



EARLY  
LEARNING  
ASSOCIATION  
AUSTRALIA

# Early Learning Association Australia Inc Constitution

(As amended at 31<sup>st</sup> AGM on 28 November 2022)

## 1 Name

The name of the Incorporated Association is Early Learning Association Australia Inc.

## 2 Definitions

(1) In these rules, unless the contrary intention appears—

- (a) **Act** means the *Associations Incorporation Reform Act 2012* and includes any regulations made under the Act;
- (b) **Affiliate Member** means a Member referred to in rule 5(2)(b);
- (c) **Association** means Early Learning Association Australia Inc.;
- (d) **Board** means the board having management of the business of the Association elected in accordance with these rules;
- (e) **Board Meeting** means a meeting of the Board in accordance with these rules;
- (f) **Board Member** means a member of the Board;
- (g) **Chairperson** means the person elected in accordance with rule 23 and who is responsible for chairing the General Meeting and/or Board Meeting in accordance with these rules’
- (h) **Financial Year** means the 12 month period ending on 30 June each year;
- (i) **Fees** means all fees payable by Members as determined by the Board including, but not limited to, annual subscription fees;
- (j) **Full Member** means a Community Member referred to in rule (2)(a);
- (k) **General Meeting** means an Annual or Special General Meeting of Members convened in accordance with these rules;
- (l) **Member** means a member of the Association, as contemplated in rule 5(2);
- (m) **Nominee** means any person nominated in accordance with the policies of the Association from time to time, to represent a Full Member and to vote on that Full Member’s behalf;
- (n) **Ordinary Member of the Board** means a member of the Board who is not an Officer of the Association under these rules;
- (o) **Officer of the Association** means members of the Board who hold the position of Chairperson, Deputy Chairperson, Secretary and Treasurer;
- (p) **Regulations** means regulations under the Act;
- (q) **Relevant Documents** has the same meaning as in the Act;
- (r) **Special General Meeting** means a special general meeting referred to in rule 12; and
- (s) **Special Resolution** means a resolution of which notice has been given and that has been passed by at least 75 per cent of the votes cast by the Members entitled to vote, either in person or by proxy or as allowed under rule (2), at a General Meeting.

(2) In these rules, a reference to the Secretary of an Association is a reference, if a person holds office under these rules as Secretary of the Association, to that person.

## 3 Statement of purposes

The purposes for which the Association is established is to collaboratively develop solutions with Members, Government, and partners to ensure excellence and equity in early childhood education and care.

#### 4 Alteration of the rules

These rules and the statement of purposes of the Association must not be altered except in accordance with the Act.

#### 5 Membership

- (1) Any person or organisation may apply to become a Member of the Association if they satisfy the following conditions:
  - (a) subscribe to the purposes of the Association;
  - (b) agree to be bound by the Association's rules and policies;
  - (c) meet the criteria for one of the membership categories defined under rule (2)o;
  - (d) pay joining (if applicable) and annual subscription Fees applicable to the membership category under which they are registered, as determined by the Board.
- (2) Membership of the Association shall be divided into the following categories:
  - (a) A **Community Member** is any approved early childhood education and care provider that is not a commercial venture. A Community Member is entitled to the following:
    - (i) nominate a Nominee to attend all General Meetings of the Association;
    - (ii) exercise one vote on all matters that are put to the Members for a vote;
    - (iii) nominate a Nominee for a position on the Board and vote for the election of Board members;
    - (iv) hold office as an Officer of the Association as defined in rule 2(1)o;
    - (v) access all Member services and benefits offered by the Association.

A **Community Member** shall be referred to as a **Full Member**.
  - (b) An **Affiliate Member** means a Member who is not a Full Member or a Life Member and who falls into any of the Affiliate Member categories listed in sub-rule (iii) below.
    - (i) An **Affiliate Member** is entitled to:
      - (a) nominate a representative to attend all General Meetings of the Association;
      - (b) access partial member services and benefits offered by the Association to Affiliate Members.
    - (ii) An **Affiliate Member** is **not** entitled to:
      - (a) vote at General Meetings of the Association;
      - (b) nominate for a position on the Board or vote for the election of Board members;
      - (c) hold office as an Officer of the Association as defined in rule (o).
    - (iii) **Affiliate Members** comprise the following membership categories, and such other Affiliate Membership categories as may be determined by the Board from time to time:
      - (a) **Council Members, School Members or University Members**, being any local government (council), school or university managed and approved early childhood education and care service provider;
      - (b) **Associate Members**, being any approved provider of an early childhood education and care program that is not included in the membership categories defined under rules (a) or (2)(b)(iii)(a); and

