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## **Kids' Camps Inc.**

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### **Constitution**

**Adopted on 20 August 2018.**

**Updated on 09 April 2020.**

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## Operative provisions

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### 1. Preliminary

#### Terms Used

1.1 In these rules, unless the contrary intention appears:

**ACNC Act** means the Australian Charities and Not-for-profits Commission Act 2012 (Cth);

**Act** means the Associations Incorporation Act 2015;

**Appointed Director** has the meaning given in rule 11.1(b);

**Associate Member** means a member with the rights referred to in rule 4.6;

**Association** means Kids' Camps Inc. to which these rules apply;

**Board** means the "Management Committee" required by the Act which is the body responsible for the management of the affairs of the Association and which is made up of the Appointed Directors and the Elected Directors;

**Board Meeting** means a meeting of the Board;

**Books**, of the Association, includes the following:

- (a) a register;
- (b) financial records, financial statements or financial reports, however compiled, recorded or stored;
- (c) a document; and
- (d) any other record of information;

**By Laws** means by-laws made by the Association under rule 17;

**CEO or Chief Executive Officer** means the person employed to act from time to time as the Chief Executive Officer of the Association;

**Chairperson** means the Director, most usually the President, who chairs the Board Meetings and General Meetings;

**Commissioner** means the person for the time being designated as the Commissioner under section 153 of the Act;

**Deputy President** means the person elected by the Board in accordance with rule 11.15 to be the Deputy President.

**Director** means a member of the Board;

**Elected Director** has the meaning given in rule 11.1(a);

**Eligible Transferee** means a fund, authority or institution which is charitable at law and to which gifts can be deducted under Division 30 of the *Income Tax Assessment Act 1997* (Cth);

**Financial Records** includes:

- (a) invoices, receipts, orders for the payment of money, bills of exchange, cheques, promissory notes and vouchers;
- (b) documents of prime entry; and
- (c) working papers and other documents needed to explain:
  - (i) the methods by which financial statements are prepared; and
  - (ii) adjustments to be made in preparing financial statements;

**Financial Report** of a tier 2 association or a tier 3 association, has the meaning given in section 63 of the Act;

**Financial Statements** means the financial statements in relation to the Association required under Part 5 Division 3 of the Act;

**Financial Year** of the Association, has the meaning given in rule 1.6;

**General Meeting** of the Association, means a meeting of the Association that all members are entitled to receive notice of and to attend;

**Member** means a person who is an Ordinary Member or an Associate Member of the Association;

**Office Bearer** means those persons referred to in rule 9.4(c);

**Officer** has the meaning given in section 3 of the Act;

**Ordinary Member** means a member with the rights referred to in rule 4.5;

**President** means the person elected by the Board in accordance with rule 11.15 to be the President.

**Register of Members** means the register of members referred to in section 53 of the Act;

**Rules** means these rules of the Association, as in force for the time being;

**Secretary** means the Director holding office as the Secretary of the Association;

**Special General Meeting** means a general meeting of the Association other than the annual general meeting;

**Special Resolution** means a resolution passed by the members at a general meeting in accordance with section 51 of the Act;

**Subcommittee** means a subcommittee appointed by the Board under rule 13.1;

**Tier 1 Association** means an incorporated association to which section 64(1) of the Act applies;

**Tier 2 Association** means an incorporated association to which section 64(2) of the Act applies;

**Tier 3 Association** means an incorporated association to which section 64(3) of the Act applies;

**Treasurer** means the Director holding office as the Treasurer of the Association.

## **Name of Association**

1.2 The name of the Association is "Kids' Camps Inc."

## **Objects of Association**

1.3 The objects and purposes of the Association are:

- (a) to support families and carers by providing services for their child or young person with disability;
- (b) to provide social interaction, recreational opportunities and leisure experiences for children and young people with disability;
- (c) to assist children and young people with disability to attend camp programmes and take part in recreational activities;
- (d) to raise community awareness of issues involved in supporting children and young people with disability;
- (e) to provide opportunities for children and young people with disability to interact with children and young people without a disability;
- (f) to provide social interaction, recreational opportunities and life skills for people with disability;
- (g) to provide social and development opportunities to all children and young people, especially those facing exceptional challenges; and
- (h) to provide support services to people at risk, especially those living with disability and those facing exceptional challenges.

## **Quorum for Board Meetings**

1.4 Half of the current number of Directors plus one, rounded up to the nearest whole number, constitutes a quorum for the conduct of business at a Board Meeting.

## **Quorum for General Meetings**

1.5 One third of the Members entitled to vote under these Rules at a General Meeting, personally present, rounded up to the nearest whole number, will constitute a quorum for the conduct of business at a General Meeting.

## **Financial Year**

1.6 The Association's Financial Year will be the period of 12 months commencing on 1 July and ending on 30 June of each year.

## **Days**

1.7 A reference to the term "days" means calendar days.

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## **2. Powers of the Association**

### **Powers of the Association**

2.1 The Association has the power to do all things that help it to achieve its objects and purposes in a lawful manner, including the powers of an individual and all the powers of an Association under the Act and as a registered charity under the ACNC Act.

2.2 Without limiting the generality of rule 2.1, the Association has the express power to:

- (a) acquire, hold, deal with, lease, exchange, hire and dispose of any real or personal property;
- (b) open and operate bank accounts;
- (c) invest the funds of the Association:
  - (i) in any security in which trust monies may lawfully be invested under the *Trustees Act 1962 Part III (WA)*; or
  - (ii) in any other manner authorised by these Rules;
- (d) borrow money upon such terms and conditions as the Association thinks fit;
- (e) give such security for the discharge of liabilities incurred by the Association as the Association thinks fit;
- (f) appoint agents to transact any business of the Association on its behalf;
- (g) manage, develop, lease, sell, license or dispose of any real or personal property;
- (h) enter into any contract it considers necessary or desirable;
- (i) raise funds by public and private subscription and other kinds of fundraising;
- (j) become affiliated with or subscribe to any other association or organisation with objects similar to or conducive to the promotion of the objects of the Association and, if thought fit, to retire or withdraw from such association or body;
- (k) enter into arrangements, joint ventures or partnerships with other parties;
- (l) employ, pay and dismiss employees;
- (m) engage, pay and dismiss contractors; and
- (n) act as trustee and accept and hold real and personal property upon trust, but the Association does not have power to contravene the Act or these Rules.

### **Association to be a Not for Profit Body**

- 2.3 The property and income of the Association must be applied solely towards promoting the objects or purposes of the Association and no part of that property or income may be paid or otherwise distributed, directly or indirectly, to any Member or Director, except in good faith in promoting those objects or purposes.
- 2.4 A payment may be made to a Member or Director out of the funds of the Association only if it is authorised under rule 2.5, and in the case of a Director, if a resolution authorising the payment has been passed at a General Meeting.
- 2.5 A payment to a Member or Director out of the funds of the Association is authorised if it is:
- (a) the payment in good faith to the Member or Director as reasonable remuneration for any services provided to the Association, or for goods supplied to the Association, in the ordinary course of business;
  - (b) the payment of interest, on money borrowed by the Association from the Member or Director, at a rate not greater than the cash rate published from time to time by the Reserve Bank of Australia;
  - (c) the payment of reasonable rent to the Member or Director for premises leased by the Member to the Association; or

- (d) the reimbursement of reasonable expenses properly incurred by the Member or Director on behalf of the Association.
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### **3. Becoming a Member**

#### **Minimum Number of Members**

- 3.1 The Association must have at least six Members with full voting rights.

#### **Eligibility for Membership**

- 3.2 Any person who supports the objects and purposes of the Association is eligible to apply to become a Member.
- 3.3 An individual who has not reached the age of 18 years is not eligible to apply for a class of membership that confers full voting rights.
- 3.4 An individual who is a current staff member or has been a staff member within the previous 3 years is not eligible to become a Member.

#### **Applying for Membership**

- 3.5 A person who wants to become a Member (**Applicant**) must apply in writing to the Association.
- 3.6 The application form must be signed by the Applicant.
- 3.7 The application form must specify the applicable class of membership.

