



ASP

**FIGHT FOR CHANGE**

A UNION... FOR YOU

**RULES OF THE AUSTRALIAN UNION  
FOR FITNESS PROFESSIONALS  
INCORPORATED**

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## **PART 1: PRELIMINARY**

### **1. Name**

- 1.1. The name of the incorporated association is the "Australian Union for Fitness Professionals Incorporated."

### **2. Purposes**

- 2.1. To provide an association for fitness professionals and generally to do all such things as may from time to time be necessary to promote the rights, interests and welfare of such professionals including, without limitation:
- (a) to uphold the rights of organised labour;
  - (b) to improve and protect the conditions of employment and engagement of members;
  - (c) to watch over, improve, foster and protect the best interests of members;
  - (d) to advance and protect the social and economic interests of the members and of fitness professionals generally by industrial, political or other means;
  - (e) to promote the concept of equal opportunity in employment and to eliminate all forms of discrimination in the fitness industry and in all spheres of the Association's activity;
  - (f) to support and participate in socially responsible community actions; and
  - (g) to promote and support professional development, training and safe working conditions for fitness professionals.
- 2.2. The Association also has the purpose of doing all lawful things whatsoever:
- (a) as are, in its opinion, necessary for, incidental to or conducive to, the attainment of any of the purposes in Rule 2.1; or
  - (b) as are, in its opinion, likely to promote or further the attainment of any of the purposes in Rule 2.1.

### **3. Financial year**

- 3.1. The financial year of the Association is each period of 12 months ending on 30 June.
- 3.2. The initial financial year of the Association commences on the date of incorporation and ends on the following 30 June. Each subsequent financial year is the period of 12 months ending on 30 June.

#### 4. Definitions

##### 4.1. In these Rules:

- (a) **absolute majority**, of the committee, means a majority of the committee members currently holding office and entitled to vote at the time (as distinct from a majority of committee members present at a committee meeting);
- (b) **Act** means the *Associations Incorporation Act 2009 (NSW)* and includes any regulations made under that Act;
- (c) **associate member** means a member referred to in Rule 14;
- (d) **Chairperson**, of a general meeting or committee meeting, means the person chairing the meeting as required under Rule 46;
- (e) **Committee** means the committee having management of the business of the Association;
- (f) **committee meeting** means a meeting of the committee held in accordance with these Rules;
- (g) **committee member** means a member of the committee elected or appointed under Division 3 of Part 5;
- (h) **declared person or body** means:
  - (i) an officer of the Association who has disclosed a material personal interest under Rule 73(1); and
  - (ii) the interest relates to, or is in, the person or body; and
  - (iii) the officer has not notified the Association/branch that the officer no longer has an interest.
- (h) **disciplinary appeal meeting** means a meeting of the members of the Association convened under Rule 22.3;
- (i) **disciplinary meeting** means a meeting of the committee convened for the purposes of Rule 22;
- (j) **disciplinary subcommittee** means the subcommittee appointed under Rule 20;
- (k) **disclosure period** means for the financial year, unless a shorter period is specified; financial duties includes duties that relate to the financial management of the Association;
- (l) **financial year** means the 12 month period specified in Rule 3;
- (m) **general meeting** means a general meeting of the members of the Association convened in accordance with Part 4 and includes an annual general meeting, a special general meeting and a disciplinary appeal meeting;
- (n) **member** means a member of the Association;
- (o) **member entitled to vote** means a member who under Rule 13.2 is entitled to vote at a general meeting;
- (p) **non-cash benefit** means property or services in any form other than money, but does

not include a computer, mobile phone or other electronic device that is used only or mainly for work purposes;

- (q) **office** means the offices prescribed by Rule 44;
- (r) **officer** means a person holding an office prescribed by Rule 44;
- (s) **peak council** has the same meaning as defined by the *Fair Work Act 2009* (Cth);
- (t) **Registrar** means the NSW Registrar of Incorporated Associations; and
- (u) **special resolution** means a resolution that requires not less than three-quarters of the members voting at a general meeting, whether in person or by proxy, to vote in favour of the resolution.

## PART 2: POWERS OF ASSOCIATION

### 5. Powers of Association

- 5.1. Subject to the Act, the Association has power to do all things incidental or conducive to achieve its purposes.
- 5.2. Without limiting Rule 5.1, the Association may:
  - (a) provide or facilitate professional development, training, and accreditation opportunities for members to enhance their skills and qualifications in the fitness industry;
  - (b) acquire, hold and dispose of real or personal property;
  - (c) open and operate accounts with financial institutions;
  - (d) invest its money in any security in which trust monies may lawfully be invested;
  - (e) raise and borrow money on any terms and in any manner as it thinks fit;
  - (f) secure the repayment of money raised or borrowed, or the payment of a debt or liability;
  - (g) take out and maintain insurance as appropriate for the Association's assets and liabilities;
  - (h) appoint agents to transact business on its behalf; and
  - (i) enter into any other contract it considers necessary or desirable.
- 5.3. The Association may only exercise its powers and use its income and assets (including any surplus) for its not-for-profit purposes.

### 6. Not for profit organisation

- 6.1. The Association must not distribute any surplus, income or assets directly or indirectly to its members.

- 6.2. Rule 6.1 does not prevent the Association from paying a member:
- (a) reimbursement for expenses properly incurred by the member; or
  - (b) for goods or services provided by the member;
- if this is done in good faith on terms no more favourable than if the member was not a member.

## **PART 3: MEMBERS, DISCIPLINARY PROCEDURES AND GRIEVANCES**

### Division 1: Membership

#### **7. Minimum number of members**

- 7.1. The Association must have at least 5 members.

#### **8. Who is eligible to be a member**

- 8.1. The Association will consist of an unlimited number of persons who support the purposes of the Association, provided that a person is eligible for membership only if they are:
- (a) engaged, or usually engaged, whether as an employee or an independent contractor, in personal training, group fitness instruction, or similar roles at commercial gyms, health clubs, or community facilities;
  - (b) engaged, or usually engaged, whether as an employee or an independent contractor, in corporate wellness coordination (excluding medical/clinical roles) and hold a relevant fitness qualification;
  - (c) an officer of the Association as that term is defined in these Rules; or
  - (d) employed by the Association and was a member of the Association by reason of eligibility for membership under Rules 8.1(a), 8.1 (b) or 8.1 (c) at the date they entered into the contract of employment with the Association.
- 8.2. To be eligible under Rules 8.1(a), 8.1 (b), a person must hold a Certificate III or Certificate IV in Fitness from a registered training organisation, unless otherwise determined by the Committee.

#### **9. Application for membership**

- 9.1. To apply to become a member of the Association, a person must submit a written application to the Association stating that the person:
- (a) wishes to become a member of the Association;
  - (b) supports the purposes of the Association; and
  - (c) agrees to comply with these Rules.
- 9.2. The application must be:
- (a) signed by the applicant; and

- (b) accompanied by the membership fee or authority for payment of the membership fee.

9.3. Applicants for membership must be informed, in writing, of:

- (a) the financial obligations of membership; and
- (b) the circumstances, and the manner, in which a member may resign from the Association.

9.4. Applications for membership must be in the form determined by the Association, if any, including any electronic form as the Association may determine from time to time.

## **10. Consideration of application**

10.1. As soon as practicable after an application for membership is received, the committee must decide by resolution whether to accept or reject the application.

10.2. If the committee rejects the application, the committee must notify the applicant in writing of its decision as soon as practicable after the decision is made.

10.3. If the committee rejects the application, it must return any money accompanying the application to the applicant.

10.4. No reason need be given for the rejection of an application.

## **11. New membership**

11.1. If an application for membership is approved by the committee the secretary must, as soon as practicable, enter the name and address of the new member, and the date of becoming a member, in the register of members.

11.2. A person becomes a member of the Association and, subject to Rule 13.2, is entitled to exercise his or her rights of membership from the date, whichever is the later, on which:

- (a) the C\committee approves the person's membership; or
- (b) the person pays the membership fee or commences payment of the annual membership fee pursuant to a determination made under Rule 12.1(c).

## **12. Membership fee**

12.1. At each annual general meeting, the Association must determine:

- (a) the categories of membership of the Association;
- (b) the amount of the membership fee (if any) for the following financial year for each category of membership of the Association;
- (c) the date for payment of the membership fee, including whether the membership fee is payable:
  - (i) in one lump sum amount; and/or

- (ii) by periodic instalments, whether by electronic transaction or otherwise.

- 12.2. The Association may determine that different membership fees are payable by different categories of members.
- 12.3. The Association may determine that any new member who joins after the start of a financial year must, for that financial year, pay a fee equal to:
- (a) the full membership fee;
  - (b) a pro rata membership fee based on the remaining part of the financial year; or
  - (c) a fixed amount determined from time to time by the Association.
- 12.4. The rights of a member (including the right to vote) who:
- (a) has not paid the membership fee by the due date; or
  - (b) has failed to make a periodic payment of the membership fee where the member has entered in to such an arrangement with the Association;
- are suspended until the subscription is paid.
- 12.5. A member who is required to pay a membership fee may apply to the Association to be relieved of the obligation to pay the fee for a specified period of time where:
- (a) the member is unemployed and actively seeking work in the fitness industry;
  - (b) the member is suffering, in the opinion of the Association, personal hardship; or
  - (c) the Association is satisfied that there are exceptional circumstances warranting relief from payment of the membership fee.