- (c) **Supporter Members** being any organisation or individual person that is interested in early childhood education and care that is not included in the membership categories defined under rules (a), (a) or (b).
  - (d)
- (c) A **Life Member** is any person nominated by the Board for appointment as a Life Member in recognition of their valuable contributions and service to the Association, and approved by the Members as such at a General Meeting.
  - (i) A Life Member is entitled to:
    - (a) nominate a representative to attend all General Meetings of the Association; and
    - (b) exercise one vote on all matters put to the Members for vote at that General Meeting;
  - (ii) A Life Member will not be required to pay any further Fees.
- (3) Applicants for membership shall complete an online electronic application in the form prescribed by the Board and submit the application along with any other information that may be required to process the application for membership, to the Secretary, at the email address of the Secretary.
- (4) The Secretary must refer the application to the Board for consideration as soon as practicable after an application for membership is received, and the Board must decide by resolution whether to approve or reject that application.
- (5) If the Board approves an application for membership, the Secretary must, as soon as practicable—
  - (a) record the resolution to accept the membership in the minutes of the Board meeting;
  - (b) notify the applicant electronically of the approval for membership, specifying the membership category to which the applicant has been admitted;
  - (c) request payment within 28 days after receipt of the notification of the sum payable under these rules as the annual subscription Fee;
  - (d) if the application is for a Full Membership as defined under sub-rule (2)(a), request the member to nominate a Nominee as defined under rule (1)(m).
- (6) An applicant for membership becomes a Member and is entitled to exercise the rights of membership from the date on which the subscription Fee requested under rule (5)(c) is paid.
- (7) The Secretary must, within 28 days after receipt of the amounts referred to in rule (5)(c), enter the applicant's name in the register of Members.
- (8) The Secretary shall, as soon as practicable, send an electronic notice of rejection to unsuccessful applicants. For the avoidance of doubt, no reason need be given for rejection of an application.
- (9) A right, privilege, or obligation of a person by reason of membership of the Association—
  - (a) is not capable of being transferred or transmitted to another person;
  - (b) terminates upon the cessation of membership whether by death or resignation or otherwise.
- (10) The annual subscription Fee is the relevant amount as determined by the Board from time to time, and is payable in advance on or before 1 July in each year.
- (11) 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 annual subscription; or
- (b) a pro rata annual subscription based on the remaining part of the Financial Year; or
- (c) a fixed amount determined from time to time by the Association.

The rights of a Member (including the right to vote) who has not paid the annual subscription Fee by the due date are suspended until the subscription Fee is paid.

## **6 Nominee**

- (1) Each Full Member may nominate in writing, in a form that is approved by the Board from time to time, a Nominee for a position on the Board. This nomination may be changed at any time.

## **7 Register of Members**

- (1) The Secretary must keep and maintain a register of Members containing—
  - (a) for each current Member:
    - (i) the name, physical and email address of each Member
    - (ii) the date on which each Member's name was entered in the register;
    - (iii) the name of the Nominee of a Full Member;
    - (iv) the relevant membership category of the Member;
    - (v) the date on which a Member ceased to be a Member; and
  - (b) for each former Member, the date of ceasing to be a Member.
- (2) The register shall be available for inspection free of charge by any Member upon request at the office of the Association.
- (3) A Member may make a copy of entries in the register, but shall not use the information for purposes other than those for which the information was given by Members to the Association.

## **8 Ceasing membership**

- (1) The membership of a person ceases on resignation, expulsion or death.
- (2) A Member of the Association, who has paid all moneys due and payable by a Member to the Association, may resign from the Association by giving notice by email (to the email address of the Association) to the Association of his/her intention to resign.
- (3) On receipt of such notice or where a person otherwise ceases to be a Member of the Association, the Secretary shall remove the Member's name from the register of Members and make a note in the register of such removal.
- (4) A Member of the Association who has not paid their annual subscription Fee by the date specified in the invoice for annual subscription shall be deemed to have resigned, and the Secretary shall record in the register of Members that the Member has ceased to be a Member, and the date on which they ceased to be a Member.

## **9 Suspension and expulsion of Members**

- (1) Subject to these rules, if the Board is of the opinion that a Member has refused or neglected to comply with these rules, or has been found guilty of conduct unbecoming of a Member or prejudicial to the interests of the Association, the Board may take disciplinary action against the Member in respect of the Member's status as a Member of the Association.
- (2) Subject to the outcome of the disciplinary process outlined in sub-rule (3), where the allegations have been substantiated by the disciplinary subcommittee appointed under sub-rule (3)(3)(b)(3)(b) the Board may, by resolution at a Board Meeting—
  - (a) suspend that Member from membership of the Association for a specified period; or
  - (b) expel that Member from the Association.