#### **Dealing with Membership Applications**

- 3.8 The Board, or person authorised by the Board, will consider and decide whether to approve or reject any membership application.
  - (a) Subject to rule 3.8(c), applications will be considered and decided in the order they are received by the Association.
  - (b) When considering a membership application, the Board may seek clarification of any matter or further information in support of the application including the historical and current financial position of the Applicant, and may delay its decision to allow for that material to be provided and proceed to consider and decide other applications.
  - (c) The Board, or person authorised by the Board, must not approve a membership application unless the Applicant:
    - (i) meets the eligibility requirement under rule 3.2 to 3.4; and
    - (ii) applies in accordance with rule 3.5 to 3.7.
  - (d) The Board may reject a membership application even if the Applicant has applied in writing and complies with the eligibility requirement under rule 3.2 to 3.4.
  - (e) As soon as is practicable after the Board has made a decision under rule 3.8, the Board must notify the Applicant in writing of the outcome of their membership application but is not obliged to provide reasons for the decision.
  - (f) If the Board rejects the application, the Board is not required to give the applicant its reasons for doing so.

## **Becoming a Member**

- 3.9 An Applicant for membership of the Association becomes a Member when:
- (a) the Board accepts the application; and
  - (b) the Applicant pays any membership fees payable to the Association under rule 5.
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## **4. Classes of members**

- 4.1 The Association shall consist of Ordinary Members and Associate Members, provided for under rule 4.2.
- 4.2 The Association may have any class of associate membership including junior membership, participating membership and life membership.
- 4.3 An individual who has not reached the age of 18 is only eligible to be an Associate Member.
- 4.4 A person can be an Ordinary Member or belong to one class of associate membership.
- 4.5 An Ordinary Member has full voting rights and any other rights conferred on members by these rules or approved by resolution at a general meeting or determined by the Board.
- 4.6 An Associate Member has the rights referred to in 4.5 other than full voting rights.
- 4.7 The number of members of any class is not limited unless otherwise approved by resolution at a General Meeting.
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## **5. Membership fees**

### **Entrance Fee**

- 5.1 The Board may from time to time recommend to the Members for approval the amount of the entrance fee, if any, to be paid by each Member or each class of Members upon becoming a Member.

### **Annual Membership Fee**

- 5.2 The Board may from time to time recommend to the Members for approval the amount of the annual membership fee, if any, to be paid by each Member or each class of Members upon becoming a Member.
- 5.3 A Member must pay the annual membership fee to the Treasurer, or another person authorised by the Board to accept payments, by the date (the due date) determined by the Board.
- 5.4 If a Member has not paid the annual membership fee within the period of 3 months after the due date, the Member ceases to be a member on the expiry of that period.
- 5.5 If a person who has ceased to be a Member under rule 5.4 subsequently offers to pay the annual membership fee:
- (a) the Board may, at its discretion, accept that payment; and
  - (b) if the payment is accepted, the person's membership is reinstated from the date the payment is accepted.

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## **6. Membership register**

### **Register of Members**

- 6.1 The Secretary or a person authorised by the Board is responsible for the requirements imposed on the Association under section 53 of the Act to maintain the register of members and record in that register any change in the membership of the Association.
- 6.2 In addition to the matters referred to in section 53(2) of the Act, the Register must contain:
- (a) the full name of each Member;
  - (b) a contact postal, residential or email address of each Member;
  - (c) the class of membership held by the Member; and
  - (d) the date on which the Member became a Member.
- 6.3 Any change in membership of the Association must be recorded in the Register within 28 days after the change occurs, including the entry of a new Member's details.
- 6.4 The Register must be kept and maintained at such place as the Board decides.

### **Inspecting the Register**

- 6.5 Any Member is able to inspect the Register free of charge, at such time and place as is mutually convenient to the Association and the Member.
- 6.6 A Member must contact the CEO or other person authorised by the Board to request to inspect the Register.

### **Copy of the Register**

- 6.7 A Member may make a request in writing to the CEO or other person authorised by the Board for a copy of the Register under section 56(1) of the Act.
- 6.8 If a Member wishes to make a copy of, or take an extract from, the register under section 54(2) of the Act, the Board may require the member to provide a statutory declaration setting out the purpose for which the copy or extract is required and declaring that the purpose is connected with the affairs of the Association.
- 6.9 The Member has no right to remove the Register for any purpose.
- 6.10 The Association may charge a reasonable fee to the Member for providing a copy of, or extract from, the Register, the amount to be determined by the Board from time to time.

### **When Using the Information in the Register is Prohibited**

- 6.11 A Member must not use or disclose the information on the Register in breach of section 57 of the Act, or:
- (a) to gain access to information that another Member has denied them (that is, in the case of social, family or legal differences or disputes);
  - (b) to contact, send material to the Association or other Members for the purpose of advertising for political, religious, charitable or commercial purposes; or
  - (c) for any other purpose unless the use of the information is approved by the Board and for a purpose that is:

- (i) directly connected with the affairs of the Association; or
  - (ii) related to administering the Act.
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## **7. Ceasing to be a Member**

### **When Membership Ceases**

- 7.1 A Member's membership ceases, if the Member:
- (a) being a natural person, dies;
  - (b) ceases to be a Member under rule 5.4;
  - (c) resigns as a Member under rule 7.3 to 7.5; or
  - (d) is expelled from the Association under rule 7.7 to 7.14.
- 7.2 For a period of one year after a former Member's membership ends, the person authorised by the Board must keep a record of:
- (a) the date on which a former Member ceased to be a Member under rule 7.1; and
  - (b) the reason why the former Member ceased to be a Member.

### **Resignation**

- 7.3 A Member who has paid all amounts payable by the Member to the Association in respect of their membership, may resign from membership by giving written notice of their resignation to the Board or a person authorised by the Board.
- 7.4 The Member resigns:
- (a) at the time the Board receives the notice; or
  - (b) if a later time is stated in the notice, at that later time.
- 7.5 Any Member who resigns from the Association remains liable to pay to the Association any outstanding fees and any other monies that it owes to the Association, which may be recovered as a debt due to the Association by the Member.

### **Rights Not Transferrable**

- 7.6 The rights of a Member are not transferable and end when membership ceases.

### **Suspending or Expelling Members**

- 7.7 The Board may suspend or expel a Member, other than an Elected Director, from membership if:
- (a) the Member refuses or neglects to comply with these Rules or the By-Laws; or
  - (b) the Member's conduct or behaviour is detrimental to the interests of the Association.
- 7.8 The Board must convene a Board Meeting to decide whether to suspend or expel a Member.
- 7.9 The Secretary or a person authorised by the Board must, not less than 28 days before the Board Meeting referred to in rule 7.8, give written notice to the Member:
- (a) of the proposed suspension or expulsion and the grounds on which it is based;

- (b) of the date, place and time of the Board Meeting;
  - (c) that the Member, or the Member representative, may attend the Board Meeting; and
  - (d) that the Member, or the Member representative, may address the Board at the Board Meeting and will be given a full and fair opportunity to state the Member's case orally, or in writing, or both.
- 7.10 At the Board Meeting referred to in rule 7.8 the Board must:
- (a) give the Member, or the Member's representative, a reasonable opportunity to make written or oral (or both) submissions to the Board about the proposed suspension or expulsion;
  - (b) give due consideration to any submissions so made; and
  - (c) determine whether or not the Member should be:
    - (i) expelled from the Association; or
    - (ii) suspended from membership, and if so, the period that the Member should be suspended from membership.
- 7.11 Once the Board has decided to suspend or expel a Member under rule 7.10 the Member is immediately suspended or expelled from membership.
- 7.12 The Chairperson must inform the Member in writing of the Board's decision, and the reasons for the decision, within 7 days of the Board Meeting referred to in rule 7.8.
- 7.13 A Member whose membership is suspended or who is expelled from the Association may, within 14 days after receiving notice of the Board's decision under rule 7.12, give written notice to the Secretary, or other person authorised by the Board, requesting the appointment of a mediator under rule 8.17 to 8.20.
- 7.14 If notice is given under rule 7.13, the Member who gives the notice and the Board are the parties to the mediation.

