

NEWCASTLE FOOTBALL REFEREES INCORPORATED

Incorporation Number **Y0906425**

CONSTITUTION

Registered by NSW Fair Trading and in force from 4 March 2019.

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Part 1 - Preliminary

1 Definitions

(1) In this constitution:

“appointed committee member” means a member of the committee who is appointed in accordance with clause 14 (1A), but does not include ordinary committee members who have been appointed to fill a casual vacancy in accordance with clause 18.

“by-law” means a binding rule of the association adopted in accordance with clause 12A.

“financial year” means the financial year of the association, as stipulated in clause 47.

“full member” means a member of the association who holds a full membership grade.

“full membership grade” means a membership grade as provided for in clause 2A that confers rights at general meetings as stipulated in clause 27B.

“member” means a member of the association, irrespective of the membership grade held by the member.

“membership grade” means a category of membership, governed by a by-law adopted by the association in accordance with clause 2A.

“ordinary committee member” means a member of the committee who is not an office-bearer of the association and was either elected to that position, or appointed to fill a casual vacancy in the office of an ordinary committee member in accordance with clause 18.

“president” means:

- (a) the person holding office under this constitution as president of the association, or

(b) the committee member temporarily exercising the functions of president in accordance with clause 17A

"secretary" means:

(a) the person holding office under this constitution as secretary of the association, or

(b) the committee member temporarily exercising the functions of secretary in accordance with clause 17A, or

(c) if all committee member offices are vacant, the public officer of the association.

"special general meeting" means a general meeting of the association other than an annual general meeting or ordinary general meeting.

"treasurer" means:

(a) the person holding office under this constitution as treasurer of the association, or

(b) the committee member temporarily exercising the function of treasurer in accordance with clause 17A

"the Act" means the *Associations Incorporation Act 2009*.

"the Regulation" means the *Associations Incorporation Regulation 2016*.

(2) In this constitution:

(a) a reference to a function includes a reference to a power, authority and duty, and

(b) a reference to the exercise of a function includes, if the function is a duty, a reference to the performance of the duty.

(3) The provisions of the *Interpretation Act 1987* apply to and in respect of this constitution in the same manner as those provisions would so apply if this constitution were an instrument made under the Act.

1A Statement of objects

The objects of the association are:

- (a) to improve the status and promote the interests of referees;
- (b) to improve the standard of refereeing;
- (c) to promote a close relationship with approved national, state, regional and local football organisations;
- (d) to assist all such bodies in promoting the best interests of the game;
- (e) to furnish referees and assistant referees to officiate at as many football games as possible; and
- (f) to actively recruit and retain as many active members as possible.

Part 2 - Membership

2 Membership generally

(1) A person is eligible to be a member of the association if:

- (a) the person is a natural person, and
- (aA) the person meets any requirements for the membership grade that the person seeks to be admitted under, as stipulated in the by-laws.

(2) A person is taken to be a member of the association if:

- (a) the person is a natural person, and
- (b) the person was:
 - (i) in the case of an unincorporated body that is registered as the association - a member of that unincorporated body immediately before the registration of the association, or

(ii) in the case of an association that is amalgamated to form the relevant association - a member of that other association immediately before the amalgamation, or

(iii) in the case of a registrable corporation that is registered as an association - a member of the registrable corporation immediately before that entity was registered as an association.

(3) A person is taken to be a member of the association if the person was one of the individuals on whose behalf an application for registration of the association under section 6 (1) (a) of the Act was made.

2A Membership grades

(1) The association may adopt a by-law allowing for different membership grades.

(2) A by-law adopted under subclause (1) may, for different membership grades:

(a) impose different eligibility requirements for admission to membership, as stipulated in clause 2

(b) impose different processes for becoming a member, as stipulated in clause 3, or

(c) impose different conditions for cessation of membership, as stipulated in clause 4, or

(d) impose different joining or annual membership fees, as stipulated in clause 8, or

(e) impose different rights, including voting rights at general meetings, as stipulated in clause 27B, or otherwise

(f) confer different rights, privileges and/or entitlements, and/or impose different duties and/or obligations.

(3) A by-law adopted under this clause must also stipulate the circumstances under which a member may move between various membership grades and the process (if any) for doing so.

(4) At least one membership grade provided for in a by-law adopted under this clause must be a full membership grade.

(5) All members of the association aged 18 years or more at the time of adoption of this constitution must be assigned to a full membership grade.

(6) Despite the operation of any by-law, full members must not be moved to a membership grade other than another full membership grade without their express consent.

3 Becoming a member

(1) The association must adopt a by-law governing the process of becoming a member of the association.

(2) A by-law adopted under subclause (1) may provide for different processes for becoming a member based on the membership grade a prospective member seeks to be admitted under.

(3) Until such time that a by-law is adopted in accordance with subclause (1), the process for becoming a member of the association in clause 3 of Schedule 1 to the Regulation applies.

4 Cessation of membership

A person ceases to be a member of the association if the person:

(a) dies, or

(b) resigns membership, or

(c) is expelled from the association, or

(d) fails to pay the annual membership fee under clause 8 (2) within 3 months after the fee is due, or

(dA) otherwise ceases to be a member as stipulated by the by-laws in accordance with their membership grade.

4A Suspension of membership

(1) A member is suspended from membership of the association if the member:

(a) fails to pay any amount due and payable to the association by the end of the day it is due, or

(b) is suspended in accordance with clause 11 (4), and such a suspension has taken effect in accordance with clause 11 (6).

(2) The association must adopt a by-law that outlines the effect of suspension on any rights, privileges or obligations of a member.

(3) The committee may, by resolution, narrow the effect of a suspension imposed in accordance with clause 11 (4) if the committee is of the opinion that it is in the interests of the association to do so.

(4) The committee may, by resolution, wholly defer or narrow the effect of a suspension imposed under subclause (1) (a) if such narrowing or deferral would:

(a) prevent or alleviate undue hardship, or

(b) be likely to facilitate expeditious payment of an amount that is due and payable.

(5) There is no right of appeal in relation to a suspension imposed under subclause (1) (a).

5 Membership entitlements not transferable

A right, privilege or obligation which a person has by reason of being a member either generally or within a membership grade of the association:

(a) is not capable of being transferred or transmitted to another person, and

(b) terminates on cessation of the person's membership.