- (3) Any disciplinary action taken against a Member must comply with the following process:
  - (a) the Secretary of the Association must give notice to the Member in accordance with rule 39:
    - (i) stating that the Association proposes to take disciplinary action against the Member and stating the grounds for the proposed disciplinary action;
    - (ii) specifying the date, place and time of the meeting at which the disciplinary subcommittee intends to consider the disciplinary action (**the Disciplinary Meeting**);
  - (b) the Board must appoint a disciplinary subcommittee to hear the matter and to investigate the allegations against the Member;
  - (c) the Member must be provided with an opportunity to be heard, either by:
    - (i) attending the Disciplinary Meeting and addressing the disciplinary subcommittee at the Disciplinary Meeting; or
    - (ii) by giving a written statement to the disciplinary subcommittee at any time before the Disciplinary Meeting;
  - (d) subject to sub-rules (3)(b) and (3)(c) above, the disciplinary process must be completed as soon as practicable;
  - (e) the Board shall be bound by the determination of the disciplinary subcommittee whether the allegation against the Member has been substantiated or not.
- (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.
- (5) The notice must be given no earlier than 28 days, and no later than 14 days, before the Disciplinary Meeting is held.
- (6) The members of the disciplinary subcommittee:
  - (a) may be Board Members, Members of the Association or anyone else; but
  - (b) must not be biased against, or in favour of, the Member concerned.
- (7) If, at the Board Meeting referred to in rule (2), the Board makes a decision to suspend the membership of the Member for a specified period, or expel the Member from the Association, the decision of the Board is final and no appeal to a General Meeting shall be permitted.

## 10 Disputes and mediation

- (1) The grievance procedure set out in this rule applies to disputes under these rules between—
  - (a) a Member and another Member;
  - (b) a Member and the Board;
  - (c) a Member and the Association, other than matters referred to under rule 9.
- (2) The parties to the dispute must meet and discuss the matter in dispute, and, if possible, resolve the dispute within 14 days after the dispute is raised.
- (3) If the parties are unable to resolve the dispute at the meeting, or if a party fails to attend that meeting, then the parties must, within 10 days:
  - (a) notify the Board of the dispute; and
  - (b) hold a meeting in the presence of a mediator.
- (4) The mediator must be—
  - (a) a person chosen by agreement between the parties; or

- (b) in the absence of agreement—
  - (i) in the case of a dispute between a Member and another Member, a person appointed by the Board; or
  - (ii) in the case of a dispute between a Member and the Board or the Association, a person who is a mediator appointed or employed by the Dispute Settlement Centre of Victoria (Department of Justice).
- (5) A Member can be a mediator.
- (6) The mediator cannot be:
  - (a) a Member who is a party to the dispute;
  - (b) a person who has a personal interest in the dispute; or
  - (c) a person who is biased in favour of or against a party.
- (7) The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.
- (8) The mediator, in conducting the mediation, must—
  - (a) give the parties to the mediation process every opportunity to be heard;
  - (b) allow due consideration by all parties of any written statement submitted by any party;
  - (c) ensure that natural justice is accorded to the parties to the dispute throughout the mediation process.
- (9) The mediator must not determine the dispute.
- (10) If the mediation process does not result in the dispute being resolved, the parties may seek to resolve the dispute in accordance with the Act or otherwise at law.

## **11 Annual General Meetings**

- (1) The Board shall determine the date, time and place of the annual General Meeting of the Association in accordance with the requirements of the Act (**Annual General Meeting**).
- (2) The notice convening the Annual General Meeting must specify that the meeting is an Annual General Meeting.
- (3) The ordinary business of the Annual General Meeting shall be—
  - (a) to confirm the minutes of the previous Annual General Meeting and of any General Meeting held since that meeting;
  - (b) to receive and consider, from the Board, written reports on the activities of the Association since the last Annual General Meeting;
  - (c) to receive and consider the audited statement submitted by the Association in accordance with Section 30(3) of the Act;
  - (d) to elect members of the Board in place of those retiring; and to appoint any new auditor for the next Financial Year.
- (4) The Annual General Meeting may conduct any special business of which notice has been given in accordance with these rules.

## **12 Special General Meetings**

- (1) In addition to the Annual General Meeting of Members, any other General Meetings may be held in the same year.
- (2) All General Meetings other than the Annual General Meeting are Special General Meetings.
- (3) The board may, whenever it thinks fit, convene a Special General Meeting of the Association.
- (4) The Board must, on the request in writing of Members representing not less than 5 per cent of

Full Members or 20 Full Members, whichever is less, convene a Special General Meeting of the Association.

- (5) The request for a Special General Meeting must—
  - (a) state the objects of the meeting;
  - (b) be signed by the Members requesting the meeting; and
  - (c) be sent to the Secretary.
- (6) A Special General Meeting requested by Members shall be held within 40 days of receiving the notice under rule (4).
- (7) If the Board does not cause a Special General Meeting to be held within one month after the date on which the request is sent to the address of the Secretary, the Members making the request, or any of them, may convene a Special General Meeting to be held not later than three months after that date.
- (8) If a Special General Meeting is convened by Members in accordance with this rule, it must be convened in the same manner, so far as possible, as a meeting convened by the Board, and all reasonable expenses incurred in convening the Special General Meeting must be refunded by the Association to the person(s) incurring the expenses.
- (9) No business shall be considered at a Special General Meeting other than the business set out in the notice of the meeting.

