

Rules of the Australian Association of Constitutional Law

**Based on the Model Rules in Schedule 4 of the *Associations
Incorporation Reform Regulations 2012 (Vic)***

S.R. No. 128/2012

Note

The persons who from time to time are members of the Association are an incorporated association by the name given in rule 1 of these Rules.

Under section 46 of the **Associations Incorporation Reform Act 2012**, these Rules are taken to constitute the terms of a contract between the Association and its members.

PART 1—PRELIMINARY

1 Name

The name of the incorporated association is
“Australian Association of Constitutional Law
Incorporated”.

Note

Under section 23 of the Act, the name of the Association and its registration number must appear on all its business documents.

2 Purposes

The purposes of the Association are—

- a. to develop and promote the discipline of constitutional law in Australia;
- b. to support teaching, research and the practice of the law which relates to the discipline;
- c. to provide a forum for the exchange of knowledge and information between practitioners, teachers and other interested persons regarding the discipline;
- d. to increase public awareness and understanding of the discipline;
- e. to maintain membership of the International Association of Constitutional Law.

3 Financial year

The financial year of the Association is each

period of 12 months ending on 30 June.

4 Definitions

In these Rules—

absolute majority, of the Council, means a majority of the Council members currently holding office and entitled to vote at the time (as distinct from a majority of Council members present at a Council meeting);

the Act means the *Associations Incorporation Reform Act 2012* and includes any regulations made under that Act;

Chairperson, of a general meeting or Council meeting, means the person chairing the meeting as required under rule 44;

Council means the Council having management of the business of the Association;

Council meeting means a meeting of the Council held in accordance with these Rules;

Council member means a member of the Council elected or co-opted under Division 3 of Part 5;

Executive means the persons holding the offices of President, Vice-President, Secretary and Treasurer of the Association;

financial year means the 12 month period specified in rule 3;

general meeting means a general meeting of the members of the Association convened in accordance with Part 4 and includes an annual general meeting, and a special general meeting;

member means a member of the Association;

member entitled to vote means a member who under subrule 16(2) is entitled to vote at a general meeting;

ordinary member means a member other than a student member, a life member or an honorary member;

the Registrar means the Registrar of Incorporated Associations.

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;

student member means a member who is qualified for membership under subrule 8(1)(f) or subrule 8(1)(g) and who applied to become a student member.

PART 2—POWERS OF ASSOCIATION

5 Powers of Association

- (1) Subject to the Act, the Association has power to do all things incidental or conducive to achieve its purposes.
- (2) Without limiting subrule (1), the Association may—
 - (a) acquire, hold and dispose of real or personal property;
 - (b) open and operate accounts with financial institutions;
 - (c) invest its money in any security in which trust monies may lawfully be invested;
 - (d) raise and borrow money on any terms and in any manner as it thinks fit;
 - (e) secure the repayment of money raised or borrowed, or the payment of a debt or liability;
 - (f) appoint agents to transact business on its behalf;
 - (g) enter into any other contract it considers necessary or desirable.
- (3) The Association may only exercise its powers and use its income and assets (including any surplus) for its purposes.

6 Not for profit organisation

- (1) The Association must not distribute any surplus, income or assets directly or indirectly to its members.
- (2) Subrule (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.

Note

Section 33 of the Act provides that an incorporated association must not secure pecuniary profit for its members. Section 4 of the Act sets out in more detail the circumstances under which an incorporated association is not taken to secure pecuniary profit for its members.

PART 3—MEMBERS, DISCIPLINARY PROCEDURES AND GRIEVANCES

Division 1—Membership

7 Minimum number of members

The Association must have at least 5 members.