### **Consequences of Suspension**

- 7.15 During the period a Member's membership is suspended under rule 7.11, the Member:
- (a) loses any rights or privileges of membership, including voting rights; and
  - (b) is not entitled to a refund, rebate, relief or credit for membership fees paid or payable to the Association.
- 7.16 If a Member's membership is suspended under rule 7.11, the Secretary or a person authorised by the Board must record in the Register within 28 days of the suspension:
- (a) the name of the Member that has been suspended from membership;
  - (b) the date on which the suspension takes effect; and
  - (c) the period of the suspension.
- 7.17 When the period of a Member's suspension ends, or on revocation of a Member's suspension, the Secretary or a person authorised by the Board must record in the Register that the Member is no longer suspended.

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## **8. Resolving disputes**

### **Disputes Arising Under the Rules**

8.1 This rule applies to:

- (a) disputes between Members; and
- (b) disputes between one or more Members and the Association;

that arise under the:

- (c) Rules or relate to the Rules of the Association; or
- (d) By-Laws or relate to the By-Laws of the Association.

8.2 In this rule "Member" includes any former Member whose membership ceased not more than six months before the dispute occurred.

### **Parties to Attempt to Resolve Dispute**

8.3 The parties to a dispute must attempt to resolve the dispute between themselves within 14 days of the dispute coming to the attention of each party.

### **Starting the Grievance Procedure**

8.4 If the parties are unable to resolve the dispute between themselves within the time required by rule 8.3, any party to the dispute may initiate a procedure under this rule by giving written notice to the Secretary or other person authorised by the Board, of:

- (a) the parties to the dispute; and
- (b) the matter or matters that are the subject of the dispute.

8.5 Within 28 days of the Secretary or other person authorised by the Board receiving notice of the dispute under rule 8.4, a Board meeting must be convened for the Board to consider and determine the dispute.

8.6 The Secretary or other person authorised by the Board must give each party to the dispute written notice of the Board meeting at which the dispute is to be considered and determined at least 7 days before the meeting is held.

8.7 The notice given to each party to the dispute must state:

- (a) when and where the Board meeting is to be held; and
- (b) that the party, or the party's representative, may attend the meeting and will be given a reasonable opportunity to make written or oral (or both written and oral) submissions to the Board about the dispute.

8.8 If:

- (a) the dispute is between one or more members and the Association; and
- (b) any party to the dispute gives written notice to the Secretary or other person authorised by the Board stating that the party:
  - (i) does not agree to the dispute being determined by the Board; and
  - (ii) requests the appointment of a mediator under rule 8.17 to 8.19;

the Board must not determine the dispute.

- 8.9 If any party to the dispute gives written notice to the Secretary or other person authorised by the Board requesting the appointment of a mediator under rule 8.17 to 8.19:
- (a) the Board must not determine the dispute; and
  - (b) a mediator must be appointed under rule 8.17 to 8.19.

### **Determination of Dispute by Board**

- 8.10 At the Board Meeting to consider and determine the dispute, the Board must:
- (a) give each party to the dispute, or the party's representative, a reasonable opportunity to make written or oral (or both written and oral) submissions to the committee about the dispute;
  - (b) give due consideration to any submissions so made; and
  - (c) determine the dispute.
- 8.11 The Secretary or other person authorised by the Board must give each party to the dispute written notice of the Board's determination, and the reasons for the determination, within 7 days after the Board meeting at which the determination is made.
- 8.12 A party to the dispute may, within 14 days after receiving notice of the Board's determination under rule 8.11, give written notice to the Secretary or other person authorised by the Board requesting the appointment of a mediator under rule 8.17 to 8.20.
- 8.13 If notice is given under rule 8.12, each party to the dispute is a party to the mediation.

### **Mediation**

- 8.14 This rule applies if written notice has been given to the Secretary or other person authorised by the Board requesting the appointment of a mediator:
- (a) by a Member under rule 7.13; or
  - (b) by a party to a dispute under rule 8.8(b)(ii), 8.9 or 8.12; or
- 8.15 Where the dispute relates to a proposal for the suspension or expulsion of a Member this rule does not apply until the procedure under rule 7.7 to 7.14 in respect of the proposed suspension or expulsion has been completed.
- 8.16 A mediator must be chosen or appointed under rule 8.17 to 8.20.

### **Appointment of a Mediator**

- 8.17 The mediator must be a person chosen:
- (a) if the appointment of a mediator was requested by a Member under rule 7.13 — by agreement between the Member and the Board; or
  - (b) if the appointment of a mediator was requested by a party to a dispute under rule 8.8(b)(ii), 8.9 or 8.12 — by agreement between the parties to the dispute.
- 8.18 If there is no agreement for the purposes of rule 8.17(a) or 8.17(b), then, subject to rules 8.19 and 8.20, the Board must appoint the mediator.

- 8.19 The person appointed as mediator by the Board must be a person who acts as a mediator for another not-for-profit body, such as a community legal centre, if the appointment of a mediator was requested by:
- (a) a member under rule 7.13;
  - (b) a party to a dispute under rule 8.8(b)(ii);
  - (c) a party to a dispute under rule 8.9; or
  - (d) a party to a dispute under rule 8.12 and the dispute is between one or more Members and the Association.
- 8.20 The person appointed as mediator by the Board may be a Member or former Member of the Association but must not:
- (a) have a personal interest in the matter that is the subject of the mediation; or
  - (b) be biased in favour of or against any party to the mediation.

### **Mediation Process**

- 8.21 The parties to the mediation must, in good faith, attempt to settle the matter that is the subject of the mediation.
- 8.22 Each party to the mediation must give the mediator a written statement of the issues that need to be considered at the mediation at least 5 days before the mediation takes place.
- 8.23 The mediator, in conducting the mediation, must:
- (a) give the parties to the mediation process every opportunity to be heard;
  - (b) allow all parties to give due consideration to any written statement submitted by another party; and
  - (c) ensure that natural justice is accorded to the parties to the mediation throughout the mediation process.
- 8.24 The mediator cannot determine the matter that is the subject of the mediation.
- 8.25 The mediation must be confidential, and any information given at the mediation cannot be used in any other legal or other proceedings that take place in relation to the matter that is the subject of the mediation.
- 8.26 The party or parties requesting the mediation must pay the costs of the mediation.

### **Reinstatement of a Member**

- 8.27 If the Board's decision to suspend or expel a Member is revoked pursuant to mediation under these Rules, any act performed by the Board or Members in a General Meeting during the period that the Member was suspended or expelled from Membership under rule 7.11 is deemed to be valid, notwithstanding the Member's inability to exercise their rights or privileges of Membership, including voting rights, during that period.

### **Inability to Resolve Disputes**

- 8.28 If a dispute cannot be resolved under the procedures set out in the Rules, any party to the dispute may apply to the State Administrative Tribunal to determine the dispute in accordance with the Act or otherwise at law.

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## **9. Powers and Composition of the Board**

### **Powers of the Board**

- 9.1 The Directors are the persons who, as the Board of the Association, have the power to manage the affairs of the Association.
- 9.2 Subject to the Act, the ACNC Act, these Rules, the By-Laws and any resolution passed at a General Meeting, the Board has power to do all things necessary or convenient to be done for the proper management of the affairs of the Association.
- 9.3 The Board must take all reasonable steps to ensure that the Association complies with the Act, the ACNC Act, these Rules and the By-Laws.

### **Directors**

- 9.4 The Board is to consist of:
- (a) A minimum of six and a maximum of nine Directors at any time.
  - (b) More than half the Directors at any point in time must be Elected Directors.
  - (c) The following are the Office Bearers of the Association:
    - (i) the President;
    - (ii) the Deputy President;
    - (iii) the Secretary; and
    - (iv) the Treasurer.
  - (d) Only an Elected Director can be President or Deputy President.
  - (e) A person may be a Director if the person is:
    - (i) An individual who has reached 18 years of age; and
    - (ii) An Ordinary Member.
  - (f) A person must not hold 2 or more of the offices set out in 9.4(c) at the same time.