### **13 Special business**

- (1) All business that is conducted at a Special General Meeting and all business that is conducted at the Annual General Meeting, except for business conducted under rule (3), are deemed to be special business.
- (2) Notice of special business shall be given in accordance with rule (1).
- (3) All matters considered as special business at a General Meeting and put to the Members for a vote shall require a Special Resolution as defined under rule (1)(s).

### **14 Notice of General Meetings**

- (1) At least 21 days or, if special business has been proposed, at least 28 days before the date fixed for holding a General Meeting of the Association, the Secretary must cause to be sent to each Member of the Association, a notice stating the place, date and time of the General Meeting, and the nature of the business to be conducted at the General Meeting.
- (2) If a Special Resolution is to be proposed, the notice must state in full the proposed resolution and the intention to propose the resolution as a Special Resolution.
- (3) Notice must be given in accordance with rule 39.
- (4) No business other than that set out in the notice convening the General Meeting may be conducted at the General Meeting.
- (5) A Member intending to bring any business before a General Meeting may notify the Secretary in writing, or by electronic transmission, of that business, and the Secretary must include that business in the notice calling the next General Meeting.

### **15 Quorum at General Meetings**

- (1) No item of business may be conducted at a General Meeting unless a quorum of Members entitled under these rules to vote is present at the commencement of the General Meeting, and at the time when the General Meeting is considering that item.
- (2) 5 per cent of Members or 30 Members, being Members entitled under these rules to vote at a General Meeting, whichever is less, present in person or proxy or as allowed under rule (2), shall constitute a quorum for the conduct of the business of an Annual General Meeting.

- (3) 25 Members, being Members who are entitled under these rules to vote at a General Meeting, present in person or proxy or as allowed under rule (2), shall constitute a quorum for a Special General Meeting.
- (4) If, within half an hour after the appointed time for the commencement of a General Meeting, a quorum is not present—
  - (a) in the case of a meeting convened upon the request of Members, the meeting must be dissolved;
  - (b) in any other case, the meeting shall stand adjourned to the same day in the next week, at the same time and, unless another place is specified by the Chairperson at the time of the adjournment or by written notice to Members given before the day to which the meeting is adjourned, at the same place.
- (5) If, at the adjourned meeting, the quorum is not present within half an hour after the time appointed for the commencement of the meeting, the Members present in person (being Members entitled under these rules to vote at a General Meeting), being not less than five, shall be a quorum.

#### **16 Presiding at General Meetings**

- (1) The Chairperson, or in the Chairperson's absence, the Deputy Chairperson, shall preside as Chairperson at each General Meeting of the Association.
- (2) If the Chairperson and the Deputy Chairperson are both absent from a General Meeting, or are unable to preside, the Members present must select one of their number to preside as Chairperson.

#### **17 Adjournment of General Meetings**

- (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 and place.
- (2) Without limiting sub-rule (1), a General Meeting may be adjourned:
  - (a) if there is insufficient time to deal with the business on hand; or
  - (b) to give the Members more time to consider an item of business.
- (3) No business may be conducted at an adjourned General Meeting other than the unfinished business from the meeting that was adjourned.
- (4) If a General Meeting is adjourned for 14 days or more, notice of the adjourned General Meeting must be given in accordance with rule 14.
- (5) Except as provided in rule 17(4) it is not necessary to give notice of an adjournment or of the business to be conducted at an adjourned General Meeting.

#### **18 Voting at General Meetings**

- (1) A resolution put to the vote at a General Meeting shall be decided on a show of hands or by ballot (either electronic or physical), as determined by the Chairperson of the General Meeting.
- (2) On any question arising at the General Meeting:
  - (a) subject to sub-rule (5), each Member who is entitled to vote has one vote; and
  - (b) except in the case of a Special Resolution, the question must be decided on a majority of votes.
- (3) All votes must be given personally or by proxy or as allowed under rule (2).
- (4) In the case of an equality of votes on a question, the Chairperson of the meeting is entitled to exercise a second or casting vote.

- (5) If the question is whether or not to confirm the minutes of a previous General Meeting, only Members who were present at that General Meeting may vote.
- (6) A Member is not entitled to vote at a General Meeting unless all moneys due and payable by the Member to the Association have been paid.
- (7) A Special Resolution is passed if not less than three quarters of the Members entitled to vote at a General Meeting (whether present in person or proxy or as allowed under rule (2)) vote in favour of the resolution.

## **19 Poll at General Meetings**

- (1) If, at a General Meeting, a poll on any question is demanded by not less than five Full Members, it must be taken at that General Meeting in such manner as the Chairperson may direct, and the resolution of the poll shall be deemed to be a resolution of the General Meeting on that question.
- (2) A poll that is demanded on the election of a Chairperson or on a question of an adjournment must be taken immediately, and a poll that is demanded on any other question must be taken at such time before the close of the General Meeting as the Chairperson may direct.

