



**Consumers of  
Mental Health WA**

*Listen. Advocate. Change.*

Constitution of

Consumers of Mental Health WA (Inc)

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# Constitution of CoMHWA

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## NAME OF ASSOCIATION

The Association shall be called **Consumers of Mental Health WA (Inc)** (here in after referred to as the **Association**).

## 1. DEFINITIONS

In these rules, unless the contrary intention appears:

- 1.1 **Act** means the *Associations Incorporation Act 2015 (WA)* as amended, re-enacted or replaced from time to time and includes all subordinate legislation made under it.
- 1.2 **Annual General Meeting** means a meeting convened under rule 24.1.
- 1.3 **Associate Member** means a member of the Association admitted in accordance with rule 8.3.
- 1.4 **Association** means Consumers of Mental Health WA (Inc).
- 1.5 **Board** means the persons elected to the positions contained in rule 15.1 and **Board Member** means any one of them.
- 1.6 **Board Meeting** means a meeting referred to in rule 22.1.
- 1.7 **Chairperson** means the person performing the functions described in rule 18.
- 1.8 **Chief Executive Officer** means the person appointed in accordance with rule 23.1.
- 1.9 **Commissioner** means the person designated as the Commissioner under section 153 of the Act.
- 1.10 **Consumer** means a person who identifies as having a current or past lived experience of psychological or emotional issues, distress or problems, irrespective of whether they have a diagnosed mental illness and/or have received treatment.
- 1.11 **Consumer Group Member** means a member of the Association admitted in accordance with rule 8.2.
- 1.12 **Constitution** means the rules of the Association contained in this document.
- 1.13 **Department** means the department of the Public Service principally assisting in administration of the Act.
- 1.14 **Financial Year** means a period commencing 1 July and ending on 30 June in the following year.

- 1.15 **General Meeting** means a meeting to which all Members are entitled to receive notice of and attend.
- 1.16 **Individual Member** means a member of the Association admitted in accordance with rule 8.1.
- 1.17 **Member** means an Individual Member, a Consumer Group Member or an Associate Member.
- 1.18 **Objectives and Purpose** means the objectives of the Association contained in rule 4 and the purpose of the Association contained in rule 3.
- 1.19 **Office Bearer** means a person holding one of the offices specified in rule 15.3.
- 1.20 **Ordinary Resolution** means a resolution passed at any meeting by a majority of those persons present and entitled to vote under these rules on the resolution.
- 1.21 **Poll** means voting conducted in written form (as opposed to a show of hands).
- 1.22 **Principles** means the principles contained in rule 4.2.
- 1.23 **Principal Place of Business** is a reference to the principal place of business of the Association.
- 1.24 **Recovery** means personal recovery; living a meaningful life from the perspective of the individual. It is a personal process, as opposed to clinical recovery (asymptomatic/cure) or social recovery (functionality/rehabilitation focus only) paradigm.
- 1.25 **Secretary** means the person performing the functions described in rule 20.
- 1.26 **Special General Meeting** means a General Meeting other than an Annual General Meeting.
- 1.27 **Special Resolution** means a resolution passed by a majority of not less than 75% of the Members who are present and entitled under these rules to vote on the resolution.
- 1.28 **Treasurer** means the person performing the functions described in rule 21.
- 1.29 **Values** means the values of the Association contained in rule 5.
- 1.30 **Vice-Chairperson** means the Vice-Chairperson referred to in rule 18.
- 1.31 A reference to a rule is a rule in this Constitution.
- 1.32 A reference to a person includes an individual, body corporate or association.

## **OBJECTIVES AND PURPOSE**

### **2. VISION**

We are working for a world where people with lived experience of mental health issues are self-directed, self-empowered, respected and connected to community.

### **3. CORE PURPOSE**

To coordinate, promote and support the Consumer voice within mental health services and the wider community.

As the peak body in Western Australia for Consumers, to strengthen and advance the voice, leadership and expertise of people with lived experience of mental health issues.