### **13. General rights of members**

- 13.1. A member of the Association who is entitled to vote has the right:
- (a) to receive notice of general meetings and of proposed special resolutions in the manner and time prescribed by these Rules; and
  - (b) to submit items of business for consideration at a general meeting; and
  - (c) to attend and be heard at general meetings; and
  - (d) to vote at a general meeting; and
  - (e) to have access to the minutes of general meetings and other documents of the Association as provided under Rule 75; and
  - (f) to inspect the register of members.
- 13.2. A member is entitled to vote if:
- (a) the member is a member other than an associate member;

- (b) more than 10 business days have passed since he or she became a member of the Association; and
- (c) the member's membership rights are not suspended for any reason.

**14. Associate members**

- 14.1. Associate members of the Association include any category of member as may be determined by special resolution at a general meeting.
- 14.2. An associate member does not have any right to vote and must not vote but may have other rights as determined by resolution at an annual general meeting.

**15. Rights not transferable**

- 15.1. The rights of a member are not transferable and end when membership ceases.

**16. Ceasing membership**

- 16.1. The membership of a person ceases on resignation (including deemed resignation), expulsion or death.

**17. Resigning as a member**

- 17.1. A member may resign by written notice addressed and delivered to the Secretary.
- 17.2. A notice of resignation from membership takes effect:
  - (a) where the member ceases to be eligible to become a member of the Association:
    - (i) on the day on which the notice is received by the Association; or
    - (ii) on the day specified in the notice, which is a day not earlier than the day when the member ceases to be eligible to become a member; whichever is later; or
  - (b) in any other case:
    - (i) at the end of 2 weeks after the notice is received by the Association; or
    - (ii) on the day specified in the notice; whichever is later.
- 17.3. A member is taken to have resigned if:
  - (a) the member's membership fee is 6 or more months in arrears; or
  - (b) where no membership fee is payable:
    - (i) the secretary has made a written request to the member to confirm that he or she wishes to remain a member; and
    - (ii) the member has not, within 3 months after receiving that request, confirmed in writing that he or she wishes to remain a member.
- 17.4. Any fees payable but not paid by a former member of the Association, in relation to a period before the member's resignation from the Association took effect, may be sued

for and recovered in the name of the Association, in a court of competent jurisdiction, as a debt due to the Association. A notice delivered to the person mentioned in Rule 17.1 is taken to have been received by the Association when it was delivered.

- 17.5. A notice of resignation that has been received by the Association is not invalid because it was not addressed and delivered in accordance with Rule 17.1.
- 17.6. A resignation from membership of the Association is valid even if it is not effected in accordance with this section if the member is informed in writing by or on behalf of the Association that the resignation has been accepted.
- 17.7. Subject to Rule 17.3, cessation of payment of the membership fee does not, of itself, constitute resignation from the Association.

## **18. Register of members**

- 18.1. The secretary must keep and maintain a register of members that includes:
  - (a) for each current member:
    - (i) the member's name;
    - (ii) the member's address and postal address;
    - (iii) the date of becoming a member;
    - (iv) if the member is an associate member, a note to that effect; and
    - (v) any other information determined by the committee; and
  - (b) for each former member, the date of ceasing to be a member.
- 18.2. Subject to any exemption granted under the Act, any member may, at a reasonable time and free of charge, inspect the register of members.
- 18.3. If a person ceases to be a member of the Association, the secretary must either:
  - (a) as soon as practicable, enter the date the person ceased to be a member in the register of members; or
  - (b) in the case of any person who has ceased to be a member of the Association by operation of Rule 17.3, at least once per financial year quarter cause the names of such persons to be removed from the register of members.

## **Division 2: Disciplinary action**

### **19. Grounds for taking disciplinary action**

- 19.1. The Association may take disciplinary action against a member in accordance with this Division if it is determined that the member:
  - (a) has failed to comply with these Rules; or
  - (b) refuses to support the purposes of the Association; or
  - (c) has engaged in conduct prejudicial to the Association.

## **20. Disciplinary subcommittee**

20.1. If the committee is satisfied that there are sufficient grounds for taking disciplinary action against a member, the committee must appoint a disciplinary subcommittee to hear the matter and determine what action, if any, to take against the member.

20.2. The members of the disciplinary subcommittee:

- (a) may be committee members, members of the Association or anyone else; but
- (b) must not be biased against, or in favour of, the member concerned.

## **21. Notice to member**

21.1. Before disciplinary action is taken against a member, the secretary must give written notice to the member:

- (a) stating that the Association proposes to take disciplinary action against the member; and
- (b) stating the grounds for the proposed disciplinary action; and
- (c) specifying the date, place and time of the meeting at which the disciplinary subcommittee intends to consider the disciplinary action (the disciplinary meeting); and
- (d) advising the member that he or she may do one or both of the following:
  - (i) attend the disciplinary meeting and address the disciplinary subcommittee at that meeting;
  - (ii) give a written statement to the disciplinary subcommittee at any time before the disciplinary meeting; and
  - (iii) setting out the member's appeal rights under Rule 23.

21.2. The notice must be given no earlier than 28 days, and no later than 14 days, before the disciplinary meeting is held.

## **22. Decision of subcommittee**

22.1. At the disciplinary meeting, the disciplinary subcommittee must:

- (a) give the member an opportunity to be heard; and
- (b) consider any written statement submitted by the member.

22.2. After complying with Rule 22.1, the disciplinary subcommittee may:

- (a) take no further action against the member; or
- (b) subject to Rule 22.3:
  - (i) reprimand the member; or
  - (ii) suspend the membership rights of the member for a specified period; or
  - (iii) expel the member from the Association.

- 22.3. The disciplinary subcommittee may not fine the member.
- 22.4. The suspension of membership rights or the expulsion of a member by the disciplinary subcommittee under this Rule takes effect immediately after the vote is passed.

### **23. Appeal rights**

- 23.1. A person whose membership rights have been suspended or who has been expelled from the Association under Rule 22 may give notice to the effect that he or she wishes to appeal against the suspension or expulsion.
- 23.2. The notice must be in writing and given:
  - (a) to the disciplinary subcommittee immediately after the vote to suspend or expel the person is taken; or
  - (b) to the Secretary not later than 48 hours after the vote.
- 23.3. If a person has given notice under Rule 22.2, a disciplinary appeal meeting must be convened by the committee as soon as practicable, but in any event not later than 21 days, after the notice is received.
- 23.4. Notice of the disciplinary appeal meeting must be given to each member of the Association who is entitled to vote as soon as practicable and must:
  - (a) specify the date, time and place of the meeting; and
  - (b) state:
    - (i) the name of the person against whom the disciplinary action has been taken; and
    - (ii) the grounds for taking that action; and
    - (iii) that at the disciplinary appeal meeting the members present must vote on whether the decision to suspend or expel the person should be upheld or revoked.

### **24. Conduct of disciplinary appeal meeting**

- 24.1. At a disciplinary appeal meeting:
  - (a) no business other than the question of the appeal may be conducted;
  - (b) the committee must state the grounds for suspending or expelling the member and the reasons for taking that action; and
  - (c) the person whose membership has been suspended or who has been expelled must be given an opportunity to be heard.
- 24.2. After complying with Rule 24.1, the members present and entitled to vote at the meeting must vote by secret ballot on the question of whether the decision to suspend or expel the person should be upheld or revoked.
- 24.3. A member may not vote by proxy at the meeting.
- 24.4. The decision is upheld if not less than three quarters of the members voting at the

meeting vote in favour of the decision.

## Division 3: Grievance procedure

### 25. Application

- 25.1. The grievance procedure set out in this Division applies to disputes under these Rules between:
- (a) a member and another member;
  - (b) a member and the committee;
  - (c) a member and the Association.
- 25.2. A member must not initiate a grievance procedure in relation to a matter that is the subject of a disciplinary procedure until the disciplinary procedure has been completed.

### 26. Parties must attempt to resolve the dispute

- 26.1. 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.

### 27. Appointment of mediator

- 27.1. If the parties to a dispute are unable to resolve the dispute between themselves within the time required by Rule 26, the parties must within 10 days:
- (a) notify the committee of the dispute;
  - (b) agree to or request the appointment of a mediator; and
  - (c) attempt in good faith to settle the dispute by mediation.
- 27.2. The mediator must be:
- (a) a person chosen by agreement between the parties; or
  - (b) in the absence of agreement:
    - (i) if the dispute is between a member and another member—a person appointed by the committee; or
    - (ii) if the dispute is between a member and the committee or the Association: a person appointed or employed by a recognised and independent dispute resolution service in New South Wales.
- 27.3. A mediator appointed by the committee may be a member or former member of the Association but in any case must not be a person who:
- (a) has a personal interest in the dispute; or
  - (b) is biased in favour of or against any party.

### 28. Mediation process

- 28.1. The mediator to the dispute, in conducting the mediation, must:
- (a) give each party every opportunity to be heard; and
  - (b) allow due consideration by all parties of any written statement submitted by any party; and
  - (c) ensure that natural justice is accorded to the parties throughout the mediation process.
- 28.2. The mediator must not determine the dispute.

## **29. Failure to resolve dispute by mediation**

- 29.1. If the mediation process does not resolve the dispute, the parties may seek to resolve the dispute in accordance with the Act or otherwise at law.

