



# CONSTITUTION OF THE ORDER OF AUSTRALIA ASSOCIATION

Australian Business Number (ABN) 40 008 612 664  
An Association limited by guarantee  
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## Foreword

The Australian system of honours and awards was established in 1975. At this time, Her Majesty Queen Elizabeth II, Queen of Australia (the Queen), approved the institution of the Order of Australia: 'an Australian society of honour for according recognition to Australian citizens and other persons for achievement or meritorious service'.

The Queen is the Sovereign Head of the Order of Australia and the Governor-General of the Commonwealth of Australia is the Principal Companion and as Chancellor is charged with the administration of the Order.

For several years after the establishment of the Order of Australia in 1975, awardees had been holding informal gatherings, initially in Victoria in 1978 followed quickly by NSW in the following year. Their success led to a group from NSW approaching Sir Zelman Cowen the then Governor-General with a proposal to form a national Association with State and Territory Branches. With Sir Zelman's strong support this occurred, with the Order of Australia Association being officially founded in Canberra on Saturday 26 January 1980. Since that time, the Governors-General have graciously agreed to be the Patron of the Association, which by the end of 2019 had over 8,000 members.

The Order of Australia Association was established in 1980 as an Association within the Australian Capital Territory governed by Articles of Association.

In 1986 the Association was reconstituted as an Association Limited by Guarantee within the Australian Capital Territory register of the then National Companies and Securities Commission; governed by a Memorandum of Association.

In 2012 the Memorandum of Association, as amended, was replaced by a formal Constitution.

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## Preliminary

### 1. Name of the company

The name of the company is The Order of Australia Association Limited (the Association).

### 2. Type of company

The Association is a not-for-profit public company limited by guarantee which is established to be and remain a charity.

#### Company structure

The Association is structured to include the following components:

- (a) a National Board (the Board),
- (b) a Branch in each State and Territory of the Commonwealth of Australia,
- (c) within each such Branch, as considered appropriate and desirable, geographic-based Regional Groups,
- (d) Regional Groups in designated overseas locations, and
- (e) such other groups as are authorised by the Board of the Association from time to time.

These structural components have no legal identity in their own right separate from the Association and are to be governed and managed by the terms of this constitution and any by-laws, policies, procedures and other determinations approved by the Board of the Association from time to time.

### 3. Limited liability of members

The liability of members is limited to the amount of the guarantee in clause 4.

### 4. The guarantee

Each member must contribute an amount not more than \$10 (the guarantee) to the property of the Association if the Association is wound up while the member is a member, or within 12 months after they stop being a member, and this contribution is required to pay for the:

- (a) debts and liabilities of the Association incurred before the member stopped being a member, or
- (b) costs of winding up.

### 5. Definitions

In this constitution and associated by-laws:

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

**Association** means the Association referred to in clause 1.

**Auditor** means a person qualified to act as the auditor of the Association and appointed to that office under clause 27.1.

**The Board** consists of 13 directors – 5 Executive Directors and 8 Branch Nominated Directors – who are responsible for the management of the Association.

**Board Charter** is a written document that sets out the respective roles, responsibilities and authorities of the board of directors (both individually and collectively) and management in setting the direction, the management and the control of the organisation).

**Branch Nominated Director** means a director elected in accord with clause 42.4 (b).

**By-laws** means the by-laws of the Association made pursuant to clause 65 for the purpose of the proper control, administration and management of the affairs of the Association.

**Company Secretary** means the member elected to that office under clause 58.

**Corporations Act** means the *Corporations Act 2001* (Cth).

**Casual vacancy occurs** when the office of a director or committee member is vacated before the expiry of their term of office.

**Director** means a member elected as director of the Association under clause 42.

**Executive Committee** means the National Chairman, National Deputy Chairman, Association Secretary (if a director), National Treasurer and National Membership Director appointed in accord with clause 42.4 (a).

**Executive Directors**, as the Executive Committee, perform tasks that would normally fall to a Managing Director or a Chief Executive Officer. The directors are not paid fees for acting as an Executive Director.

**Financial member** means a member who has no outstanding membership fees.

**Honorary member** means any person appointed by a meeting of the Association for outstanding service to the Association under clause 17.

**National general meeting** means a meeting of members called by the directors or by the members pursuant to clauses 22 and 23.

**National annual general meeting** means a meeting of members referred to in clause 24.1.

**Member** means any person referred to in clause 15 and includes Honorary members (clause 17).

**Member present** means, in connection with a general meeting, a member present in person or by proxy at the venue or venues for the meeting.

**National Chairman** means the director elected to that office under clause 42.4(a)

**National Deputy Chairman** means the director elected to that office under clause 42.4(a).

**National Membership Director** means the member elected under clause 42.4(a)

**National Treasurer** means the member elected to that office under clause 42.4(a).

**Proxy** means a member who has been authorised in writing to vote on behalf of another member at a general meeting.

**Regional Group** means a group of members established in a defined geographical area.

**Registered charity** means a charity that is registered under the ACNC Act.

**Returning Officer** means a person appointed by the Board to conduct a ballot deemed necessary by the Board in accordance with the constitution.

**Special resolution** means a resolution:

- i. of which notice has been given under clause 25.5(c), and
- ii. that has been passed by at least 75% of the written votes cast by members present and entitled to vote on the resolution.