6 Resignation of membership

(1) A member of the association may resign from membership of the association by first giving to the secretary written notice of at least 1 month (or some other period as stipulated in the by-laws) of the member's intention to resign and, on the expiration of the period of notice, the member ceases to be a member.

(1A) A member may, in writing to the secretary, withdraw a notice of resignation given under subclause (1) before the expiration of the period of notice.

(1B) If a resignation under subclause (1) is withdrawn in accordance with subclause (1A), the member continues to be a member on the expiration of the period of notice in subclause (1).

(2) If a member of the association ceases to be a member under subclause (1), and in every other case where a member ceases to hold membership, the secretary must make an appropriate entry in the register of members recording the date on which the member ceased to be a member.

7 Register of members

(1) The secretary must establish and maintain a register of members of the association (whether in written or electronic form) specifying the name, membership grade and postal, residential or email address of each person who is a member of the association together with the date on which the person became a member, and the date on which the member was admitted to each membership grade that they have held.

(2) The register of members must be kept in New South Wales:

(a) at the main premises of the association, or

(b) if the association has no premises, at the association's official address.

(3) The register of members must be open for inspection, free of charge, by any member of the association at any reasonable hour.

(4) A member of the association may obtain a copy of any part of the register on payment of a fee of not more than \$1 for each page copied.

(5) If a member requests that any information contained on the register about the member (other than the member's name) not be available for inspection, that information must not be made available for inspection.

(6) A member must not use information about a person obtained from the register to contact or send material to the person, other than for:

(a) the purposes of sending the person a newsletter, a notice in respect of a meeting or other event relating to the association or other material relating to the association,
or

(b) any other purpose necessary to comply with a requirement of the Act or the Regulation.

(7) If the register of members is kept in electronic form:

(a) it must be convertible into hard copy, and

(b) the requirements in subclauses (2) and (3) apply as if a reference to the register of members is a reference to a current hard copy of the register of members.

8 Fees and subscriptions

(1) A member of the association must, on admission to membership, pay to the association a fee of \$1 or, if some other amount is stipulated in the by-laws, that other amount.

(1A) The association must adopt a by-law stating the date in the financial year that annual membership fees are due to be paid by.

(1B) The date stipulated in accordance with subclause (1A) is the annual subscription date.

(1C) Until such time that a by-law is adopted in accordance with subclause (1A), the annual subscription date is 15 March.

(2) In addition to any amount payable by the member under subclause (1), a member of the association must pay to the association an annual membership fee of \$2 or, if some other amount is stipulated in the by-laws, that other amount.

(a) except as provided by paragraph (b), on or before the annual subscription date in each financial year, or

(b) if the member becomes a member after the the annual subscription date in any financial year - on becoming a member and before the annual subscription date in each succeeding financial year.

(2A) A by-law that sets joining fees and annual membership fees in accordance with subclauses (1) and (2) respectively, may allow for different fees for different membership grades.

9 Members' liabilities

The liability of a member of the association to contribute towards the payment of the debts and liabilities of the association or the costs, charges and expenses of the winding up of the association is limited to the amount, if any, unpaid by the member in respect of membership of the association as required by clause 8.

10 Resolution of disputes

(1) A dispute between a member and another member (in their capacity as members) of the association, or a dispute between a member or members and the association, are to be referred to a Community Justice Centre for mediation under the *Community Justice Centres Act 1983*.

(2) If a dispute is not resolved by mediation within 3 months of the referral to a Community Justice Centre, the dispute is to be referred to arbitration.

(3) The *Commercial Arbitration Act 2010* applies to a dispute referred to arbitration.

(3A) The association may adopt a by-law outlining an alternative dispute resolution process for disputes relating to a given subject matter.

11 Disciplining of members

(1) A complaint may be made to the committee by any person that a member of the association:

(a) has refused or neglected to comply with a provision or provisions of this constitution or any by-law, or

(b) has wilfully acted in a manner prejudicial to the interests of the association.

(2) The committee may refuse to deal with a complaint if it considers the complaint to be trivial or vexatious in nature.

(3) If the committee decides to deal with the complaint, the committee:

(a) must cause notice of the complaint to be served on the member concerned, and

(b) must give the member at least 14 days from the time the notice is served within which to make submissions to the committee in connection with the complaint, and

(c) must take into consideration any submissions made by the member in connection with the complaint.

(4) The committee may, by resolution:

(a) expel the member from the association, or

(b) suspend the member from membership of the association, or

(c) impose some other disciplinary sanction as provided for in the by-laws

if, after considering the complaint and any submissions made in connection with the complaint, it is satisfied that the facts alleged in the complaint have been proved and the expulsion or suspension is warranted in the circumstances.

(5) If the committee imposes a sanction in accordance with subclause (4), the secretary must, within 7 days after the action is taken, cause written notice to be given to the member of the action taken, of the reasons given by the committee for having taken that action and of the member's right of appeal under clause 12.

(6) The sanction imposed does not take effect:

(a) until the expiration of the period within which the member is entitled to appeal against the resolution concerned, or

(b) if within that period the member exercises the right of appeal, unless and until the association confirms the resolution under clause 12,

whichever is the later.

(6A) Nothing in this clause allows the association in general meeting to take disciplinary action against a member.

(6B) For the avoidance of doubt, the powers in this clause may be delegated by the committee to a sub-committee in accordance with clause 23.

12 Right of appeal of disciplined member

(1) A member may appeal to the association in general meeting against a resolution of the committee under clause 11, within 7 days after notice of the resolution is served on the member, by lodging with the secretary a notice to that effect.

(2) The notice may, but need not, be accompanied by a statement of the grounds on which the member intends to rely for the purposes of the appeal.

(3) On receipt of a notice from a member under subclause (1), the secretary must notify the committee, which is to convene a special general meeting (as provided for in clause 27) of the association to be held within 28 days after the date on which the secretary received the notice.

(4) At a special general meeting of the association convened under subclause (3):

(a) no business other than the question of the appeal is to be transacted, unless the disciplined member is a committee member and the association in general meeting proposes their removal from office under clause 19, and

(b) the committee and the member must be given the opportunity to state their respective cases orally or in writing, or both, and

(c) the members present are to vote by secret ballot on the question of whether the resolution should be confirmed, revoked, or amended.

