

# **CONSTITUTION**

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## **AUSTRALIAN INSTITUTE OF CONVEYANCERS W.A. DIVISION INC.**

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## 1. Terms used

In these rules, unless the contrary intention appears —

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

**Affiliate member** means a natural person:

- (a) having an interest in the objects of the Association
- (b) whose application for membership is approved by the Council;
- (c) who pays the fees prescribed by the Association for such membership;

and thereby has the rights referred to in rule 8(6);

**Ambassador** means a member who has, in the opinion of the Council by resolution passed by not less than two thirds of the Council at a meeting of the same, rendered such service to the Association as to entitle them to recognition as an Ambassador of the Association, which status shall be entered on the membership register accordingly;

**Association** means the incorporated association to which these rules apply;

**books**, of the Association, includes the following —

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

**by laws** means by-laws made by the Association under rule 64;

**Code of Conduct** means any code of conduct prescribed by the Association in accordance with this constitution;

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

**Committee** means a Committee appointed by the Council under rule 49(1)(a);

**Council** means the management Council of the Association;

**Council meeting** means a meeting of the Council;

**Council member** means a member of the Council;

**Conveyancer Member** means a person:

- (a) employed, under the supervision of or a co-worker of an existing Ordinary Member of the Association
- (b) whose application for membership is approved by the Council; and

- (c) who pays the fees prescribed by the Association for such membership; and thereby has the rights referred to in rule 8(7);

**financial records** includes —

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

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

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

**financial year**, of the Association, has the meaning given in rule 2;

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

**Honorary Member** means a Member who is a natural person, appointed as an Honorary Member by the Council, and thereby has the rights referred to in Rule 8(8), and is not required to pay any fee for such membership.

**Life Member** means a Member who is a natural person who:

- (a) has given long, continuous and/or meritorious service to the Association; and
  - (b) has been granted life membership by the Council;
- and thereby has the rights referred to in Rule 8(9) , and is not required to pay any fee for such membership;

**member** means a person (including a body corporate) who is an ordinary member or an associate member of the Association;

**Ordinary Council member** means a Council member who is not an office holder of the Association under rule 27(3);

**Ordinary member** means :

- (a) A natural person;
- (b) Who meets the definition of Settlement Agent in the SA Act;
- (c) Who is the holder of a licence under the SA Act;
- (d) is not an Australian Legal Practitioner as that term is defined in the Legal Profession Act 2008; and
- (e) who pays the fees prescribed by the Association for such membership;

and thereby has the rights referred to in rule 8(5);

**President** means the person elected by the Council to serve as its President as set out in rule 28;

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

**Retired Member** means a natural person who:

- (a) was previously a Member;
- (b) has ceased to practice or be employed or engaged as a settlement agent or in a related industry; and
- (c) who pays the fees prescribed by the Association for student membership;

and thereby the rights referred to in Rule 8(11) ;

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

**SA Act** means the Settlement Agents Act 1981;

**Settlement Agent** has the meaning ascribed to it pursuant to the SA Act;

**special general meeting** means a general meeting of the Association other than the annual general meeting;

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

**Student Member** means a natural person who:

- (a) is undertaking a course of study, the successful completion of which would entitle them to, subject to the other licensing requirements in the SA Act, be a Settlement Agent;; and
- (b) who pays the fees prescribed by the Association for student membership;

and thereby the rights referred to in Rule 8(10) ;

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

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

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

**Treasurer** means the person elected by the Council to serve as its Treasurer as set out in rule 30

**Vice-President** means the person elected by the Council to serve as its Vice-President as set out in rule 29

**Voting Member** means an Ordinary Member, a Life Member or an Honorary Member;

## **2. Financial year**

- (1) Each financial year of the Association is the period of 12 months commencing on 1 July and ending 30 June the following year.

## **PART 2 — ASSOCIATION TO BE NOT FOR PROFIT BODY**

### **3. Not-for-profit body and Objects**

- (1) The property and income of the Association must be applied solely towards the promotion of the objects or purposes of the Association and no part of that property or income may be paid or otherwise distributed, directly or indirectly, to any member, except in good faith in the promotion of those objects or purposes.
- (2) A payment may be made to a member out of the funds of the Association only if it is authorised under subrule (3).
- (3) A payment to a member out of the funds of the Association is authorised if it is —
- (a) the payment in good faith to the member as reasonable remuneration for any services provided to the Association, or for goods supplied to the Association, in the ordinary course of business; or
  - (b) the payment of interest, on money borrowed by the Association from the member, at a rate not greater than the cash rate published from time to time by the Reserve Bank of Australia; or
  - (c) the payment of reasonable rent to the member for premises leased by the member to the Association;
  - (d) the reimbursement of reasonable expenses properly incurred by the member on behalf of the Association; or
  - (e) payment made in good faith to a member pursuant to the provisions of sub-rule (4)(l) , providing relief to Members who find themselves in necessitous circumstances.
- (4) The Association shall work towards the following objectives:
- (a) To support, advance and protect the character and interests of the Western Australian conveyancing profession generally and more particularly the members of the Association.
  - (b) To provide continuing professional development programs for the Western Australian conveyancing profession generally and more particularly for the benefit of the members of the Association.
  - (c) To promote ethical, honourable and professional practice and to settle disputed points of practice between both members and non-members of the Association.
  - (d) (i) To consider all questions affecting the interests of the members of the conveyancing profession of Western Australia



- (ii) To initiate, promote, consider and, if necessary, petition Parliament and organise deputations in relation to measures for the protection and the advancement of the conveyancing profession of Western Australia, whether legislative or otherwise
  - (iii) To procure improvements and promote uniformity in the principles, methods and practices of the profession.
- (e) To encourage study in the conveyancing profession in Western Australia and for that purpose to donate and to encourage the donation on such terms and conditions as may from time to time be determined or prescribed of a prize or prizes or other rewards or distinctions.
  - (f) To provide information on the conveyancing profession of Western Australia and other subjects of interest or value by discussion and correspondence with the public and other bodies and individuals.
  - (g) To carry on or engage in any other activity or undertaking or project which may be considered by the Association to be capable of furthering the objects of the Association.
  - (h) To affiliate with, communicate with or enter into other relationships with other associations or societies having similar objects and purposes whether relating to the conveyancing profession of Western Australia or other relevant activities and to co-operate with any such bodies and to procure from any such bodies any such information as may be considered favourable to forwarding the objects of the Association or the conveyancing profession of Western Australia.
  - (i) To affiliate with or enter into any agreement or arrangement for union of interests, co-operation or otherwise with any body corporate or unincorporated having objects of like nature to those of the Association for the direct purpose of advancing the objects of the Association.
  - (j) To enter into any arrangements with any federal, state or local government authorities or otherwise that may be considered conducive to forwarding the objects of the Association or the conveyancing profession of Western Australia and to obtain from any such government or authority any rights privileges or concessions which the Association may think desirable to obtain and to comply with any such arrangement, right or privilege and concession.
  - (k) To do all such other things that are incidental to or conducive to the attainment of the above objects and to the advancement of the interests of the Members and the conveyancing profession of Western Australia.
  - (l) To provide relief to distressed members and former members who find themselves destitute or in necessitous circumstances, or experiencing hardship, through funding from proceeds collected for that purpose by and on behalf of the Association.
- (5) The intention is that the objects expressed in the above paragraphs shall in no way be limited or restricted by reference to or inference from the terms of any other paragraph or the name of the **Association**.