8 Who is eligible to be a member

- (1) Any person who supports the purposes of the Association is eligible for membership of the Association if he or she—
 - (a) is, or has been, a teacher of constitutional law in a university or tertiary educational institution;
 - (b) is a scholar engaged in research in the field of constitutional law or a scholar from a related discipline with a specialist interest in constitutional law;
 - (c) is, or has been, a judge, legal practitioner or government legal officer;
 - (d) is a member of an association which is a member of the International Association of Constitutional Law or any association formed in a foreign jurisdiction with purposes in relation to constitutional law that are similar to that of the Association;
 - (e) is adjudged by the Executive as having a sufficient interest, whether by reason of practical experience or occupation, in the

field of constitutional law; or

(f) is enrolled in any of the following degrees at an Australian university—

(i) LLB;

(ii) JD;

(iii) LLM;

(iv) PhD (undertaken within the field of law);

(v) SJD;

(vi) LLD;

(g) is enrolled in a course of study which is adjudged by the Executive to be relevant to the objects of the Association.

(2) Any question regarding the eligibility or suitability of a person for membership of the Association is to be determined by the Executive.

9 Application for ordinary membership or student membership

(1) To apply to become an ordinary member or a student member of the Association, a person who is eligible for membership must submit a written application to the Secretary stating that the person—

(a) wishes to become a member of the Association; and

(b) supports the purposes of the Association; and

(c) agrees to comply with these Rules.

(2) The application—

(a) must be signed by the applicant in a form that is approved by the Council; and

(b) must identify whether the applicant wishes to become an ordinary member or a student member; and

(c) must be accompanied by the joining fee.

Note

The joining fee is the fee (if any) determined by the Association under rule 11(3).

10 Consideration of application and entry on register

- (1) As soon as practicable after an application for ordinary membership or student membership is received, any two members of the Executive must decide by resolution whether to accept or reject the application.
- (2) If the application is accepted, the Secretary must as soon as practicable —
 - (a) notify the applicant in writing of the approval of his or her application for membership; and
 - (b) enter the name, address and email address of the new member, and the date of becoming a member, in the register of members.
- (3) If the application is rejected the Secretary must, as soon as practicable, notify the applicant in writing and return any money accompanying the application to the applicant.
- (4) No reason need be given for the rejection of an application.
- (5) A person becomes a member of the Association and, subject to rule 11(4), is entitled to exercise his or her rights of membership from the date on which the member's name is entered in the register of members.

11 Annual subscription

- (1) At each annual general meeting, the Association may determine, in accordance with a proposal by the Council—
 - (a) the amount of the annual subscription (if any) payable by ordinary and student members for the following financial year; and
 - (b) the date for payment of the annual subscription.
- (2) The Association may determine, in accordance with a proposal by the Council, that a lower annual subscription is to be payable by student members or by any ordinary member or group of ordinary members determined by the Association.
- (3) The Association may determine, in accordance

with a proposal by the Council, that any new ordinary member or student 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 applicable to members of that class; 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.
- (4) The membership of new ordinary members or student members who join after the start of a financial year will commence upon the payment of their annual subscription fee.
- (5) The rights of an ordinary member or a student member (including, for an ordinary member, the right to vote) who has not paid the annual subscription by the due date are suspended until the subscription is paid.
- (6) In the absence of a proposal by the Council or decision of the Association under any of subrules (1), (2) or (3) above, the annual subscription fees for ordinary members and student members, the date for payment of those fees, and the arrangements applicable to new members, shall remain as they were in the preceding financial year (except that the date for payment shall be one calendar year later).

12 Nomination for life membership

Any two members may submit a written nomination to a Council member nominating a person for life membership of the Association.

13 Consideration of nomination for life membership

- (1) As soon as practicable after a nomination for life membership is received, the Council must decide by resolution whether to accept or reject the nomination.
- (2) Subject to the subrule (3) below, in determining whether to accept or reject the nomination, the Council must apply the following eligibility criteria—

- (a) the person has been a member of the Association for at least fifteen years; and
- (b) either:
 - (i) the person has served as a Council member for four or more years; or
 - (ii) the person has contributed significantly through involvement in constitutional law to the advancement of the discipline of constitutional law in Australia.
- (3) The Council may relax the eligibility criteria for life membership if it considers that special circumstances to do so exist.
- (4) The resolution of the Council must be recorded in the minutes of the Council meeting.
- (5) The Council must notify the nominated person and the nominating members in writing of its decision as soon as practicable after the decision is made.
- (6) No reason need be given for the rejection of a nomination for life membership.