**Surplus assets** mean any assets of the Association that remain after paying all debts and other liabilities of the Association, including the costs of winding up.

**The Order of Australia** means the system of awards established on 14<sup>th</sup> February 1975 by letters patent of Queen Elizabeth II, Queen of Australia, subsequently amended, to recognise Australian citizens and other persons for achievement or meritorious services.

**Vacancy** means a position for which there are no nominations in an election.

## **6. Reading this constitution with the Corporations Act**

- 6.1 The replaceable rules set out in the Corporations Act do not apply to the Association.
- 6.2 While the Association is a registered charity, the ACNC Act and the Corporations Act override any clauses in this constitution which are inconsistent with those Acts.
- 6.3 If the Association is not a registered charity (even if it remains a charity), the Corporations Act overrides any clause in this constitution which is inconsistent with that Act.
- 6.4 A word or expression that is defined in the Corporations Act or used in that Act and covering the same subject, has the same meaning as in this constitution.

## **7. Interpretation**

In this constitution:

- (a) the words 'including', 'for example', or similar expressions mean that there may be more inclusions or examples than those mentioned after that expression, and
- (b) reference to an Act includes every amendment, re-enactment, or replacement of that Act and any subordinate legislation made under that Act (such as regulations).

## **Charitable purpose and powers**

- 8.** The object of the Association is to pursue the following charitable purpose: To celebrate and promote outstanding Australian citizenship.

This purpose is reflected in the following activities:

- (a) raising public awareness about the Order of Australia and promote high quality nominations for appointments and awards that reflect the diversity of the Australian community,
- (b) supporting young Australians as they prepare for their careers and encourage them in service to the nation,
- (c) providing opportunities for recipients of appointments and awards in the Order of Australia to build networks with other recipients, and
- (d) other activities consistent with the purpose of the Association.

## **9. Powers**

Subject to clause 10, the Association has the following powers, which may only be used to carry out its purpose set out in clause 8:

- (a) the powers of an individual, and
- (b) all the powers of an Association limited by guarantee under the Corporations Act.

## **10. Not-for-profit**

- 10.1 The Association must not distribute any income or assets directly or indirectly to its members, except as provided in clauses 10.2 and 75.
- 10.2 Clause 10.1 does not stop the Association from doing the following things, provided they are done in good faith:
  - (a) paying a member for goods or services they have provided to the Association or expenses approved by the Association they have properly

- incurred at fair and reasonable rates or rates more favourable to the Association, or
- (b) making a payment to a member for expenses incurred in carrying out the Association's charitable purpose, for example travel expenses.

## **11. Amending the Constitution**

- 11.1 Subject to clause 11.2, the members may amend this constitution by passing a special resolution at a national general meeting. Not less than 75% of eligible votes cast in person or by proxy are necessary for the special resolution to be carried.
- 11.2 The members must not pass a special resolution that amends this constitution if passing it causes the Association to no longer be a charity.

## **Patron**

### **12. Appointment of patron**

- 12.1 The directors will invite the Governor-General of Australia to accept the office of patron.
- 12.2 Upon accepting the invitation to hold the office of patron, the Governor-General shall remain in the office of patron until the conclusion of their term as Governor-General.
- 12.3 Should the Governor-General decline the invitation the directors shall appoint a suitable person to the office of patron until:
- (a) the conclusion of the term of office of the then Governor-General,
  - (b) they die,
  - (c) they resign the office in writing to the Association, or
  - (d) they are removed from office of patron by decision of the directors.

## **Members**

### **13. Membership and register of members**

- 13.1 The members of the Association are any persons who are eligible and accept the invitation to be members in accordance with this constitution.
- 13.2 A person who has been recognised by an appointment or award within the Order of Australia and supports the purposes of the Association is eligible to be invited to be a member of the Association. In this clause, 'person' means an individual.
- 13.3 The Association must establish and maintain a register of members. The register of members must be kept by the National Membership Director and must contain:
- (a) for each current member:
    - i. their name,
    - ii. their current address, and
    - iii. the date the member was entered on the register.
  - (b) for each person who stopped being a member in the last 7 years:
    - i. their name,
    - ii. their last known address, and
    - iii. the dates the membership started and ended.



- 13.4 Access by current members to the membership register will be in accord with the Association's privacy policy (see clause 61.3).
- 13.5 Information that is accessed from the register of members must only be used in a manner relevant to the interests or rights of members.

#### **14. How to apply to become a member**

- 14.1 A person (as defined in clause 13.2) applies to become a member of the Association by completing an application, then submitting the application and the selected membership fee to the Association. By submitting the application, the person:
- (a) accepts the invitation to become a member,
  - (b) supports the purpose of the Association, and
  - (c) agrees to comply with the Association's constitution, by-laws, policies, procedures and other determinations, including paying the guarantee under clause 4 (if required) and membership fees.
- 14.2 An application need not state the matters listed in clauses 14.1(a), 14.1(b) or 14.1(c). In that case, by applying to be a member, the applicant agrees to those three matters.
- 14.3 Once an application is received and the membership fee cleared, the National Membership Director must as soon as possible ensure action is taken to:
- (a) enter the new member on the register of members, and
  - (b) notify them that their application has been received and the date that their membership started (see clause 15).

#### **15. When a person becomes a member**

An applicant becomes a member when they are entered on the register of members.