(5) The decision on whether the resolution should be confirmed, revoked or amended is determined by ordinary resolution.

(5A) The determination of an appeal under this clause must be exercised by the association in general meeting and must not be exercised by the committee.

(5B) A resolution under this clause must not be determined by a postal or electronic ballot conducted under clause 36.

(5C) A resolution under subclause (5) that amends a resolution of the committee under clause 11 must not impose a more serious sanction than that originally imposed by the committee.

Part 2A - By-laws

12A Making, amending, replacing and repealing by-laws

(1) Either:

- (a) the committee, or
- (b) the association in general meeting,

may make, amend, replace or repeal by-laws that are necessary or desirable for management of the association.

(2) A by-law of the association may be made, amended, replaced or repealed by ordinary resolution or committee resolution.

(3) The secretary must notify each member of changes to the by-laws within 7 days of such a change.

(4) A by-law enters force once notice has been served on members in accordance with subclause (3).

(5) The committee must not make, amend, replace or repeal a by-law in a manner that has the effect of negating, reversing or undoing the making, amending, replacing or repealing of by-laws by the association in general meeting unless:

- (a) an annual general meeting has been held since the applicable by-laws were made, amended, replaced or repealed by the association in general meeting, or
- (b) the committee has the express permission of the association in general meeting to do so.

12B Effect of by-law

A by-law:

- (a) must be consistent with the Act, the Regulation and this constitution, and
- (b) when in force, is binding on all members and the association, and

(c) has the same effect as a provision in this constitution.

12C By-law for permanent conferral, modification or removal of function

(1) A decision of the committee or association in general meeting that provides for a permanent conferral upon, or modification or removal of a

(a) power, or

(b) authority, or

(c) duty, or

(d) right, or

(e) privilege, or

(f) obligation, or

(g) some other function

from or upon a member or members, or the association that is not enacted by modification of the constitution or objects (in accordance with clause 43) must be enacted by making, amending, replacing or repealing a by-law or by-laws.

(2) For the purposes of subclause (1), permanent means that which is not one-off, transient or temporary.

Part 3 - The committee

13 Powers of the committee

Subject to the Act, the Regulation, this constitution, any by-laws and any resolution passed by the association in general meeting, the committee:

(a) is to control and manage the affairs of the association, and

(b) may exercise all the functions that may be exercised by the association, other than those functions that are required by this constitution to be exercised by a general meeting of members of the association, and

(c) has power to perform all acts and do all things that appear to the committee to be necessary or desirable for the proper management of the affairs of the association.

14 Composition and membership of committee

(1) The committee is to consist of:

(a) the office-bearers of the association, and

(b) 2 ordinary committee members,

each of whom is to be elected at the annual general meeting of the association under clause 15, as well as any appointed committee members in accordance with subclause (1A).

(1A) Until otherwise provided for in the by-laws, the committee may appoint up to four additional committee members at any time after the annual general meeting.

(1B) The association may adopt a by-law that, in relation to committee members appointed under subclause (1A):

(a) dictates the method of appointment, or

(b) stipulates eligibility requirements for appointed committee members, or

(c) sets the maximum number of committee members permitted to be appointed to four or less (including none), or

(d) automatically appoints committee member(s) by virtue of holding another office in this association or some other organisation (ex officio), or

(e) provides for conditions in addition to those listed in clause 18 (2) (and if not altered or removed, those listed in clause 18 (2B)) that lead to a casual vacancy in the office of an appointed committee member

and such a by-law may bind the committee, individually and collectively.

Note : Section 28 of the Act contains further requirements concerning eligibility for membership and composition of the committee.

(2) The total number of committee members is to be at least 5, and at most 9.

(3) The office-bearers of the association are as follows:

(a) the president,

(b) the secretary,

(c) the treasurer.

(4) A committee member may hold only 1 office, but may temporarily exercise the functions of another office in accordance with clause 17A.

(5) There is no maximum number of consecutive terms for which a committee member may hold office.

Note : Schedule 1 to the Act provides that an association's constitution is to address the maximum number of consecutive terms of office of any office-bearers on the committee.

(6) Each:

(a) ordinary committee member, and

(b) appointed committee member (pursuant to subclause (1A)), unless provided otherwise in a by-law adopted in accordance with subclause (1B),

is, subject to this constitution and the by-laws, to hold office until immediately before the election of committee members at the annual general meeting next following the date of the member's election, and is eligible for re-election or reappointment.

(6A) Each office-bearer of the association is, subject to this constitution, to hold office until immediately before the election of committee members at the annual general meeting held on the third year following the date of the member's election, but is eligible for re-election.

14A Order of temporary succession

(1) The order of temporary succession for presiding meetings (clauses 20 and 30), exercising the functions of office-bearers (clause 17A), and any other purpose as may be stipulated in this constitution and the by-laws is, from first successor to last successor:

- (a) president, then
- (b) secretary, then
- (c) treasurer, then
- (d) elected ordinary committee members, ordered from most amount of votes received to least number of votes received, or if elected in separate ballots, in order of election, then
- (e) ordinary committee members appointed to fill a casual vacancy in accordance with clause 18, in order of appointment, then
- (f) committee members appointed under clause 14 (1A):
 - (i) in the order stipulated in relevant by-laws, or
 - (ii) until provided for in the by-laws, by order of appointment or re-appointment.

(2) For the purposes of subclauses (1) (e) and (1) (f), if multiple appointments are made in the same resolution or at the same time in accordance with clause 21A, the order that the appointees' names appear in the minutes of that resolution or appointment will also be the order of temporary succession.

15 Election of committee members

(1) Nominations of candidates for election as office-bearers of the association or as ordinary committee members:

- (a) must be made in writing, signed by 2 members of the association, both of whom are entitled to vote at general meetings, and accompanied by the written consent of the candidate (which may be endorsed on the form of the nomination), and
- (b) must be delivered to the secretary of the association at least 7 days before the date fixed for the holding of the annual general meeting at which the election is to take place.

(2) If insufficient nominations are received to fill all vacancies on the committee, the candidates nominated are taken to be elected and further nominations are to be received at the annual general meeting.