14 New life membership

- (1) If a nomination for life membership is accepted by the Council under rule 13, the Secretary must, within 28 days of the resolution of the Council, enter the name and address of the new life member, and the date of becoming a life member, in the register of members.
- (2) A person becomes a life member of the Association and is entitled to exercise his or her rights of membership, from the date on which the member's name is entered in the register of members as a life member.
- (3) A life member is not required to pay a joining fee or annual subscription fee.

15 Appointment to honorary membership

- (1) The Council may, by resolution, appoint a person who is not a member of the Association but who has made an extraordinary contribution to the purposes of the Association as an honorary member of the Association.

- (2) The Council may, by resolution, appoint a person who is not a member of the Association as an honorary member under subrule (1) for a period of no more than one year where the Council considers it would be appropriate to do so in all the circumstances.
- (3) If a person is appointed an honorary member by the Council—
 - (a) the resolution to appoint the honorary member must be recorded in the minutes of the Council meeting; and
 - (b) the Secretary must, within 28 days of the resolution, enter the name and address of the new honorary member, and the date of becoming an honorary member, in the register of members.
- (4) A person becomes an honorary member of the Association and is entitled to exercise his or her rights of membership, from the date on which the member's name is entered in the register of members.
- (5) An honorary member is not required to pay a joining fee or annual subscription fee.

16 General rights of members

- (1) A member of the Association 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 have access to the minutes of general meetings and other documents of the Association as provided under rule 74; and
 - (e) to inspect the register of members.
- (2) A member, other than a student member, has the right to vote at a general meeting.

17 Rights not transferable

The rights of a member are not transferable and

end when membership ceases.

18 Ceasing membership

- (1) The membership of a person ceases on resignation, expulsion or death.
- (2) If a person ceases to be a member of the Association, the Secretary must, as soon as practicable, enter the date the person ceased to be a member in the register of members.

19 Resigning as a member

- (1) A member may resign by notice in writing given to the Association.

Note

Rule 73(3) sets out how notice may be given to the Association. It includes by post or by handing the notice to a member of the Council.

- (2) A member is taken to have resigned if—
 - (a) the member's annual subscription is more than 12 months overdue; or
 - (b) where no annual subscription 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.

20 Register of members

- (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 address for notice last given by the member;
 - (iii) the date of becoming a member;
 - (iv) if the member is a student member, life member or honorary member, a note to that effect;

- (v) any other information determined by the Council; and
 - (b) for each former member, the date of ceasing to be a member.
- (2) Any member may, at a reasonable time and free of charge, inspect the register of members.

Note

Under section 59 of the Act, access to the personal information of a person recorded in the register of members may be restricted in certain circumstances. Section 58 of the Act provides that it is an offence to make improper use of information about a person obtained from the Register of Members.

Division 2—Disciplinary Action

21 Grounds for taking disciplinary action

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.

22 Disciplinary procedure

Any disciplinary action taken under rule 21 must be done in accordance with the rules of procedural fairness and in accordance with procedures determined by the Council, and concluded within a reasonable time.

Division 3—Grievance procedure

23 Application

- (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 Council, including the Executive;
 - (c) a member and the Association.
- (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 concluded.

24 Parties must attempt to resolve the dispute

The parties to a dispute must attempt to resolve the dispute between themselves within 14 days of the later of:

- (a) the dispute coming to the attention of each party; or
- (b) if initiation of a grievance procedure was delayed as a result of subrule 23(2), the conclusion of the disciplinary procedure.

25 Appointment of mediator

- (1) If the parties to a dispute are unable to resolve the dispute between themselves within the time required by rule 24, the parties must within 10 days—
 - (a) if the Council is not a party, notify the Council of the dispute; and
 - (b) agree to or request the appointment of a mediator; and
 - (c) attempt in good faith to settle the dispute by mediation.
- (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 Council; or
 - (ii) if the dispute is between a member and the Council or the Association—a person appointed or employed by the Dispute Settlement Centre of Victoria.
- (3) A mediator appointed by the Council 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.