## **PART 4: GENERAL MEETINGS OF ASSOCIATION**

### **30. Annual general meetings**

- 30.1. The committee must convene an annual general meeting of the Association to be held within 5 months after the end of each financial year.
- 30.2. Despite Rule 30.1, the Association may hold its first annual general meeting at any time within 18 months after its incorporation.
- 30.3. The committee may determine the date, time and place of the annual general meeting.
- 30.4. The ordinary business of the annual general meeting is as follows:
- (a) to confirm the minutes of the previous annual general meeting and of any special general meeting held since then;
  - (b) to receive and consider:
    - (i) the annual report of the committee on the activities of the Association during the preceding financial year; and
    - (ii) the financial statements of the Association for the preceding financial year submitted by the committee in accordance with the Act;
  - (c) to elect the members of the committee; and
  - (d) to confirm or vary the amounts (if any) of a membership fee.
- 30.5. The annual general meeting may also conduct any other business of which notice has been given in accordance with these Rules.

### **31. Special general meetings**

- 31.1. Any general meeting of the Association, other than an annual general meeting or a disciplinary appeal meeting, is a special general meeting.

- 31.2. The committee may convene a special general meeting whenever it thinks fit.
- 31.3. No business other than that set out in the notice under Rule 33 may be conducted at the meeting.

Note:

*General business may be considered at the meeting if it is included as an item for consideration in the notice under Rule 33 and the majority of members at the meeting agree.*

### **32. Special general meeting held at request of members**

- 32.1. The committee must convene a special general meeting if a request to do so is made in accordance with Rule 32.2 by at least 25% of the total number of members.
- 32.2. A request for a special general meeting must:
- (a) be in writing; and
  - (b) state the business to be considered at the meeting and any resolutions to be proposed; and
  - (c) include the names and signatures of the members requesting the meeting; and
  - (d) be given to the secretary.
- 32.3. If the committee does not convene a special general meeting within one month after the date on which the request is made, the members making the request (or any of them) may convene the special general meeting.
- 32.4. A special general meeting convened by members under Rule 32.3:
- (a) must be held within 3 months after the date on which the original request was made; and
  - (b) may only consider the business stated in that request.
- 32.5. The Association must reimburse all reasonable expenses incurred by the members convening a special general meeting under Rule 32.3.

### **33. Notice of general meetings**

- 33.1. The secretary (or, in the case of a special general meeting convened under Rule 32.3, the members convening the meeting) must give to each member of the Association:
- (a) at least 21 days' notice of a general meeting if a special resolution is to be proposed at the meeting;
  - (b) at least 14 days' notice of a general meeting in any other case; or
  - (c) at least 28 days' notice of an annual general meeting.
- 33.2. The notice must:
- (a) specify the date, time and place of the meeting; and
  - (b) indicate the general nature of each item of business to be considered at the meeting; and

- (c) if a special resolution is to be proposed:
  - (i) state in full the proposed resolution; and
  - (ii) state the intention to propose the resolution as a special resolution; and
- (d) comply with Rule 34.5.

33.3. This Rule does not apply to a disciplinary appeal meeting.

Note:

*Rule 23.4 sets out the requirements for notice of a disciplinary appeal meeting.*

#### **34. Proxies**

- 34.1. A member may appoint another member as his or her proxy to vote and speak on his or her behalf at a general meeting other than at a disciplinary appeal meeting.
- 34.2. The appointment of a proxy must be in writing and signed by the member making the appointment.
- 34.3. The member appointing the proxy may give specific directions as to how the proxy is to vote on his or her behalf, otherwise the proxy may vote on behalf of the member in any matter as he or she sees fit.
- 34.4. If the committee has approved a form for the appointment of a proxy, the member may use any other form that clearly identifies the person appointed as the member's proxy and that has been signed by the member.
- 34.5. Notice of a general meeting given to a member under Rule 33 must:
  - (a) state that the member may appoint another member as a proxy for the meeting; and
  - (b) include a copy of any form that the committee has approved for the appointment of a proxy.
- 34.6. A form appointing a proxy must be given to the chairperson of the meeting before or at the commencement of the meeting.
- 34.7. A form appointing a proxy sent by post or electronically is of no effect unless it is received by the Association no later than 24 hours before the commencement of the meeting.

#### **35. Use of technology**

- 35.1. Where a member is not physically present at a general meeting, the person chairing the meeting may permit the member to participate in the meeting by the use of technology that allows that member and the members present at the meeting to clearly and simultaneously communicate with each other.
- 35.2. For the purposes of this Part, a member participating in a general meeting as permitted under Rule 35.1 is taken to be present at the meeting and, if the member votes at the meeting, is taken to have voted in person.

#### **36. Quorum at general meetings**

- 36.1. No business may be conducted at a general meeting unless a quorum of members is present.

- 36.2. The quorum for a general meeting is the presence (physically, by proxy or as allowed under Rule 35 of not less than 5 members entitled to vote.
- 36.3. If a quorum is not present within 30 minutes after the notified commencement time of a general meeting:
- (a) in the case of a meeting convened by, or at the request of, members under Rule 32, the meeting must be dissolved;

Note:

*If a meeting convened by, or at the request of, members is dissolved under this Rule, the business that was to have been considered at the meeting is taken to have been dealt with. If members wish to have the business reconsidered at another special meeting, the members must make a new request under Rule 32.*

- (b) in any other case:
    - (i) the meeting must be adjourned to a date not more than 21 days after the adjournment; and
    - (ii) notice of the date, time and place to which the meeting is adjourned must be given at the meeting and confirmed by written notice given to all members as soon as practicable after the meeting.
- 36.4. If a quorum is not present within 30 minutes after the time to which a general meeting has been adjourned under Rule 36.3(b), the members present at the meeting (if not fewer than 3) may proceed with the business of the meeting as if a quorum were present.

### **37. Adjournment of general meeting**

- 37.1. The chairperson of a general meeting at which a quorum is present may, with the consent of a majority of members present at the meeting, adjourn the meeting to another time at the same place or at another place.
- 37.2. Without limiting Rule 37.1, 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.
- 37.3. No business may be conducted on the resumption of an adjourned meeting other than the business that remained unfinished when the meeting was adjourned.
- 37.4. 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 33.

### **38. Voting at general meeting**

- 38.1. On any question arising at a general meeting:
- (a) subject to Rule 38.3, each member who is entitled to vote has one vote; and
  - (b) members may vote personally or by proxy; and

- (c) except in the case of a special resolution, the question must be decided on a majority of votes.

38.2. If votes are divided equally on a question, the chairperson of the meeting has a second or casting vote.

38.3. If the question is whether or not to confirm the minutes of a previous meeting, only members who were present at that meeting may vote.

38.4. This Rule 38 does not apply to a vote at a disciplinary appeal meeting conducted under Rule 24.

### **39. Special resolutions**

39.1. A special resolution is passed if not less than three quarters of the members voting at a general meeting (whether in person or by proxy) vote in favour of the resolution.

39.2. In addition to any other matter specified in the Act, a special resolution is required:

- (a) to remove a committee member from office; and
- (b) to alter these Rules, including changing the name or any of the purposes of the Association.

### **40. Determining whether resolution carried**

40.1. Subject to Rule 40.2, the chairperson of a general meeting may, on the basis of a show of hands, declare that a resolution has been:

- (a) carried; or
- (b) carried unanimously; or
- (c) carried by a particular majority; or
- (d) lost:

and an entry to that effect in the minutes of the meeting is conclusive proof of that fact.

40.2. If a poll (where votes are cast in writing) is demanded by 3 or more members on any question:

- (a) the poll must be taken at the meeting in the manner determined by the chairperson of the meeting; and
- (b) the chairperson must declare the result of the resolution on the basis of the poll.

40.3. A poll demanded on the election of the chairperson or on a question of an adjournment must be taken immediately.

40.4. A poll demanded on any other question must be taken before the close of the meeting at a time determined by the chairperson.

#### **41. Minutes of general meeting**

- 41.1. The committee must ensure that minutes are taken and kept of each general meeting.
- 41.2. The minutes must record the business considered at the meeting, any resolution on which a vote is taken and the result of the vote.
- 41.3. In addition, the minutes of each annual general meeting must include:
  - (a) the names of the members attending the meeting; and
  - (b) proxy forms given to the chairperson of the meeting under Rule 34.6; and
  - (c) the financial statements submitted to the members in accordance with Rule 30.4(b)(ii); and
  - (d) the certificate signed by two committee members certifying that the financial statements give a true and fair view of the financial position and performance of the Association; and
  - (e) any audited accounts and auditor's report or report of a review accompanying the financial statements that are required under the Act.

### **PART 5: COMMITTEE**

#### **Division 1: Powers of Committee**

##### **42. Role and powers**

- 42.1. The business of the Association must be managed by or under the direction of a committee.
- 42.2. The committee may exercise all the powers of the Association except those powers that these Rules or the Act require to be exercised by general meetings of the members of the Association.
- 42.3. The committee may:
  - (a) appoint and remove staff; and
  - (b) establish subcommittees consisting of members with terms of reference it considers appropriate.

##### **43. Delegation**

- 43.1. The committee may delegate to a member of the committee, a subcommittee or staff, any of its powers and functions other than:
  - (c) this power of delegation; or
  - (d) a duty imposed on the committee by the Act or any other law.
- 43.2. The delegation must be in writing and may be subject to the conditions and limitations the committee considers appropriate.