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## **10. Roles and Duties of Directors and Officers**

### **President and Deputy President**

- 10.1 The President, or in the absence of the President, then the Deputy President:
- (a) must consult with the CEO or other senior employee of the Association regarding the business to be conducted at each Board Meeting and each General Meeting;
  - (b) has the powers and duties relating to convening and presiding at Board Meetings and presiding at General Meetings provided for in these Rules;
  - (c) shall be the spokesperson for the Association, and may delegate this role to others to speak on behalf of the Association; and
  - (d) must ensure that the minutes of a General Meeting or Board Meeting are reviewed and signed as correct under rule 12.29.

## **Secretary**

10.2 The Secretary, or other person authorised by the Board, must:

- (a) maintain full and accurate minutes of the Board Meetings and General Meetings; and
- (b) carry out any other duty given to the Secretary under these Rules or by the Board.

## **Treasurer**

10.3 The Treasurer, or other person authorised by the Board, must:

- (a) ensure that all any amounts payable to the Association are collected, and that receipts are issued for those moneys in the name of the Association;
- (b) ensure the payment of all moneys referred to in rule 10.3(a) into the account or accounts of the Association as the Board may from time to time direct;
- (c) ensure timely payments from the funds of the Association with the authority of the Board or a General Meeting;
- (d) ensure that the Association complies with the account keeping requirements in Part 5 of the Act;
- (e) ensure the safe custody of the Financial Records of the Association and any other relevant records of the Association;
- (f) if the Association is a Tier 1 Association, coordinate the preparation of the Financial Statements of the Association prior to their submission to the AGM;
- (g) if the Association is a Tier 2 Association or Tier 3 Association, coordinate the preparation of the Financial Report of the Association prior to its submission to the AGM;
- (h) provide any assistance required by a reviewer or auditor in performing their functions;
- (i) ensure that a report on the Association's finances are presented at every Board meeting; and
- (j) carry out any other duties as are imposed by these Rules or the Association on the Treasurer.

## **Record Keeping**

10.4 The CEO or other person authorised by the Board must:

- (a) co-ordinate the correspondence of the Association;
- (b) consult with the President, or in their absence the Deputy President, regarding the business to be conducted at each Board Meeting and General Meeting;
- (c) prepare the notices required for meetings and for the business to be conducted at meetings;
- (d) maintain on behalf of the Association the register of members, and recording in the register any changes in the membership, as required under section 53(1) of the Act;
- (e) maintain on behalf of the Association an up-to-date copy of the Rules of the Association as required by section 35(1) of the Act and any By-Laws of the Association made in accordance with rule 17;

- (f) maintain on behalf of the Association a record of Directors and other persons authorised to act on behalf of the Association, as required under section 58(2) of the Act, including a record of the names, residential and postal addresses of those Directors;
- (g) ensure the safe custody of the Books of the Association, other than the Financial Records, Financial Statements and Financial Reports, as applicable to the Association; and
- (h) carry out any other duties as are imposed by these Rules or the Association.

### **Duties of Directors**

10.5 The Directors and Officers and any other persons who have the ability to influence the Board, shall comply with sections 44, 45, 46 and 47 of the Act and common law (judge-made law), and with the duties described in governance standard 5 of the regulations made under the *ACNC Act 2012* (Cth), which are:

- (a) to exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were a Director;
- (b) to act in good faith in the best interests of the Association and to further the objects and purposes of the Association;
- (c) not to misuse their position as a Director;
- (d) not to misuse information they gain in their role as a Director;
- (e) to disclose any perceived or actual material conflicts of interest in the manner set out in rule 10.6;
- (f) to ensure that the financial affairs of the Association are managed responsibly; and
- (g) not to allow the Association to operate while it is insolvent.

### **Conflict of Interest**

10.6 Each Director must, as soon as the Director becomes aware of the interest, disclose the nature and extent of any actual or perceived material conflict of interest in a matter that is being considered at a meeting of the Board (or that is proposed in a circular resolution):

- (a) to the other Directors; or
- (b) if all of the Directors have the same conflict of interest, to all the members at the next general meeting, or at an earlier time if reasonable to do so.

10.7 The disclosure of a conflict of interest by a Director must be recorded in the minutes of the meeting.

10.8 Each Director who has a material personal interest in a matter that is being considered at a meeting of the Board (or that is proposed in a circular resolution) must not, except as provided under rule 10.9:

- (a) be present at the meeting while the matter is being discussed;
- (b) be included in circular resolution communications; or
- (c) vote on the matter.

- 10.9 A Director may still be present and vote if:
- (a) their interest arises because they are a member of the Association, and the other members have the same interest;
  - (b) the Australian Securities and Investments Commission or another Australian government agency makes an order allowing the member of the Board to vote on the matter; or
  - (c) the Directors who do not have a material personal interest in the matter pass a resolution that:
    - (i) identifies the member of the Board, the nature and extent of the member's interest in the matter and how it relates to the affairs of the Association; and
    - (ii) says that those members are satisfied that the interest should not stop the member from voting or being present.
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## 11. Appointing Directors

### Duties of the Directors and Officers

- 11.1 A Member becomes a Director if the Member:
- (a) is elected to the Board at an AGM (**Elected Director**);
  - (b) is appointed by the Board at a Board Meeting (**Appointed Director**); or
  - (c) is appointed by the Board to fill a casual vacancy under rule 11.27 (**Replacement Director**).

### Nomination of Directors

- 11.2 A person who wishes to be an Elected Director must be nominated by a Member as a candidate for election, as set out in rule 11.5.
- 11.3 At least 42 days before an AGM, a person authorised by the Board must send a written notice to all Members calling for nominations for election of Directors and specifying the date for the close of nominations to all Members.
- 11.4 Nominations for election of Directors shall close at least 28 days before the AGM.
- 11.5 The nomination for election must be:
- (a) in writing;
  - (b) signed by the nominee;
  - (c) include information concerning the candidate;
  - (d) signed in writing by another Member; and
  - (e) delivered to the office of the Association on or before the date for the close of nominations.
- 11.6 A person authorised by the Board shall notify each Member in writing of the nominations and the candidate information, at least 14 days prior to the AGM.

- 11.7 If a nomination for election to the Board is not made in accordance with rules 11.2 to 11.6, the nomination is to be deemed invalid and the person nominated will not be eligible for election unless rule 11.10 takes effect.

### **Election of Directors**

- 11.8 If the number of valid nominations for Elected Directors received under rule 11.2 to 11.7 is equal to the number of vacancies to be filled on the Board, the person(s) nominated shall be deemed to be elected as Directors at the AGM.
- 11.9 If the number of valid nominations exceeds the number of vacancies to be filled on the Board, elections for the vacant Board positions must be conducted at the AGM.
- 11.10 If there are not enough valid nominations to fill the number of vacancies on the Board, the candidates nominated (if any) shall be deemed to be elected and further nominations may be received from the floor of the AGM.
- 11.11 Where the number of nominations from the floor exceeds the remaining number of vacancies on the Board, elections for those positions must be conducted.
- 11.12 If an insufficient number of nominations are received from the floor for the number of vacancies on the Board that remain, each relevant position on the Board is declared vacant by the person presiding at the AGM and rule 11.10 applies.
- 11.13 A Member who has nominated for the position of Director may vote in accordance with that nomination.
- 11.14 The elections for Directors are to be conducted at the AGM in the manner directed by the Board.

### **Election of Office Bearers**

- 11.15 At the first Board Meeting after the AGM the Directors shall elect the Office Bearers.
- 11.16 Only Elected Directors will be eligible to hold the roles of President and Deputy President.

### **Term of Office**

- 11.17 The term of office of a Director begins when the Member:
- (a) is elected at an AGM under rule 11.8 to 11.14;
  - (b) is appointed by the Board at a Board Meeting; or
  - (c) is appointed to fill a casual vacancy under rule 11.27.
- 11.18 The term for an Elected Director and an Appointed Director shall be two years from the date of election or appointment, except as provided in rule 11.25.
- 11.19 An Elected or Appointed Director whose term has expired, is eligible for re-election or re-appointment provided that:
- (a) they have not served as a Director for 10 consecutive years immediately prior to their nomination for election or appointment as a Director; or
  - (b) they have not been a Director for at least three consecutive years after having served 10 consecutive years as a Director.