26 Mediation process

- (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.
- (2) The mediator must not determine the dispute.

27 Failure to resolve dispute by mediation

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 THE ASSOCIATION

28 Annual general meetings

- (1) The Council must convene an annual general meeting of the Association to be held within 5 months after the end of each financial year.
- (2) The Council may determine the date, time and place of the annual general meeting.
- (3) 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 Council 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 Council in accordance with Part 7 of the Act;
 - (c) to provide for filling positions on the Council in accordance with Part 5 Division 3;

- (d) to confirm or vary the amounts (if any) of the annual subscription for ordinary members (including any lower fee under rule 11(2) for student members, any ordinary member or group of ordinary members).
- (4) The annual general meeting may also conduct any other business of which notice has been given in accordance with these Rules.

29 Special general meetings

- (1) Any general meeting of the Association, other than an annual general meeting, is a special general meeting.
- (2) The Council may convene a special general meeting whenever it thinks fit.
- (3) No business other than that set out in the notice under rule 31 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 31 and the majority of members at the meeting agree.

30 Special general meeting held at request of members

- (1) The Council must convene a special general meeting if a request to do so is made in accordance with subrule (2) by at least 10% of the total number of members.
- (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.
- (3) If the Council 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.
- (4) A special general meeting convened by members under subrule (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.
- (5) The Association must reimburse all reasonable expenses incurred by the members convening a special general meeting under subrule (3).

31 Notice of general meetings

- (1) The Secretary (or, in the case of a special general meeting convened under subrule 30(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; or
 - (b) at least 14 days' notice of a general meeting in any other case.
- (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 subrule 32(5).

32 Proxies

- (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.
- (2) The appointment of a proxy must be in writing and signed by the member making the appointment.
- (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.

- (4) If the Council has approved a form for the appointment of a proxy, the member may use that form, or any other form that clearly identifies the person appointed as the member's proxy and that has been signed by the member.
- (5) Notice of a general meeting given to a member under rule 31 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 Council has approved for the appointment of a proxy.
- (6) A form appointing a proxy must be given to the Association in accordance with subrule (7) of this rule, or to the Chairperson of the meeting at the commencement of the meeting.
- (7) A form appointing a proxy may be sent by post or electronically to the Association prior to the meeting. A form 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.

33 Use of technology

- (1) A member not physically present at a general meeting may be permitted 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.
- (2) For the purposes of this Part, a member participating in a general meeting as permitted under subrule (1) is taken to be present at the meeting and, if the member votes at the meeting, is taken to have voted in person.

34 Quorum at general meetings

- (1) No business may be conducted at a general meeting unless a quorum of members is present.
- (2) The quorum for a general meeting is the presence (physically, by proxy or as allowed under rule 33) of ten of the members entitled to vote.
- (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 30— the meeting must be dissolved;

Note

If a meeting convened by, or at the request of, members is dissolved under this subrule, 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 30.

- (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.

- (4) If a quorum is not present within 30 minutes after the time to which a general meeting has been adjourned under subrule (3)(b), the members present at the meeting (if not fewer than 3 members entitled to vote) may proceed with the business of the meeting as if a quorum were present.

35 Adjournment of general meeting

- (1) The Chairperson of a general meeting at which a quorum is, or is taken to be, under subrule 34(4), present may, with the consent of a majority of members entitled to the vote present at the meeting, adjourn the meeting to another time at the same place or at another place.
- (2) Without limiting subrule (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.

Example

The members may wish to have more time to examine the financial statements submitted by the Council at an annual general meeting.

- (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.
- (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 31.

36 Voting at general meeting

- (1) On any question arising at a general meeting—
 - (a) subject to subrule (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.
- (2) If votes are divided equally on a question, the Chairperson of the meeting has a second or casting vote.
- (3) If the question is whether or not to confirm the minutes of a previous meeting, only members entitled to vote who were present at that meeting may vote.