### **4. OBJECTIVES**

4.1 The Objectives of the Association are as follows:

- (a) To promote respect for, and uphold the dignity and human rights of, Consumers and all members of the broader community.
- (b) To inform, educate and raise awareness and acceptance for Consumer rights and wellbeing within the mental health services and wider community.
- (c) To promote and support peer support and the peer workforce.
- (d) To provide advocacy and lead change with and for Consumers.
- (e) To promote and support recovery and wellbeing with and for Consumers.
- (f) To be a progressive, effective, sustainable and well governed organisation.
- (g) To provide services promoting and supporting the above Objectives.

4.2 The Association will adhere to the following Principles in its effort to achieve the Objectives:

- (a) develop and nurture collaborative relationships.
- (b) be accountable, transparent and accessible.

4.3 The Association is a not-for-profit organisation, incorporated under the Act with Deductible Gift Recipient status as that term is defined in the *Income Tax Assessment Act 1997* (Commonwealth). The property and income of the Association shall be applied solely towards the promotion of its Objectives or Purposes of the Association and no portion shall be distributed, directly or indirectly, to the Members of the Association, except in bona fide compensation for promotion of these Objectives or Purposes.

## **5. VALUES**

The Association agrees to uphold, in all its dealings with Members or external organisations or people they may have contact within the course of their business, and be guided by the following values:

- (a) Kindness;
- (b) Respect;
- (c) Integrity;
- (d) Social Justice;
- (e) Connection; and
- (f) Courage

## **6. POWERS OF ASSOCIATION**

The powers conferred on the Association are the same as those conferred by section 14 of the Act, so that subject to the Act and any additions, exclusions or modifications inserted below, the Association may do all things necessary or convenient for carrying out its Objectives and Purposes, and in particular, may:

- (a) acquire, hold, deal with, and dispose of any real or personal property;
- (b) open and operate bank accounts;
- (c) invest its money:
  - (i) in any security in which trust monies may lawfully be invested; or
  - (ii) in any other manner authorised by the rules of the Association;
- (d) borrow money upon such terms and conditions as the Association thinks fit;
- (e) give such security for the discharge of liabilities incurred by the Association as the Association thinks fit;
- (f) appoint agents to transact any business of the Association on its behalf;
- (g) enter into any other contract it considers necessary or desirable; and
- (h) may act as trustee and accept and hold real and personal property upon trust, but does not have power to do any act or thing as a trustee that, if done otherwise than as a trustee, would contravene this Act or the rules of the Association.

## **7. QUALIFICATIONS FOR MEMBERSHIP OF ASSOCIATION**

Membership of the Association is open to all members of the community who meet the

membership criteria as described in rule 8.

## 8. CATEGORIES OF MEMBERSHIP

- 8.1 The Association may admit a person as an Individual Member, if the person:
- (a) subscribes to the Association's Objectives, Principles and Values.
  - (b) identifies as having a current or past lived experience of psychological or emotional issues, distress or problems, irrespective of whether they have a diagnosed mental illness and/ or have received treatment; or
  - (c) identifies as a mental health Consumer and has been, or is, a consumer of mental health services.
- 8.2 The Association may admit a group as a Consumer Group Member if the group:
- (a) subscribes to the Association's Objectives, Principles and Values; and
  - (b) a majority of its committee of management is comprised of people who identify as Consumers; or
  - (c) a majority of its committee of management is comprised of people who have lived experience directly, as a Consumer, family member or carer, and a substantial proportion are Consumers.
- 8.3 The Association may admit:
- (a) a person as an Associate Member if the person subscribes to the Association's Objectives, Principles and Values; and
  - (b) an organisation or group as an Associate Member if the organisation subscribes to the Association's Objectives, Principles and Values.
- 8.4 An Associate Member does not have the right to vote at a General Meeting.
- 8.5 To avoid doubt, an Associate Member elected to the Board has the same voting rights as any other Board Member.
- 8.6 A person must be at least 16 years of age to be an Individual or Associate Member.

## 9. CONDITIONS OF MEMBERSHIP

- 9.1 A person who wishes to become a Member must apply for membership to the Board in such form and in the manner as the Board from time to time directs (**Application**).
- 9.2 All Applications shall be accompanied by a statement confirming support of the Objectives, Principles and Values.
- 9.3 The Board must consider each Application at a Board Meeting and must accept or reject that Application at the Board Meeting as soon as possible following its receipt.