## **Resignation and Removal from Office**

11.20 A Director may resign from the Board by giving written notice to the President.

11.21 The resignation takes effect:

- (a) when the notice is received by the President; or
- (b) if a later time is stated in the notice, at the later time.

11.22 At a General Meeting, the Association may by resolution:

- (a) remove a Director from office; and
- (b) elect a Member who is eligible under rule 9.4(e) to fill the vacant position.

11.23 A Board member who is the subject of a proposed resolution under rule 11.22(a) may make written representations (of a reasonable length) to the Secretary or President and may ask that the representations be provided to the members.

11.24 The Secretary or President may give a copy of the representations to each Member or, if they are not so given, the Director may require them to be read out at the General Meeting at which the resolution is to be considered.

## **Ceasing to be a Director**

11.25 A person ceases to be a Director and a casual vacancy occurs on the Board if they:

- (a) die;
- (b) resign from the Board or are removed from office under rule 11.22(a);
- (c) become disqualified from holding a position in the Association or acting as a Director as a result of bankruptcy or conviction of a relevant criminal offence;
- (d) become incapacitated for a period of more than six months by mental or physical ill-health; or
- (e) fail to attend 3 consecutive Board Meetings, of which they have been given notice, without having notified the Board that they will be unable to attend.

## **Handing Over Documents and Records**

11.26 Where a person ceases to be a Director, they shall deliver to the CEO or other authorised person all of the relevant documents and records and dispose of any electronic documentation they hold pertaining to the management of the Association's affairs in accordance with section 41 of the Act.

## **Filling Casual Vacancies**

11.27 The Board may appoint a member who is eligible under rule 9.4(e) to fill a position on the Board that:

- (a) has become vacant under rule 11.25; or
- (b) was not filled by election at the most recent AGM.

11.28 If any Board position becomes vacant, the Board must appoint another Director, subject to rule 11.16, to fill the position within 14 days after the vacancy arises.

- 11.29 Subject to the requirement for a quorum under rule 1.4, the Board may continue to act despite any vacancy in its membership.
- 11.30 If there are fewer Board members than required for a quorum under rule 1.4, the Board may act only for the purpose of:
- (a) appointing Directors under this rule; or
  - (b) convening a General Meeting.
- 11.31 A Director appointed under rule 11.27 must retire at, and will be eligible for re-election at, the next AGM following that Director's appointment under rule 11.27.

### **Validity of Acts**

- 11.32 The acts of the Board or Subcommittee, or of a Director or member of a Subcommittee, are valid despite any defect that may afterwards be discovered in the election, appointment or qualification of a Director or member of a Subcommittee.

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## **12. Board Meetings**

### **Board Meetings**

- 12.1 The Board must meet at least six times in each year.
- 12.2 The Board is to determine the date, place and time of all Board Meetings.
- 12.3 Special meetings of the Board may be convened by:
- (a) the President, or in the absence of the President, by the Vice President; or
  - (b) any two Directors.

### **Notice of Board Meetings**

- 12.4 Notice of each Board meeting must be given to each Director at least 7 days before the time of the meeting, except in the case of urgent business.
- 12.5 The notice must state the date, time and place of the meeting and must describe the general nature of the business to be conducted at the meeting.
- 12.6 Unless rule 12.7 applies, the only business that may be conducted at the meeting is the business described in the notice.
- 12.7 Urgent business that has not been described in the notice may be conducted at the meeting if the Directors at the meeting unanimously agree to treat that business as urgent.

### **Chairing Board Meetings**

- 12.8 The President or, in the President's absence, the Deputy President is to preside as Chairperson of each Board Meeting.
- 12.9 If the President and the Deputy President are absent or unwilling to act, the remaining Directors must choose one of their number to preside as Chairperson at the Board Meeting.

### **Procedure and Order of Business**

- 12.10 The quorum for a Board Meeting is specified at rule 1.4. The Board cannot conduct business unless a quorum is present.

- 12.11 If, within half an hour of the time appointed for the Board meeting, a quorum is not present the meeting is to stand adjourned to the same time, day and place in the following week.
- 12.12 If, within half an hour of the time appointed for a special Board meeting, a quorum is not present the meeting lapses.
- 12.13 If at a meeting adjourned under rule 12.11, a quorum is not present within half an hour of the time appointed for the meeting, if at least 2 Directors are present, the Directors personally present will constitute a quorum.
- 12.14 Board Meetings may take place:
- (a) where the Directors are physically present together; or
  - (b) where the Directors are able to communicate by using any technology that reasonably allows the Director to participate fully in discussions as they happen in the Board Meeting and in making decisions, provided that the participation of the Director in the Board Meeting must be made known to all other Directors.
- 12.15 A Director who participates in a meeting as set out in rule 12.14(b):
- (a) is deemed to be present at the Board Meeting; and
  - (b) continues to be present at the meeting for the purposes of establishing a quorum, until the Director notifies the other Directors that he or she is no longer taking part in the Board Meeting.
- 12.16 Subject to these Rules, the Directors present at the Board Meeting are to determine the procedure and order of business to be followed at a Board Meeting.
- 12.17 All Directors have the right to attend and vote at Board Meetings.
- 12.18 All Members, or other guests, may attend Board Meetings if invited by the Board but any person invited to a Board Meeting shall not have any right to comment without invitation, or any right to vote, or to be provided with copies of any agenda, minutes of meetings, or documents presented to such meetings.
- 12.19 The Secretary or another person authorised by the Board must keep minutes of the resolutions and proceedings of all Board Meetings together with a record of the names of persons present at each meeting.

### **Voting at Board Meetings**

- 12.20 Each Director present at a Board Meeting has one vote on any question arising at the meeting.
- 12.21 A motion is carried if a majority of the Directors present at the Board Meeting vote in favour of the motion.
- 12.22 If the votes are divided equally on a question, the Chairperson of the meeting has a second or casting vote.
- 12.23 A vote may take place by the Directors present indicating their agreement or disagreement or by a show of hands, unless the Board decides that a secret ballot is needed to determine a particular question.
- 12.24 If a secret ballot is needed, the Chairperson of the meeting must decide how the ballot is to be conducted.

## **Board Resolutions without Meetings**

- 12.25 A resolution of the Board may be carried without any need for a meeting of the Board if:
- (a) the resolution is contained in a document;
  - (b) at least 4 of the Directors have consented in writing, this may be through electronic means, to the resolution; and
  - (c) notice of the proposed resolution has been given in writing, this may be through electronic means, to all Directors.

## **Minutes of Board Meetings**

- 12.26 The Board must ensure that minutes are taken and kept of each Board Meeting.
- 12.27 The minutes must record the following:
- (a) the names of the Directors present at the meeting;
  - (b) the names of any person attending the meeting under rule 12.18;
  - (c) the business conducted at the meeting; and
  - (d) any motion on which a vote is taken at the meeting and the result of the vote.
- 12.28 The minutes of a Board Meeting must be entered in the Association's minute book within 30 days after the meeting is held.
- 12.29 The Chairperson must ensure that the minutes of a Board Meeting are reviewed and signed as correct by:
- (a) the Chairperson of the meeting; or
  - (b) the Chairperson of the next meeting.
- 12.30 When the minutes of the Board Meeting have been signed as correct and true they are, until the contrary is proved, evidence that:
- (a) the meeting to which the minutes relate was duly convened and held;
  - (b) the matters recorded as having taken place at the meeting took place as recorded; and
  - (c) any appointment purportedly made at this meeting was validly made.

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## **13. Subcommittees and Delegation**

### **Appointment of Subcommittee**

- 13.1 To help the Board in the conduct of the Association's business, the Board may, in writing, appoint one or more subcommittees.
- 13.2 A subcommittee may consist of the number of people, whether or not members, that the Board considers appropriate.
- 13.3 Subject to any directions given by the Board a subcommittee may meet and conduct business as it considers appropriate.