37 Special resolutions

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.

Note

In addition to certain matters specified in the Act, a special resolution is required—

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

38 Determining whether resolution carried

- (1) Subject to subrule (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.
- (2) If a poll (where votes are cast in writing) is demanded by three or more members entitled to vote 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.
- (3) A poll demanded on the election of the Chairperson or on a question of an adjournment must be taken immediately.
- (4) A poll demanded on any other question must be taken before the close of the meeting at a time determined by the Chairperson.

39 Minutes of general meeting

- (1) The Council must ensure that minutes are taken and kept of each general meeting.
- (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.
- (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 subrule 32(6); and
 - (c) the financial statements submitted to the members in accordance with rule 28(4)(b)(ii); and

- (d) the certificate signed by two Council 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—COUNCIL

Division 1—Powers of Council

40 Role and powers

- (1) The business of the Association must be managed by or under the direction of a Council.
- (2) The Council 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.
- (3) The Council may—
 - (a) appoint and remove staff;
 - (b) establish subcommittees consisting of members with terms of reference it considers appropriate.
- (4) The Council shall be the committee of the Association for the purposes of the Act.

41 Delegation

- (1) The Council may delegate to the Executive, a member of the Council, a subcommittee or staff, any of its powers and functions other than—
 - (a) this power of delegation; or
 - (b) a duty imposed on the Council by the Act or any other law.
- (2) The delegation must be in writing and may be subject to the conditions and limitations the Council considers appropriate.
- (3) The Council may, in writing, revoke a delegation wholly or in part.

Division 2—Composition of Council and duties of members

42 Composition of Council

The Council consists of—

- (a) a President; and
- (b) a Vice-President; and
- (c) a Secretary; and
- (d) a Treasurer; and
- (e) four ordinary members (if any) elected under rule 53; and
- (f) such members (if any) as may be co-opted by the Council under rule 56.

43 General Duties

- (1) As soon as practicable after being elected, co-opted or appointed to the Council, each Council member must become familiar with these Rules and the Act.
- (2) The Council is collectively responsible for ensuring that the Association complies with the Act and that individual members of the Council comply with these Rules.
- (3) Council members must exercise their powers and discharge their duties with reasonable care and diligence.
- (4) Council 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.
- (5) Council members and former Council members must not make improper use of—
 - (a) their position or their former position; or
 - (b) information acquired by virtue of holding their position or having held their position—so as to gain an advantage for themselves or any other person or to cause detriment to the Association.

Note

See also Division 3 of Part 6 of the Act which sets out the

general duties of the office holders of an incorporated association.

- (6) In addition to any duties imposed by these Rules, a Council member must perform any other duties imposed from time to time by resolution at a general meeting.

44 President and Vice-President

- (1) Subject to subrule (2), the President or, in the President's absence, the Vice-President is the Chairperson for any general meetings and for any Council meetings.
- (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 Council meeting—a Council member elected by the other Council members present.

45 Secretary

- (1) The Secretary must perform any duty or function required under the Act to be performed by the secretary of an incorporated association.

Example

Under the Act, the secretary of an incorporated association is responsible for lodging documents of the association with the Registrar.

- (2) The Secretary must—
 - (a) maintain the register of members in accordance with rule 20; and
 - (b) keep custody of all books, documents and securities of the Association in accordance with rules 72 and 75, except for the financial records referred to in subrule 70(3); and
 - (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.
- (3) The Secretary must give to the Registrar notice of

his or her appointment within 14 days after the appointment.

46 Treasurer

- (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; and
 - (b) ensure that all moneys received are paid into the account of the Association within five working days after receipt; and
 - (c) make any payments authorised by the Council or by a general meeting of the Association from the Association's funds; and
 - (d) ensure cheques are signed by at least two Council members.
- (2) The Treasurer must—
 - (a) ensure that the financial records of the Association are kept in accordance with the Act; and
 - (b) coordinate the preparation of the financial statements of the Association and their certification by the Council prior to their submission to the annual general meeting of the Association.
- (3) The Treasurer must ensure that at least one other Council member has access to the accounts and financial records of the Association.