#### **16. When a person stops being a member**

A person immediately stops being a member if they:

- (a) die,
- (b) resign, by writing to the National Membership Director,
- (c) are expelled under clause 21,
- (d) have their appointment in the Order terminated or award of the Medal of the Order cancelled,
- (e) have not responded within six months to a written request from the National Membership Director (or delegate) that they confirm in writing that they want to remain a member and pay the membership fee owing.

#### **17. Honorary members**

- 17.1 This is a national appointment.
- 17.2 Only one honorary member can be appointed per year.
- 17.3 These members are exempt from paying a membership fee.
- 17.4 A member so appointed remains an honorary member until they:
- (a) die,
  - (b) resign, by writing to the National Membership Director, or
  - (c) are expelled under clause 21.

## **18. Affiliate status**

- 18.1 A Branch may invite applications for eligible persons to be granted affiliate status.
- 18.2 Affiliates do not have membership rights.

## **Complaints**

### **19. Complaint management**

The Association will maintain a complaints policy and make details publicly available. If a member wishes to make a complaint to or about the Association, this must be made in writing using the process set out in the Association's policy. All complaints are to be managed in accordance with the policy.

## **Dispute resolution and disciplinary procedures**

### **20. Dispute resolution**

- 20.1 This clause applies to disputes and disagreements under this constitution between a member or director and:
  - (a) one or more members,
  - (b) one or more directors, or
  - (c) the Association.
- 20.2 A member must not start a dispute resolution procedure in relation to a matter which is the subject of a disciplinary procedure under clause 21 until the disciplinary procedure is completed.
- 20.3 The Association will maintain a dispute resolution policy and make details publicly available. All disputes are to be managed and resolved in accordance with this policy.

### **21. Disciplining members**

- 21.1 The directors may resolve to warn, suspend or expel a member from the Association if the directors consider that:
  - (a) the member has breached this constitution, or
  - (b) the member's behaviour is causing, has caused, or is likely to cause harm to the Association.
- 21.2 The Association will maintain a discipline policy and make details publicly available. All discipline matters are to be managed in accordance with this policy.

## **General meetings of members**

### **22. National general meetings called by directors**

- 22.1 The directors may call a national general meeting.
- 22.2 If members with at least 5% of the votes that may be cast at a national general meeting make a written request to the Association for a national general meeting to be held, the directors must:
  - (a) within 21 days of the members' request, give all members notice of a national general meeting, and
  - (b) hold the national general meeting within 2 months of the members' request.

- 22.3 The percentage of votes that members have (in clause 22.2) is to be worked out as at the midnight before the day on which members request was given to the Association.
- 22.4 The members who make the request for a national general meeting must:
- (a) state in the request any resolution to be proposed at the meeting,
  - (b) sign the request, and
  - (c) give the request to the Association.
- 22.5 Separate copies of a document setting out the request may be signed by members if the wording of the request is the same in each copy.

**23. National general meetings called by members**

- 23.1 If the directors do not call a meeting within 21 days of being requested under clause 22.2, 50% or more of the members who made the request may call and arrange to hold a national general meeting.
- 23.2 To call and hold a meeting under clause 23.1 the members must:
- (a) as far as possible, follow the procedures for national general meetings set out in this constitution,
  - (b) call the meeting using the offices of the Association Secretary to provide notice to all members on the Association's membership register at no cost to the members making the request, and
  - (c) hold the meeting within three months after the request was given to the Association.
- 23.3 The Association must pay the members who request the national general meeting any reasonable expenses they incur because the directors did not call and hold the meeting.

**24. National annual general meeting**

- 24.1 A national general meeting, called the national annual general meeting, must be held once every year.
- 24.2 Even if these items are not set out in the notice of meeting, the business of a national annual general meeting is to include:
- (a) a review of the Association's activities,
  - (b) a review of the Association's finances,
  - (c) the auditor's report,
  - (d) advice of the appointment of directors, and
  - (e) the appointment and payment of auditors.
- 24.3 All other items of business raised by members at a national annual general meeting are to be conducted by special resolution. No motions or items of business will be accepted from the floor on the day.
- 24.4 Before or at the national annual general meeting, the directors must give information to the members on the Association's activities and finances during the period since the last national annual general meeting, allowing members sufficient time to read the documentation.
- 24.5 The chairman of the national annual general meeting is the President or, if unavailable, the National Chairman.
- 24.6 The chairman of the national annual general meeting must give members a reasonable opportunity at the meeting to ask questions or make comments about the management of the Association.

## **25. Notice of national general meetings**

- 25.1 Notice of a national general meeting must be given to:
- (a) each member entitled to vote at the meeting,
  - (b) each director, and
  - (c) the auditor.
- 25.2 Notice of a national general meeting must be provided in writing at least 21 days before the meeting.
- 25.3 Subject to clause 25.4, notice of a national general meeting may be provided less than 21 days before the meeting if members with at least 95% of the votes that may be cast at the meeting agree beforehand.
- 25.4 Notice of a national general meeting cannot be provided less than 21 days before the meeting if a resolution will be moved to:
- (a) remove a director, or
  - (b) remove an auditor.
- 25.5 Notice of a national general meeting must include:
- (a) the place, date and time for the meeting (and if the meeting is to be held in two or more places, the technology that will be used to facilitate this),
  - (b) the general nature of the meeting's business,
  - (c) if applicable, that a special resolution is to be proposed and the words of the proposed resolution, and
  - (d) a statement that members have the right to appoint proxies and that, if a member appoints a proxy:
    - i. the proxy must be a member of the Association,
    - ii. the proxy form must be delivered to the Association at its registered address or the address (including an electronic address) specified in the notice of the meeting, and
    - iii. the proxy form must be delivered to the Association at least 5 working days before the meeting.
- 25.6 If a national general meeting is adjourned for one month or more, the members must be given new notice of the resumed meeting.