## **Delegation to Subcommittees**

- 13.4 In this rule 'non-delegable duty' means a duty imposed on the Board by the Act or another written law.
- 13.5 The Board may, in writing, delegate to a subcommittee the exercise of any power or the performance of any duty of the Board other than:
- (a) the power to delegate; and
  - (b) a non-delegable duty.
- 13.6 A power or duty, the exercise or performance of which has been delegated to a subcommittee under this rule, may be exercised or performed by the subcommittee in accordance with the terms of the delegation.
- 13.7 The delegation may be made subject to any conditions, qualifications, limitations or exceptions that the Board specifies in the document by which the delegation is made.
- 13.8 The delegation does not prevent the Board from exercising or performing at any time the power or duty delegated.
- 13.9 Any act or thing done by a subcommittee under the delegation has the same force and effect as if it had been done by the Board.
- 13.10 The Board may, in writing, amend or revoke the delegation.
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## **14. General Meetings**

### **Annual General Meeting**

- 14.1 Subject to rule 14.2, the Association must convene an AGM each calendar year:
- (a) within 6 months after the end of the Association's Financial Year; or
  - (b) within a longer period as the Commissioner may allow.
- 14.2 If the Association requires the approval from the Commissioner to hold its AGM within a longer period under rule 14.1(b), the President or the CEO must apply to the Commissioner no later than four months after the end of the Association's Financial Year.

### **Notice of AGM**

- 14.3 The notice convening an AGM must specify that it is the AGM of the Association and otherwise must comply with rules 19 and 14.4 to 14.6 (as applicable).

### **Business to be Conducted at the AGM**

- 14.4 Subject to rule 14.1 and 14.2, the AGM of the Association is to be convened on a date, time and place as the Board decides.
- 14.5 At each AGM of the Association, the Members:
- (a) must confirm the minutes of the last preceding AGM and of any Special General Meeting held since that meeting if the minutes of that Special General Meeting have not yet been confirmed;
  - (b) if the Association is a Tier 1 Association, must receive the Financial Statements of the Association for the preceding Financial Year;

- (c) if the Association is a Tier 2 Association or a Tier 3 Association, must receive the Financial Report of the Association for the preceding Financial Year;
- (d) must appoint or remove a reviewer or auditor in accordance with the Act;
- (e) must receive a copy of the report of the review or the auditor's report to the Association;
- (f) must receive and consider the Board's annual report on the Association's activities during the preceding financial year; and
- (g) must elect the Elected Directors

14.6 Any other business of which notice has been given in accordance with these rules may be conducted at the AGM.

### **Special General Meetings**

14.7 The Board may at any time convene a Special General Meeting of the Association.

14.8 The Board must convene a Special General Meeting of the Association within 28 days after receiving a written request to do so from at least 20% of the total Members (rounded up to the nearest whole number).

14.9 A request by the Members for a Special General Meeting must:

- (a) provide a written notice to the Secretary or other person authorised by the Board;
- (b) state the business to be considered at the meeting in the notice; and
- (c) be signed by the each of the members making the request as specified in rule 14.8.

14.10 If the Board does not convene a Special General Meeting within that 28 day period, the Members making the request (or any of them) may convene the Special General Meeting.

14.11 A Special General Meeting convened by the Members under rule 14.10:

- (a) must be held within 3 months of the date the original request was made; and
- (b) may only consider the business stated in the notice by which the request was made.

14.12 The Association must reimburse any reasonable expenses incurred by the members convening a Special General Meeting under rule 14.10.

### **Notice of General Meetings**

14.13 The CEO or other person authorised by the Board, or in the case of a Special General Meeting under rule 14.10 the members convening the meeting, must give at least:

- (a) 14 days' notice of a General Meeting to each Member; or
- (b) 21 days' notice of a General Meeting to each Member if a special resolution is proposed to be moved at the General Meeting.

14.14 The notice convening a General Meeting must specify:

- (a) the date, time and place of the meeting;
- (b) indicate the general nature of each item of business to be considered at the meeting; and

- (c) if the meeting is an AGM, include the names of the members who have nominated for election to the Board under rule 11.2 to 11.7.
- 14.15 The notice convening a General Meeting or any notice of motion must be issued in the manner prescribed by rule 19.
- 14.16 If a special resolution is proposed:
  - (a) set out the wording of the proposed resolution as required by section 51(4) of the Act;
  - (b) state that the resolution is intended to be proposed as a special resolution; and
  - (c) comply with rule 14.23.

## **Proxies**

- 14.17 Subject to rule 14.18, an Ordinary Member may appoint an individual who is an Ordinary Member as their proxy to vote and speak on their behalf at a General Meeting.
- 14.18 An Ordinary Member may be appointed the proxy for not more than 5 other Members, unless the appointed proxy is the Chairperson who can be proxy for an unlimited number of members.
- 14.19 The appointment of a proxy must be in writing and signed by the Member making the appointment.
- 14.20 The Member appointing the proxy may give specific directions as to how the proxy is to vote on their behalf.
- 14.21 If no instructions are given to the proxy, the proxy may vote on behalf of the Member in any matter as the proxy sees fit.
- 14.22 If the Board has approved a form for the appointment of a proxy, the member must use that form.
- 14.23 Notice of a General Meeting given to an Ordinary Member under rule 14.13 to 14.16 must:
  - (a) state that the Member may appoint an individual who is an Ordinary Member as a proxy for the meeting; and
  - (b) include a copy of any form that the Board has approved for the appointment of a proxy.
- 14.24 A form appointing a proxy must be given to the Secretary, or other person authorised by the Board, before the commencement of the General Meeting for which the proxy is appointed.
- 14.25 A form appointing a proxy sent by post or electronically is of no effect unless it is received by the Association not later than 24 hours before the commencement of the meeting.

## **Use of Technology at General Meetings**

- 14.26 The presence of a Member at a General Meeting need not be by attendance in person but may be by that Member using any technology that reasonably allows the Member to participate fully in discussions as they happen and in making decisions, provided that the participation of the Member in the General Meeting must be made known to all other Members.
- 14.27 A Member who participates in a meeting as set out in rule 14.26:
  - (a) is deemed to be present at the General Meeting;

- (b) if the Member votes at the meeting, the Member is taken to have voted in person; and
- (c) continues to be present at the meeting for the purposes of establishing a quorum, until the Member notifies the Chairperson that he or she is no longer taking part in the General Meeting.

### **Chairperson and Quorum for General Meeting**

- 14.28 The President, or in the President's absence the Deputy President, must preside as Chairperson at General Meetings.
- 14.29 If the President and the Deputy President are absent or unwilling to act, the remaining Directors must choose one of their number to preside as Chairperson at the General Meeting.
- 14.30 The quorum for a General Meeting is specified at rule 1.5. No business is to be conducted unless a quorum is present.
- 14.31 If, within half an hour of the time appointed for the commencement of a General Meeting, a quorum is not present:
- (a) in the case of a Special General Meeting, the meeting lapses; or
  - (b) in the case of a General Meeting or an AGM, the meeting is to stand adjourned to:
    - (i) the same time and day in the following week; and
    - (ii) the same place, unless another place is specified by the Chairperson, at the time of the adjournment or by written notice to the Members given before the day to which the meeting is adjourned.
- 14.32 If at the adjourned meeting a quorum is not present within half an hour of the time appointed for the commencement of the meeting, and at least 2 Members are present at the meeting, the Members present are to constitute a quorum.

### **Adjournment of a General Meeting**

- 14.33 The Chairperson of the General Meeting, at which a quorum is present, may adjourn the meeting, to a time and place nominated by the Chairperson, with the consent of a majority of Members present at the meeting.
- 14.34 Without limiting rule 14.33, a meeting may be adjourned:
- (a) if there is insufficient time to deal with the business at hand; or
  - (b) to give the Members more time to consider an item of business.
- 14.35 No business may be conducted at an adjourned meeting other than the unfinished business from the meeting that was adjourned.
- 14.36 Notice of the adjournment of a meeting under this rule is not required unless the meeting is adjourned for 14 days or more, in which case notice of the meeting must be given in accordance with rule 14.13 to 14.16.

### **Voting at a General Meeting**

- 14.37 Subject to these Rules, each Member has one vote at a General Meeting.