## **PART 3 — MEMBERS**

### **Division 1 — Membership**

#### **4. Eligibility for membership**

- (1) Any person who supports the objects or purposes of the Association and meets the criteria set out in this Constitution is eligible to apply to become a member.
- (2) An individual who has not reached the age of 18 years is not eligible to apply for a class of membership that confers full voting rights.

#### **5. Applying for membership**

- (1) A person who wants to become a member must apply in writing to the Association, in the form prescribed by Council from time to time.
- (2) The applicant must specify in the application the class of membership, if there is more than one, to which the application relates.

#### **6. Dealing with membership applications**

- (1) The Council must consider each application for membership of the Association and decide whether to accept or reject the application.
- (2) Subject to subrule (3), the Council must consider applications in the order in which they are received by the Association.
- (3) The Council may delay its consideration of an application if the Council considers that any matter relating to the application needs to be clarified by the applicant or that the applicant needs to provide further information in support of the application.
- (4) The Council must not accept an application unless the applicant —
  - (a) is eligible under rule 4; and
  - (b) has applied under rule 5.
- (5) The Council may reject an application even if the applicant —
  - (a) is eligible under rule 4; and
  - (b) has applied under rule 5.
- (6) Where an application is made for membership of a particular type, and it is apparent to Council that the applicant is eligible for membership of a type other than that applied for, the Council may, at its discretion :
  - (a) Grant membership in a different category than that applied for;
  - (b) Reject the application but invite a further application in a different category of membership; or
  - (c) Reject the application,
- (7) The Council must notify the applicant of the Council's decision to accept or reject the application as soon as practicable after making the decision.

- (8) If the Council rejects the application, the Council is not required to give the applicant its reasons for doing so.

## **7. Becoming a member**

- (1) An applicant for membership of the Association becomes a member when —
  - (a) the Council accepts the application; and
  - (b) the applicant pays any membership fees payable to the Association under rule 12.
- (2) The Association has the power, by special resolution, to dispense with any or all requirements for membership set out in these rules, and admit a person to membership, or grant a change in status to any Member if:
  - (a) that person or Member has extensive experience in the conveyancing profession; or
  - (b) that person or Member has rendered valuable service in advancing the interests of the conveyancing profession; or
  - (c) such other special reason as the Association, by virtue of that special resolution, deems sufficient.;

## **8. Classes of membership**

- (1) The Association consists of Ordinary Members, Life Members, Honorary Members, Affiliate Members, Conveyancing Members, Student Members and Retired Members, and any other type of members provided for under subrule (2).
- (2) The Association may have any further class of associate membership approved by resolution at a general meeting.
- (3) An individual who has not reached the age of 18 years is only eligible to be an associate member.
- (4) A person can only belong to one class of membership.
- (5) An Ordinary Member has full voting rights and any other rights conferred on members by these rules or approved by resolution at a general meeting or determined by the Council.
- (6) An Affiliate Member has the rights referred to in subrule (5) other than voting rights and the right to serve on Council.
- (7) A Conveyancing Member has the rights referred to in subrule (5) other than voting rights and the right to serve on Council.

- (8) An Honorary Member shall have the rights referred to in subrule (5) other than the right to serve on Council.
- (9) A Life Member shall have the rights referred to in subrule (5).
- (10) A Student Member shall have the rights referred to in subrule (5) other than voting rights and the right to serve on Council.
- (11) A Retired Member shall have the rights referred to in subrule (5) other than voting rights and the right to serve on Council.
- (12) All members other than Affiliate Members, Student Members and Retired Members have the right of promoting themselves as members, and may reproduce the logo of the Association on all stationery, correspondence, advertising material, signage, printed material or electronic communication including websites, as well as any awards of merit or distinction awarded by the Association or Council.
- (13) The number of members of any class is not limited unless otherwise approved by resolution at a general meeting.

## 9. When membership ceases

- (1) A person ceases to be a member when any of the following takes place —
  - (a) for a member who is an individual, the individual dies;
  - (b) for a member who is a body corporate, the body corporate is wound up;
  - (c) the person resigns from the Association under rule 10;
  - (d) the person is expelled from the Association under rule 15;
  - (e) the person ceases to be a member under rule 12(4).
- (2) The Association must keep a record, for at least one year after a person ceases to be a member, of —
  - (a) the date on which the person ceased to be a member; and
  - (b) the reason why the person ceased to be a member.

## 10. Resignation

- (1) A member may resign from membership of the Association by giving written notice of the resignation to the Association.
- (2) The resignation takes effect —
  - (a) when the Association receives the notice; or
  - (b) if a later time is stated in the notice, at that later time.
- (3) A person who has resigned from membership of the Association remains liable for any fees that are owed to the Association (the **owed amount**) at the time of resignation.
- (4) The owed amount may be recovered by the Association in a court of competent jurisdiction as a debt due to the Association.

## **11. Rights not transferable**

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

## **Division 2 — Membership fees**

### **12. Membership fees**

- (1) The Council must determine the application fee (if any) and the annual membership fee (if any) to be paid for membership of the Association.
- (2) The fees determined under subrule (1) may be different for different classes of membership.
- (3) A member must pay the annual membership fee to the Association, in the manner and by the date (the **due date**) determined by the Council.
- (4) If a member has not paid the annual membership fee within the period of 3 months after the due date, then unless the Council determines otherwise, the member ceases to be a member on the expiry of that period.
- (5) If a person who has ceased to be a member under subrule (4) offers to pay the annual membership fee after the period referred to in that subrule has expired —
  - (a) the Council may, at its discretion, accept that payment; and
  - (b) if the payment is accepted, the person's membership is reinstated from the date the payment is accepted.