43.3. The committee may, in writing, revoke a delegation wholly or in part.

## Division 2: Composition of committee and duties of members

### 44. Composition of committee

44.1. The committee consists of:

- (a) a president;
- (b) a vice-president;
- (c) a secretary;
- (d) a treasurer; and
- (e) ordinary members (if any) elected under Rule 53.

### 45. General duties

- 45.1. As soon as practicable after being elected or appointed to the committee, each committee member must become familiar with these Rules and the Act.
- 45.2. The committee is collectively responsible for ensuring that the Association complies with the Act and that individual members of the committee comply with these Rules.
- 45.3. committee members must exercise their powers and discharge their duties with reasonable care and diligence.
- 45.4. committee members must exercise their powers and discharge their duties:
- (a) in good faith in the best interests of the Association; and
  - (b) for a proper purpose.
- 45.5. Committee members and former committee members must not make improper use of:
- (a) their position; or
  - (b) information acquired by virtue of holding their position:
- so as to gain an advantage for themselves or any other person or to cause detriment to the Association.

Note:

*See also the provisions of the Act which set out the general duties of the office holders of an incorporated association.*

46. In addition to any duties imposed by these Rules, a committee member must perform any other duties imposed from time to time by resolution at a general meeting. **President and vice-president**

46.1. Subject to Rule 46.2, the president or, in the president's absence, the vice-president is the

chairperson for any general meetings and for any committee meetings.

- 46.2. If the president and the vice-president are both absent, or are unable to preside, the chairperson of the meeting must be:
- (a) in the case of a general meeting - a member elected by the other members present; or
  - (b) in the case of a committee meeting - a committee member elected by the other committee members present.

#### **47. Secretary**

47.1. The secretary must perform any duty or function required under the Act to be performed by the secretary of an incorporated association.

47.2. The secretary must:

- (a) maintain the register of members in accordance with Rule 18;
- (b) keep custody of the common seal (if any) of the Association and, except for the financial records referred to in Rule 74.3, all books, documents and securities of the Association in accordance with Rules 74 and 76;
- (c) subject to the Act and these Rules, provide members with access to the register of members, the minutes of general meetings and other books and documents; and
- (d) perform any other duty or function imposed on the Secretary by these Rules.

47.3. The secretary must give to the Registrar notice of his or her appointment within 14 days after the appointment.

#### **48. Treasurer**

48.1. The treasurer must:

- (a) receive all moneys paid to or received by the Association and issue receipts for those moneys in the name of the Association;
- (b) ensure that all moneys received are paid into the account of the Association within 5 working days after receipt;
- (c) make any payments authorised by the Committee or by a general meeting of the Association from the Association's funds; and
- (d) ensure cheques are signed by at least 2 committee members.

48.2. The treasurer must:

- (e) ensure that the financial records of the Association are kept in accordance with the Act; and
- (f) coordinate the preparation of the financial statements of the Association and

their certification by the committee prior to their submission to the annual general

meeting of the Association.

- 48.3. The treasurer must ensure that at least one other committee member has access to the accounts and financial records of the Association.

### Division 3: Election of committee members and tenure of office

#### 49. Who is eligible to be a committee member

- 49.1. A member is eligible to be elected or appointed as a committee member if the member is entitled to vote at a general meeting.

#### 50. Positions to be declared vacant

50.1. This Rule applies to:

- (a) the first annual general meeting of the Association after its incorporation; or
- (b) any subsequent annual general meeting of the Association held in an odd numbered year (**election annual general meeting**), after the annual report and financial statements of the Association have been received.

- 50.2. The chairperson of the meeting must declare all positions on the committee vacant and declare all persons elected in accordance with Rule 54 as holding office.

#### 51. Nominations

- 51.1. At least 3 months prior to the date of an election annual general meeting, the committee must appoint a person, who may be a member but need not be, to act as **returning officer** to conduct the ballot.
- 51.2. The returning officer must not nominate for a position in the election for which they have been appointed as returning officer, nor nominate any other person.
- 51.3. The decision of a returning officer shall be final and binding regarding any matter touching the validity or formality of any nomination or vote or any matter touching or concerning a ballot and the conduct thereof.
- 51.4. Any member who is for any reason absent from their address (including email address) as shown on the register of members at the time when an election is to be held under these Rules may notify the secretary in writing of such absence and provide the secretary with a temporary postal address to which any papers in connection with the election can be forwarded.
- 51.5. The secretary shall immediately notify the returning officer who shall include that temporary address in the roll of voters in place of that person's ordinary address (including email address).
- 51.6. Every nomination shall be in writing, be dated, be signed by a financial member of the Association, who may be the nominee, and, if not signed by the nominee, bear the written consent of the nominee.
- 51.7. All nominations for elections conducted under these Rules shall be checked by the returning officer for compliance with the requirements of these Rules and any that do not

comply

shall be rejected provided that before any nomination is rejected the person concerned shall be notified of the defect and where it is practicable to do so be given not less than seven days to remedy the defect, and where it is not practicable to give seven days, such period as is practicable.

- 51.8. In determining, the time of the opening and closing dates of nominations for elections, (other than elections to fill casual vacancies), the returning officer shall have regard to;
- (a) the requirements of Rule 51.6;
  - (b) the desirability of all direct elections by members being conducted at the same time; and
  - (c) the administrative requirements of the returning officer,
- 51.9. The returning officer shall determine the place for lodging nominations of candidates for election, which may include an email address and will include a postal address.
- 51.10. The period for lodging nominations shall be no less than 14 days.
- 51.11. The returning officer shall, one week before the date of opening of nominations cause to be published in the newsletter or another official publication of the Association, which may be by email, a notice setting out:
- (a) the title of the office or offices to be filled, and the number of positions vacant for each position;
  - (b) the form in which nominations are to be made;
  - (c) the place of lodging nominations;
  - (d) the times of the commencement and close of the period for lodging nominations; and
  - (e) an invitation for nominations of candidates eligible for election under these Rules.
- 51.12. Nothing in these Rules shall prevent a person who has nominated for election to any position from withdrawing that nomination before, or within seven days after nominations have closed.
- 51.13. In any election under these Rules, a ballot may be simultaneously conducted for more than one office or for more than one group of positions bearing the same title, including for offices which may not be held by the same person at the same time. In these circumstances, a person may nominate for more than one such office. However:
- (a) In respect of the offices for which ballots are held at the same time, the order of counting of votes shall be as indicated in Rule 52 followed by ordinary members of the committee;
  - (b) If a person has been elected to any office pursuant to Rule 51.12(a), then they shall be deemed not to be a candidate for any other later counted position which they may not hold concurrently with the first mentioned position.
  - (c) Provided also that where a member is a candidate for two or more offices which cannot be held at the same time, and in respect of any of those offices the number

of nominees is equal to or fewer than the number of offices to be filled, then no

declaration shall be made for that office until a declaration has been made for any higher ranked office for which that member is a candidate. and

- (d) A vote cast for a person who is deemed to be no longer a candidate pursuant to Rule 51.12(b), shall be counted such that any preference for that person shall be ignored and each lower preference shall be deemed to be raised by one - that is, a second preference shall become a first preference, a third preference shall become a second preference, and so on.

## **52. Election of president etc.**

52.1. Separate elections must be held for each of the following positions:

- (a) the president;
- (b) the vice-president;
- (c) the secretary; and
- (d) the treasurer.

52.2. The elections must be held in the order set out in Rule 52.1.

52.3. If only one member is nominated for the position, the returning officer must declare the member elected to the position. The member takes office in accordance with Rule 50.2.

52.4. If more than one member is nominated, a ballot must be held in accordance with Rule 54.

## **53. Election of ordinary committee members**

53.1. There will be 10 ordinary committee members.

53.2. A single election may be held to fill ordinary committee member positions.

53.3. If the number of members nominated for the position of ordinary committee member is less than or equal to the number to be elected, the returning officer must declare each of those members to be elected to the position. The member takes office in accordance with Rule 50.2.

53.4. If the number of members nominated exceeds the number to be elected, a ballot must be held in accordance with Rule 54.

## **54. Ballot**

54.1. If a ballot is required for the election for a position, this Rule 54 applies.

### Electoral roll

54.2. The names, postal address and email address of members who are entitled under these Rules to vote in an election shall form the roll of voters for the election.

54.3. The returning officer shall prepare a roll of those voters who, on the seventh day before

the date determined for the opening of nominations in the election, are entitled to vote in the

election.

- 54.4. The returning officer shall only add to that roll of voters the names of persons who were entitled to vote on that day but were incorrectly omitted from the roll, and shall only delete from that roll of voters the names of persons who were not eligible to vote on that day but were incorrectly included on the roll.

#### Secret ballot

- 54.5. Voting in any ballot must be by secret postal and/or online ballot.
- 54.6. The returning officer shall use, for the purpose of receiving ballot papers and online ballots in respect of an election, a postal address and/or online system under the exclusive control of:
- (a) persons authorised by Australia Post for the purpose of administering post;
  - (b) the returning officer; and
  - (c) persons authorised in writing by the returning officer for the purpose.

#### Timing of e-mail and post

- 54.7. Where there are more candidates nominated for any position than vacancies exist for election to that position the returning officer shall determine the date of commencement of issuing online ballots or ballot papers, and the time and date of close of the ballot, having regard to:
- (a) the date of the election annual general meeting at which elected officers will take office;
  - (b) the time required to send and return ballot papers by post and/or email;
  - (c) the time required to complete the election; and
  - (d) the provisions of these Rules relating to the times and dates of the commencement and close of the ballot in respect of the election.