(3) If insufficient further nominations are received, any vacant positions remaining on the committee are taken to be casual vacancies.

(4) If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated are taken to be elected.

(5) If the number of nominations received exceeds the number of vacancies to be filled, a ballot is to be held.

(6) The ballot for the election of office-bearers and ordinary committee members of the committee is to be conducted at the annual general meeting in accordance with the by-laws, or in the absence of any relevant by-laws, in any usual and proper manner that the committee directs.

(7) A person nominated as a candidate for election as an office-bearer or as an ordinary committee member of the association must be a member of the association.

(7A) A nomination of a candidate for election shall no longer be valid once that candidate has been elected to another office at the same annual general meeting.

(7B) Despite any other provision in this constitution, the election of president will occur at annual general meetings held every three years after 2001 (e.g. 2004, 2007, 2010).

(7C) Despite any other provision in this constitution, the election of secretary will occur at annual general meetings held every three years after 2002 (e.g. 2005, 2008, 2011).

(7D) Despite any other provision in this constitution, the election of treasurer will occur at annual general meetings held every three years after 2003 (e.g. 2006, 2009, 2012).

15Z President

(1) A by-law may be adopted that assigns functions to the president in addition to those listed in this constitution.

(2) A by-law may be adopted that allows the president to delegate the functions listed in this constitution or a by-law (adopted in accordance with subclause (1)) to some other person or

persons, but ultimate fiduciary responsibility for these functions must remain with the president.

16 Secretary

(1) The secretary of the association must, as soon as practicable after being appointed as secretary, lodge notice with the association of his or her address.

(2) It is the duty of the secretary to keep minutes (whether in written or electronic form) of:

(a) all appointments of office-bearers and members of the committee, and

(b) the names of members of the committee present at a committee meeting or a general meeting, and

(c) all proceedings at committee meetings and general meetings, and

(cA) all results of postal or electronic ballots conducted in accordance with clause 36, and

(cB) all committee resolutions passed in accordance with clause 24A, and

(cC) all committee appointments by the president pursuant to clause 21.

(3) Minutes of proceedings at a meeting must be signed by the chairperson of the meeting or by the chairperson of the next succeeding meeting.

(4) The signature of the chairperson may be transmitted by electronic means for the purposes of subclause (3).

(4A) A by-law may be adopted that assigns functions to the secretary in addition to those listed in this clause or elsewhere in this constitution.

(4B) A by-law may be adopted that allows the secretary to delegate the functions listed in this clause, elsewhere in this constitution or a by-law (adopted in accordance with subclause (4A)) to some other person or persons, but ultimate fiduciary responsibility for these functions must remain with the secretary.

17 Treasurer

(1) It is the duty of the treasurer of the association to ensure:

(a) that all money due to the association is collected and received and that all payments authorised by the association are made, and

(b) that correct books and accounts are kept showing the financial affairs of the association, including full details of all receipts and expenditure connected with the activities of the association.

(1A) A by-law may be adopted that assigns functions to the treasurer in addition to those listed in this clause or elsewhere in this constitution.

(1B) A by-law may be adopted that allows the treasurer to delegate the functions listed in this clause, elsewhere in this constitution or a by-law (adopted in accordance with subclause (1A)) to some other person or persons, but ultimate fiduciary responsibility for these functions must remain with the treasurer.

17A Temporary exercise of office-bearer functions

(1) If:

(a) a casual vacancy occurs in the office of any office-bearer of the association, or

(b) an office-bearer notifies the committee that they are temporarily unable to exercise their functions due to absence, illness or any other reason,

their functions will be temporarily assumed and exercised by the holder of the first non-vacant committee member office listed in clause 14A, until such time that:

(c) the casual vacancy is filled, or

(d) the office-bearer notifies the committee that their temporary absence is complete.

(2) For the avoidance of doubt, if any of the circumstances in subclause (1) occur:

(a) in the office of president, the president's functions are temporarily assumed by the secretary (if the office of secretary is not vacant), or

(b) in the office of secretary or treasurer, the secretary's or treasurer's functions are temporarily assumed by the president (if the office of president is not vacant).

(3) If the committee member designated to temporarily exercise the functions of an office-bearer in accordance with subclause (1) is unwilling to do so, after notifying the committee of such, the responsibility will pass to the holder of next non-vacant committee member office listed in clause 14A.

(4) If no committee member is willing to temporarily exercise the functions of an office-bearer, they must be exercised by the holder of the first non-vacant office listed in clause 14A, regardless of their willingness to do so.

(5) The committee may determine that a member of the committee other than the committee member designated by clause 14A temporarily exercises the functions of an office-bearer.

(6) Nothing in this clause relates to the permanent filling of a casual vacancy, to which clause 18 applies.

(7) Nothing in this clause prevents the operation of clause 18 (2A) (c) should a temporary absence in accordance with subclause (1) (b) result in the committee member missing three consecutive meetings of the committee without the consent of the committee.

18 Casual vacancies

(1) In the event of a casual vacancy occurring in the membership of the committee, the committee or the association in general meeting may appoint a member of the association (with their consent) to fill the vacancy and the member so appointed is to hold office, subject to this constitution, until the conclusion of the current term of election or appointment would have concluded had no casual vacancy occurred.

(2) A casual vacancy in the office of a member of the committee occurs if the member:

(a) dies, or

(b) ceases to be a member of the association, or

(c) is or becomes an insolvent under administration within the meaning of the *Corporations Act 2001* of the Commonwealth, or

- (d) resigns office by notice in writing given to the secretary, or
- (e) is removed from office under clause 19, or
- (f) becomes a mentally incapacitated person, or
- (g) (moved to subclause 2A (c) from model rules)
- (h) is convicted of an offence involving fraud or dishonesty for which the maximum penalty on conviction is imprisonment for not less than 3 months, or
- (i) is prohibited from being a director of a company under Part 2D.6 (Disqualification from managing corporations) of the *Corporations Act 2001* of the Commonwealth, or
- (iC) is, with their consent, appointed or elected to a second office in the committee in accordance with subclause (1) or clause 14 (1A) (in which case, the first office held becomes vacant).