## **26. Quorum at general meetings**

- 26.1 For a national general meeting to be held, at least 50 members or 10% of the membership, whichever is less, must be present (in person or by proxy) for the whole meeting. When determining whether a quorum is present, each proxy counts as one person.
- 26.2 No business may be conducted at a national general meeting if a quorum is not present.
- 26.3 If there is no quorum present within 30 minutes after the starting time stated in the notice of national general meeting, the national general meeting is adjourned to the date, time and place that the chairman specifies. If the chairman does not specify one or more of those things, the meeting is adjourned to:
- (a) if the date is not specified – the same day in the next week,
  - (b) if the time is not specified – the same time, and
  - (c) if the place is not specified – the same place.

26.4 If no quorum is present at the resumed meeting within 30 minutes after the starting time set for that meeting, the meeting is cancelled.

## **27. Auditor**

27.1 An auditor of the Association shall be appointed at a national annual general meeting of the Association.

27.2 The auditor shall remain in office until:

- (a) the conclusion of the next annual meeting, or
- (b) the auditor is removed by a members' resolution at a national general meeting, or
- (c) the auditor resigns or dies.

27.3 The auditor is entitled to attend any national general meeting and to be heard by the members on any part of the business of the meeting that concerns the auditor in the capacity of auditor.

27.4 The Association must give the auditor any communications relating to the national general meeting that a member of the Association is entitled to receive.

## **28. Using technology to hold meetings**

28.1 The Association may hold a national general meeting at two or more venues using any technology that gives the members a reasonable opportunity to participate, including to hear and be heard.

28.2 Any member using this technology is taken to be present in person at the meeting.

## **29. Chairman for national general meetings**

29.1 The National Chairman is entitled to chair national general meetings except as in clause 24.5.

29.2 The members present and entitled to vote at a national general meeting may choose a director or member to be the chairman for that meeting if:

- (a) the National Chairman is not present within 30 minutes after the starting time set for the meeting, or
- (b) the National Chairman is present but does not wish to act as chairman of the meeting.

## **30. Role of the chairman**

30.1 The chairman is responsible for the conduct of the national general meeting, and for this purpose must give members a reasonable opportunity to make comments and ask questions, including to the auditor.

30.2 The chairman has a casting vote in addition to a deliberative one in the event of a tied vote.

## **31. Adjournment of meetings**

31.1 If a quorum is present, a national general meeting must be adjourned if a majority of members present direct the chairman to adjourn it.

31.2 Only unfinished business may be dealt with at a meeting resumed after an adjournment.

## **Members' resolutions and statements**

### **32. Members' resolutions and statements**

- 32.1 Members with at least 5% of the votes that may be cast on a resolution may give:
- (a) a written notice to the Association of a resolution they propose to move at a national general meeting (members' resolution), and/or
  - (b) a written request to the Association that the Association give all of its members a statement about a proposed resolution or any other matter that may properly be considered at a national general meeting (members' statement).
- 32.2 Such notice or requests shall be submitted to the Association no later than 60 days prior to any national general meeting or national annual general meeting.
- 32.3 A notice of a members' resolution must set out the wording of the proposed resolution and be signed by the members proposing the resolution.
- 32.4 A request to distribute a members' statement must set out the statement to be distributed and be signed by the members making the request.
- 32.5 Separate copies of a document setting out the notice or request may be signed by members if the wording is the same in each copy.
- 32.6 The percentage of votes that members have (as described in clause 32.1) is to be worked out as at the midnight before the day on which the request or notice is given to the Association.
- 32.7 If the Association has been given notice of a members' resolution under clause 32.1(a) the resolution must be considered at the next national general meeting held not more than two months after the notice is given.
- 32.8 This clause does not limit any other right that a member has to propose a resolution at a national general meeting.

**33. Association must give notice of proposed resolution or distribute statement**

- 33.1 If the Association has been given a notice or request under clause 32:
- (a) in time to send the notice of proposed members' resolution or a copy of the members' statement to members with a notice of meeting, it must do so at the Association's cost, or
  - (b) too late to send the notice of proposed members' resolution or a copy of the members' statement to members with a notice of meeting, then the members who proposed the resolution or made the request must pay the expenses reasonably incurred by the Association in giving members notice of the proposed members' resolution or a copy of the members' statement. However, at a national general meeting, the members may pass a resolution that the Association will pay these expenses.
- 33.2 The Association does not need to send the notice of proposed members' resolution or a copy of the members' statement to members if:
- (a) it is more than 1,000 words in length,
  - (b) the directors consider it may be defamatory,
  - (c) clause 33.1(b) applies, and the members who proposed the resolution or made the request have not paid the Association enough money to cover the cost of sending the notice of the proposed members' resolution or a copy of the members' statement to members, or
  - (d) in the case of a proposed members' resolution, the resolution does not relate to a matter that may be properly considered at a national general

meeting or is otherwise not a valid resolution able to be put to the members.