## **20 Manner of determining whether resolution is carried at General Meetings**

- (1) If a question arising at a General Meeting of the Association is determined on a show of hands or by ballot (electronic or physical),
  - (a) a declaration by the Chairperson that a resolution has been:
    - (i) carried; or
    - (ii) carried unanimously; or
    - (iii) carried by a particular majority; or
    - (iv) lost; and
  - (b) an entry to that effect in the minute book of the Association is evidence of that fact, without proof of the number or proportion of the votes recorded in favour of, or against, that resolution.

## **21 Proxies and use of technology**

- (1) Each Member is entitled to appoint another Member as a proxy by notice given to the Secretary no later than 24 hours before the time of the meeting in respect of which the proxy is appointed.
- (2) A Member not physically present at a General Meeting may be permitted to participate in the General Meeting by use of technology that allows that Member and the Members present at the meeting to clearly and simultaneously communicate with each other.
- (3) A Member participating in a General Meeting as permitted under sub-rule (2), is taken to be present at the meeting and, if the Member votes at the meeting, is taken to have voted in person.

## **22 Board**

- (1) The affairs of the Association shall be managed by or under the direction of the Board.
- (2) The Board:
  - (a) shall control the business and affairs of the Association and ensure that the purposes set out in these rules are met;
  - (b) may, subject to these rules, the Act and the Regulations, exercise all such powers and functions as may be exercised by the Association other than those powers and functions that are required by these rules to be exercised by Members at General Meetings of the Association;

- (c) has, subject to these rules, the Act and the regulations, power to perform all such acts and things as appear to the Board to be essential for the proper management of the business and affairs of the Association;
  - (d) shall have the power to co-opt persons (**co-opted representatives**), whether Members or not, to act in an advisory capacity to the Board, which extends to sitting in on Board Meetings, but without voting rights. Such co-opted representatives shall serve until the next Annual General Meeting, and may be re-appointed, provided that no co-opted representative can serve on the Board for more than six consecutive years;
  - (e) may appoint a Chief Executive Officer and determine their conditions of service and remuneration.
- (3) Board Members, including co-opted representatives shall not be paid a sitting fee or remuneration for their services on the Board.
  - (4) Notwithstanding rule (3), all *bona fide* expenses, as determined by the Board, incurred by Board Members, including co-opted representatives, in discharging their duties as a Board Member shall be reimbursed upon the Board Member presenting a claim to the Association along with adequate proof of incurring the expenditure.
  - (5) The Board shall consist of 10 members, excluding co-opted representatives, as set out below, each of whom shall be elected at Annual General Meeting of the Association :
    - (a) four Officers of the Association; and
    - (b) six Nominees of Full Members.
  - (6) Each Board Member shall be elected for a three-year term. At the end of the three year term, the relevant Board position shall become vacant and be up for re-election at the next Annual General meeting.
  - (7) All Board Members must, at the time of their nomination, be Nominees.
  - (8) No Board Member shall serve on the Association's Board for more than nine consecutive years.
  - (9) A Board Member shall not supply, directly or indirectly, goods or services to the Association where such goods or services could be satisfactorily obtained elsewhere.
  - (10) Any Board Member who has a financial interest in any contract or arrangement made, or proposed to be made, with the Association shall disclose their interest at the first meeting where the contract or arrangement is considered.
  - (11) Any Board Member who has an interest in any contract or arrangement shall not be entitled to vote on this matter.
  - (12) Board Members shall not become paid employees of the Association.
  - (13) Nominees elected under rule 24 must have appropriate skills to benefit the Association and to further its purposes.

### 23 Officers of the Association

- (1) The Officers of the Association shall be—
  - (a) Chairperson;
  - (b) Deputy Chairperson;
  - (c) Treasurer; and
  - (d) Secretary.
- (2) The Officers of the Association shall be elected by the Board from amongst them within seven days of the Annual General Meeting, in a manner to be determined by the Board from time to

time.

- (3) Each Officer of the Association shall hold office until the third Annual General Meeting after the date of his/her election as an Officer of the Association, but is eligible to be re-elected for the position.
- (4) Subject to sub-rule (2), in the event of a casual vacancy in any office referred to in sub-rule (1), the Board may appoint one of its Board Members to the vacant office, and the member appointed may continue in office up to and including the conclusion of the Annual General Meeting next following the date of the appointment.

#### **24 Election of Board Members**

- (1) A nomination form for the election of Board Members shall be sent to all Members with the notice of the Annual General Meeting, allowing a Member who is entitled to nominate for a position on the Board, to nominate a Nominee for one of the three-year terms that is up for re-election.
- (2) Nominations of Nominees for election as a Board Member must be made in accordance with the policies of the Association from time to time, in writing in the appropriate form and signed by the Full Member.
- (3) Duly completed nomination forms shall be delivered to the Secretary of the Association not less than 14 days before the date fixed for the holding of the Annual General Meeting.
- (4) If insufficient nominations are received to fill all vacancies on the Board, the Nominees nominated shall be deemed to be elected. The vacant positions will be deemed as casual vacancies in accordance with rule 25.
- (5) If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated shall be deemed to be elected.
- (6) If the number of nominations exceeds the number of vacancies to be filled, a ballot must be held.
- (7) The ballot for the election of Ordinary Members of the Board must be conducted based on a preferential method of voting.
- (8) A ballot will not be invalid only because all preferences have not been inserted in the ballot.
- (9) All elections are to be conducted by a returning officer of the Association as determined by the Board from time to time.