(2A) A casual vacancy in the office of an:

- (a) office-bearer or ordinary committee member, or
- (b) unless provided for in the by-laws, an appointed committee member (appointed under clause 14 (1A))

occurs if the member:

- (c) is absent without the consent of the committee from 3 consecutive meetings of the committee, or
- (d) other than
 - (i) reimbursement approved by the association in general meeting for out-of-pocket expenses incurred while undertaking the duties of office, or
 - (ii) payment for other duties, for which non-committee members of the association are regularly paid,

has any direct or indirect pecuniary interest in any agreement with the association, or some other company, association or entity (whether unincorporated or incorporated) that the association is a member of, either directly or transitively, or

(e) is a director, committee member or other officer holding a fiduciary duty to some other company, association or entity (whether unincorporated or incorporated) that the association is a member of, either directly or transitively, unless the other company, association or entity is explicitly excluded from the operation of this clause by a by-law.

(2B) The by-laws may stipulate other circumstances that lead to a casual vacancy in the office of an appointed committee member (appointed under clause 14 (1A)).

(2C) If the resigning committee member under subclause (2) (d) is the secretary, notice is to instead be provided to:

(a) if there are other remaining committee members, the secretary's temporary successor in accordance with clause 17A, otherwise

(b) if the office of public officer is neither vacant nor held by the secretary, the public officer, otherwise

(c) all members of the association.

(2D) For the purposes of subclause (2A) (c), a meeting of the committee means any of the following:

(a) a meeting of the committee that is conducted with a quorum and reaches its conclusion by virtue of all business to be transacted in accordance with clause 20 (4) being transacted, or

(b) an attempt to hold a meeting of the committee that is adjourned either at its start, or when partially completed due to failure to constitute or maintain a quorum in accordance with clause 20 (6), or

(c) an attempt to resume an adjourned meeting that was adjourned due to lack of a quorum in accordance with clause 20 (7), regardless of whether the meeting completes or is dissolved due to lack of a quorum,

but does not include a meeting that is adjourned for any reason other than lack of a quorum.

(2E) For the purposes of subclause (2A) (d), a direct or indirect pecuniary interest does not include an agreement between the association (or some other body referred to in subclause (2A) (d) that the association is a member of) and an incorporated entity, unincorporated

association or partnership that the committee member is a member of, unless the committee member holds or controls (either directly or indirectly) at least 4% of shares or voting rights in that other incorporated entity, unincorporated association or partnership.

19 Removal of committee members

(1) The association in general meeting may by resolution remove any member of the committee from the office of member before the expiration of the member's term of office and may by resolution appoint another person to hold office until the expiration of the term of office of the member so removed.

(2) If a member of the committee to whom a proposed resolution referred to in subclause (1) relates makes representations in writing to the secretary or president (not exceeding a reasonable length) and requests that the representations be notified to the members of the association, the secretary or the president may send a copy of the representations to each member of the association or, if the representations are not so sent, the member is entitled to require that the representations be read out at the meeting at which the resolution is considered.

(2A) The power to remove a committee member (in accordance with this clause) must be exercised by the association in general meeting and must not be exercised by the committee, regardless of whether the committee member was elected or appointed.

(2B) A resolution under this clause must not be determined by a postal or electronic ballot conducted under clause 36.

20 Committee meetings and quorum

(1) The committee must meet at least 3 times in each period of 12 months at the place and time that the committee may determine.

(2) Additional meetings of the committee may be convened by the president or by any member of the committee.

(3) Oral or written notice of a meeting of the committee must be given by the secretary to each member of the committee at least 48 hours (or any other period that may be

unanimously agreed on by the members of the committee) before the time appointed for the holding of the meeting.

(4) Notice of a meeting given under subclause (3) must specify the general nature of the business to be transacted at the meeting and no business other than that business is to be transacted at the meeting, except business which the committee members present at the meeting unanimously agree to treat as urgent business.

(5) The number of committee members required to constitute a quorum for the transaction of the business of a meeting of the committee is:

(a) always at least 3, and

(b) if there are an even number of committee members, half of the number of committee members plus 1, otherwise

(c) if there are an odd number of committee members, half of the number of committee members, rounded up to the nearest whole number.

(6) No business is to be transacted by the committee unless a quorum is present and if, within half an hour of the time appointed for the meeting, a quorum is not present, the meeting is to stand adjourned to the same place and at the same hour of the same day in the following week.

(7) If at the adjourned meeting a quorum is not present within half an hour of the time appointed for the meeting, the meeting is to be dissolved.

(8) At a meeting of the committee:

(a) if the president is present and willing to act, the president is to preside, otherwise

(b) the holder or temporary exerciser (in accordance with clause 17A) of the first committee member office listed in clause 14A that is present and willing to act presides, otherwise

(c) the holder or temporary exerciser (in accordance with clause 17A) of the first committee member office listed in clause 14A that is present presides, despite any unwillingness to act.

(8A) The association may adopt a by-law allowing for and outlining the process for committee members unable to attend meetings of the committee to appoint a proxy to act, speak, vote and exercise any other right or privilege on their behalf in committee meetings.

(8B) Until such time that a by-law is passed in accordance with subclause (8A), proxies are not permitted at committee meetings.

21 Appointment of association members as committee members to constitute quorum

(1) If at any time the number of committee members holding office is less than the number required to constitute a quorum for a committee meeting, the president may appoint a sufficient number of members of the association (with their consent) as committee members to enable the quorum to be constituted.

Note : The sole purpose of this clause is to provide for replacement committee members if the number of committee members holding office falls below the minimum required for a quorum, which would make committee meetings impossible. Without this clause, the committee would otherwise need to convene a general meeting to fill a casual vacancy on the committee. Allowing the president to appoint replacement committee members allows the committee to resume holding committee meetings to manage the affairs of the association (as required by Section 28 of the Act) without delay.

(1A) For the avoidance of doubt, this clause will only operate when there are less than 3 committee members holding office.

(1B) An appointment under this clause must be recorded in the minutes of the association.

(2) A member of the committee so appointed is to hold office, subject to this constitution, as an appointed committee member in accordance with clause 14 (1A).

(2A) In applying subclause (1), a by-law or provisions of a by-law relating to appointed committee members in accordance with clause 14 (1B) may be disregarded (but only to the minimum extent required) to enable the president to appoint enough committee members to constitute a quorum.