- 14.38 A Member casts a vote at a meeting either by:
- (a) voting at the meeting either in person or through the use of technology as under rule 14.26 to 14.27; or
  - (b) by proxy.
- 14.39 Except in the case of a special resolution, a motion is carried if a majority of Ordinary Members present at a General Meeting are in favour of the motion.
- 14.40 In the case of an equality of votes at a General Meeting, the Chairperson of the meeting is entitled to exercise a second or casting vote.
- 14.41 If the motion is whether or not to confirm the minutes of a previous General Meeting, only Members who were present at that meeting may vote.
- 14.42 A Member or their proxy is not entitled to vote at any General Meeting of the Association unless all money due and payable by the Member or their proxy to the Association has been paid in accordance with rules 5.1 and to 5.2 to 5.5.
- 14.43 A Member is only entitled to vote at a General Meeting if the Member's name is recorded in the Register as at the date the notice of the General Meeting was sent out under rule 14.13 to 14.16.

### **Special Resolutions**

- 14.44 A special resolution must be moved at a General Meeting where notice of the special resolution has been given under rule 14.47.
- 14.45 A special resolution of the Association is required to:
- (a) amend the name of the Association;
  - (b) amend the Rules;
  - (c) affiliate the Association with another body;
  - (d) transfer the incorporation of the Association;
  - (e) amalgamate the Association with one or more other incorporated associations;
  - (f) voluntarily wind up the association;
  - (g) cancel incorporation; or
  - (h) request that a statutory manager be appointed.
- 14.46 Rule 14.45 does not limit the matters in relation to which a special resolution may be proposed.
- 14.47 Notice of a special resolution must:
- (a) be in writing;
  - (b) include the place, date and time of the meeting;
  - (c) include the intention to propose a special resolution;
  - (d) set out the wording of the proposed special resolution; and
  - (e) be given in accordance with rule 19.

- 14.48 If notice is not given in accordance with rule 14.47, the special resolution will have no effect.
- 14.49 A Special Resolution must be passed at a General Meeting at which there is a quorum and be supported by the votes of not less than three-fourths of the Members present, in person or by proxy, and eligible to cast a vote at the meeting.

### **Determining Whether the Resolution Carried**

- 14.50 Unless a poll is demanded under rule 14.52, the Chairperson of the General Meeting may on the basis of general agreement or a show of hands, declare that a resolution has been:
- (a) carried;
  - (b) carried unanimously;
  - (c) carried by a particular majority; or
  - (d) lost.
- 14.51 If the resolution is a special resolution, then subject to rule 14.47, the declaration should state that a special resolution has been determined.
- 14.52 If a poll is demanded on any question by the Chairperson of the meeting or by at least 3 other Ordinary Members present in person or by proxy:
- (a) the poll must be taken at the meeting in the manner determined by the Chairperson; or
  - (b) the Chairperson must declare the determination of the resolution on the basis of the poll.
- 14.53 If a poll is demanded on a question of adjournment, the poll must be taken immediately.
- 14.54 If a poll is demanded on any other question, the poll must be taken before the close of the meeting at a time determined by the Chairperson.
- 14.55 A declaration made under rule 14.50 or 14.52 must be entered into the minute book of the Association.
- 14.56 The entry in the minute book of the Association under rule 14.55 and, without proof of the voting in relation to the resolution, is evidence of how the resolution was determined.

### **Minutes of General Meeting**

- 14.57 The Secretary, or other person authorised by the Board, must take and keep minutes of each General Meeting.
- 14.58 The minutes must record the business considered at the meeting, any resolution on which a vote is taken and the result of the vote.
- 14.59 In addition, the minutes of each AGM must record:
- (a) the names of the Ordinary Members attending the meeting;
  - (b) any proxy forms given to the Chairperson of the meeting under rule 14.24;
  - (c) the financial statements or financial report presented at the meeting, as referred to in rule 14.5(b) or (c); and
  - (d) any report of the review or auditor's report on the financial statements or financial report presented at the meeting, as referred to in rule 14.5(e).

- 14.60 The minutes of a General Meeting must be entered in the Association's minute book within 30 days after the meeting is held.
- 14.61 The President must ensure that the minutes of a General Meeting are reviewed and signed as correct by:
- (a) the Chairperson of the meeting; or
  - (b) the Chairperson of the next General Meeting.
- 14.62 When the minutes of a General Meeting have been signed as correct they are, in the absence of evidence to the contrary, taken to be proof that:
- (a) the meeting to which the minutes relate was duly convened and held;
  - (b) the matters recorded as having taken place at the meeting took place as recorded; and
  - (c) any election or appointment purportedly made at the meeting was validly made.
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## **15. Financial Matters**

### **Source of Funds**

- 15.1 The funds of the Association may be derived from entrance fees, annual subscriptions, donations, fund-raising activities, grants, interest and any other sources approved by the Board.

### **Control of Funds**

- 15.2 The funds of the Association must be kept in an account, or accounts, in the name of the Association in a financial institution, or financial institutions, determined by the Board.
- 15.3 The funds of the Association are to be used in pursuance of the objects of the Association.
- 15.4 All expenditure above the maximum amount set by the Board from time to time must be approved or ratified at a Board Meeting.
- 15.5 All expenditure of the Association will be made in line with the Association's financial management processes.

### **Financial Statements and Financial Reports**

- 15.6 For each financial year, the Association must ensure that the requirements under Part 5 of the Act are met.
- 15.7 Without limiting rule 15.6, those requirements include:
- (a) if the Association is a Tier 1 Association, the preparation of the Financial Statements;
  - (b) if the Association is a Tier 2 Association or Tier 3 Association, the preparation of the Financial Report;
  - (c) if required, the review or auditing of the Financial Statements or Financial Report (whichever is applicable);
  - (d) the presentation to the AGM of the Financial Statements or Financial Report (whichever is applicable); and

- (e) if required, the presentation to the AGM of the copy of the report of the review or the auditor's report (whichever is applicable) on the Financial Statements or Financial Report.

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## **16. Rules of the Association**

### **Rules of the Association**

- 16.1 These Rules bind every Member and the Association and each Member agrees to comply with these Rules.
- 16.2 The Association must provide, free of charge, a copy of the Rules in force, at the time Membership commences, to each new Member.
- 16.3 The Association must keep a current copy of the Rules.

### **Amendment of Rules, Names and Objects of the Association**

- 16.4 The Association may alter, rescind or add to these Rules by special resolution in accordance with rule 14.44 to 14.49 and not otherwise.
- 16.5 When a Special Resolution amending the Rules is passed, the required documents must be lodged with the Commissioner within:
  - (a) one month after the Special Resolution is passed; or
  - (b) a longer period as the Commissioner may allow.
- 16.6 An amendment to the Rules does not take effect until the required documents are lodged with the Commissioner under rule 16.5.
- 16.7 An amendment to the Rules that changes or has the effect of changing:
  - (a) the name of the Association; or
  - (b) the objects or purposes of the Association,does not take effect until the required documents are lodged with the Commissioner under rule 16.5 and the approval of the Commissioner is given in writing.