- 9.4 A person whose Application is rejected under rule 9.3 must, if that person wishes to appeal against that decision, give notice to the Secretary of that person's intention to appeal the decision within a period of 14 days from the date the person is advised of the decision.
- 9.5 When notice is given under rule 9.4 the Association in a General Meeting no later than the next Annual General Meeting, must either confirm or set aside the decision of the Board to reject the Application, after having afforded the person who gave that notice a reasonable opportunity to be heard by, or to make representations in writing to, the Association in the General Meeting.
- 9.6 The Association reserves the right to request the following documents from Associate Members and Consumer Group members who are not individuals:
- (a) A copy of their constitution or charter; and
  - (b) A statement of the present/planned program of the organisation.
- 9.7 All Members are eligible to participate on standing committees and task groups as directed and as governed in each case by a terms of reference set by the Board.
- 9.8 An applicant for membership of the Association becomes a member when:
- (a) the Board accepts the Application; and
  - (b) the applicant pays any membership fees payable to the Association under rule 11 (if applicable).

## **10. REGISTER OF MEMBERS**

- 10.1 The Secretary, on behalf of the Association, must ensure the Association complies with section 53 of the Act by keeping and maintaining an up to date register of the Members of the Association and their postal, residential or electronic (including email) address and on the request of a Member of the Association, make the register available for the inspection of the Member and the Member may make a copy of or take an extract from the register. [The Secretary may require the Member, who wishes to take a copy or extract of the register, provide a statutory declaration setting out the purpose for which the copy or extract is required and declare that the purpose is connected with the affairs of the Association.]
- 10.2 The register must be kept and maintained under the custody of the Chief Executive Officer at the Association's Principal Place of Business or at such other place as the Members decide at a General Meeting.

## **11. SUBSCRIPTIONS**

- 11.1 Individual Members will not be required to pay a membership fee.
- 11.2 The fee for membership and the category of membership, shall with the exception of rule 11.1, be determined by resolution at the Annual General Meeting and be payable in advance by the time required under rule 11.5.

- 11.3 The Board may, at its discretion waive all or part of the membership fee for any Member.
- 11.4 A person who is not a Member may subscribe to activities undertaken by the Association at a fee determined by the Board.
- 11.5 Each Member to whom membership fees are applicable must pay those fees annually, on or before the commencement of the Financial Year, or such other date as the Board from time to time determines.
- 11.6 A person may exercise all the rights and obligations of a Member for the purposes of these rules if their membership fee is paid in accordance with rule 11.5, or such other time as the Board allows.

## **12. ACCESS TO INFORMATION**

- 12.1 At any reasonable time, a Member may inspect without charge:
- (a) a copy of this Constitution;
  - (b) the register of Members;
  - (c) minutes of General Meetings; and
  - (d) annual financial reports of the Association.

## **13. TERMINATION**

- 13.1 Membership of the Association will be terminated.
- (a) upon receipt by a notice in writing to the Board from a Member of their resignation from the Association;
  - (b) for a Member who is an individual, the individual dies;
  - (c) for a Member that is a body corporate, the body corporate is wound up;
  - (d) if a Member fails to pay their membership fee within 3 months of the date fixed by the Board for membership fees to be paid, unless the Board decides otherwise in accordance with rule 11.3; or
  - (e) upon expulsion of a Member in accordance with rule 14.
- 13.2 Resignation from membership shall be effective from the date of receipt of that written resignation.