(2B) If the provisions of subclause (2A) are utilised, the reason or reasons for doing so must be recorded in the notice of appointment and in the minutes.

(3) This clause does not apply to the filling of a casual vacancy to which clause 18 applies.

22 Use of technology at committee meetings

(1) A committee meeting may be held at 2 or more venues using any technology approved by the committee that gives each of the committee's members a reasonable opportunity to participate.

(2) A committee member who participates in a committee meeting using that technology is taken to be present at the meeting and, if the member votes at the meeting, is taken to have voted in person.

23 Delegation by committee to sub-committee or officer

(1) The committee may, by instrument in writing, delegate to one or more

(a) sub-committees (consisting of such person or persons that the committee thinks fit), or

(b) officers (each of whom are natural persons)

the exercise of any of the functions of the committee that are specified in the instrument, other than:

(c) this power of delegation, and

(d) a function which is a duty imposed on the committee by the Act or by any other law.

(2) A function the exercise of which has been delegated to a sub-committee or officer under this clause may, while the delegation remains unrevoked, be exercised from time to time by the sub-committee or officer in accordance with the terms of the delegation.

(3) A delegation under this clause may be made subject to any conditions or limitations as to the exercise of any function, or as to time or circumstances, that may be specified in the instrument of delegation.

(4) Despite any delegation under this clause, the committee may continue to exercise any function delegated.

(5) Any act or thing done or suffered by a sub-committee or officer acting in the exercise of a delegation under this clause has the same force and effect as it would have if it had been done or suffered by the committee.

(6) The committee may, by instrument in writing, revoke wholly or in part any delegation under this clause.

(7) A sub-committee may meet and adjourn as it thinks proper.

(7A) Any delegation of authority that results in the creation of a:

(a) permanent or standing sub-committee (rather than a temporary or special committee), or

(b) a permanent office (in accordance with subclause (1) (b))

must be done by creation of a by-law in accordance with clause 12C.

24 Voting and decisions

(1) Questions arising at a meeting of the committee or of any sub-committee appointed by the committee are to be determined by a majority of the votes of members of the committee or sub-committee present at the meeting.

(2) Each member present at a meeting of the committee or of any sub-committee appointed by the committee (including the person presiding at the meeting) is entitled to one vote but, in the event of an equality of votes on any question, the person presiding may exercise a second or casting vote.

(3) Subject to clause 20 (5), the committee may act despite any vacancy on the committee.

(4) Any act or thing done or suffered, or purporting to have been done or suffered, by the committee or by a sub-committee appointed by the committee, is valid and effectual despite any defect that may afterwards be discovered in the appointment or qualification of any member of the committee or sub-committee.

24A Circulating committee resolutions

- (1) The committee may pass a committee resolution without a committee meeting being held if all committee members sign a document containing a statement that they are in favour of the resolution set out in the document.
- (2) Separate copies of the document may be used for signing by committee members if the wording of the resolution and statement is identical in each copy.
- (3) The resolution is passed when both:
 - (a) the last committee member signs, and
 - (b) the resolution is recorded in the minutes.
- (4) Circulation and signing of a document in accordance with clause (1) and notification of the secretary in accordance with clause (3) may be undertaken by email or other electronic means.
- (5) No committee resolution may be passed under this clause unless at the time of passing, there are enough committee members to constitute a quorum for a committee meeting.

Part 4 - General meetings

25 Annual general meetings - holding of

- (1) The association must hold its first annual general meeting within 18 months after its registration under the Act.
- (2) The association must hold its annual general meetings:
 - (a) within 6 months after the close of the association's financial year, or
 - (b) within any later time that may be allowed or prescribed under section 37 (2) (b) of the Act.

26 Annual general meetings - calling of and business at

(1) The annual general meeting of the association is, subject to the Act and to clause 25, to be convened on the date and at the place and time that the committee thinks fit.

(2) In addition to any other business which may be transacted at an annual general meeting, the business of an annual general meeting is to include the following:

(a) to confirm the minutes of the last preceding annual general meeting and of any special general meeting held since that meeting,

(b) to receive from the committee reports on the activities of the association during the last preceding financial year,

(c) to elect office-bearers of the association and ordinary committee members,

(d) to receive and consider any financial statement or report required to be submitted to members under the Act.

(3) An annual general meeting must be specified as that type of meeting in the notice convening it.

27 Special general meetings - calling of

(1) The committee may, whenever it thinks fit, convene a special general meeting of the association.

(2) The committee must, on the requisition of at least 5% of the total number of members eligible to vote at general meetings, convene a special general meeting of the association.

(3) A requisition of members for a special general meeting:

(a) must be in writing, and

(b) must state the purpose or purposes of the meeting, and

(c) must be signed by the members making the requisition, and

(d) must be lodged with the secretary, and

(e) may consist of several documents in a similar form, each signed by one or more of the members making the requisition.

(4) If the committee fails to convene a special general meeting to be held within 1 month after the date on which a requisition of members for the meeting is lodged with the secretary, any one or more of the members who made the requisition may convene a special general meeting to be held not later than 3 months after that date.

(4A) If all committee member offices are vacant, any member may immediately convene a special general meeting, provided the only business to be conducted at the convened special general meeting is appointment of a president by the association in general meeting in accordance with clause 18 (1).

(4B) Nothing in subclause (4A) allows the notice provisions in clause 28 to be contravened.

(5) A special general meeting convened by a member or members as referred to in subclause (4) or (4A) must be convened as nearly as is practicable in the same manner as general meetings are convened by the committee.

(6) For the purposes of subclause (3):

(a) a requisition may be in electronic form, and

(b) a signature may be transmitted, and a requisition may be lodged, by electronic means.

27A Ordinary general meetings

(1) The association may adopt a by-law that allows for general meetings to be held on regular dates, at a regular time, which are ordinary general meetings.

(2) A by-law adopted in accordance with this clause does not constitute notice of such a general meeting, which must still be given in accordance with clause 28.

27B Members' rights and privileges at general meetings

(1) A by-law relating to membership grades (in accordance with clause 2A) may dictate which membership grades may exercise the rights in subclause (3), subject to subclause (4).

(2) A by-law relating to suspension (in accordance with clause 4A) may dictate whether suspended members may exercise the rights in subclause (3).