## **Division 3 — Register of members**

### **13. Register of members**

- (1) An employee of the Association, or any other person authorised by the Council, is responsible for the requirements imposed on the Association under section 53 of the Act to maintain the register of members and record in that register any change in the membership of the Association.
- (2) In addition to the matters referred to in section 53(2) of the Act, the register of members must include the class of membership (if applicable) to which each member belongs and the date on which each member becomes a member.
- (3) The register of members must be kept at the office of the Association or at another place determined by the Council.
- (4) A member who wishes to inspect the register of members must contact the Association to make the necessary arrangements.

- (5) If —
- (a) a member inspecting the register of members wishes to make a copy of, or take an extract from, the register under section 54(2) of the Act; or
  - (b) a member makes a written request under section 56(1) of the Act to be provided with a copy of the register of members, the Council may require the member to provide a statutory declaration setting out the purpose for which the copy or extract is required and declaring that the purpose is connected with the affairs of the Association.

## **PART 4 — DISCIPLINARY ACTION, DISPUTES AND MEDIATION**

### **Division 1 — Term used**

#### **14. Term used: member**

In this Part —

*member*, in relation to a member who is expelled from the Association, includes former member.

### **Division 2 — Disciplinary action**

#### **15. Suspension or expulsion**

- (1) The Council may decide to suspend a member's membership or to expel a member from the Association if —
  - (a) the member contravenes any of these rules;
  - (b) the member contravenes any Code of Conduct prescribed by the Association; or
  - (c) the member acts detrimentally to the interests of the Association.
- (2) The Association must give the member written notice of the proposed suspension or expulsion at least 28 days before the Council meeting at which the proposal is to be considered by the Council.
- (3) The notice given to the member must state —
  - (a) when and where the Council meeting is to be held; and
  - (b) the grounds on which the proposed suspension or expulsion is based; and
  - (c) that the member, or the member's representative, may attend the meeting and will be given a reasonable opportunity to make written or oral (or both written and oral) submissions to the Council about the proposed suspension or expulsion;
- (4) At the Council meeting, the Council must —

- (a) give the member, or the member's representative, a reasonable opportunity to make written or oral (or both written and oral) submissions to the Council about the proposed suspension or expulsion; and
  - (b) give due consideration to any submissions so made; and
  - (c) decide —
    - (i) whether or not to suspend the member's membership and, if the decision is to suspend the membership, the period of suspension; or
    - (ii) whether or not to expel the member from the Association.
- (5) A decision of the Council to suspend the member's membership or to expel the member from the Association takes immediate effect.
- (6) The Council must give the member written notice of the Council's decision, and the reasons for the decision, within 7 days after the Council meeting at which the decision is made.
- (7) A member whose membership is suspended or who is expelled from the Association may, within 14 days after receiving notice of the Council's decision under subrule (6), give written notice to the President requesting the appointment of a mediator under rule 23.
- (8) If notice is given under subrule (7), the member who gives the notice and the Council are the parties to the mediation.

## **16. Consequences of suspension**

- (1) During the period a member's membership is suspended, the member —
- (a) loses any rights (including voting rights) arising as a result of membership; and
  - (b) is not entitled to a refund, rebate, relief or credit for membership fees paid, or payable, to the Association.
- (2) When a member's membership is suspended, the Association must record in the register of members —
- (a) that the member's membership is suspended; and
  - (b) the date on which the suspension takes effect; and
  - (c) the period of the suspension.
- (3) When the period of the suspension ends, the Association must record in the register of members that the member's membership is no longer suspended.

## **Division 3 — Resolving disputes**

### **17. Terms used**

In this Division —

***grievance procedure*** means the procedures set out in this Division;

***party to a dispute*** includes a person -

- (a) who is a party to the dispute; and
- (b) who ceases to be a member within 6 months before the dispute has come to the attention of each party to the dispute.

### **18. Application of Division**

The procedure set out in this Division (the grievance procedure) applies to disputes -

- (a) between members; or
- (b) between one or more members and the Association.

### **19. Parties to attempt to resolve dispute**

The parties to a dispute must attempt to resolve the dispute between themselves within 14 days after the dispute has come to the attention of each party.

### **20. How grievance procedure is started**

- (1) If the parties to a dispute are unable to resolve the dispute between themselves within the time required by rule 19, any party to the dispute may start the grievance procedure by giving written notice to the Association of —
  - (a) the parties to the dispute; and
  - (b) the matters that are the subject of the dispute.
- (2) Within 28 days after the Association is given the notice, a Council meeting must be convened to consider and determine the dispute.
- (3) The Association must give each party to the dispute written notice of the Council meeting at which the dispute is to be considered and determined at least 7 days before the meeting is held.
- (4) The notice given to each party to the dispute must state —
  - (a) when and where the Council meeting is to be held; and
  - (b) that the party, or the party's representative, may attend the meeting and will be given a reasonable opportunity to make written or oral (or both written and oral) submissions to the Council about the dispute.
- (5) If —
  - (a) the dispute is between one or more members and the Association; and
  - (b) any party to the dispute gives written notice to the Association stating that the party —
    - (i) does not agree to the dispute being determined by the Council; and
    - (ii) requests the appointment of a mediator under rule 23, the Council must not determine the dispute.



## **21. Determination of dispute by Council**

- (1) At the Council meeting at which a dispute is to be considered and determined, the Council must —
  - (a) give each party to the dispute, or the party's representative, a reasonable opportunity to make written or oral (or both written and oral) submissions to the Council about the dispute; and
  - (b) give due consideration to any submissions so made; and
  - (c) determine the dispute.
- (2) The Council must give each party to the dispute written notice of the Council's determination, and the reasons for the determination, within 7 days after the Council meeting at which the determination is made.
- (3) A party to the dispute may, within 14 days after receiving notice of the Council's determination under subrule (1)(c), give written notice to the Association requesting the appointment of a mediator under rule 23.
- (4) If notice is given under subrule (3), each party to the dispute is a party to the mediation.

## **Division 4 – Mediation**

### **22. Application of Division**

- (1) This Division applies if written notice has been given to the Association requesting the appointment of a mediator —
  - (a) by a member under rule 15(7); or
  - (b) by a party to a dispute under rule 20(5)(b)(ii) or 21(3).
- (2) If this Division applies, a mediator must be chosen or appointed under rule 23.