## Voting at general meetings

### 34. How many votes a member has

Each member has one vote.

### 35. Challenge to member's right to vote

35.1 Only a member or the chairman may challenge a person's right to vote at that meeting.

35.2 If a challenge is made under clause 35.1, the chairman must decide whether or not the person may vote. The chairman's decision is final.

### 36. How voting is carried out

36.1 Voting must be conducted and decided by one of the following methods:

(a) a show of hands,

(b) a ballot, or

(c) another method chosen by the chairman that is fair and reasonable in the circumstances.

36.2 Before a vote is taken, the chairman must state whether any proxy votes have been received and, if so, how the proxy votes will be cast.

36.3 On a show of hands, after a count, the chairman's decision is conclusive evidence of the result of the vote.

36.4 When voting is by a show of hands the chairman may appoint a teller.

36.5 The chairman and the meeting minutes are to state the number or proportion of the votes recorded in favour or against on a show of hands.

36.6. Other than for a special resolution, a successful vote is a simple majority.

### 37. When and how a vote in writing must be held

37.1 A vote in writing may be demanded on any resolution instead of or after a vote by a show of hands by:

(a) at least five members present,

(b) members present with at least 5% of the votes that may be passed on the resolution on the vote in writing (worked out as at the midnight before the vote in writing is demanded), or

(c) the chairman.

37.2 A vote in writing must be taken when and how the chairman directs, unless clause 37.3 applies.

37.3 A vote in writing must be held immediately if it is demanded under clause 37.1 to decide whether to adjourn the meeting.

37.4 A demand for a vote in writing may be withdrawn.

37.5 A vote in writing must be held for each special resolution.

37.6 When an election is held:

(a) A Returning Officer is to be appointed, and

(b) Those members standing for election each have the right to appoint a scrutineer.

### **38. Appointment of proxy**

- 38.1 A member may appoint a proxy to attend and vote at a national general meeting on their behalf.
- 38.2 A proxy must be a member.
- 38.3 A proxy appointed to attend and vote for a member has the same rights as the member to:
- (a) speak at the meeting,
  - (b) vote in a vote in writing (but only to the extent allowed by the appointment), and
  - (c) join in to demand a vote in writing under clause 37.1.
- 38.4 An appointment of proxy (proxy form) must be signed by the member appointing the proxy and must contain:
- (a) the member's name and address,
  - (b) the Association's name,
  - (c) the proxy's name or the name of the office held by the proxy, and
  - (d) the meeting(s) at which the appointment may be used.
- 38.5 A proxy appointment stands for the meeting and an adjournment of that meeting.
- 38.6 Proxy forms must be received by the Association at the address stated in the notice under clause 25.5(d)(ii) or at the Association's registered address at least 5 working days before a meeting.
- 38.7 A proxy does not have the authority to speak and vote for a member at a meeting while the member is at the meeting.
- 38.8 Unless the Association receives written notice before the start or resumption of a national general meeting at which a proxy votes, a vote cast by the proxy is valid even if, before the proxy votes, the appointing member:
- (a) dies,
  - (b) is mentally incapacitated, or
  - (c) revokes the proxy's appointment.
- 38.9 A proxy appointment may specify the way the proxy must vote on a particular resolution.

### **39. Voting by proxy**

- 39.1 A proxy is not entitled to vote on a show of hands (but this does not prevent a member appointed as a proxy from voting as a member on a show of hands).
- 39.2 When a vote in writing is held, a proxy:
- (a) does not need to vote, unless the proxy appointment specifies the way they must vote,
  - (b) if the way they must vote is specified on the proxy form, must vote that way, and
  - (c) if the proxy is also a member, or holds more than one proxy, may cast several and differing votes.



## President

### 40. Role

- 40.1 The Association may appoint a President for a three-year term with no extension.
- 40.2 The President's role is to:
- (a) provide broad policy advice as appropriate to the National Chairman, Board and Executive Committee on matters related to the development and organisation of the Association,
  - (b) represent the Association at the vice-regal and government level as appropriate,
  - (c) together with the National Chairman, represent the Association and its values within the Australian community, and
  - (d) chair the national annual general meeting of the Association.
- 40.3 The President is not a member of the Board but has the right to attend meetings of the Board, the national annual general meeting and the Executive Committee.

## Directors

### 41. Number of directors

- 41.1 The Association must have at least three and no more than 13 directors who will constitute the Board. The directors comprise:
- (a) five Executive Directors: the National Chairman, the National Deputy Chairman, the National Secretary (if position occupied by a director), the National Treasurer and the National Membership Director, and
  - (b) eight Branch Nominated Directors: directors elected by each of the branches of the Association.

### 42. Election and appointment of directors

- 42.1 All financial members of the Association are eligible to nominate a member for election to a director's position.
- 42.2 A person is eligible for election as a director of the Association if they:
- (a) are a member of the Association,
  - (b) are nominated by two members entitled to vote,
  - (c) give the Association their signed consent to act as a director of the Association, and
  - (d) are not ineligible to be a director under the Corporations Act or the ACNC Act.
- 42.3 Before elections the eligibility of all nominees for a director's position must be assessed (clause 42.2) even in cases where there is only a single nomination for a vacant position.
- 42.4 Directors are elected and appointed as follows:
- (a) Executive Directors: Branch Nominated Directors elect the Executive Directors from among the eligible nominations at the Board meeting before the Association's national annual general meeting.