#### **25 Casual vacancies**

- (1) For the purposes of these rules, a vacancy on the Board (including the role of Secretary) occurs in the event of any of the following—
  - (a) a Board Member:
    - (i) dies; or
    - (ii) ceases to be a Member of the Association; or
    - (iii) resigns from office by giving notice in writing to the Secretary; or
    - (iv) ceases to be a Board Member by virtue of the law; or
    - (v) becomes prohibited from being a Board Member by reason of any order made under the Act; or
    - (vi) is removed from office pursuant to rule 30 of these rules; or
    - (vii) becomes a person of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health, or is otherwise permanently incapacitated by ill health; or

- (viii) becomes an insolvent under administration within the meaning of the *Corporations Act*; or
  - (ix) is absent without leave from the Chairperson for three consecutive Board Meetings, or for more than 25 per cent of the Board Meetings held during the year; or
  - (x) ceases to be the Nominee of a Full Member of the Association; or
  - (xi) becomes a 'represented person' within the meaning of the *Guardianship and Administration Act 1986*; or
  - (xii) is the Secretary and ceases to reside in Australia; or
- (b) if a statutory manager is appointed to conduct the affairs of the Association.
- (2) Every such vacancy shall be deemed as a casual vacancy.
- (3) Should a casual vacancy on the Board occur during the year, the Board may appoint a Board Member in accordance with these rules to fill the vacancy until the next Annual General Meeting.

## 26 Meetings of the Board

- (1) The Board must meet at least four times in each year at such place and such time as the Board may determine.
- (2) Special meetings of the Board may be convened by the Chairperson or by any four Board Members (**Special Board Meeting**).
- (3) Written notice of each Board Meeting must be given to each Board Member at least two business days before the date of the Board Meeting.
- (4) Notice may be given of more than one Board Meeting at the same time.
- (5) The notice must state the date, time and place of the Board Meeting.
- (6) If a Special Board Meeting is convened, the notice must include the general nature of the business to be conducted.
- (7) The only business that may be conducted at the Board Meeting is the business for which the meeting is convened.

## 27 Quorum for Board Meetings

- (1) 50 per cent of the Board Members entitled to vote at Board Meetings, present in person or joining in via telephone conference or other technology in accordance with rule (3), shall constitute a quorum for the conduct of the business of a Board Meeting.
- (2) No business may be conducted unless a quorum is present.
- (3) Arrangements must be available to enable Board Members to attend by telephone conference or other technology that allows that Board Member and the Board Members present at the Board Meeting, to clearly and simultaneously communicate with each other. A Board Member participating in a Board Meeting as contemplated in this sub-rule (3) is taken to be present at the Board Meeting and, if the Board Member votes at the meeting, is taken to have voted in person.
- (4) The Board may act notwithstanding any vacancy on the Board.
- (5) If a quorum is not present within 30 minutes after the notified commencement time of a Board Meeting:
- (a) in the case of a Special Board Meeting, the meeting lapses;
  - (b) in any other case, the Board 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 26.

## **28 Presiding at Board Meetings**

At Board Meetings—

- (1) the Chairperson or, in the Chairperson's absence, the Deputy Chairperson presides; or
- (2) if the Chairperson and the Deputy Chairperson are absent, or are unable to preside, the Board Members present must choose one of their number to preside.

## **29 Voting at Board Meetings**

- (1) Questions arising at a Board Meeting shall be determined on a show of hands or, if a Board Member requests, by a poll taken in such manner as the person presiding at that meeting may determine.
- (2) Each Board Member present at a Board Meeting, including the person presiding at the Board Meeting, is entitled to one vote and, in the event of an equality of votes on any question, the person presiding shall exercise a second or casting vote.

## **30 Removal of a Board Member**

- (1) The Association in a General Meeting may, by resolution, remove any Board Member of the Board, including the Secretary, before the expiration of the Board Member's term of office, and appoint another Board Member in his/her place to hold office until the next Annual General Meeting.
- (2) A Board Member who is the subject of a proposed resolution referred to in sub-rule (1) may make representations in writing to the Secretary or Chairperson of the Association, and may request that the representations be provided to the Members of the Association.
- (3) The Secretary or the Chairperson may give a copy of the representations to each Member of the Association or, if they are not so given, the Board Member may require that they be read out at the meeting.