Division 3—Election of Council members and tenure of office

47 Who is eligible to be a Council member

- (1) A member is eligible to be elected or co-opted under subrule 56(1) as a Council member if the member—
 - (a) is 18 years or over; and
 - (b) is entitled to vote at a general meeting.
- (2) A member is eligible to be co-opted as a Council member under subrule 56(2) if the member is 18 years or over.

48 Positions to be declared vacant

- (1) This rule applies to every second annual general meeting of the Association after the annual general meeting at which these Rules are adopted.
- (2) After the annual report and financial statements of the Association have been received, the Chairperson of the meeting must declare all positions on the Council vacant and hold elections for those positions in accordance with rules 51 to 54.

49 Nominations

- (1) Nominations of candidates for election as officers of the Association or as ordinary members of the Council must be—
 - (a) made in writing, signed by two members of the Association and accompanied by the written consent of the candidate (which may be endorsed on the form of nomination); and
 - (b) subject to subrule (3), delivered to the Secretary of the Association by a date fixed by the Council to allow the members to be informed in advance of the annual general meeting.
- (2) The Secretary shall give members at least 14 days' notice of the nomination deadline referred to in subrule (1)(b).
- (3) If insufficient nominations are received to fill any of the vacancies on the Council, further nominations may be received at the annual general meeting.

50 Election of members of the Executive

- (1) If, for any of the following positions, only one member has been nominated, the Chairperson of the meeting must declare that member elected to that position—
 - (a) President;
 - (b) Vice-President;
 - (c) Secretary;
 - (d) Treasurer.
- (2) If more than one member has been nominated, a

postal ballot must be held in accordance with rule 52.

- (3) On his or her being declared elected, the new President may take over as Chairperson of the annual general meeting.

51 Election of ordinary members of the Council

- (1) If the number of members nominated for the position of ordinary Council member is less than or equal to four, the Chairperson of the annual general meeting must declare each of those members to be elected to the position.
- (2) If the number of members nominated exceeds four, a postal ballot must be held in accordance with rule 52.

52 Postal Ballot

- (1) If a postal ballot is required for the election for a position under rules 50 or 51, the Chairperson of the meeting must appoint a member to act as returning officer to conduct the ballot (providing the returning officer is not a person nominated for the position to which the ballot relates), in accordance with a system prescribed by the Council, after the annual general meeting at which the positions were declared vacant.
- (2) The system of postal ballot prescribed by the Council may be a system which permits votes to be made electronically.
- (3) The returning officer must declare elected the candidate or, in the case of an election for more than one position, the candidates who received the most votes.
- (4) If the returning officer is unable to declare the result of an election under subrule (3) because 2 or more candidates received the same number of votes, the returning officer must—
 - (a) conduct a further election for the position in accordance with subrule (1) to decide which of those candidates is to be elected; or
 - (b) with the agreement of those candidates, decide by lot which of them is to be elected.

Examples

The choice of candidate may be decided by the toss of a coin, drawing straws or drawing a name out of a hat.

53 Term of office

- (1) Subject to subrule (2) and rule 56, a Council member holds office until the positions of the Council are declared vacant at the second next annual general meeting after the annual general meeting at which the positions of the Council were last declared vacant.
- (2) A Council member may be re-elected, but shall not be eligible for re-election to the same position for more than three consecutive terms, including terms for which they have been co-opted.
- (3) A general meeting of the Association may—
 - (a) by special resolution remove a Council member from office; and
 - (b) elect an eligible member of the Association to fill the vacant position in accordance with this Division.
- (4) A member who is the subject of a proposed special resolution under subrule (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.
- (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.

54 Vacation of office

- (1) A Council member may resign from the Council by written notice addressed to the Council.
- (2) A person ceases to be a Council member if he or she—
 - (a) ceases to be a member of the Association; or
 - (b) is removed by resolution of the Council after failing to attend three consecutive Council

meetings (other than special or urgent Council meetings) without leave of absence under rule 66; or

- (c) otherwise ceases to be a Council member by operation of section 78 of the Act.