- (b) Branch Nominated Directors are elected by members registered with their respective Branch at the Branch annual general meeting prior to Association's national annual general meeting.
- 42.5 Each of the directors must be appointed by a separate resolution.
- 42.6 The directors may appoint a person as a director to fill a casual vacancy if that person:
- (a) is a member of the Association,
  - (b) gives the Association their signed consent to act as a director of the Association, and
  - (c) is not ineligible to be a director under the Corporations Act or the ACNC Act.
- 42.7 If the number of directors is reduced to fewer than seven or is less than the number required for a quorum (see clause 54), the continuing directors may act for the purpose of increasing the number of directors to seven (or higher if required for a quorum) or calling a national general meeting, but for no other purpose.

#### **43. Term of office**

- 43.1 The term of office for directors is three years with a maximum of three consecutive terms.
- 43.2 A director who has completed a three-year term must retire as follows:
- (a) an Executive Director, at the conclusion of the next national annual general meeting, and
  - (b) A Branch Nominated Director or a director appointed to fill a casual vacancy, 21 days before the national annual general meeting (see 43.5 (b)).
- 43.3 A director who retires under clause 43.2 may be nominated for election or re-election, subject to clause 43.4.
- 43.4 A director who has held office for a continuous period of nine years or more may only be re-elected by a special resolution at an annual general meeting: Executive Directors at the national annual general meeting, Branch Nominated Directors at their Branch annual general meeting. However, they may stand for election one year after retirement.
- 43.5 A director's term of office begins as follows:
- (a) an Executive Director at the completion of the national annual general meeting, and
  - (b) a Branch Nominated Director 21 days before the national AGM to coincide with the posting on the Association's website the complete, signed annual report and financial accounts.

#### **44. When a director stops being a director**

A director stops being a director if they:

- (a) die,
- (b) give written notice of resignation as a director to the Association,
- (c) retire at the completion of a term as a director without being re-elected,
- (d) are removed as an Executive Director by a resolution of the members at a national general meeting and as a Branch Nominated Director by a resolution of the members at a general meeting of that branch.
- (e) stop being a member of the Association,

- (f) are absent for three consecutive directors' meetings without approval from the directors, or
- (g) become ineligible to be a director of the Association under the Corporations Act or the ACNC Act.

## **Powers of Directors**

### **45. Powers of directors**

- 45.1 The directors are responsible for managing and directing the activities of the Association to achieve the purpose set out in clause 8.
- 45.2 The directors may use all the powers of the Association except for powers that, under the Corporations Act or this constitution, may only be used by members.
- 45.3 The directors must decide on the responsible financial management of the Association including:
  - (a) any suitable written delegations of power under clause 46, and
  - (b) how money will be managed, such as how electronic transfers, negotiable instruments or cheques must be authorised and signed or otherwise approved.
- 45.4 The directors cannot remove a director or auditor. Directors and auditors may only be removed by a members' resolution at a national general meeting.

### **46. Delegation of directors' powers**

- 46.1 The directors may delegate any of their powers and functions to a committee, a working party, a director, an employee of the Association or any other person, as they consider appropriate. Other than minor matters, any decisions should be ratified at the next Board meeting.
- 46.2 The delegation must be recorded in the Association's minutes.

### **47. Payments to directors**

- 47.1 The Association must not pay fees to a director for acting as a director.
- 47.2 The Association may:
  - (a) pay a director for work they do for the Association, other than as a director, if the amount is no more than a reasonable fee for the work done, or
  - (a) reimburse a director for expenses properly incurred by the director in connection with the affairs of the Association, for example travel.
- 47.3 Any payment made under clause 47.2 must be approved by the directors.
- 47.4 The Association may pay premiums for insurance indemnifying directors and other officers of the Association, as allowed for by law (including the Corporations Act) and this constitution.

### **48. Execution of documents**

The Association may execute a document if the document is signed by:

- (a) two directors of the Association, or
- (b) a director and the secretary (if the secretary is not a director).

## **Duties of directors**

### **49. Duties of directors**

The directors must comply with their duties as directors under legislation and common law (judge-made law), the Association's Board Charter and with the duties described in governance Standard Five of the regulations made under the ACNC Act which are:

- (a) to exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were a director of the Association,
- (b) to act in good faith in the best interests of the Association and to further the charitable object of the Association set out in clause 8,
- (c) not to misuse their position as a director,
- (d) not to misuse information they gain in their role as a director
- (e) to disclose any perceived or actual material conflicts of interest in the manner set out in clause 50,
- (f) to ensure that the financial affairs of the Association are managed responsibly, and
- (g) not to allow the Association to operate while it is insolvent.

#### **50. Conflicts of interest**

50.1 A director must disclose the nature and extent of any actual or perceived material conflict of interest in a matter that is being considered at a meeting of directors (or that is proposed in a circular resolution):

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

50.2 The Association will maintain a conflict of interest policy and make details publicly available. All conflicts of interest must be managed in accordance with this policy.

## **Directors' meetings**

#### **51. When the directors meet**

The directors may decide how often, where and when they meet but must meet at least four times a year.

#### **52. Calling directors' meetings**

52.1 A director may call a directors' meeting by giving reasonable notice to all the other directors.

52.2 A director may give notice in writing or by any other means of communication that has previously been agreed to by all the directors.

