –
  - (a) declare the nature and extent of the personal interest promptly after it becomes evident; and
  - (b) not participate in any discussion, debate or decision making by the Board on the matter unless and to the extent that a majority of the other members of the Board invite the member to participate.

- (2) In rule 25(1) –

*personal interest* means an interest, whether held by the member of the Board or by a person who is related to or lives with the member or with whom the member is otherwise closely associated, that –

- (a) could reasonably be thought to create an actual conflict of interest, of the appearance of the possibility of one; and
- (b) is not held in common with all the other members of the Board.

## 26 Subcommittees

- (1) The Board may appoint a subcommittee consisting of members of the association considered appropriate by the Board to help with the conduct of the association's operations.
- (2) A member of the subcommittee who is not a member of the Board is not entitled to vote at a Board meeting.
- (3) When or after appointing a subcommittee, the Board may make, amend and revoke a charter for the subcommittee that may set out one or more of the following –
  - (a) the role and functions of the subcommittee;
  - (b) what, if any, powers of the Board are delegated to the subcommittee;
  - (c) how the subcommittee is to operate;
  - (d) other matters relating to the subcommittee.
- (4) Unless and to the extent that a charter in effect under rule 26(3) for the subcommittee says otherwise, no powers of the Board are delegated to a subcommittee.
- (5) Subject to a charter in effect under rule 26(3) for the subcommittee –
  - (a) a subcommittee may elect a chairperson of its meetings;
  - (b) if a chairperson is not elected, or if the chairperson is not present within 10 minutes after the time fixed for a meeting, the members present may choose 1 of their number to be chairperson of the meeting;
  - (c) a subcommittee may meet and adjourn as it considers appropriate; and
  - (d) a question arising at a subcommittee meeting is to be decided by a majority vote of the members present at the meeting and, if the votes are equal, the question is decided in the negative.

## **27 Acts not affected by defects or disqualifications**

- (1) An act performed by the Board, a subcommittee or a person acting as a member of the Board is taken to have been validly performed.
- (2) Rule 27(1) applies even if the act was performed when –
  - (a) there was a defect in the appointment of a member of the Board, subcommittee or person acting as a member of the Board; or
  - (b) a Board member, subcommittee member or person acting as a member of the Board was disqualified from being a member.

## **GENERAL MEETINGS**

### **28 Annual general meetings**

Annual general meetings must be held –

- (a) at least once each year; and
- (b) within 6 months after the end date of the association's reportable financial year.

### **29 Business to be conducted at annual general meeting**

- (1) The following business must be conducted at each annual general meeting of the association –
  - (a) receiving the association's financial statement for the last financial year;
  - (b) presenting the financial statement to the meeting for adoption;
  - (c) holding an election for the vacant Board positions; and
  - (d) if required by the Act – appointing an auditor, an accountant or an approved person for the present financial year.
- (2) In this rule 29 –

*financial statement* includes any audit report or statement required under the Act for the association's financial statement.

### **30 Special general meeting**

- (1) The secretary must call a special general meeting within 14 days after –
  - (a) being directed to call the meeting by the Board;
  - (b) being given a written request signed by the greater of –
    - (i) at least 5% of the number of members of the association when the request is signed; or
    - (ii) at least the number of ordinary members of the association equal to double the number of members serving on the Board when the request is signed plus 1; or
  - (c) being given a written notice of an intention to appeal against the decision of the Board to terminate a person's membership of the association.
- (2) A request mentioned in rule 30(1)(b) must state –

- (a) why the special general meeting is being called; and
  - (b) the business to be conducted at the meeting.
- (3) A special general meeting must be held within 3 months after the secretary –
- (a) is directed to call the meeting by the Board;
  - (b) is given the written request mentioned in rule 30(1)(b); or
  - (c) is given the written notice of an intention to appeal mentioned in rule 30(1)(c).

### **31 Notice of general meeting**

- (1) The secretary may call a general meeting of the association.
- (2) The secretary must give at least 14 days' notice of the meeting.
- (3) If the secretary is unable or unwilling to call or give notice of the meeting, the president must do so.
- (4) Notice of a general meeting must be given in writing using one or more of the following methods –
  - (a) the method decided by the Board; or
  - (b) being given to members in a way provided in rule 44.
- (5) A notice of a general meeting must state the business to be conducted at the meeting.

### **32 Conduct of general meeting**

- (1) The quorum for a general meeting is at least the number of members then serving on the Board plus 1.
- (2) No business may be conducted at a general meeting unless there is a quorum of members when the meeting proceeds to business.
- (3) If there is no quorum within 30 minutes after the time fixed for a general meeting –
  - (a) the meeting is to be adjourned for at least 7 days; and
  - (b) the Board is to decide the day, time and place of the adjourned meeting.
- (4) The chairperson may, with the consent of any general meeting at which there is a quorum, and must if directed by the meeting, adjourn the meeting from time to time and from place to place.
- (5) If a meeting is adjourned under rule 32(4), only the business left unfinished at the meeting from which the adjournment took place may be conducted at the adjourned meeting.
- (6) The secretary is not required to give the members notice of an adjournment or of the business to be conducted at an adjourned general meeting unless a meeting is adjourned for 30 days or longer.
- (7) If a general meeting is adjourned for 30 days or longer, notice of the adjourned meeting must be given in the same way notice is given for an original meeting.