#### Online and postal ballot

- 54.8. As soon as practicable after the date determined for the commencement of issuing of ballot papers in respect of an election, the returning officer shall issue, by email or by prepaid post, to each person:
- (a) whose name is on the roll of voters referred to in Rule 54.2;
  - (b) whose name is, under Rule 54.2 added to the roll; and
  - (c) whose name has not, before the issue of the ballot paper, been deleted from the roll under Rule 54.2;

at the email address shown on the roll, electronic instructions on how to cast their ballot and if an email address is not available a ballot paper and a declaration envelope which fits inside another pre-paid envelope such that the postage thereon is not payable by the voter. The envelope containing the instructions and other material shall bear an instruction that, if it is not delivered to the addressee, it should

be returned to a specified address.

54.9. Where in respect of an election the returning officer, has issued an online ballot or a ballot paper to a person whose name is, after the issue of the online ballot or the ballot paper, deleted from the roll of voters in accordance with Rule 54.2, the person shall be deemed to be entitled to vote in the election.

#### Contents of e-mail and envelope

54.10. The email and ballot paper referred to in Rule 54.5 shall:

- (a) show the time and date of the close of the ballot, and, in relation to the ballot paper, shall be initialled by the returning officer or bear a facsimile of those initials; and
- (b) written instructions to the voter on how to complete their electronic vote, or how to mark the ballot paper, in order to record a formal vote in accordance with these Rules.

#### Instructions to voters

54.11. The returning officer shall include in the email, and on the ballot paper, instructions to the voter that are substantially in accordance with the following form:

- (a) For online ballots, the instructions should:
  - (i) use the specific web URL provided in the email to vote; and
  - (ii) include any relevant instructions regarding the correct completion of the online ballot;
- (b) For postal ballots, the instructions should advise voters:
  - (i) not to put on the ballot paper any mark or writing by which the voter can be identified;
  - (ii) to place the ballot paper in the declaration envelope;
  - (iii) to seal the declaration envelope, place it in the pre-paid envelope and post it to reach the returning officer before the time of the close of the ballot; and
  - (iv) that the vote will not be counted unless Rules 54.11(b)(ii) and (iii) are complied with.

#### Order on electronic ballot and ballot paper

54.12. The order of the names of candidates appearing on a ballot paper shall be determined by the returning officer by lot.

54.13. The order of the names of candidates appearing on the online ballot shall be by a randomised system whereby each candidate has equal probability of being placed at any given position on each individual online ballot.

#### Security of ballot

54.14. The returning officer may, at any time before the close of the ballot, and shall, as soon as practicable after the time of the close of the ballot:

- (a) place unopened into a container (or containers) envelopes, addressed to the address referred to in Rule 54.2 and received by the returning officer before the

time of the close of the ballot;

- (b) seal each of the containers;
- (c) endorse on each of the containers:
  - (i) the title of the office;
  - (ii) the words "ballot papers received from voters on or before the closing date;"
  - (iii) their signature; and
  - (iv) the date of signing; and
- (d) keep each of the containers in safe custody until the containers are opened in accordance with Rule 54.11.

#### Scrutiny of ballot

54.15. The returning officer shall, as soon as practicable after the time of the close of the ballot, open the sealed containers referred to in Rule 54.10, withdraw the declaration envelopes from each pre-paid envelope and, without looking at the manner in which the ballot paper is marked, remove the ballot paper from the declaration envelope and place each ballot paper in a ballot box, provided for the purpose, for subsequent scrutiny.

#### Counting votes

54.16. The returning officer shall open the ballot box in which ballot papers have been placed, withdraw each ballot paper and, after rejecting informal ballot papers:

- (a) add the votes to the votes cast by online ballot;
- (b) count the number of votes (being ballot papers and online ballots) in accordance with the procedures prescribed in Schedule A of these Rules (wherein a reference in Schedule A to **ballot papers** shall be read so as to include online ballots) to ascertain which candidate is successful in the election for the office;
- (c) place into a container or containers the ballot papers admitted as formal, seal each of the containers and endorse on each of the containers:
  - (i) the title of the office;
  - (ii) the words "ballot papers admitted as formal;"
  - (iii) their signature; and
  - (iv) the date of signing; and
- (d) place into a container or containers the ballot papers rejected as informal, seal each of the containers and endorse on each of the containers:
  - (i) the title of the office;
  - (ii) the words "Ballot papers rejected as informal;"
  - (iii) their signature; and
  - (iv) the date of signing; and
- (e) keep each of the containers in safe custody.

#### Informal votes

54.17. The returning officer shall reject as informal a ballot paper:

- (a) that does not bear the initials of the returning officer or the facsimile of those initials;
- (b) that has upon it a mark or writing by which the voter can be identified; or

- (c) that is not marked substantially in accordance with the instructions referred to in Rule

54.8.

- (d) Unless:
- (i) the ballot paper is in the declaration envelope provided to the voter with the ballot paper; and
  - (ii) the declaration envelope is in another envelope that is in the form prescribed by the regulations.

#### Declaration

54.18. The returning officer shall, in accordance with these Rules, declare the result of an election and at the time of declaring the result of an election declare in respect of the election:

- (a) the number of ballot papers, other than duplicate ballot papers, issued;
- (b) the number of online ballots, other than duplicate online ballots, issued;
- (c) the number of duplicate papers issued;
- (d) the number of duplicate online ballots issued;
- (e) the number of ballot papers rejected as informal; and
- (f) the number of online ballots rejected as informal.

#### Scrutineers

54.19. In any election held within the Association each candidate shall be entitled to appoint any person whether a member of the Association or not, to act as scrutineer at the election and may appoint a substitute scrutineer in the event that the scrutineer is unable or unwilling to act as scrutineer at the election.

54.20. All scrutineers shall in the case of a ballot be entitled to observe the admission and the counting of votes and the declaration of the poll.

54.21. In every case a scrutineer shall observe the directions of the returning officer who shall take all reasonable steps to enable each scrutineer to exercise their rights.

54.22. No election shall be vitiated should a scrutineer not exercise any or all such rights having had reasonable opportunity to do so.

54.23. Each candidate appointing a scrutineer shall hand to the returning officer a notice in writing specifying the name and address of such scrutineer.

54.24. Upon being notified of the appointment of a scrutineer the returning officer shall inform upon request such scrutineer of the steps they intend taking in the conduct of the ballot.

#### Loss etc. of ballot papers

54.25. If in any election held under these Rules a returning officer is satisfied that a ballot paper has been destroyed, lost, damaged or misused they shall supply (in the case of the damaged or misused ballot paper on receipt thereof) to the person to whom the original ballot paper was supplied a substitute ballot paper or online ballot.

Material regarding a candidate

- 54.26. A candidate for any election held under these Rules may submit to the returning officer, not later than the close of nominations, a photograph of the candidate and/or a statement in support of the candidature.
- 54.27. The photograph shall be not larger than 100 square centimetres and the statement shall not be more than 600 words.
- 54.28. The returning officer shall reject any statement or photograph which does not comply with this Rule and may reject any statement or photograph the publication of which may be in breach of law.
- 54.29. A candidate whose statement or photograph is rejected shall be given every practicable opportunity to remedy the defect.
- 54.30. The returning officer shall include with the ballot paper delivered to each voter a copy of the statement and/or photograph printed in relation to each candidate in the same order as that determined by Rule 54.9.
- 54.31. The returning officer shall include with the email sent to each voter a clearly identifiable online link to the online location at which the statement and/or photograph in relation to each candidate can be accessed.

**55. Term of office**

- 55.1. Subject to Rule 55.3 and Rule 56, a committee member holds office until the positions of the committee are declared vacant at the next election Annual General Meeting.
- 55.2. A committee member may be re-elected.
- 55.3. A general meeting of the Association may:
- (a) by special resolution remove a committee member from office; and
  - (b) elect an eligible member of the Association to fill the vacant position in accordance with the Rules.
- 55.4. A member who is the subject of a proposed special resolution under Rule 55.3(a) may make representations in writing to the secretary or president of the Association (not exceeding a reasonable length) and may request that the representations be provided to the members of the Association.
- 55.5. The Secretary or the president may give a copy of the representations to each member of the Association or, if they are not so given, the member may require that they be read out at the meeting at which the special resolution is to be proposed.

**56. Vacation of office**

- 56.1. A committee member may resign from the committee by written notice addressed to the committee.
- 56.2. A person ceases to be a committee member if he or she:
- (a) ceases to be a member of the Association; or

- (b) fails to attend 3 consecutive committee meetings (other than special or urgent committee meetings) without leave of absence under Rule 68; or
- (c) otherwise ceases to be a committee member by operation of the Act.

Note:

*A committee member may not hold the office of secretary if they do not reside in Australia.*

#### **57. Filling casual vacancies**

- 57.1. The committee may appoint an eligible member of the Association to fill a position on the committee that:
  - (a) has become vacant under Rule 56; or
  - (b) was not filled by election at the last election annual general meeting.
- 57.2. If the position of secretary becomes vacant, the committee must appoint a member to the position within 14 days after the vacancy arises.
- 57.3. Rule 55 applies to any committee member appointed by the committee under Rules 57.1 or 57.2.
- 57.4. The committee may continue to act despite any vacancy in its membership.