Note

A Council member may not hold the office of Secretary if they do not reside in Australia.

55 Filling casual vacancies

- (1) The Council may appoint an eligible member of the Association to fill a position on the Council that—
 - (a) has become vacant under rule 54; or
 - (b) was not filled by election at the last annual general meeting at which the positions of the Council were declared vacant.
- (2) If the position of Secretary becomes vacant, the Council must appoint a member of the Council to the position within 14 days after the vacancy arises.
- (3) Rule 53 applies to any Council member appointed by the Council under subrule (1) or (2).
- (4) The Council may continue to act despite any vacancy in its membership.

56 Co-opting additional members to the Council

- (1) The Council may co-opt up to two additional members entitled to vote who, in the opinion of the Council, can play a valuable role in the Association. Such members shall not be members of the Executive.
- (2) The Council may co-opt up to one student member to the Council who, in the opinion of the Council, can play a valuable role in the Association. Such members shall not be members of the Executive.
- (3) Rule 53 applies to any Council member co-opted by the Council under subrule (1) or (2).

57 Meetings of Council

- (1) The Council must meet at least four times in each financial year at the dates, times and places

determined by the Executive (but subject to the direction of a majority of the Council).

- (2) The date, time and place of the first Council meeting must be determined by the members of the Council as soon as practicable after the annual general meeting of the Association at which the members of the Council were elected.
- (3) Special Council meetings may be convened by the President or by any four members of the Council.
- (4) Meetings of the Council may be conducted by telephone or any other electronic means as determined by the Council.

58 Notice of meetings

- (1) Written notice of each Council meeting must be given to each Council member no later than seven days before the date of the meeting.
- (2) Notice may be given of more than one Council meeting at the same time.
- (3) The notice must state the date, time and place of the meeting.
- (4) If a special Council meeting is convened, the notice must include the general nature of the business to be conducted.
- (5) The only business that may be conducted at a special meeting is the business for which the meeting is convened.

59 Urgent meetings

- (1) In cases of urgency, a meeting can be held without notice being given in accordance with rule 58 provided that as much notice as practicable is given to each Council member by the quickest means practicable.
- (2) Meetings conducted in accordance with subrule (1) may be conducted by electronic communication, including by exchange of email (notwithstanding rule 61).
- (3) Any resolution made at the meeting must be passed by an absolute majority of the Council.
- (4) The only business that may be conducted at an urgent meeting is the business for which the

meeting is convened.

60 Procedure and order of business

- (1) The procedure to be followed at a meeting of the Council may be determined from time to time by the Council.
- (2) The order of business may be determined by the members present at the meeting.

61 Use of technology

- (1) A Council member who is not physically present at a Council meeting may participate in the meeting by the use of technology that allows that Council member and the Council members present at the meeting to clearly and simultaneously communicate with each other.
- (2) For the purposes of this Part, a Council member participating in a Council meeting as permitted under subrule (1) is taken to be present at the meeting and, if the member votes at the meeting, is taken to have voted in person.

62 Quorum

- (1) No business may be conducted at a Council meeting unless a quorum is present.
- (2) The quorum for a Council meeting is the presence (in person or as allowed under rule 61) of at least four Council members, including, if there are any, at least one Council member who is not a member of the Executive.
- (3) If a quorum is not present within 30 minutes after the notified commencement time of a Council 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 58.

63 Voting

- (1) On any question arising at a Council meeting,

each Council member present at the meeting has one vote.

- (2) A motion is carried if a majority of Council members present at the meeting vote in favour of the motion.
- (3) Subrule (2) does not apply to any motion or question which is required by these Rules to be passed by an absolute majority of the Council.
- (4) If votes are divided equally on a question, the Chairperson of the meeting has a second or casting vote.
- (5) Voting by proxy is not permitted.