### 33 Procedure at general meeting

- (1) A member may take part and vote in a general meeting in person, by proxy or by attorney.
- (2) A member or their proxy or attorney may take part and vote in a general meeting by using any technology that –
  - (a) reasonably allows the member, proxy or attorney to hear and take part in discussions as they happen; and
  - (b) the Board agrees that a member attending the meeting may use.
- (3) A member who participates in a meeting as mentioned in rule 33(1) or 33(2) is taken to be **present** at the meeting.
- (4) At each general meeting –
  - (a) the president is to preside as chairperson;
  - (b) if there is no president or if the president is not present within 15 minutes after the time fixed for the meeting or is unwilling to act, the members present must elect 1 of their number to be chairperson of the meeting; and
  - (c) the chairperson must conduct the meeting in a proper and orderly way.

### 34 Voting at general meeting

- (1) At a general meeting, each question, matter or resolution, other than a special resolution, must be decided by a majority of votes of the members present.
- (2) Each member present and eligible to vote is entitled to 1 vote only.
- (3) A member is not entitled to vote at a general meeting if the member's membership fees are in arrears at the date of the meeting.
- (4) The method of voting at a general meeting –
  - (a) may be provided for in the by-laws;
  - (b) if it is not provided for in the by-laws – may be decided by the Board for that general meeting in particular or for all general meetings; or
  - (c) if it is neither provided for in the by-laws nor decided by the Board – is to be by show of hands.
- (5) However –
  - (a) if at least 20% of the members present demand a secret ballot or if the chairperson decides to hold one, voting must be by secret ballot;
  - (b) the demand for, or the decision to hold, a secret ballot must be made before the chairperson declares the result of the vote carried out by show of hands or on some other basis under rule 34(4);
  - (c) if a secret ballot is held, the chairperson must appoint 2 members to conduct the secret ballot in the way the chairperson decides; and
  - (d) the result of a secret ballot as declared by the chairperson is taken to be a resolution of the meeting at which the ballot was held.

## **35 Proxies**

- (1) An instrument appointing a proxy must be in writing and must be in any form specified or approved by the Board –
  - (a) for the particular general meeting; or
  - (b) for general meetings in general, if none is specified or approved for the particular general meeting.
- (2) For rule 35(1), any blank form of instrument appointing a proxy that accompanies the notice of a general meeting is taken to be the appropriate form specified or approved by the Board for that general meeting.
- (3) The instrument appointing a proxy must –
  - (a) if the appointor is an individual – be signed by the appointor or the appointor's attorney properly authorised in writing; or
  - (b) if the appointor is a corporation –
    - (i) be executed in a manner that binds the corporation by law; or
    - (ii) be signed by a properly authorised officer or attorney of the corporation.
- (4) Only a member of the association may be appointed as a proxy.
- (5) The instrument appointing a proxy is taken to confer authority to demand or join in demanding a secret ballot.
- (6) Each instrument appointing a proxy must be given to the secretary before the start of the meeting or adjourned meeting at which the person named in the instrument proposes to vote, either –
  - (a) personally;
  - (b) by post, received at the association's office or postal address before the start of the meeting or adjourned meeting; or
  - (c) as a scanned copy of the original by email.
- (7) Unless otherwise instructed by the appointor, the proxy may vote as the proxy considers appropriate.
- (8) The proxy may cast votes differently –
  - (a) in the proxy's own right as a member; and
  - (b) for the member, or for each member, for whom they act as proxy.

## **36 Minutes of general meetings**

- (1) The secretary must ensure full and accurate minutes of all questions, matters, resolutions and other proceedings of each general meeting are entered in a minute book.
- (2) To ensure the accuracy of the minutes –
  - (a) the minutes of each general meeting must be signed by the chairperson of the meeting, or the chairperson of the next general meeting, verifying their accuracy; and
  - (b) the minutes of each annual general meeting must be signed by the chairperson of the meeting, or the chairperson of the next general meeting, verifying their accuracy.

- (3) If asked by a member of the association, the secretary must, within 28 days after the request is made –
  - (a) make the minute book for a particular general meeting available for inspection by the member at a mutually agreed time and place; and
  - (b) give the member a copy of the minutes of the meeting.
- (4) The association may require the member to pay the reasonable costs of providing copies of the minutes.