### **23. Appointment of mediator**

- (1) The mediator must be a person chosen —
  - (a) if the appointment of a mediator was requested by a member under rule 15(7) — by agreement between the Member and the Council; or
  - (b) if the appointment of a mediator was requested by a party to a dispute under rule 20(5)(b)(ii) or 21(3) — by agreement between the parties to the dispute.
- (2) If there is no agreement for the purposes of subrule (1)(a) or (b), then, subject to subrules (3) and (4), the Council must appoint the mediator.
- (3) The person appointed as mediator by the Council must be a person who acts as a mediator for another not-for-profit body, such as a community legal centre, if the appointment of a mediator was requested by —
  - (a) a member under rule 15(7); or
  - (b) a party to a dispute under rule 20(5)(b)(ii); or

- (c) a party to a dispute under rule 21(3) and the dispute is between one or more members and the Association.
- (4) The person appointed as mediator by the Council may be a member or former member of the Association but must not —
  - (a) have a personal interest in the matter that is the subject of the mediation; or
  - (b) be biased in favour of or against any party to the mediation.

## **24. Mediation process**

- (1) The parties to the mediation must attempt in good faith to settle the matter that is the subject of the mediation.
- (2) Each party to the mediation must give the mediator a written statement of the issues that need to be considered at the mediation at least 5 days before the mediation takes place.
- (3) In conducting the mediation, the mediator must —
  - (a) give each party to the mediation every opportunity to be heard; and
  - (b) allow each party to the mediation to give due consideration to any written statement given by another party; and
  - (c) ensure that natural justice is given to the parties to the mediation throughout the mediation process.
- (4) The mediator cannot determine the matter that is the subject of the mediation.
- (5) The mediation must be confidential, and any information given at the mediation cannot be used in any other proceedings that take place in relation to the matter that is the subject of the mediation.
- (6) The costs of the mediation are to be paid by the party or parties to the mediation that requested the appointment of the mediator.

## **25. If mediation results in decision to suspend or expel being revoked**

If —

- (a) mediation takes place because a member whose membership is suspended or who is expelled from the Association gives notice under rule 15(7) or a Councillor removed from office gives notice under rule 35(11) ; and
- (b) as the result of the mediation, the decision to suspend the member's membership or expel the member, or remove the Councillor from office is revoked, that revocation does not affect the validity of any decision made at a Council meeting or general meeting during the period of suspension or expulsion.

## **PART 5 — COUNCIL**

### **Division 1 — Powers of Council**

#### **26. Council**

- (1) The Council members are the persons who, as the management Council of the Association, have the power to manage the affairs of the Association.
- (2) Subject to the Act, these rules, the by-laws (if any) and any resolution passed at a general meeting, the Council has power to do all things necessary or convenient to be done for the proper management of the affairs of the Association.
- (3) The Council must take all reasonable steps to ensure that the Association complies with the Act, these rules and the by-laws (if any).

### **Division 2 — Composition of Council and duties of members**

#### **27. Council members**

- (1) The Council members consist of —
  - (a) the office holders of the Association; and
  - (b) at least one ordinary Council member.
- (2) Subject to Rule 38 , the maximum number of members of the Council shall be 8, unless authorised by a Special Resolution of the Association.
- (3) The following are the office holders of the Association —
  - (a) the President;
  - (b) the Vice-President;
  - (c) the Treasurer.
- (4) A person may be a Council member if the person is —
  - (a) an individual who has reached 18 years of age; and
  - (b) an Ordinary Member or a Life Member; or
  - (c) a person appointed pursuant to clause 38 ..
- (5) A person must not hold 2 or more of the offices mentioned in subrule (3) at the same time.

#### **28. President**

- (1) The President shall act as the chairperson at each Council meeting and general meeting, and has the powers and duties relating to convening and presiding at Council meetings and presiding at general meetings provided for in these rules.

- (2) The President shall otherwise undertake the duties and responsibilities authorised by the Council from time to time.

### **29. Vice-President**

The Vice President shall undertake the functions of the President when the President is unable to do so, and shall otherwise undertake the duties and responsibilities authorised by the Council from time to time.

### **30. Treasurer**

- (1) The Treasurer has the following duties —
  - (a) ensuring that any amounts payable to the Association are collected and issuing receipts for those amounts in the Association's name;
  - (b) ensuring that any amounts paid to the Association are credited to the appropriate account of the Association, as directed by the Council;
  - (c) ensuring that any payments to be made by the Association that have been authorised by the Council or at a general meeting are made on time;
  - (d) ensuring that the Association complies with the relevant requirements of Part 5 of the Act;
  - (e) ensuring the safe custody of the Association's financial records, financial statements and financial reports, as applicable to the Association;
  - (f) if the Association is a tier 1 association, coordinating the preparation of the Association's financial statements before their submission to the Association's annual general meeting;
  - (g) if the Association is a tier 2 association or tier 3 association, coordinating the preparation of the Association's financial report before its submission to the Association's annual general meeting;
  - (h) providing any assistance required by an auditor or reviewer conducting an audit or review of the Association's financial statements or financial report under Part 5 Division 5 of the Act;
  - (i) carrying out any other duty given to the Treasurer under these rules or by the Council.
- (2) Nothing in clause (1) above shall be taken to require the Treasurer to carry out the above tasks personally. The Association may employ staff members to carry out some or all of the above duties.

## **Division 3 — Election of Council members and tenure of office**

### **31. How members become Council members**

- A member becomes a Council member if the member —
- (a) is elected to the Council at a general meeting; or

(b) is appointed to the Council by the Council to fill a casual vacancy under rule 37.

### **32. Nomination of Council members**

- (1) At least 42 days before an annual general meeting, the Association must send written notice to all the members —
  - (a) calling for nominations for election to the Council; and
  - (b) stating the date by which nominations must be received by the Association to comply with subrule (2).
- (2) A member who wishes to be considered for election to the Council at the annual general meeting must nominate for election by sending written notice of the nomination to the Association at least 21 days before the annual general meeting.
- (3) A member whose nomination does not comply with this rule is not eligible for election to the Council unless the member is nominated under rule 33(2).

### **33. Election of ordinary Council members**

- (1) At the annual general meeting, the positions occupied by any retiring Council Members, together with any other existing vacancies, shall be declared vacant and an election shall be carried out as set out in this Rule.
- (2) If the number of members nominating for the position of ordinary Council member is not greater than the number to be elected, the chairperson of the meeting —
  - (a) must declare each of those members to be elected to the position; and
  - (b) may call for further nominations from the ordinary members at the meeting to fill any positions remaining unfilled after the elections under paragraph (a).
- (3) If —
  - (a) the number of members nominating for the position of ordinary Council member is greater than the number to be elected; or
  - (b) the number of members nominating under subrule (2)(b) is greater than the number of positions remaining unfilled,

the voting members at the meeting must vote in accordance with procedures that have been determined by the Council to decide the members who are to be elected to the position of ordinary Council member.