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## **17. By-Laws of the Association**

### **By-Laws of the Association**

- 17.1 The Members of the Association may make, amend and repeal By-Laws by ordinary resolution at a General Meeting provided that the By-Laws are not inconsistent with the Rules or the Act.
- 17.2 The By-Laws may make provision for:
  - (a) the rights and obligations that apply to each class of Membership;
  - (b) requirements for financial reporting, financial accountability or audit of accounts in addition to those prescribed by the Act and the Rules;
  - (c) restrictions on the powers of the Board including the power to dispose of assets; and

- (d) any other matter that the Board or the Members consider necessary or convenient to be dealt with in the By-Laws.
  - 17.3 Without limiting rule 17.1, a By-Law made for the purposes of rule 17.2(b) may only impose requirements on the Association that are additional to, and do not restrict, a requirement imposed on the Association under Part 5 of the Act.
  - 17.4 At the request of a Member, the Association must make a copy of the By-Laws available for inspection by the Member.
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## **18. Authority required to bind Association**

### **Executing Documents**

- 18.1 The Association may execute a document without using a common seal if the document is signed by:
  - (a) any two Directors; or
  - (b) one Director and a person authorised by the Board

### **Use of the Common Seal**

- 18.2 If the Association has a common seal on which its name appears in legible characters:
    - (a) the CEO or another person authorised by the Board must provide for its safe custody; and
    - (b) it must only be used under resolution of the Board.
  - 18.3 The Association executes a document with its common seal, if the fixing of the seal is witnessed by:
    - (a) any two Directors; or
    - (b) one Director and a person authorised by the Board.
  - 18.4 Every use of the common seal must be recorded in the Board's minute book.
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## **19. Notices**

- 19.1 A notice or other communication that is to be given to a Member under these Rules is taken not to have been given to the Member unless it is in writing and given as follows:
  - (a) delivered by hand to the recorded address of the addressee;
  - (b) sent by post to the recorded postal address of the addressee; or
  - (c) sent by e-mail or any other method of electronic communication to the recorded electronic address of the addressee.
- 19.2 Any notice given to a Member under these Rules, must be sent to Member's address as set out in the Register referred to in rule 6.1.

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## **20. Custody of Books and Records**

### **Custody of the Books**

- 20.1 Except as otherwise decided by the Board from time to time, the CEO or another person authorised by the Board must keep in their custody or under their control all of the Books of the Association.
- 20.2 The Financial Records and, as applicable the Financial Statements or Financial Reports, are to be kept under the custody or control of the CEO or other person authorised by the Board.
- 20.3 The Books of the Association must be retained for at least 7 years.

### **Inspecting the Books of the Association**

- 20.4 Subject to these Rules, and in particular rule 20.6 a Member is able to inspect the Books of the Association, which include:
- (a) the Register of Members, under section 54(1) of the Act;
  - (b) the record of Board Members and other persons authorised to act on behalf of the Association, as set out in rule 10.4(f), under section 58(3) of the Act; or
  - (c) any other document or record of the Association.
- free of charge at such time and place as is mutually convenient to the Association and the Member.
- 20.5 A Member must contact the President or the CEO to request to inspect the Books of the Association.
- 20.6 If a Member wants to inspect a document that records the minutes of a Board Meeting, the right to inspect that document is subject to any decision the Board has made about Board Meetings generally, or the minutes of a specific Board Meeting, being available for inspection by Members.
- 20.7 The Member may copy or take an extract from a record or document referred to in 20.4 but does not have the right to remove the record or document for that purpose.

### **Prohibition on Use of Information in the Books of the Association**

- 20.8 A Member must not use or disclose information in the Books of the Association except for a purpose that:
- (a) is directly connected with the affairs of the Association; or
  - (b) is related to administering the Act.

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## **21. Cancellation and distribution of surplus property**

- 21.1 The Association may cease its activities and have its incorporation cancelled in accordance with the Act if the Members resolve by special resolution that the Association will:
- (a) apply to the Commissioner for cancellation of its incorporation; or
  - (b) appoint a liquidator to wind up its affairs.

- 21.2 The Association must be wound up under rule 21.1 and Part 9 of the Act, before cancellation can take place, if it has outstanding debts or any other outstanding legal obligations, or is a party to any current legal proceedings.
- 21.3 The Association's surplus property is the property remaining after satisfaction of:
- (a) the debts and liabilities of the Association; and
  - (b) the costs, charges and expenses of winding up or cancelling the incorporation of the Association.
- 21.4 Upon cancellation of the Association, subject to rules 23.4 and 24.6, the surplus property must be distributed as determined by special resolution by reference to the persons mentioned in section 24(1) of the Act.
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## **22. Indemnity**

- 22.1 To the maximum extent permitted by law, each Director and Officer of the Association shall be entitled to be indemnified out of the property of the Association against any liability incurred by that person in the capacity of Director or Officer, in defending any proceedings, whether civil or criminal in which judgment is given in favour of that person or in which that person is acquitted.
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## **23. Deductible gift recipient status**

### **Deductible Gift Recipient Status**

- 23.1 If the Association is endorsed as a deductible gift recipient in its own right then to maintain this status the Association will ensure that at all times it uses the following solely for the objects or purposes of the Association:
- (a) gifts of money or property;
  - (b) contributions that are not gifts but which are described in items 7 or 8 of the table in section 30-15 of the *Income Tax Assessment Act 1997* (Cth) in relation to a fundraising event; and
  - (c) money received by the Association because of such gifts or contributions.
- 23.2 The Association will also keep records which:
- (a) record and explain all transactions and other acts the Association engages in which are relevant to the Association's status as a gift deductible recipient;
  - (b) show that each of the items set out in rule 23.1 is used by the Association only for its objects and purposes; and
  - (c) at all times, ensure the Association complies with the requirements of all laws and regulations in existence from time to time or any guidelines issued by the Australian Taxation Office or other such authority in relation to deductible gift recipient status.
- 23.3 The records referred to in rule 23.2 must be kept for at least 5 years after completion of such transactions or acts to which they relate.

## Revocation of Gift Recipient Status

- 23.4 If the Association is endorsed as a deductible gift recipient in its own right, then at the first occurrence of either winding up of the Association or the Association ceasing to be endorsed as a deductible gift recipient under Subdivision 30-BA of the *Income Tax Assessment Act 1997* (Cth), the Association must transfer to a fund, authority or institution which is an Eligible Transferee any surplus gifts defined in rule 23.1.
- 23.5 The identity of the Eligible Transferee referred to in this rule is to be determined in accordance with a special resolution of the Board or, in the absence of a special resolution, by the Registrar or by a Judge of the Supreme Court as may have or acquire jurisdiction in the matter.

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## 24. Gift Funds

- 24.1 The Association will maintain a fund or funds (**Gift Fund**):
- (a) to which gifts of money or property for the object and purposes of the Association are to be made;
  - (b) to which contributions that are not gifts but which are described in Items 7 or 8 of the table in section 30-15 of the *Income Tax Assessment Act 1997* (Cth) in relation to a fund-raising event held for the objects and purposes of the Association are to be made;
  - (c) to which contributions that are not gifts but which can be made to the Gift Fund without adversely affecting the Association's gift deductible recipient status are to be made;
  - (d) to which any money received by the Association because of such gifts or contributions is to be credited; and
  - (e) that does not receive any other money or property.
- 24.2 The Association may use assets of the Gift Fund only for the objects and purposes of the Association.
- 24.3 In maintaining the Gift Fund, the Association will:
- (a) ensure that at all times the fund is maintained and used for the objects and purposes of the Association;
  - (b) ensure that the Gift Fund is operated separately and maintained with separate books of account from the Association's general accounts;
  - (c) have in place appropriate procedures to ensure only and all proper amounts of money and property are credited to the Gift Fund; and
  - (d) ensure any money or property which is incorrectly received into the Gift Fund will be removed from the Gift Fund as soon as practicable with the accounts for the Gift Fund adjusted and noted accordingly.
- 24.4 The Association will keep records which:
- (a) record and explain all transactions and other acts the Gift Fund and/or the Association engages in which are relevant to the Association's status as a gift deductible recipient; and

- (b) show that assets of the Gift Fund as described in rules 24.1(a) to (d) are used by the Gift Fund and/or the Association only for the objects and purposes of the Association; and
  - (c) at all times, ensure the Association complies with the requirements of all laws and regulations in existence from time to time or any guidelines issued by the Australian Taxation Office or other such government authority overseeing the administration of gift funds.
- 24.5 The records referred to in rule 24.4 must be kept for at least 5 years after completion of such transactions or acts to which they relate and in accordance with any other laws.
- 24.6 At the first occurrence of either winding up of the Association or the Association ceasing to be endorsed as a deductible gift recipient under Subdivision 30-BA of the *Income Tax Assessment Act 1997* (Cth), the Association must transfer to a fund, authority or institution which is an Eligible Transferee any surplus assets of the Gift Fund.
- 24.7 The identity of the Eligible Transferee referred to in this rule is to be determined in accordance with a special resolution of the Board or, in the absence of a special resolution, by the Registrar or by a Judge of the Supreme Court as may have or acquire jurisdiction in the matter.