## **OTHER MATTERS**

### **37 By-laws**

- (1) The Board may make, amend or repeal by-laws, not inconsistent with this constitution, for the internal management of the association.
- (2) A by-law may be set aside by a vote of members at a general meeting of the association.

### **38 Alteration of constitution**

Subject to the Act, this constitution may be amended, repealed or added to by a special resolution carried at a general meeting.

### **39 Common seal**

- (1) Unless the Act does not require the association to have a common seal, the Board must ensure the association has a common seal.
- (2) The common seal must be –
  - (a) kept securely by the Board; and
  - (b) used only under the authority of the Board.
- (3) Each instrument to which the seal is attached must be signed by a member of the Board and countersigned by –
  - (a) the secretary;
  - (b) another member of the Board; or
  - (c) someone authorised by the Board.

### **40 Financial matters**

- (1) The Board must ensure that, as soon as practicable after the end date of each financial year, a financial statement for that financial year is prepared.
- (2) The income and property of the association must be used solely in promoting the association's objects and exercising the association's powers.
- (3) The association must comply with the requirements under the Act for financial accounting and

record-keeping.

#### **41 Documents**

The Board must provide for the safe custody of books, documents, instruments of title and securities of the association.

#### **42 Financial year**

The end date of the association's financial year is 31 December in each year.

#### **43 Distribution of surplus assets to another entity**

- (1) This rule 43 applies if the association –
  - (a) is wound-up under part 10 of the Act; and
  - (b) has surplus assets.
- (2) The surplus assets must not be distributed among the members of the association.
- (3) The surplus assets must be given to another entity –
  - (a) having objects similar to the association's objects; and
  - (b) the rules of which prohibit the distribution of the entity's income and assets to its members.
- (4) In this rule 43 –

*surplus assets* has the meaning defined in section 92(3) of the Act.

#### **44 Methods of giving notices**

- (1) The association, the secretary or the Board may give a notice to its members generally by –
  - (a) having the notice published on the association's website; or
  - (b) using a method in rule 44(3) to give the notice to each member.

*Note –*

Under rule 44(1)(b), the same method does not have to be used for all members.

- (2) If the association, the secretary or the Board gives a notice under rule 44(1)(a) that is required to be given for a specified period, or at least a specified period before an event, the notice must continue to be published on the association's website throughout that period.

*Example –*

Under rule 31(2), 14 days' notice is required of a general meeting. Therefore, if the notice is given by being published on the association's website, it would need to continue to be published for the 14 days before the date of the general meeting to comply with rule 44(2).

- (3) The association, the secretary or the Board may give a notice to a member by –
  - (a) having it personally delivered to the member;
  - (b) sending it by any form of prepaid post to the residential, business or postal address for the member last known to the association;

- (c) sending it by email to the email address for the member last known to the association;
- (d) giving it to the member by a method allowed by law; or
- (e) if the member is a body corporate – using one of the above methods to give the notice to a member of the body corporate's governing body.

## 45 Transitional provisions

- (1) A person who was a member of the association immediately before the transition date continues to be an ordinary member of the association on and after the transition date, subject to this constitution.
- (2) A person who was a member of the management committee of the association immediately before the transition date continues to be a member of the Board on and after the transition date, subject to this constitution.
- (3) At the first meeting of the Board after the transition date, the Board must decide to allocate to each member of the Board under rule 45(2) the numbered Board position under rule 15(1) that that member occupies. The members of the Board are then taken for the purposes of this constitution to occupy those allocated Board positions.
- (4) If the Board does not make the decision required by rule 45(3), the Board must promptly call a special general meeting so that the members can decide to allocate to each member of the Board under rule 45(2) the numbered Board position under rule 15(1) that that member occupies. The members of the Board are then taken for the purposes of this constitution to occupy those allocated Board positions.
- (5) An allocation under rule 45(3) or 45(4) has effect even though a member of the Board might otherwise be disqualified by rule 14(4), 14(5) or 14(7) from being elected or appointed to the Board.
- (6) During the first 10 years from the transition date, a reference in rule 14(4) or 14(5) to a Board position includes any position on the association's management committee under the pre-transition rules or this constitution.
- (7) The person holding the office of President of the association immediately before the transition date holds the office of president under this constitution on and after the transition date, subject to this constitution.
- (8) The person holding the office of Finance Director of the association immediately before the transition date holds the office of treasurer under this constitution on and after the transition date, subject to this constitution.
- (9) Any decision made, or thing done, under the pre-transition rules that still had effect on the transition date continues to have effect immediately after the transition date as if the decision was made or the thing was done under the equivalent new provision.
- (10) In this rule 45 –

***equivalent new provision*** means the provision of this constitution under which the same kind of decision may be made, or the same kind of thing may be done.

***pre-transition rules*** means the rules of the association as in effect immediately before the transition date.

***transition date*** means the date on which this constitution becomes the rules of the association under the Act.