- (4) A member who has nominated for the position of ordinary Council member may vote in accordance with that nomination.

### **34. Term of office**

- (1) The term of office of a Council member begins when the member —

- (a) is elected at an annual general meeting or under subrule 35(3)(b); or
  - (b) is appointed to fill a casual vacancy under rule 37.
- (2) Subject to rule 37, a Council member holds office :
    - (a) In the case of a member elected pursuant to rule 33 above, for a period of three (3) years from the date of election;
    - (b) In the case of a member appointed to fill a casual vacancy, or appointed under Rule 35(3)(b), for that period being from the date of appointment until the next Annual General Meeting of the Association.
  - (3) Subject to (4) below, a Council member may be re-elected.
  - (4) A Council member may serve no more than three (3) consecutive terms.

### **35. Resignation and removal from office**

- (1) A Council member may resign from the Council by written notice given to the President or, if the resigning member is the President, given to the Vice-President.
- (2) The resignation takes effect —
  - (a) when the notice is received by the President or Vice-President; or
  - (b) if a later time is stated in the notice, at the later time.
- (3) At a general meeting, the Association may by resolution —
  - (a) remove a Council member from office; and
  - (b) elect a member who is eligible under rule 27(4) to fill the vacant position.
- (4) A Council member who is the subject of a proposed resolution under subrule (3)(a) may make written representations (of a reasonable length) to the President and may ask that the representations be provided to the members.
- (5) The President may give a copy of the representations to each member or, if they are not so given, the Council member may require them to be read out at the general meeting at which the resolution is to be considered.
- (6) The Council may, by majority vote at a meeting of Council, remove a Councillor from office if
  - (a) the Councillor contravenes any of these rules;
  - (b) the Councillor contravenes any Code of Conduct prescribed by the Association; or
  - (c) the Councillor acts detrimentally to the interests of the Association.
- (7) Any Councillor aggrieved by the decision to remove the Councillor from office may appeal that decision by notice in writing to the Council, within 21 days of the decision to remove the Councillor from office. The notice shall be given to the President.

- (8) The notice given to pursuant to (7) above must state the grounds on which the Councillor's removal from office is appealed. The appeal will be heard at the next ordinary Council meeting scheduled to take place.
- (9) At the Council meeting in which the appeal is heard, the Council must —
  - (a) give the former Councillor, or their representative, a reasonable opportunity to make written or oral (or both written and oral) submissions to the Council about the removal from office; and
  - (b) give due consideration to any submissions so made; and
  - (c) decide —
    - (i) whether or not to affirm the removal from office; or
    - (ii) whether or not to return the former Councillor to office, in which case the decision to remove the Councillor shall be considered void ab initio.
- (10) The Council must give the member written notice of the Council's decision, and the reasons for the decision, within 7 days after the Council meeting at which the decision is made.
- (11) A former Councillor whose appeal is not successful may, within 14 days after receiving notice of the Council's decision under subrule (10), give written notice to the President requesting the appointment of a mediator under rule 23.
- (12) If notice is given under subrule (11), the former Councillor who gives the notice and the Council are the parties to the mediation.

### **36. When membership of Council ceases**

- A person ceases to be a Council member if the person —
- (a) dies or otherwise ceases to be a member; or
  - (b) resigns from the Council or is removed from office under rule 35; or
  - (c) becomes ineligible to accept an appointment or act as a Council member under section 39 of the Act; or
  - (d) becomes permanently unable to act as a Council member because of a mental or physical disability; or
  - (e) fails to attend 3 consecutive Council meetings, of which the person has been given notice, without having notified the Council that the person will be unable to attend; or
  - (f) their term of office under Rule 34 expires.

### **37. Filling casual vacancies**

- (1) The Council may appoint a member who is eligible under rule 27(4) to fill a position on the Council that —
  - (a) has become vacant under rule 36; or
  - (b) was not filled by election at the most recent annual general meeting or under rule 35(3)(b).
- (2) Subject to the requirement for a quorum under rule 46, the Council may continue to act despite any vacancy in its membership.

- (3) If there are fewer Council members than required for a quorum under rule 46, the Council may act only for the purpose of —
  - (a) appointing Council members under this rule; or
  - (b) convening a general meeting.

### **38. Appointment of Non-Member**

- (1) The Council may, of its own motion, appoint a person who is not otherwise eligible to fill a position on the Council, to take office as a Councillor, on the terms set out in this rule 38.
- (2) The appointment of the Councillor shall be in addition to, and not in substitution for, the election of members to the Council, and the maximum number of members of the Council shall be increased accordingly during the term of that appointment
- (3) The appointment of the Councillor shall be for a term of no more than one (1) year, unless approved by the Association in general meeting.
- (4) Any Councillor appointed pursuant to this clause 38 shall have full voting rights at any council meeting.
- (5) No more than one person may be appointed to the Council pursuant to this clause 38 at any time.

### **39. Validity of acts**

The acts of a Council or Committee , or of a Council member or member of a Committee, are valid despite any defect that may afterwards be discovered in the election, appointment or qualification of a Council member or member of a Committee.

### **40. Payments to Council members**

- (1) A Council member is entitled to be paid out of the funds of the Association for any out-of-pocket expenses for travel and accommodation properly incurred —
  - (a) in attending a Council meeting or
  - (b) in attending a general meeting; or
  - (c) otherwise in connection with the Association's business.
- (2) The Council may set reasonable limits on the reimbursement of expenses pursuant to rule 40(2) above.

### **41. Election of Office bearers**

- (1) At the first meeting of Council after an Annual General Meeting :
  - (a) The positions of President, Vice President and Treasurer shall be declared vacant; and
  - (b) The Council shall elect persons to fill those offices.



- (2) Any Council Member may nominate for each of the vacant positions. For the purpose of conducting the election, the immediate past president of the Association, or if that person is no longer a Council member, the immediate past Vice President, shall act as the chair of the meeting until the election of the President.
- (3) The election of office bearers shall otherwise be carried out as an ordinary vote in accordance with Rule 47 .

## **Division 4 — Council meetings**

### **42. Council meetings**

- (1) The Council must meet at least 4 times in each year on the dates and at the times and places determined by the Council.
- (2) The date, time and place of the first Council meeting must be determined by the Council members as soon as practicable after the annual general meeting at which the Council members are elected.
- (3) Special Council meetings may be convened by the President or any 2 Council members.