(3) The rights and privileges at general meetings are:

(a) attending general meetings, or

(b) speaking at general meetings, or

(c) voting at general meetings (which includes the right to propose or second motions), or

(d) presiding as chairperson at general meetings (if required or elected to do so), or

(e) any other right or privilege, as is customary or determined by the committee, at general meetings.

(4) Any by-law adopted in accordance with clause 2A must stipulate that full members have the right to attend, speak, vote (and propose or second motions), and preside as chairperson (if required or elected to do so) at general meetings.

28 Notice

(1) Except if the nature of the business proposed to be dealt with at a general meeting requires a special resolution of the association, the secretary must, at least 7 days before the date fixed for the holding of the general meeting, give a notice to each member specifying the place, date and time of the meeting and the nature of the business proposed to be transacted at the meeting.

(2) If the nature of the business proposed to be dealt with at a general meeting requires a special resolution of the association, the secretary must, at least 21 days before the date fixed for the holding of the general meeting, cause notice to be given to each member specifying, in addition to the matter required under subclause (1), the intention to propose the resolution as a special resolution.

Note : A special resolution must be passed in accordance with section 39 of the Act.

(3) Unless provided for in the by-laws, no business other than that specified in the notice convening a general meeting is to be transacted at the meeting except, in the case of an annual general meeting, business which may be transacted under clause 26 (2).

(4) A member desiring to bring any business before a general meeting may give notice in writing of that business to the secretary who, provided it is consistent with the by-laws to do so, must include that business in the next notice calling a general meeting given after receipt of the notice from the member.

29 Quorum for general meetings

(1) No item of business is to be transacted at a general meeting unless a quorum of members entitled under this constitution to vote is present during the time the meeting is considering that item.

(2) Fifteen members entitled under this constitution to vote at a general meeting being present constitute a quorum for the transaction of the business of a general meeting.

(3) If within half an hour after the appointed time for the commencement of a general meeting a quorum is not present, the meeting:

(a) if convened on the requisition of members, other than under clause 27 (4A) - is to be dissolved, and

(b) in any other case - is to stand adjourned to the same day in the following week at the same time and (unless another place is specified at the time of the adjournment by the person presiding at the meeting or communicated by written notice to members given before the day to which the meeting is adjourned) at the same place.

(4) If at the adjourned meeting a quorum is not present within half an hour after the time appointed for the commencement of the meeting, and

(a) the meeting is an annual general meeting or a meeting convened in accordance with clause 27, the members present (being at least 9) are to constitute a quorum, otherwise

(b) the meeting will be dissolved.

30 Presiding member

(1) The president is to preside as chairperson at each general meeting of the association.

(1A) If the president is absent or unwilling to act, the holder or temporary exerciser (in accordance with clause 17A) of the first committee member office listed in clause 14A that is present and willing to act presides as chairperson at the meeting (provided that the committee member has the right to preside at a general meeting in accordance with clause 27B).

(2) If all committee members (with the right to preside at a general meeting in accordance with clause 27B) are either absent or unwilling to act, the members present must elect one of their number to preside as chairperson at the meeting.

(2A) The association may adopt a by-law dictating general meeting standing orders, order or business, or any other general meeting procedures, and such a by-law may bind the presiding member and secretary.

31 Adjournment

(1) The chairperson of a general meeting at which a quorum is present may, with the consent of the majority of members present at the meeting, adjourn the meeting from time to time and place to place, but no business is to be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.

(2) If a general meeting is adjourned for 14 days or more, the secretary must give written or oral notice of the adjourned meeting to each member of the association stating the place, date and time of the meeting and the nature of the business to be transacted at the meeting.

(3) Except as provided in subclauses (1) and (2), notice of an adjournment of a general meeting or of the business to be transacted at an adjourned meeting is not required to be given.

32 Making of decisions

(1) A question arising at a general meeting of the association is to be determined by:

(a) a show of hands or, if the meeting is one to which clause 37 applies, any appropriate corresponding method that the committee may determine, or

(b) if on the motion of the chairperson or if 5 or more members present at the meeting decide that the question should be determined by a written ballot - a written ballot.

(2) If the question is to be determined by a show of hands, a declaration by the chairperson that a resolution has, on a show of hands, been carried or carried unanimously or carried by a particular majority or lost, or an entry to that effect in the minute book of the association, is evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against that resolution.

(3) Subclause (2) applies to a method determined by the committee under subclause (1) (a) in the same way as it applies to a show of hands.

(4) If the question is to be determined by a written ballot, the ballot is to be conducted in accordance with the directions of the chairperson.

33 Special resolutions

A special resolution may only be passed by the association in accordance with section 39 of the Act.

34 Voting

(1) Until provided for in a by-law as stipulated in clause 27B, on any question arising at a general meeting of the association a member has one vote.

(2) In the case of an equality of votes on a question at a general meeting, the chairperson of the meeting is entitled to exercise a second or casting vote.

(3) A member is not entitled to vote at any general meeting of the association unless all money due and payable by the member to the association has been paid.

(3A) Despite any by-law, or any determination by the committee or the association in general meeting, the operation of subclause (3) must not be stayed under any circumstances.

(4A) A by-law may stipulate, in accordance with clause 4A (2), whether or not a member suspended in accordance with clause 4A (1) (b) and clause 11 may vote.

35 Proxy votes at general meetings

(1) Members with voting rights (in accordance with clause 27B) are entitled to vote by proxy at general meetings.

(2) A proxy vote shall be effective for all decisions that are decided at any meeting as if the person were present at the time.

(3) The association must adopt a by-law dictating:

(a) the form of proxy that is acceptable, and

(b) the number of proxy votes that a member may hold, and

(c) how proxies are to be served and delivered for use at a general meeting.

Note : Schedule 1 to the Act provides that an association's constitution is to address whether members of the association are entitled to vote by proxy at general meetings.

36 Postal or electronic ballots

(1) The association may hold a postal or electronic ballot (as the committee determines) to determine any issue or proposal (other than an appeal under clause 12 or removal of a committee member under clause 19).