### **Division 4: Committee meetings**

#### **58. Meetings of committee**

- 58.1. The committee must meet at least 4 times in each year at the dates, times and places determined by the committee.
- 58.2. The date, time and place of the first committee meeting must be determined by the members of the committee as soon as practicable after the annual general meeting of the Association at which the members of the committee were elected.
- 58.3. Special committee meetings may be convened by the president or by any 4 committee members.

#### **59. Notice of meetings**

- 59.1. Notice of each committee meeting must be given to each committee member no later than 7 days before the date of the meeting.
- 59.2. Notice may be given of more than one committee meeting at the same time.
- 59.3. The notice must state the date, time and place of the meeting.
- 59.4. If a special committee meeting is convened, the notice must include the general nature of the business to be conducted.
- 59.5. The only business that may be conducted at the special committee meeting is the business for which the special committee meeting is convened.

**60. Urgent meetings**

- 60.1. In cases of urgency, a meeting can be held without notice being given in accordance with Rule 59 provided that as much notice as practicable is given to each committee member by the quickest means practicable.
- 60.2. Any resolution made at the meeting must be passed by an absolute majority of the committee.
- 60.3. The only business that may be conducted at an urgent meeting is the business for which the meeting is convened.

**61. Flying minute**

- 61.1. Where an uncontroversial question arises that requires the committee's consideration between meetings, and the question is not urgent business requiring the convening of a formal meeting of the Committee under Rule 60, the secretary may circulate to the committee by email the resolution or resolutions to be considered and state the time by which the committee is to vote on the resolution or resolutions.
- 61.2. The email described in Rule 61.1 must state that the resolution or resolutions being circulated pursuant to Rule 61.
- 61.3. The time permitted under Rule 61.1 must be not less than 24 hours after the time at which the email is sent.
- 61.4. Where the secretary circulates a resolution or resolutions under Rule 61.1 the members of the committee may vote on the question or questions by reply email and the provisions of Rule 65 will otherwise apply with such modifications as are necessary.
- 61.5. The secretary must receive votes from at least the number of committee members as would be required for quorum at a committee meeting for the vote to be valid.
- 61.6. The secretary must create a minute of the transaction that records:
  - (a) the names of the committee members who voted and who did not vote;
  - (b) the vote cast by each committee member who voted; and
  - (c) any resolution on which a vote was taken and the result of the vote.
- 61.7. Any business considered under this Rule 61 must be ratified at the next committee meeting and the minutes of any business considered under this Rule must be tabled at the committee meeting and appended to the minutes of that meeting.

**62. Procedure and order of business**

- 62.1. The procedure to be followed at a committee meeting must be determined from time to time by the committee.
- 62.2. The order of business may be determined by the committee members present at the meeting.

**63. Use of technology**

- 63.1. A committee member who is not physically present at a committee meeting may participate in the meeting by the use of technology that allows that committee member and the committee members present at the meeting to clearly and simultaneously communicate with each other.
- 63.2. For the purposes of this Part, a committee member participating in a committee meeting as permitted under Rule 63.1 is taken to be present at the meeting and, if the member votes at the meeting, is taken to have voted in person.

**64. Quorum**

- 64.1. No business may be conducted at a committee meeting unless a quorum is present.
- 64.2. The quorum for a committee meeting is the presence (in person or as allowed under Rule 63 of a majority of the committee members holding office.
- 64.3. If a quorum is not present within 30 minutes after the notified commencement time of a committee meeting:
- (a) in the case of a special meeting - the meeting lapses;
  - (b) in any other case - the meeting must be adjourned to a date no later than 14 days after the adjournment and notice of the time, date and place to which the meeting is adjourned must be given in accordance with Rule 59.

**65. Voting**

- 65.1. On any question arising at a committee meeting, each committee member present at the meeting has one vote.
- 65.2. A motion is carried if a majority of committee members present at the meeting vote in favour of the motion.
- 65.3. Rule 65.2 does not apply to any motion or question which is required by these Rules to be passed by an absolute majority of the committee.
- 65.4. If votes are divided equally on a question, the chairperson of the meeting has a second or casting vote.
- 65.5. Voting by proxy is not permitted.

**66. Conflict of interest**

- 66.1. A committee member who has a material personal interest in a matter being considered at a committee meeting must disclose the nature and extent of that interest to the committee.
- 66.2. The committee member:
- (a) must not be present while the matter is being considered at the meeting; and
  - (b) must not vote on the matter.

**Note:**

*Under the Act, if there are insufficient committee members to form a quorum because a member who has a material personal interest is disqualified from voting on a matter, a general meeting may be called to deal with the matter.*

66.3. This Rule 66 does not apply to a material personal interest:

- (a) that exists only because the member belongs to a class of persons for whose benefit the Association is established; or
- (b) that the member has in common with all, or a substantial proportion of, the members of the Association.

**67. Minutes of meeting**

67.1. The committee must ensure that minutes are taken and kept of each committee meeting.

67.2. The minutes must record the following:

- (a) the names of the members in attendance at the meeting;
- (b) the business considered at the meeting;
- (c) any resolution on which a vote is taken and the result of the vote;
- (d) any material personal interest disclosed under Rule 65.

**68. Leave of absence**

68.1. The committee may grant a committee member leave of absence from committee meetings for a period not exceeding 3 months.

68.2. The committee must not grant leave of absence retrospectively unless it is satisfied that it was not feasible for the committee member to seek the leave in advance.

**Division 5: Appointment and Election of Delegates**

**69. Who is eligible to be a delegate**

69.1. A member is eligible to be appointed as a delegate if the member is entitled to vote at a general meeting.

**70. Appointment of delegates**

70.1. The committee may, in its absolute discretion, appoint a member who is eligible to be a delegate to the position of delegate for a workplace specified by the committee.

70.2. An appointment under Rule 70.1 shall continue until the earlier of:

- (a) the committee revokes the appointment;
- (b) the delegate resigns from the position of delegate; or

- (c) the delegate ceases to be a member of the Association.

#### **71. General duties of delegates**

- 71.1. Delegates are to give effect to the purposes of the Association in the workplace for which they have been appointed delegate.
- 71.2. Without limiting Rule 71.1, delegates have the duties of:
  - (a) recruiting eligible persons to be members of the Association;
  - (b) organising members of the Association within the relevant workplace; and
  - (c) providing industrial assistance to members in the relevant workplace for the purpose of furthering the purposes of the Association.
- 71.3. Delegates have such other duties as may be determined by the committee from time to time.
- 71.4. Delegates are bound by such directions, policies or procedures as may be determined by the committee from time to time.

### **PART 6: FINANCIAL MATTERS**

#### **72. Source of funds**

- 72.1. The funds of the Association may be derived from joining fees, membership fees, donations, fund-raising activities, grants, interest and any other sources approved by the committee.

#### **73. Management of funds**

- 73.1. The Association must open one or more accounts with a financial institution from which all expenditure of the Association is made and into which all of the Association's revenue is deposited.
- 73.2. In addition to Rule 73.1, the Association may establish such trusts or funds as it considers appropriate for the achievement of the purposes of the Association.
- 73.3. Subject to any restrictions imposed by a general meeting of the Association, the committee may approve expenditure on behalf of the Association.
- 73.4. Such accounts as are held by the Association may be operated by cheque or instrument only.
- 73.5. The committee may authorise the treasurer to expend funds on behalf of the Association (including by electronic funds transfer) up to a specified limit without requiring approval from the committee for each item on which the funds are expended.
- 73.6. All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by 2 committee members.
- 73.7. All funds of the Association must be deposited into the financial account of the Association no later than 5 working days after receipt.

73.8. With the approval of the committee, the treasurer may maintain a cash float provided that

all money paid from or paid into the float is accurately recorded at the time of the transaction.

73.9. The Association must develop and implement policies and procedures relating to the expenditure of the Association.

#### **74. Financial records**

74.1. The Association must keep financial records that:

- (a) correctly record and explain its transactions, financial position and performance; and
- (b) enable financial statements to be prepared as required by the Act.

74.2. The Association must retain the financial records for 7 years after the transactions covered by the records are completed.

74.3. The treasurer must keep in his or her custody, or under his or her control:

- (a) the financial records for the current financial year; and
- (b) any other financial records as authorised by the committee.

#### **75. Financial statements**

75.1. For each financial year, the committee must ensure that the requirements under the Act relating to the financial statements of the Association are met.

75.2. Without limiting Rule 75.1, those requirements include:

- (a) the preparation of the financial statements;
- (b) if required, the review or auditing of the financial statements;
- (c) the certification of the financial statements by the committee;
- (d) the submission of the financial statements to the annual general meeting of the Association;
- (e) the lodgement with the registrar of the financial statements and accompanying reports, certificates, statements and fee.

75.3. The financial records of the Association must be audited each year by an appropriately qualified auditor.

#### **76. Custody of records and books**

76.1. Except as otherwise provided by these Rules, all records, books and other documents relating to the Association must be kept in New South Wales at the Association's main premises or, if the Association has no premises, at the Association's official address in the custody of the public officer.