### **43. Notice of Council meetings**

- (1) Notice of each Council meeting must be given to each Council member at least 48 hours before the time of the meeting.
- (2) The notice must state the date, time and place of the meeting and must describe the general nature of the business to be conducted at the meeting.
- (3) Unless subrule (4) applies, the only business that may be conducted at the meeting is the business described in the notice.
- (4) Urgent business that has not been described in the notice may be conducted at the meeting if the Council members at the meeting unanimously agree to treat that business as urgent.

### **44. Procedure and order of business**

- (1) The President or, in the President's absence, the Vice-President must preside as chairperson of each Council meeting.
- (2) If the President and Vice President are absent or are unwilling to act as chairperson of a meeting, the Council members at the meeting must choose one of them to act as chairperson of the meeting.

- (3) The procedure to be followed at a Council meeting must be determined from time to time by the Council.
- (4) The order of business at a Council meeting may be determined by the Council members at the meeting.
- (5) A member or other person who is not a Council member may attend a Council meeting if invited to do so by the Council.
- (6) A person invited under subrule (5) to attend a Council meeting —
  - (a) has no right to any agenda, minutes or other document circulated at the meeting; and
  - (b) must not comment about any matter discussed at the meeting unless invited by the Council to do so; and
  - (c) cannot vote on any matter that is to be decided at the meeting.

#### **45. Use of technology to be present at Council meetings**

- (1) The presence of a Council member at a Council meeting need not be by attendance in person but may be by that Council member and each other Council member at the meeting being simultaneously in contact by telephone or other means of instantaneous communication.
- (2) A member who participates in a Council meeting as allowed under subrule (1) is taken to be present at the meeting and, if the member votes at the meeting, the member is taken to have voted in person.

#### **46. Quorum for Council meetings**

- (1) No business is to be conducted at a Council meeting unless a quorum is present. A quorum for a meeting of the Council is taken to be 4 members of the Council.
- (2) 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; or
  - (b) otherwise, the meeting is adjourned to the same time, day and place in the following week.

#### **47. Voting at Council meetings**

- (1) Each Council member present at a Council meeting has one vote on any question arising at the meeting. No proxies are valid for use in a Council meeting.
- (2) A motion is carried if a majority of the Council members present at the Council meeting vote in favour of the motion.

- (3) A vote may take place by the Council members present indicating their agreement or disagreement or by a show of hands, unless the Council decides that a secret ballot is needed to determine a particular question.
- (4) If a secret ballot is needed, the chairperson of the meeting must decide how the ballot is to be conducted.

#### **48. Minutes of Council meetings**

- (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 Council members present at the meeting;
  - (b) the name of any person attending the meeting under rule 44(5);
  - (c) the business considered at the meeting;
  - (d) any motion on which a vote is taken at the meeting and the result of the vote.
- (3) The minutes of a Council meeting must be entered in the Association's minute book within 30 days after the meeting is held.
- (4) The chairperson must ensure that the minutes of a Council meeting are reviewed and signed as correct by —
  - (a) the chairperson of the meeting; or
  - (b) the chairperson of the next Council meeting.
- (5) When the minutes of a Council meeting have been signed as correct they are, until the contrary is proved, evidence that —
  - (a) the meeting to which the minutes relate was duly convened and held; and
  - (b) the matters recorded as having taken place at the meeting took place as recorded; and
  - (c) any appointment purportedly made at the meeting was validly made.

### **Division 5 — Sub-committees and subsidiary offices**

#### **49. Committees and subsidiary offices**

- (1) To help the Council in the conduct of the Association's business, the Council may, in writing, do either or both of the following —
  - (a) appoint one or more Committees;

- (b) create one or more subsidiary offices and appoint people to those offices.
- (2) A Committee may consist of the number of people, whether or not members, that the Council considers appropriate.
- (3) A person may be appointed to a subsidiary office whether or not the person is a member.
- (4) Subject to any directions given by the Council —
  - (a) a Committee may meet and conduct business as it considers appropriate; and
  - (b) the holder of a subsidiary office may carry out the functions given to the holder as the holder considers appropriate.

#### **50. Delegation to Committees and holders of subsidiary offices**

- (1) In this rule —
  - non-delegable duty*** means a duty imposed on the Council by the Act or another written law.
- (2) The Council may, in writing, delegate to a Committee or the holder of a subsidiary office the exercise of any power or the performance of any duty of the Council other than —
  - (a) the power to delegate; and
  - (b) a non-delegable duty.
- (3) A power or duty, the exercise or performance of which has been delegated to a Committee or the holder of a subsidiary office under this rule, may be exercised or performed by the Committee or holder in accordance with the terms of the delegation.
- (4) The delegation may be made subject to any conditions, qualifications, limitations or exceptions that the Council specifies in the document by which the delegation is made.
- (5) The delegation does not prevent the Council from exercising or performing at any time the power or duty delegated.
- (6) Any act or thing done by a Committee or by the holder of a subsidiary office, under the delegation has the same force and effect as if it had been done by the Council.
- (7) The Council may, in writing, amend or revoke the delegation.

### **PART 6 — GENERAL MEETINGS OF ASSOCIATION**

## **51. Annual general meeting**

- (1) The Council must determine the date, time and place of the annual general meeting.
- (2) If it is proposed to hold the annual general meeting more than 6 months after the end of the Association's financial year, the Association must apply to the Commissioner for permission under section 50(3)(b) of the Act within 4 months after the end of the financial year.
- (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 if the minutes of that meeting have not yet been confirmed;
  - (b) to receive and consider -
    - (i) the Council's annual report on the Association's activities during the preceding financial year; and
    - (ii) if the Association is a tier 1 association, the financial statements of the Association for the preceding financial year presented under Part 5 of the Act; and
    - (iii) if the Association is a tier 2 association or a tier 3 association, the financial report of the Association for the preceding financial year presented under Part 5 of the Act;
    - (iv) if required to be presented for consideration under Part 5 of the Act, a copy of the report of the review or auditor's report on the financial statements or financial report;
  - (c) to elect the members to fill any vacancies on Council; and
  - (d) if applicable, to appoint or remove a reviewer or auditor of the Association in accordance with the Act.
- (4) Any other business of which notice has been given in accordance with these rules may be conducted at the annual general meeting.

## **52. Special general meetings**

- (1) The Council may convene a special general meeting.
- (2) The Council must convene a special general meeting if at least 20% of the voting members require a special general meeting to be convened.
- (3) The voting members requiring a special general meeting to be convened must —
  - (a) make the requirement by written notice given to the Association; and
  - (b) state in the notice the business to be considered at the meeting; and
  - (c) each sign the notice.
- (4) The special general meeting must be convened within 28 days after notice is given under subrule (3)(a).