## **31 Minutes of meetings**

- (1) The Board must ensure that minutes of the resolutions and proceedings are taken and kept of each General Meeting and each Board Meeting, together with a record of the names of persons present at the meetings.
- (2) The Secretary shall make available upon written request by a Member, a copy of the minutes of the General Meetings of Members, within 14 days of receipt of the request.

## **32 Committees**

- (1) The Board may from time to time appoint, constitute or create such committees, or working parties, as it deems necessary for the better pursuance of the purposes of the Association, and will nominate or appoint thereto such chairpersons or members as it sees fit.
- (2) For each such committee or working party, the Board shall:
  - (a) determine roles and responsibilities, and the terms of reference for its operation;
  - (b) in its absolute discretion, allocate such funds as it deems necessary to fulfil the purposes of sub-rule (1).
- (3) The chairperson of the committee or working party shall be a Board Member, and shall have responsibility for the operation of the group.
- (4) The quorum for meetings of the committee or working party is 50 per cent of its membership.
- (5) Minutes are to be kept of all committee or working party meetings.
- (6) Committees and working parties shall report to the Board regularly and make recommendations to the Board.

### **33 Secretary**

- (1) The Secretary must perform any duty or function required under the Act to be performed by the Secretary of an incorporated association.
- (2) The Secretary shall be responsible for notifying the Registrar of Incorporated Associations of:
  - (a) their appointment to the position of Secretary, within 14 days after the appointment;
  - (b) keep custody of the common seal of the Association and all books, documents and securities of the Association in accordance with rules 38 and 40;
  - (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.

### **34 Chief Executive Officer**

- (1) The Board shall appoint a Chief Executive Officer for such term and upon such conditions as the Board deems fit. The Board shall be responsible for setting the delegated responsibility and remuneration for the Chief Executive Officer.
- (2) The Board will be responsible for monitoring the performance and undertaking an annual assessment of the Chief Executive Officer's performance.
- (3) The Chief Executive Officer shall administer the Association under the direction of the Board, and in accordance with the Act, these rules and the Association's policies.

### **35 Treasurer**

- (1) The Board may delegate to the Treasurer of the Association, the following responsibilities:
  - (a) ensure appropriate financial controls are implemented to protect the Association's assets;
  - (b) ensure appropriate reporting mechanisms to enable the Board to fulfil its financial obligations under the Act;
  - (c) ensure compliance with Australian accounting standards;
  - (d) ensure financial record keeping meets the requirements specified under the Act;
  - (e) ensure that at least one other Board Member has access to the accounts and financial records of the Association; and
  - (f) ensure a financial audit is conducted once per calendar year, from the last period of audit.

### **36 Auditor**

- (1) An auditor shall be appointed by the Members each year at the Annual General Meeting and shall hold office until the next Annual General Meeting. In the event of a casual vacancy in the office of the auditor, the Board may temporarily appoint to the office some person appropriately qualified.
- (2) The Board shall determine the fees and expenses of the auditor.
- (3) The auditor shall have access to the books and accounts of the Association at all times and shall make such reports as he/she considers necessary, directly to the Board.
- (4) The auditor shall be an independent, qualified accountant and must be a member of a recognised accounting body such as the Institute of Chartered Accountants.
- (5) The Board shall ensure that the books of the Association are audited annually in accordance with the Act.

### **37 Funds**

- (1) The funds of the Association shall be derived from entrance fees, member subscriptions, sale of publications, grants, donations and such other sources as the Board determines, and income

derived from the business conducted in accordance with these rules and the Act.

- (2) All payments must be made by cheque, electronic funds transfer or periodic debit, and payment shall only be made by the authority of the Board.
  - (3) The Board must ensure that there are appropriate financial delegations in place for making payments.
  - (4) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by any two of the following signatories: Chief Executive Officer, Deputy Chief Executive Officer, Chairperson, Deputy Chairperson, Secretary, Treasurer or accountant.
  - (5) The income and property of the Association must be used and applied solely in promotion of its purposes and the exercise of its powers, and no proportion may be distributed, paid or transferred directly or indirectly to or amongst the Members.
- (1) This rule does not prevent the payment in good faith to any Member of the Association or Board Member of:
    - (a) interest on money advanced to the Association or otherwise owing;
    - (b) remuneration for services actually rendered to the Association;
    - (c) out-of-pocket expenses incurred in carrying out work on behalf of the Association;
    - (d) money lent;
    - (e) reasonable and proper charges for goods hired to the Association;
    - (f) reasonable and proper rent for premises let to the Association.
  - (2) This rule does not prevent the provision of services to a Member to which that Member would be entitled in accordance with the purposes if not a Member.

### **38 Seal**

- (1) The common seal of the Association must be kept in the custody of the Secretary. The common seal must not be affixed to any instrument except by the authority of the Board, and the affixing of the common seal must be attested by the signatures of either two Board Members or of one Board Member and of the Secretary of the Association.