#### **77. Disclosure of officer's relevant remuneration and non-cash benefits**

- 77.1. Each officer of the Association shall disclose to the Association any remuneration paid to the officer:
- (a) because the officer is a member of a board, if:
    - (i) the officer is a member of the board only because the officer is an officer of the Association; or
    - (ii) the officer was nominated for the position as a member of the board by the Association, a branch of the Association, or a peak council; or
  - (b) by any related party of the Association in connection with the performance of the officer's duties as an officer.
- 77.2. The disclosure required by Rule 77.1 shall be made to the Association:
- (a) as soon as practicable after the remuneration is paid to the officer; and
  - (b) in writing.
- 77.3. The Association shall disclose to the members of the Association and its branches:
- (a) the identity of the officers who are the five highest paid in terms of relevant remuneration for the disclosure period, and
  - (b) for each of those officers:
    - (i) the actual amount of the officer's relevant remuneration for the disclosure period; and
    - (ii) either the value of the officer's relevant non-cash benefits, or the form of the officer's relevant non-cash benefits, for the disclosure period.
- 77.4. For the purposes of Rule 77.3, the disclosure shall be made:
- (a) in relation to each financial year;
  - (b) within 6 months after the end of the financial year; and
  - (c) in writing.

**78. Disclosure of officer's material personal interests**

- 78.1. Each officer of the Association shall disclose to the Association any material personal interest in a matter that:
- (a) the officer has or acquires; and/or
  - (b) a relative of the officer has or acquires that relates to the affairs of the Association.
- 78.2. The disclosure required by Rule 78.1 must be made to the Association:
- (a) as soon as practicable after the interest is acquired; and
  - (b) in writing.
- 78.3. The Association must disclose to the members of the Association any interests disclosed to the Association pursuant to Rule 78.1.
- 78.4. For the purposes of Rule 78.3, the disclosure must be made:

- (a) in relation to each financial year;
- (b) within 6 months after the end of the financial year; and
- (c) in writing.

## **79. Disclosure by Association of payments**

79.1. The Association shall disclose to the members of the Association and its branches either:

- (a) each payment made by the Association, during the disclosure period:
  - (i) to a related party of the Association or of a branch of the Association; or
  - (ii) to a declared person or body of the Association or a branch of the Association; or
- (b) the total of the payments made by the Association, during the disclosure period:
  - (i) to each related party of the Association; or
  - (ii) to each declared person or body of the Association.

79.2. Rule 79.1 does not apply to a payment made to a related party if:

- (a) the payment consists of amounts deducted by the Association from remuneration payable to officers or employees of the Association; or
- (b) the related party is an officer of the Association, and the payment:
  - (i) consists of remuneration paid to the officer by the Association; or
  - (ii) is reimbursement for expenses reasonably incurred by the officer in performing the officer's duties as an officer.

79.3. For the purposes of Rule 79.1, the disclosures shall be made:

- (a) in relation to each financial year;
- (b) within 6 months after the end of the financial year; and
- (c) in writing.

## **80. Loans, grants and donations**

80.1. A loan, grant or donation of an amount exceeding \$1,000 must not be made by the Association unless the committee:

- (a) has satisfied itself:
  - (i) that the making of the loan, grant or donation would be in accordance with the other Rules of the Association; and
  - (ii) in the case of a loan - that, in the circumstances, the security proposed to be given for the repayment of the loan is adequate and the proposed arrangements for the repayment of the loan are satisfactory; and
- (b) has approved the making of the loan, grant or donation.

## **PART 7: GENERAL MATTERS**

### **81. Common seal**

81.1. The Association may have a common seal.

81.2. If the Association has a common seal:

- (a) the name of the Association must appear in legible characters on the common seal;
- (b) a document may only be sealed with the common seal by the authority of the committee and the sealing must be witnessed by the signatures of two committee members; and
- (c) the common seal must be kept in the custody of the secretary.

## **82. Public officer**

82.1. The committee must appoint a public officer in accordance with the Act.

82.2. The public officer is to be the official contact between the Association and the registrar.

82.3. The public officer must be a person who resides in New South Wales and is at least 18 years of age.

82.4. The committee must ensure that the office of public officer is not vacant for more than 14 days.

82.5. If the position becomes vacant, the committee must appoint a new public officer within 14 days.

82.6. The public officer must notify the Registrar of their appointment within 14 days of being appointed.

## **83. Execution of documents**

83.1. Documents or instruments that are to be executed by the Association and which are not required to be executed under seal must be executed by two members of the committee signing the document or instrument.

## **84. Registered address and office**

84.1. The Association must have a registered office in New South Wales.

84.2. The registered address and office of the Association is:

- (a) Unit 10, 25 Wolseley Road, Point Piper NSW 2027 or such other place as may be determined from time to time by resolution of the committee; or
- (b) if the committee has not determined an address to be the registered address — the postal address of the secretary.

## **85. Notice requirements**

85.1. Any notice required to be given to a member or a committee member under these Rules may be given:

- (a) by handing the notice to the member personally; or

- (b) by sending it by post to the member at the address recorded for the member on the register of members; or
- (c) by email or facsimile transmission.

85.2. Rule 85.1 does not apply to notice given under Rule 60.

85.3. Any notice required to be given to the Association or the committee may be given:

- (a) by handing the notice to a member of the committee; or
- (b) by sending the notice by post to the registered address; or
- (c) if the committee determines that it is appropriate in the circumstances:
  - (i) by email to the email address of the Association or the secretary; or
  - (ii) by facsimile transmission to the facsimile number of the Association.

## **86. Custody and inspection of books and records**

86.1. Members may, on request and at a reasonable time, inspect free of charge:

- (a) the Rules of the Association;
- (b) the minutes of general meetings;
- (c) subject to Rule 86.2, the financial records, books, securities and any other relevant document of the Association, including minutes of committee meetings.

86.2. The committee may refuse to permit a member to inspect records of the Association that relate to confidential, personal, employment, commercial or legal matters or where to do so may be prejudicial to the interests of the Association.

86.3. The committee must on request make copies of these Rules available to members and applicants for membership free of charge.

86.4. Subject to Rule 86.2, a member may make a copy of any of the other records of the Association referred to in this Rule and the Association may charge a reasonable fee for provision of a copy of such a record.

86.5. For purposes of this Rule, **relevant documents** means the records and other documents, however compiled, recorded or stored, that relate to the incorporation and management of the Association and includes the following:

- (a) its financial statements;
- (b) its financial records; and
- (c) records and documents relating to transactions, dealings, business or property of the Association.

## **87. Winding up and cancellation**

87.1. The Association may be wound up voluntarily by special resolution.

- 87.2. Subject to the Associations Incorporation Act 2009 (NSW) and the Regulations, in a winding up of the Association, any surplus property remaining after the satisfaction of all debts and liabilities shall not be paid to or distributed among the members of the Association. Any such surplus property shall be transferred to another organisation that:
- (a) is a not-for-profit organisation;
  - (b) has objects and purposes substantially similar to those of the Association; and
  - (c) is eligible for income tax exemption under the Income Tax Assessment Act 1997 (Cth).
- 87.3. The organisation to which the property is transferred shall be determined by special resolution of the members of the Association at or before the time of dissolution.
- 87.4. Members of the Association are not liable to contribute towards the payment of the debts and liabilities of the Association or the costs, charges and expenses of the winding up of the Association, except as required by law.

## **88. Alteration of Rules**

- 88.1. These Rules may only be altered by special resolution of a general meeting of the Association.

Note:

*An alteration of these Rules does not take effect unless or until it is approved by the registrar. If these Rules (other than Rules 1, 2 or 3) are altered, the Association is taken to have adopted its own rules, not the model rules.*

## **PART 8: TRANSITIONAL AND SCALING PROVISIONS**

### **89. Purpose of transitional provisions**

- 89.1. The purpose of this Part is to ensure that the Association can operate efficiently during its initial growth phase by permitting simplified governance arrangements based on the Model Rules made under the Associations Incorporation Act 2009 (NSW) by NSW Fair Trading.
- 89.2. These provisions are intended to reduce administrative burden until the Association reaches a level of membership and resources appropriate for the full application of all Rules contained herein.

### **90. Application period**

- 90.1. This Part applies while the Association has fewer than 200 financial members ("the transitional period").
- 90.2. Upon reaching 200 financial members, this Part ceases to apply in accordance with Rule 93.

### **91. Modified application of certain Rules during transitional period**

*During the transitional period, the following modifications shall apply:*

- 91.1. Elections and nominations – Despite Rules 51 to 54, elections for the Committee and office bearers may be conducted at the Annual General Meeting by a show of hands, and nominations may be taken from the floor, consistent with the Model Rules.

- 91.2. Committee composition – Despite Rules 44 and 53, the Committee shall consist of not fewer than three (3) members, being a President, Secretary and Treasurer, and may include up to two (2) additional Committee members if the Committee so determines.
- 91.3. During the transitional period, one person may hold more than one office-bearer position, provided that the Committee comprises not fewer than three (3) individual members.
- 91.4. Meetings of Committee – Despite Rule 58.1, the Committee shall meet as often as necessary to properly conduct the business of the Association.
- 91.5. Quorum – Despite Rule 64.2, the quorum for a Committee meeting shall be three (3) members.
- 91.6. Disciplinary and grievance procedures – Despite Rules 19 to 29, the Committee may adopt a simplified disciplinary and grievance procedure consistent with the Model Rules, provided that procedural fairness and the right to be heard are observed.

**92. Transitional decision-making power**

- 92.1. The Committee may, by resolution, determine that one or more of the simplified arrangements in Rule 91 shall continue to apply until the Association reaches a size or administrative capacity that, in the Committee's opinion, justifies the application of the corresponding full Rules.
- 92.2. Any such resolution must be recorded in the minutes of the Committee and tabled at the next Annual General Meeting.