- (5) If the Council does not convene a special general meeting within that 28 day period, the voting members making the requirement (or any of them) may convene the special general meeting.
- (6) A special general meeting convened by members under subrule (5) —
  - (a) must be held within 3 months after the date the original requirement was made; and
  - (b) may only consider the business stated in the notice by which the requirement was made.
- (7) The Association must reimburse any reasonable expenses incurred by the voting members convening a special general meeting under subrule (5).

### **53. Notice of general meetings**

- (1) The Association or, in the case of a special general meeting convened under rule 52(5), the members convening the meeting, must give to each member -
  - (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 the meeting is the annual general meeting, include the names of the members who have nominated for election to the Council under rule 32(2); and
  - (d) if a special resolution is proposed -
    - (i) set out the wording of the proposed resolution as required by section 51(4) of the Act; and
    - (ii) state that the resolution is intended to be proposed as a special resolution; and
    - (iii) comply with rule 54(7).

### **54. Proxies**

- (1) Subject to subrule (2), a voting member may appoint an individual who is a voting member as his or her proxy to vote and speak on his or her behalf at a general meeting.
- (2) A voting member may be appointed the proxy for not more than 5 other voting members. However, the Chairperson of the meeting may be appointed as proxy for any number of voting members.
- (3) The appointment of a proxy must be in writing and signed by the voting member making the appointment.

- (4) The voting member appointing the proxy may give specific directions as to how the proxy is to vote on his or her behalf.
- (5) If no instructions are given to the proxy, the proxy may vote on behalf of the voting member in any matter as the proxy sees fit.
- (6) If the Council has approved a form for the appointment of a proxy, the voting member may use that form or any other form —
  - (a) that clearly identifies the person appointed as the voting member's proxy; and
  - (b) that has been signed by the voting member.
- (7) Notice of a general meeting given to an voting member under rule 53 must -
  - (a) state that the voting member may appoint an individual who is a voting 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.
- (8) A form appointing a proxy must be given to the Association before the commencement of the general meeting for which the proxy is appointed.
- (9) A form appointing a proxy sent by post or electronically is of no effect unless it is received by the Association not later than 48hours before the commencement of the meeting.

#### **55. Presiding member and quorum for general meetings**

- (1) The President, or, in the President's absence, the Vice President must preside as chairperson of each general meeting.
- (2) If the President and Vice President are absent or are unwilling to act as chairperson of a general meeting, the Council members at the meeting must choose one of them to act as chairperson of the meeting.
- (3) No business is to be conducted at a general meeting unless a quorum is present. Subject to sub-rule (4) and (5) below, a quorum shall be 20 voting members.
- (4) If a quorum is not present within 30 minutes after the notified commencement time of a general meeting -
  - (a) in the case of a special general meeting - the meeting lapses; or
  - (b) in the case of the annual general meeting - the meeting is adjourned to -
    - (i) the same time and day in the following week; and
    - (ii) the same place, unless the chairperson specifies another place at the time of the adjournment or written notice of another place is given to the members before the day to which the meeting is adjourned.

- (5) If -
- (a) a quorum is not present within 30 minutes after the commencement time of an annual general meeting held under subrule (4)(b); and
  - (b) at least 10 ordinary members are present at the meeting, those members present are taken to constitute a quorum.

### **56. Adjournment of general meeting**

- (1) The chairperson of a general meeting at which a quorum is present may, with the consent of a majority of the voting members 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.
- (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 53.

### **57. Voting at general meeting**

- (1) On any question arising at a general meeting —
  - (a) subject to subrule (6), each voting member has one vote; and
  - (b) voting members may vote personally or by proxy.
- (2) Except in the case of a special resolution, a motion is carried if a majority of the voting members present at a general meeting vote in favour of the motion.
- (3) If votes are divided equally on a question, the chairperson of the meeting may call for a further vote to determine the deadlock. If that second vote results in the votes still remaining equally divided, then the motion shall fail.
- (4) If the question is whether or not to confirm the minutes of a previous general meeting, only members who were present at that meeting may vote.
- (5) For a person to be eligible to vote at a general meeting as a voting member, the voting member —



- (a) must have been a voting member at the time notice of the meeting was given under rule 53; and
- (b) must have paid any fee or other money payable to the Association by the member.

#### **58. When special resolutions are required**

- (1) In addition to the matters required by the Act, a special resolution is required if it is proposed at a general meeting —
  - (a) to affiliate the Association with another body; or
  - (b) to request the Commissioner to apply to the State Administrative Tribunal under section 109 of the Act for the appointment of a statutory manager.
- (2) Subrule (1) does not limit the matters in relation to which a special resolution may be proposed.

#### **59. Determining whether resolution carried**

- (1) In this rule —

***poll*** means the process of voting in relation to a matter that is conducted in writing.

- (2) Subject to subrule (4), the chairperson of a general meeting may, on the basis of general agreement or disagreement or by 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.
- (3) If the resolution is a special resolution, the declaration under subrule (2) must identify the resolution as a special resolution.
- (4) If a poll is demanded on any question by the chairperson of the meeting or by at least 5 other voting members present in person or by proxy —
  - (a) the poll must be taken at the meeting in the manner determined by the chairperson;
  - (b) the chairperson must declare the determination of the resolution on the basis of the poll.
- (5) If a poll is demanded on the election of the chairperson or on a question of an adjournment, the poll must be taken immediately.
- (6) If a poll is demanded on any other question, the poll must be taken before the close of the meeting at a time determined by the chairperson.

- (7) A declaration under subrule (2) or (4) must be entered in the minutes of the meeting, and the entry is, without proof of the voting in relation to the resolution, evidence of how the resolution was determined.

#### **60. Minutes of general meeting**

- (1) A person authorised by the Council from time to time, must take and keep minutes 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 record —
  - (a) the names of the voting members attending the meeting; and
  - (b) any proxy forms given to the chairperson of the meeting under rule 53(8); and
  - (c) the financial statements or financial report presented at the meeting, as referred to in rule 51(3)(b)(ii) or (iii); and
  - (d) any report of the review or auditor's report on the financial statements or financial report presented at the meeting, as referred to in rule 50(3)(b)(iv).
- (4) The minutes of a general meeting must be entered in the Association's minute book within 30 days after the meeting is held.
- (5) The chairperson must ensure that the minutes of a general meeting are reviewed and signed as correct by —
  - (a) the chairperson of the meeting; or
  - (b) the chairperson of the next general meeting.
- (6) When the minutes of a general meeting have been signed as correct they are, in the absence of evidence to the contrary, taken to be proof that —
  - (a) the meeting to which the minutes relate was duly convened and held; and
  - (b) the matters recorded as having taken place at the meeting took place as recorded; and
  - (c) any election or appointment purportedly made at the meeting was validly made.