(1A) For the avoidance of doubt, a postal or electronic ballot held in accordance with subclause (1) may be used to determine any issue, proposal or question arising, or pass any ordinary or special resolution that:

(a) the Act, or

(b) the Regulation, or

(c) this constitution, or

(d) the by-laws (unless the by-law providing for the subject matter of the issue, proposal, question arising or resolution expressly states that postal or electronic ballots must not be used)

allow(s) or require(s) the association in general meeting to determine or resolve (other than an appeal under clause 12 or removal of a committee member under clause 19).

(2) A postal or electronic ballot is to be conducted in accordance with Schedule 3 to the Regulation.

37 Use of technology at general meetings

(1) A general meeting may be held at 2 or more venues using any technology approved by the committee that gives each of the association's members a reasonable opportunity to participate.

(2) A member of an association who participates in a general meeting using that technology is taken to be present at the meeting and, if the member votes at the meeting, is taken to have voted in person.

Part 5 - Miscellaneous

38 Insurance

(1) The association may effect and maintain insurance for

(a) the association itself, or

(b) individual members.

(2) The by-laws may require that members within certain membership grades or undertaking certain activities are to be covered by a stipulated level of insurance.

39 Funds - source

(1) The funds of the association are to be derived from entrance fees and annual subscriptions of members, donations and, subject to any resolution passed by the association in general meeting, any other sources that the committee determines.

(2) All money received by the association must be deposited as soon as practicable and without deduction to the credit of the association's bank or other authorised deposit-taking institution account.

(3) The association must, as soon as practicable after receiving any money, issue an appropriate receipt.

40 Funds - management

(1) Subject to any resolution passed by the association in general meeting, the funds of the association are to be used solely in pursuance of the objects of the association in the manner that the committee determines.

(2) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by 2 authorised signatories.

41 Association is non-profit

Subject to the Act and the Regulation, the association must apply its funds and assets solely in pursuance of the objects of the association and must not conduct its affairs so as to provide a pecuniary gain for any of its members.

Note : Section 5 of the Act defines "pecuniary gain" for the purpose of this clause.

42 Distribution of property on winding up of association

(1) Subject to the Act and the Regulation, in a winding up of the association, any surplus property of the association is to be transferred to another organisation with similar objects and which is not carried on for the profit or gain of its individual members.

(2) In this clause, a reference to the surplus property of an association is a reference to that property of the association remaining after satisfaction of the debts and liabilities of the association and the costs, charges and expenses of the winding up of the association.

Note : Section 65 of the Act provides for distribution of surplus property on the winding up of an association.

43 Change of name, objects and constitution

An application for registration of a change in the association's name, objects or constitution in accordance with section 10 of the Act is to be made by the public officer or a committee member.

43A Precedence of instruments

(1) In the event of any inconsistency between instruments of the association, such inconsistency is to be resolved so that the instrument with higher precedence prevails.

(2) The precedence of instruments, from highest to lowest, is as follows:

(a) the Act, then

(b) the Regulation, then

(c) this constitution, then

(d) the by-laws, then

(e) ordinary resolutions (either by the association in general meeting or by electronic or postal ballot), from most recently passed to least recently passed, then

(f) committee resolutions, from most recently passed to least recently passed, then

(g) exercise of office-bearer functions, or delegated authority (under clause 23), from most recent exercise to least recent exercise.

43B Electronic transactions

The provisions of the *Electronic Transactions Act 2000* apply to any requirement:

(a) in this constitution, or

(b) in the by-laws, or

(c) imposed by decisions of the association in general meeting, or

(d) imposed by decisions of the committee

to the same extent that they apply to the laws of New South Wales, and each member and the association are taken to have consented to any such requirement being met or fulfilled by electronic means for the purposes of the *Electronic Transactions Act 2000*.

44 Custody of books etc

Except as otherwise provided by this constitution, all records, books and other documents relating to the association must be kept in New South Wales:

- (a) at the main premises of the association, in the custody of the public officer or a member of the association (as the committee determines), or
- (b) if the association has no premises, at the association's official address, in the custody of the public officer.

45 Inspection of books etc

(1) The following documents must be open to inspection, free of charge, by a member of the association at any reasonable hour:

- (a) records, books and other financial documents of the association,
- (b) this constitution,
- (bA) the by-laws,
- (c) minutes of all committee meetings and general meetings of the association,
- (cA) minutes of all sub-committee meetings,
- (cB) minutes of all resolutions decided by postal or electronic ballot in accordance with clause 36,
- (cC) minutes of committee resolutions passed in accordance with clause 24A,
- (cD) minutes of all committee appointments made by the president in accordance with clause 21.

(2) A member of the association may obtain a copy of any of the documents referred to in subclause (1) on payment of a fee of not more than \$1 for each page copied.

(3) Despite subclauses (1) and (2), the committee may refuse to permit a member of the association to inspect or obtain a copy of records of the association that relate to

confidential, personal, employment, commercial or legal matters or where to do so may be prejudicial to the interests of the association.

(3A) The power to either deny inspection or refuse to grant a copy of records exercised by the committee in subclause (3) may be overridden by the association in general meeting.

46 Service of notices

(1) For the purpose of this constitution, a notice may be served on or given to a person:

(a) by delivering it to the person personally, or

(b) by sending it by pre-paid post to the address of the person, or

(c) by sending it by facsimile transmission or some other form of electronic transmission to an address specified by the person for giving or serving the notice.

(2) For the purpose of this constitution, a notice is taken, unless the contrary is proved, to have been given or served:

(a) in the case of a notice given or served personally, on the date on which it is received by the addressee, and

(b) in the case of a notice sent by pre-paid post, on the date when it would have been delivered in the ordinary course of post, and

(c) in the case of a notice sent by facsimile transmission or some other form of electronic transmission, on the date it was sent or, if the machine from which the transmission was sent produces a report indicating that the notice was sent on a later date, on that date.

47 Financial year

The financial year of the association is:

(a) the period of time commencing on the date of incorporation of the association and ending on the following 30 September, and

(b) each period of 12 months after the expiration of the previous financial year of the association, commencing on 1 October and ending on the following 30 September.

Notes :

1. Schedule 1 to the Act provides that an association's constitution is to address the association's financial year.
2. Clause 19 of the Regulation contains a substitute clause 47 for certain associations incorporated under the *Associations Incorporation Act 1984*.