64 Conflict of interest

- (1) A Council member who has a material personal interest in a matter being considered at a Council meeting must disclose the nature and extent of that interest to the Council.
- (2) The 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 section 81(3) of the Act, if there are insufficient Council 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.

- (3) This rule 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.

65 Minutes of meeting

- (1) The Council must ensure that minutes are taken and kept of each Council meeting.
- (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 64.

66 Leave of absence

- (1) The Council may grant a Council member leave of absence from Council meetings for a period not exceeding 3 months.
- (2) The Council may not grant leave of absence retrospectively unless the leave was sought in advance, or it is satisfied that was not feasible for the Council member to seek the leave in advance.

67 Meetings of the Executive

- (1) The Executive shall meet at such times as it shall determine and its meetings may be conducted by telephone conference, or other technology, including by exchange of email, provided that—
 - (a) no member of the Executive requires the convening of a formal meeting; and
 - (b) an adequate record is kept by the Secretary of any final decisions made by the Executive when it transacts business in that way.
- (2) Except as otherwise provided in these Rules, no business may be conducted by the Executive unless a quorum is present.
- (3) Any two members of the Executive constitute a quorum for the Executive.

PART 6—FINANCIAL MATTERS

68 Source of funds

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

69 Management of funds

- (1) The Association must open an account or accounts with a financial institution or financial institutions from which all expenditure of the Association is

made and into which all of the Association's revenue is deposited.

- (2) Subject to any restrictions imposed by a general meeting of the Association, any 2 members of the Executive, or 1 member of the Executive together with 1 member of the Council approved by the Executive, may approve expenditure on behalf of the Association.
- (3) The Executive 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 Executive for each item on which the funds are expended.
- (4) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by two members of the Council.
- (5) All funds of the Association must be deposited into the financial account of the Association as soon as reasonably practicable, and in any event, no later than five working days after receipt.
- (6) With the approval of the Executive, 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.

70 Financial records

- (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.
- (2) The Association must retain the financial records for seven years after the transactions covered by the records are completed.
- (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 Council.

71 Financial statements

- (1) For each financial year, the Council must ensure that the requirements under the Act relating to the financial statements of the Association are met.
- (2) Without limiting subrule (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 Council;
 - (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.

PART 7—GENERAL MATTERS

72 Registered address

The registered address of the Association is—

- (a) the address determined from time to time by resolution of the Council; or
- (b) if the Council has not determined an address to be the registered address—the postal address of the Secretary.

73 Notice requirements

- (1) Any notice required to be given to a member or a Council 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.
- (2) Subrule (1) does not apply to notice given under rule 60.
- (3) Any notice required to be given to the Association

or the Council may be given—

- (a) by handing the notice to a member of the Council; or
- (b) by sending the notice by post to the registered address; or
- (c) by leaving the notice at the registered address; or
- (d) if the Council determines that it is appropriate in the circumstances—by email to the email address of the Association or the Secretary.

74 Custody and inspection of books and records

- (1) Members may on request inspect free of charge—
 - (a) the register of members;
 - (b) the minutes of general meetings;
 - (c) subject to subrule (2), the financial records, books, securities and any other relevant documents of the Association, including minutes of Council meetings.

Note

See note following rule 20 for details of access to the register of members.

- (2) The Council 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.
- (3) The Council must on request make copies of these rules available to members and applicants for membership free of charge.
- (4) Subject to subrule (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.
- (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 membership records;
- (b) its financial statements;
- (c) its financial records;
- (d) records and documents relating to transactions, dealings, business or property of the Association.

75 Winding up and cancellation

- (1) The Association may be wound up voluntarily by special resolution.
- (2) In the event of the winding up or the cancellation of the incorporation of the Association, the surplus assets of the Association must not be distributed to any members or former members of the Association.
- (3) Subject to the Act and any court order made under section 133 of the Act, the surplus assets must be given to a body that has similar purposes to the Association and which is not carried on for the profit or gain of its individual members.
- (4) The body to which the surplus assets are to be given must be decided by special resolution.

76 Alteration of Rules

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.