**93. Cessation of transitional period**

- 93.1. Within six (6) months after the Association attains 200 financial members, the Committee must resolve to bring the full provisions of Parts 3 to 5 into effect.
- 93.2. The Committee may, by special resolution at a general meeting, extend or shorten the transitional period if it considers that compliance with the full Rules would otherwise impede the effective operation of the Association.
- 93.3. The Secretary must notify the Registrar of Incorporated Associations in New South Wales (currently NSW Fair Trading) if the Association elects to extend or to cease applying this Part.

**94. Effect of this Part**

- 94.1. To the extent of any inconsistency between this Part and any other Rule of the Association, this Part prevails during the transitional period.
- 94.2. Upon cessation of the transitional period under Rule 93, the full Rules of the Association shall thereafter apply.
- 94.3. Nothing in this Part shall derogate from the minimum requirements of the Associations Incorporation Act 2009 (NSW) or the Model Constitution made under that Act.

## SCHEDULE A

### 1. Method of counting votes where one candidate is to be elected: optional preferential system

- 1.1. All informal ballot papers shall be rejected. The number of first preferences for each candidate shall be counted.
- 1.2. Except as provided for in clause 7, the candidate obtaining an absolute majority of votes shall be elected.
- 1.3. An absolute majority of votes means a number greater than one-half of the whole number of ballot papers other than exhausted and informal ballot papers.
- 1.4. If no candidate has an absolute majority of votes the candidate who has the fewest votes shall be excluded, and each ballot paper counted to that candidate shall (unless exhausted) be counted to the unexcluded candidate next in order of the voter's preference.
- 1.5. If no candidate then has an absolute majority of votes, the process of excluding the candidate who has the fewest votes and counting each of that candidate's ballot papers (unless exhausted) to the unexcluded candidate next in order of the voter's preference, shall be repeated until one candidate has an absolute majority of votes.
- 1.6. Every ballot paper, not rejected as informal, shall be counted in every count until it becomes exhausted, when it shall be rejected in all further counts. When a candidate is excluded, any ballot paper counted to that candidate shall be deemed to be exhausted if there is not indicated upon it a consecutive preference for one unexcluded candidate.
- 1.7. If on any count two or more candidates have an equal number of votes and one of them has to be excluded, the candidate who, at the last count at which they had an unequal number of votes had the fewer, shall be excluded, and if there was no such count, the returning officer shall decide by lot which shall be excluded.
- 1.8. If, in the final count, two candidates have an equal number of votes, the candidate who, at the last count at which they had an unequal number of votes, had the greater number shall be elected, and if there was no such count, the Returning Officer shall decide by lot which candidate shall be elected.

### 2. Method of counting of votes where more than one candidate is to be elected: quota preferential system

- 2.1. All informal ballot papers shall be rejected.
- 2.2. Each ballot paper admitted to the count shall be given the value of ten votes and the number of votes expressing a first preference for each candidate shall be counted.
- 2.3. The aggregate number of such first preferences shall be divided by one more than the number of candidates required to be elected, and the quotient increased by one (excluding any fractional remainder) shall be the quota and (except as hereinafter provided in clause 10) no candidate shall be elected until that candidate obtains a number of votes equal to or greater than the quota.
- 2.4. Any candidate who has, upon the first preferences being counted, a number of such

votes equal to or greater than the quota, shall be declared elected.

2.5. Where the number of such votes obtained by any candidate is equal to the quota, the whole

of the ballot papers on which a first preference is recorded for such elected candidate shall be set aside as finally dealt with.

- 2.6. Where the number of votes obtained by any candidate is in excess of the quota, the number of votes in excess of the quota (the "surplus") shall be transferred to the other candidates not yet declared elected, next in order of the voters' respective preferences, in the following manner:
- (a) All the ballot papers on which a first preference is expressed for the elected candidate shall be re-examined, and the number of second preferences, or (in the case provided for in clause 12) third or next consecutive preferences, expressed for each unelected candidate thereon shall be counted:
  - (b) The surplus votes of the elected candidate shall be divided by the total number of the ballot papers expressing a first preference for the candidate, and the resulting number shall be the transfer value.
  - (c) The number of ballot papers expressing a second (or other) preference for each unelected candidate, ascertained according to paragraph I, shall be multiplied by the transfer value:
  - (d) The resulting number, disregarding any fractional remainder, shall be credited to each unelected candidate, and added to the number of votes previously obtained by the candidate on the counting of the first preferences.
- 2.7. Where:
- (a) on the counting of the first preferences or on any transfer, more than one candidate has a surplus, the largest surplus shall be dealt with first. If then more than one candidate has a surplus, the then largest surplus shall be dealt with, and so on; Provided that, if one candidate has obtained a surplus at a count or transfer previous to that at which another candidate obtains a surplus the surplus of the former shall be dealt with first;
  - (b) two or more surpluses are equal, the surplus of the candidate who was the highest on the poll at the count or transfer at which they last had an unequal number of votes shall be dealt with first, and, if they have had an equal number of votes at all preceding counts or transfers, the Returning Officer shall decide which candidate's surplus shall be dealt with first.
- 2.8. Where:
- (a) the number of votes obtained by a candidate is raised up to or above the quota by a transfer, that candidate shall be declared elected. In such a case, notwithstanding the fact that the candidate may have reached the quota during the progress of the transfer, the candidate shall not cease to become entitled to receive further votes until the conclusion of that transfer.
  - (b) the number of votes obtained by a candidate is raised up to but not above the quota by a transfer, the whole of the associated ballot papers shall be set aside as finally dealt with.
  - (c) the number of votes obtained by a candidate is raised above the quota by a transfer, the surplus shall be transferred to the candidates next in the order to the voters' respective preferences, in the following manner:
    - (i) the ballot papers on which are recorded the votes obtained by the elected candidate in the last transfer shall be re-examined, and the number of third, or (in the case provided for in Clause 12) next consecutive preference expressed for each unelected candidate thereon counted;
    - (ii) the surplus votes of the elected candidate shall be divided by the total number of the ballot papers mentioned in paragraph I, and the resulting number shall be the transfer value;
    - (iii) the number of ballot papers expressing a second (or other) preference for each unelected candidate, ascertained according to paragraph I, shall be

multiplied

- by the last-mentioned transfer value;
- (iv) the resulting number, disregarding any fractional remainder, shall be credited to each unelected candidate, and added to the number of votes previously obtained by the candidate.

2.9.

- (a) Where, after the first preferences have been counted and all surpluses, if any, have been transferred in the manner prescribed above, no candidate, or less than the number of candidates required to be elected, has or have obtained the quota, the candidate who is lowest on the poll shall be excluded, and all the votes obtained by that candidate shall be transferred to the candidates next in the order of the voters' respective preferences in the same manner as is directed in clause 5.
- (b) The votes obtained by such excluded candidate in the counting of the first preferences shall first be transferred, the transfer value of each ballot paper in this case being 10.
- (c) The other votes of such excluded candidate shall then be dealt with in the order of the transfers at which the candidate received them, and each corresponding ballot paper shall be transferred at the transfer value at which the candidate received it.
- (d) Each of the transfers which takes place under the two previous sub-clauses of this clause shall be deemed for all purposes to be a separate transfer.
- (e) In calculating the number of votes to be credited to a continuing candidate as a result of such transfer, any fractional remainder shall be disregarded.

2.10.

- (a) Where the number of votes obtained by a candidate is raised up to or above the quota by a transfer, that candidate shall thereupon be declared elected. In such a case, notwithstanding the fact that the candidate may have reached the quota during the progress of the transfer, the candidate shall not cease to become entitled to receive further votes until the conclusion of that transfer.
- (b) Where the number of votes obtained by a candidate is raised up to, but not above, the quota by any transfer, the whole of the associated ballot papers shall be set aside as finally dealt with.
- (c) Where the number of votes obtained by a candidate is raised above the quota by a transfer, the surplus shall be transferred to the candidates next in the order of the voters' respective preferences in the same manner as is directed in sub-clause (c) of clause 7; Provided that such surplus shall not be dealt with until all the votes of the excluded candidate have been transferred.
- (d) Where any surplus exists it shall be dealt with before any other candidate is excluded.

2.11. The same process of excluding the candidate lowest on the poll and transferring the votes to other candidates shall be repeated until all the candidates, except the number required to be elected, have been excluded, and the unexcluded candidates who have not already been so declared, shall then be declared elected.

2.12. Where at any time it becomes necessary to exclude a candidate, and two or more candidates have the same number of votes and are lowest on the poll, then whichever of such candidates was lowest on the poll at the last count or transfer at which they had an unequal number of votes shall be first excluded, and if such candidates have had an equal number of votes at all preceding counts or transfers the returning officer shall decide which candidate shall be first excluded.

2.13. In determining which candidate is next in the order of the voter's preference, any candidates who have been declared elected or who have been excluded shall not be considered, and the order of the voter's preference shall be determined as if the names of such candidates had not been on the ballot paper.

- 2.14. Where on any transfer it is found that a ballot paper expresses no preference, other than for candidates who have already been declared elected or been excluded, that ballot paper shall be set aside as exhausted.
  
- 2.15. Where, in these Rules, an order amongst the candidates is called for, the order shall be: those elected at the first count, in descending order of their votes; those elected at the second count, in descending order of their total votes after that count; and so on down; followed by the unsuccessful candidates in the reverse order of their exclusion from the count.