### **39 Notice requirements**

Except for the requirement in rule 12, any notice that is required to be given to a Member or a Board Member, under these rules may be given by:

- (1) delivering the notice to the Member or Board Member personally; or
- (2) sending it by prepaid post addressed to the Member at that Member's address as shown in the register of Members; or
- (3) facsimile transmission; or
- (4) email transmission.
- (5) Any notice required to be given to the Association or the Board may be given by:
  - (a) delivering the notice to a Board Member personally; or
  - (b) sending notice by post to the registered address of the Association; or
  - (c) leaving the notice at the registered address of the Association; or
  - (d) if the Board determines that 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.

### **40 Custody and inspection of books and records**

- (1) Except as otherwise provided in these rules, the Secretary must keep in his/her custody, or under his/her control, all books, documents and securities of the Association.
- (2) All accounts, books, securities and any other Relevant Documents of the Association **except** minutes of Board Meetings and commercially sensitive documents or records of the Association that relate to confidential, personal, employment, commercial or legal matters, must be available for inspection, free of charge by any Member upon request.
- (3) A Member may make a copy of any accounts, books, securities and any other Relevant Documents of the Association.

#### 4.1 Winding up

- (1) The Association may be wound up voluntarily in accordance with the Act, with the consent of 75 per cent of Full Members, being Members eligible to vote at General Meetings, present at a Special General Meeting of Members called specifically for that purpose.
- (2) If, upon winding up or dissolution of the Association, there remains, after payment of all debts and liabilities, any assets or property whatsoever, those assets shall not be paid to, or distributed amongst, the Members of the Association.
- (3) The surplus must be transferred to another institution or institutions which:
  - (a) is charitable in purpose, and
  - (b) has similar purposes to the Association, and
  - (c) prohibits the distribution of income and property amongst members to an extent at least as great as is imposed on the Association under this rule, and
  - (d) is a fund, authority or institution approved by the Commissioner of Taxation as being one referred to in section 78(1)(a) of the *Income Tax Assessment Act 1936*.
- (4) The institution or institutions must be determined in accordance with a Special Resolution of the Members of the Association, or, in the absence of such a resolution, by the Registrar.

#### 4.2 Powers of the Association

- (1) Subject to the Act, the Association has power to do all things incidental or conducive to achieve its purposes.
- (2) In addition to all the powers given to the Association by virtue of the Act, the Association may apply, invest or manage any moneys of the Association not immediately required, in such manner as is from time to time thought fit.
- (3) Without limiting rule 4.2(2), the Association may:
  - (a) acquire, hold and dispose of real or personal property;
  - (b) open and operate accounts with financial institutions;
  - (c) raise and borrow money on any terms and in any manner it thinks fit;
  - (d) secure the repayment of money raised or borrowed, or the payment of a debt or liability;
  - (e) appoint agents to transact business on its behalf;
  - (f) enter into any other contract it considers necessary or desirable.
- (4) In exercising the powers under this clause, the Association must exercise the care, diligence and skill that a prudent person would exercise in managing the affairs of other persons.
- (5) In exercising the powers contained in this clause, the Association must not make investments which are speculative in nature and shall take investment advice when felt necessary.
- (6) Without limiting the matters that the Association may take into account when exercising the powers contained in this clause, the Association must, so far as they are appropriate to the

circumstances of the Association, have regard to:

- (a) the purposes of the Association and the needs and circumstances of the Members; and
  - (b) the desirability of diversifying Association investments; and
  - (c) the need to maintain the real value of the capital or income of the Association; and
  - (d) the risk of capital or income loss or depreciation; and
  - (e) the potential for capital appreciation; and
  - (f) the likely income return and the timing of income return; and
  - (g) the length of the term of the proposed investment; and
  - (h) the liquidity and marketability of the proposed investment during, and on the determination of, the term of the proposed investment; and
  - (i) the effect of the proposed investment in relation to the tax liability of the Association; and
  - (j) the likelihood of inflation affecting the value of the proposed investment or other property of the Association; and
  - (k) the costs (including commissions, fees, charges and duties payable) of making the proposed investment; and
  - (l) the result of a review of existing investments of the Association.
- (7) The Association may:
- (a) obtain and consider independent and impartial advice reasonably required for the investment of Association funds or the management of the investment from a person whom the Association reasonably believes to be competent to give the advice; and
  - (b) pay out of the Association funds the reasonable costs of obtaining the advice.

#### **43 Authorisation to trade**

The Association is authorised to trade in accordance with Part 4 of the *Associations Incorporated Reform Act 2012*.

#### **44 Alteration of rules and statement of purposes**

- (1) These rules and statement of purposes of the Association shall not be altered except by a Special Resolution at a General Meeting of the Association and must be approved by 75 per cent of Full Members personally present.
- (2) The provisions for trading and winding up contained in the rules shall not be altered without the consent of the Minister.

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Constitution amended at AGM October 2007; and 1 November 2012; and 24 October 2013; and 29 October 2015, and 28 November 2022