## **PART 7 — FINANCIAL MATTERS**

### **61. Source of funds**

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

### **62. Control of funds**

- (1) The Association must maintain an account in the name of the Association with a financial institution from which all expenditure of the Association is made and into which all funds received by the Association are deposited.
- (2) The Association may, but is not obliged to, open additional accounts for any purpose the Council considers appropriate, and may deposit into such accounts such funds from such sources as the Council determines appropriate..
- (3) Subject to any restrictions imposed at a general meeting, the Council may approve expenditure on behalf of the Association.
- (4) The Council may authorise a sub-committee or any other person to expend funds on behalf of the Association up to a specified limit without requiring approval from the Council for each item on which the funds are expended.
- (5) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments of the Association must be signed by -
  - (a) 2 Council members; or
  - (b) one Council member and a person authorised by the Council; or
  - (c) in any other manner approved by Council from time to time.
- (6) All funds of the Association must be deposited into the Association's account within 5 working days after their receipt.

### **63. Financial statements and financial reports**

- (1) For each financial year, the Council must ensure that the requirements imposed on the Association under Part 5 of the Act relating to the financial statements or financial report of the Association are met.
- (2) Without limiting subrule (1), those requirements include -
  - (a) if the Association is a tier 1 association, the preparation of the financial statements; and
  - (b) if the Association is a tier 2 association or tier 3 association, the preparation of the financial report; and
  - (c) if required, the review or auditing of the financial statements or financial report, as applicable; and
  - (d) the presentation to the annual general meeting of the financial statements or financial report, as applicable; and

- (e) if required, the presentation to the annual general meeting of the copy of the report of the review or auditor's report, as applicable, on the financial statements or financial report.

## **PART 8 — GENERAL MATTERS**

### **64. By-laws and Code of Conduct**

- (1) The Association may, by resolution at a general meeting, or the Council may, make, amend or revoke by-laws, or a Code of Conduct..
- (2) By-laws may —
  - (a) provide for the rights and obligations that apply to any classes of associate membership approved under rule 8(2); and
  - (b) impose restrictions on the Council's powers, including the power to dispose of the association's assets; and
  - (c) impose requirements relating to the financial reporting and financial accountability of the association and the auditing of the association's accounts; and
  - (d) provide for any other matter the association considers necessary or convenient to be dealt with in the by-laws.
- (3) The Code of Conduct may set out the standards of behaviour expected to be adhered to by members of the Association in their dealings with other members, and members of the conveyancing industry in general.
- (4) A by-law or provision of the Code of Conduct is of no effect to the extent that it is inconsistent with the Act, the regulations or these rules.
- (5) Without limiting subrule (4), a by-law made for the purposes of subrule (2)(c) may only impose requirements on the Association that are additional to, and do not restrict, a requirement imposed on the Association under Part 5 of the Act.
- (6) At the request of a member, the Association must make a copy of the by-laws and Code of Conduct available for inspection by the member.

### **65. Executing documents and common seal**

- (1) The Association may execute a document without using a common seal if the document is signed by -
  - (a) 2 Council members; or
  - (b) one Council member and a person authorised by the Council.
- (2) If the Association has a common seal -
  - (a) the name of the Association must appear in legible characters on the common seal; and
  - (b) a document may only be sealed with the common seal by the authority of the Council and in the presence of -
    - (i) 2 Council members; or

(ii) one Council member and a person authorised by the Council, and each of them is to sign the document to attest that the document was sealed in their presence.

- (3) The common seal must be kept in the custody of a Council member authorised by the Council, or otherwise as the Council may direct.

## **66. Giving notices to members**

- (1) In this rule -

***recorded*** means recorded in the register of members.

- (2) A notice or other document that is to be given to a member under these rules is taken not to have been given to the member unless it is in writing and -
- (a) delivered by hand to the recorded address of the member; or
  - (b) sent by prepaid post to the recorded postal address of the member; or
  - (c) sent by facsimile or electronic transmission to an appropriate recorded number or recorded electronic address of the member.

## **67. Custody of books and securities**

- (1) Subject to subrule (2), the books and any securities of the Association must be kept in the Association's custody or under the Association's control.
- (2) The financial records and, as applicable, the financial statements or financial reports of the Association must be kept in the Treasurer's custody or under the Treasurer's control.
- (3) Subrules (1) and (2) have effect except as otherwise decided by the Council.
- (4) The books of the Association must be retained for at least 7 years.

## **68. Record of office holders**

The record of Council members and other persons authorised to act on behalf of the Association that is required to be maintained under section 58(2) of the Act must be kept in the Association's custody or control.

## **69. Inspection of records and documents**

- (1) Subrule (2) applies to a member who wants to inspect -
- (a) the register of members under section 54(1) of the Act; or
  - (b) the record of the names and addresses of Council members, and other persons authorised to act on behalf of the Association, under section 58(3) of the Act; or
  - (c) the minutes of any General Meeting of the Association.

- (2) The member must contact the Association to make the necessary arrangements for the inspection. Only voting members have such a right of inspection.
- (3) The inspection must be free of charge.
- (4) The member may make a copy of or take an extract from a record or document referred to in subrule (1)(c) but does not have a right to remove the record or document for that purpose.
- (5) The member must not use or disclose information in a record or document referred to in subrule (1)(c) except for a purpose -
  - (a) that is directly connected with the affairs of the Association; or
  - (b) that is related to complying with a requirement of the Act.

#### **70. Publication by Council members of statements about Association business prohibited**

A Council member must not publish, or cause to be published, any statement about the business conducted by the Association at a general meeting or Council meeting unless -

- (a) the Council member has been authorised to do so at a Council meeting; and
- (b) the authority given to the Council member has been recorded in the minutes of the Council meeting at which it was given.

#### **71. Distribution of surplus property on cancellation of incorporation or winding up**

- (1) In this rule -

**surplus property**, in relation to the Association, means property remaining after satisfaction of -

- (a) the debts and liabilities of the Association; and
- (b) the costs, charges and expenses of winding up or cancelling the incorporation of the Association,

but does not include books relating to the management of the Association.

- (2) On the cancellation of the incorporation or the winding up of the Association, its surplus property must be distributed as determined by special resolution by reference to the persons mentioned in section 24(1) of the Act.

#### **72. Alteration of rules**

If the Association wants to alter or rescind any of these rules, or to make additional rules, the Association may do so only by special resolution and by otherwise complying with Part 3 Division 2 of the Act.