#### **53. Chairman for directors' meetings**

53.1 The National Chairman is entitled to chair directors' meetings.

53.2 The directors at a directors' meeting may choose a director to be the chairman for that meeting if the National Chairman is:

- (a) not present within 30 minutes after the starting time set for the meeting, or
- (b) present but does not want to act as chairman of the meeting.

#### **54. Quorum at directors' meetings**

54.1 The quorum for a directors' meeting is a majority (more than 50%) of directors.

54.2 A director unable to attend a meeting may appoint another member to be the alternate to attend in their place.

54.3 A quorum must be present for the whole directors' meeting.

#### **55. Using technology to hold directors' meetings**

55.1 The directors may hold their meetings by using any technology or a combination ('hybrid': physical location plus technical platforms) that is agreed by all the directors.

55.2 The directors' agreement may be a standing (ongoing) one.

55.3 A director may only withdraw their agreement within a reasonable period before the meeting.

#### **56. Passing directors' resolutions**

A directors' resolution must be passed by a majority of the votes cast by directors present and entitled to vote on the resolution.

#### **57. Circular resolutions of directors**

57.1 The directors may pass a circular resolution without a directors' meeting being held.

57.2 Each director may sign:

(a) a single document setting out the resolution and containing a statement that they agree to the resolution, or

(b) separate copies of that document, as long as the wording of the resolution is the same in each copy.

57.3 The Association may send a circular resolution by email to the directors and the directors may agree to the resolution by sending a reply email to that effect, including the text of the resolution in their reply.

57.4 A circular resolution is passed when a majority of directors indicate their agreement to the resolution in a manner set out in clause 57.2 or 57.3.

## **Company Secretary**

#### **58. Appointment and role of company secretary**

58.1 The Association must have at least one secretary, who may also be a director.

58.2 The secretary acts as the Company Secretary. They are the Association's contact point for the regulators and ensures the regulators' reporting requirements are met.

58.3 A secretary who is not a director may be appointed by the directors (after giving the Association their signed consent to act as secretary of the Association) and may be removed by the directors.

58.4 The directors must decide the terms and conditions under which a secretary who is not a director is appointed, including any remuneration.

58.5 The role of the secretary includes maintaining the minutes and other records of national general meetings (including notices of meetings, directors' meetings and circular resolutions).

## Funds

### 59. Management of funds

- 59.1 Association funds will be managed in accordance with the Association's financial management and control procedures which the Association will maintain and make public.
- 59.2 The Association must satisfy any obligations that apply to the use of funds over which a trust exists.
- 59.3 The Association may establish a separate account to receive funds to be used solely for its objects in clause 8. The funds may come from any lawful sources approved by the Board including donations, grants, fundraising or interest.

### 60. Levy

The Board may impose a levy on members, subject to the amount not exceeding the cost of one year's membership fee but only if the Association is in financial difficulties.

## Records and Minutes

### 61. Records

- 61.1 The Association must make and keep appropriate and correct operational records.
- 61.2 The Association must maintain a records management policy. All records must be managed in accordance with this policy.
- 61.3 The Association must also maintain a privacy policy and make details publicly available. All privacy matters must be managed in accordance with this policy.

### 62. Financial and related records

- 62.1 The Association must make and keep financial records that:
  - (a) correctly record and explain its transactions, and financial position and performance, and
  - (b) enable true and fair financial statements to be prepared and to be audited.

### 63. Minutes and national meetings

- 63.1 The Association must, within one month, make and keep the following records:
  - (a) minutes of proceedings and resolutions of general meetings,
  - (b) a copy of a notice of each general meeting,
  - (c) a copy of a members' statement distributed to members under clause 33, and
  - (d) number and names of those members attending.
- 63.2 The Association must, within one month, make and keep the following records:
  - (a) minutes of proceedings and resolutions of directors' meetings (including meetings of any committees), and
  - (b) minutes of circular resolutions of directors.
- 63.3 The directors must ensure that minutes of a general meeting or a directors' meeting are signed within a reasonable time after the meeting by:
  - (a) the chairman of the meeting, or
  - (b) the chairman of the following meeting.

63.4 The directors must ensure that minutes of the passing of a circular resolution of directors are signed by the Chairman within a reasonable time after the resolution is passed.

**64. Member access to records:**

64.1 The Association must allow a member to view the records set out in clause 63.1.

64.2 The directors may authorise a member to view other records of the Association, including records referred to in clauses 62.1 and 63.2.

## By-laws, policies and procedures

**65. By-laws, policies and procedures**

65.1 Members and directors must comply with by-laws, policies and procedures as if they were part of this constitution.

65.2 The directors may pass a resolution to make, amend or rescind by-laws, policies and procedures to give effect to this constitution.

65.3 A thirty-day minimum period is to be provided for consultations with Branches to make, amend or rescind a by-law, policy or procedure before a resolution to do so is put to the directors.

65.4 Regular review of policies and procedures as required by the Association's policy on policies is to be conducted. By-laws are to be reviewed on an 'as-needed' basis.

## Association branches and regional groups

**66. Association branches and regional groups**

66.1 The role of each branch and associated regional groups is to further the purpose of the Association as is appropriate for their members and location.

66.2 The directors shall delegate powers, functions and duties to the Branches and Regional Groups as specified in the by-laws.

66.3 An elected committee with a maximum of 12 members will manage the Branch in accordance with the relevant by-laws.

66.4 The Association will transfer a part of members' subscriptions on a regular basis to Branches to contribute to administrative costs and other projects as approved by the Board.

## Notice

**67. What is notice?**

67.1 Anything written to or from the Association under any clause in this constitution is written notice and is subject to clauses 68 to 70 unless specified otherwise.

67.2 Clauses 68 to 70 do not apply to a notice of proxy under clause 38.6.

**68. Notice to the Association**

Written notice or any communication under this constitution may be given to the Association, the directors or the secretary by:

- (a) delivering it to the Association's registered office,
- (b) posting it to the Association's registered office or to another address chosen by the Association for notice to be provided, or

- (c) sending it to an email address or other electronic address notified by the Association to the members as the Association's email address.

## **69. Notice to members**

69.1 Written notice or any communication under this constitution may be given to a member:

- (a) in person,
- (b) by posting it to, or leaving it at, the address of the member in the register of members nominated by the member for service of notice,
- (c) sending it to the email or other electronic address nominated by the member for service of notices, or
- (d) if agreed by the member, by notifying the member at an email or other electronic address nominated by the member, that the notice is available at a specified place or address (including an electronic address).

69.2 If the Association does not have an address for the member, the Association is not required to give notice in person.

## **70. When notice is taken to be given**

A notice is taken to be given when it is:

- (a) delivered in person, or left at the recipient's address, on the day it is delivered,
- (b) sent by post, on the fifth day after it is posted with the correct payment of postage costs,
- (c) sent by email or other electronic method, on the business day after it is sent, or
- (d) given under clause 69.1(d) is taken to be given on the business day after the notification that the notice is available is sent.

## **Financial year**

### **71. Association's financial year**

The Association's financial year is from 1 January to 31 December inclusive unless the directors pass a resolution to change the financial year and an application is made to ACNC for a substituted accounting period.

## **Indemnity, insurance and access**

### **72. Indemnity**

72.1 The Association indemnifies each officer of the Association from the assets of the Association, to the relevant extent, against all losses and liabilities (including costs, expenses and charges) incurred by that person acting within their authority as an officer of the Association.

72.2 In these clauses, 'officer' means a director or secretary, employees, members of Branch and Regional Group committees and members engaged on projects on or after the date this constitution takes effect and includes these listed after they have ceased to hold that office.

72.3 In this clause, 'to the relevant extent' means:



- (a) to the extent that the Association is not precluded by law (including the Corporations Act) from doing so, and
- (b) for the amount that the officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including an insurer under an insurance policy).

72.4 The indemnity is a continuing obligation and is enforceable by an officer even though that person is no longer an officer of the Association.

### **73. Insurance**

To the extent permitted by law (including the Corporations Act), and if the directors consider it appropriate, the Association may pay or agree to pay a premium for a contract insuring a person who is or has been an officer of the Association up to 7 years after they ceased being an officer against any liability incurred by the person as an officer of the Association.

### **74. Directors' access to documents**

74.1 A director as defined in clause 71.2 has a right of access to the financial records of the Association at all reasonable times.

74.2 If the directors agree, the Association must give a director or former director access to:

- (a) certain documents, including documents provided for or available to the directors, and
- (b) any other documents referred to in those documents.

## **Winding up**

### **75. Surplus assets not to be distributed to members**

If the Association is wound up, any surplus assets must not be distributed to a member or a former member of the Association.

### **76. Distribution of surplus assets**

76.1 Subject to the Corporations Act and any other applicable Act, and any court order, any surplus assets that remain after the Association is wound up must be distributed to one or more charities:

- (a) with charitable purpose(s) similar to, or inclusive of, the purpose in clause 8, and
- (b) which also prohibit the distribution of any surplus assets to their members to at least the same extent as the Association.

76.2 The decision as to the charity or charities to be given the surplus assets must be made by a special resolution of members at or before the time of winding up. If the members do not make this decision, the Association may apply to the Supreme Court to make this decision.

## **Transitional provisions**

### **77. Interpretation**

This constitution must be interpreted in such a way that:

- (a) every director and officer of the Association in office in that capacity immediately before this constitution is adopted continues in office subject to, and taken to have been appointed or elected under this constitution,

- (b) the directors are taken, immediately after this constitution is adopted, to have decided under clause 41.1 a number which is equal to the number of persons in office as directors immediately after this constitution is adopted,
- (c) a President in office in that capacity immediately before this constitution is adopted continues in office subject to and is taken to have been appointed under this constitution,
- (d) a Patron in office appointed in that capacity immediately before this constitution is adopted continues in office subject to and is taken to have been appointed under this constitution,
- (e) for the purposes of clause 66.3, the elected committee of a Branch are taken, immediately after this constitution is adopted, to have elected a maximum of nine members to manage the Branch immediately after this constitution is adopted,
- (f) for the purposes of clause 43, the time served by a director immediately before this constitution is adopted is taken to accrue and calculated in accordance with clauses 43.1 and 43.4 immediately after this constitution is adopted,
- (g) any register maintained by the Association immediately before this constitution is adopted is taken to be a register maintained under this constitution, and
- (h) unless a contrary intention appears in this constitution, all person, things, agreements and circumstances appointed, approved or created by or under the constitution of the Association in force before this constitution is adopted continue to have the status, operation and effect after this constitution is adopted.