## **14. SUSPENSION OR EXPULSION**

- 14.1 A Member may be suspended or expelled if:
- (a) their conduct is considered by the Board to be detrimental to the Association's reputation, achieving its Objectives or Purpose;

- (b) the Member contravenes any of these rules; or
  - (c) if they have unpaid debts or liabilities to the Association.
- 14.2 If the Board considers that a Member should be suspended or expelled from membership of the Association, the Board must communicate in writing *or* another appropriate medium, to the Member:
- (a) notice of the proposed suspension or expulsion and of the time, date and place of the Board Meeting at which the question of that suspension or expulsion will be decided; and
  - (b) particulars of that conduct, not less than 30 days before the date of the Board Meeting referred to in rule 14.2(a).
- 14.3 At the Board Meeting referred to in rule 14.2 (a) the Board may, having afforded the Member concerned a reasonable opportunity to be heard by, or to make representations in writing to, the Board, suspend or expel or decline to suspend or expel that Member from membership of the Association and must, forthwith after deciding whether or not to suspend or expel that Member, communicate that decision in writing to that Member.
- 14.4 Subject to rules 14.5 and 14.6, any suspension or expulsion of a Member will take effect 30 days after the day on which the decision to suspend or expel a Member is communicated to the Member.
- 14.5 A Member who the Board decides to suspend or expel must, if they wish to appeal against that suspension or expulsion, give notice to the Secretary of their intention to do so within a period of 30 days after the day on which the decision to suspend or expel a Member is communicated to the Member. The Board may extend this deadline in extenuating circumstances such as illness of the Member.
- 14.6 When notice is given under rule 14.5:
- (a) the Association in a General Meeting, must either confirm or set aside the decision of the Board to suspend or expel the Member, after having afforded the Member who gave that notice a reasonable opportunity to be heard by, or to make representations in writing to, the Association in the General Meeting; and
  - (b) The Member who gave that notice is not suspended or does not cease to be a Member unless and until the decision of the Board to suspend or expel them is confirmed under this rule 14.6.
- 14.7 The decision at the General Meeting shall be final.
- 14.8 While under suspension, a Member's right to receive notice of, vote and be represented at meetings shall also be suspended.

## **15. COMPOSITION AND MEMBERSHIP OF BOARD**

- 15.1 The affairs of the Association will be managed exclusively by the Board consisting of:

- (a) the 4 Office Bearers of the Association; and
- (b) at least 3 but no more than 7 other Board Members.

The Board Members are the persons who have the power to manage the affairs of the Association and constitute the management committee of the Association for the purpose of section 38 of the Act.

15.2 At all times, a simple majority of Board Members must be Individual Members.

15.3 The Office Bearers of the Association will be:

- (a) A Chairperson;
- (b) A Vice-Chairperson;
- (c) A Secretary; and
- (d) A Treasurer.

15.4 The Board shall appoint annually, from amongst their number, a Chairperson and all other Office Bearers.

15.5 Board Members are required to discharge their duties with competence and diligence and free from conflict of interest.

15.6 If the composition of the Board is below the maximum threshold set out in rules 15.1, a casual vacancy may be deemed for each place on the Board that is required may be filled over the Board Member minimum of 7 Board Members (4 Office Bearers plus 3 other Board Members) and up to reach the Board Member maximum of 11 Board Members (4 Office Bearers and 7 other Board Members). The appointment of a new Board Member may be made by the Board in accordance with rule 17.2.

15.7 A Member is only eligible to be elected or appointed to the Board if that Member is:

- (a) an Individual Member or an Associate Member;
- (b) at least 18 years of age; and
- (c) not otherwise ineligible or disqualified from being a Board Member under this Constitution or the Act.

## **16. APPOINTMENT OF BOARD MEMBERS**

16.1 Board Members must be elected to membership of the Board at an Annual General Meeting or appointed under rule 17.2.

16.2 Subject to rules 16.3 and 17.2, eligible Members of the Association wishing to be candidates for election to membership of the Board must prepare and deliver to the Secretary not less than 28 days before the day on which the Annual General Meeting concerned is to be held, a written nomination for review by the Members, demonstrating how their skills and

experiences meet any documented selection criteria for Board Members of the Association

- 16.3 If insufficient nominations are received, any vacant positions remaining on the Board are taken to be casual vacancies.
- 16.4 The Members shall elect Board Members by voting through a show of hands or a poll in accordance with rule 27.6(c).
- 16.5 A Board Member's term will be for a period of 3 years, commencing from their election at the relevant Annual General Meeting at which they were appointed.
- 16.6 A Board Member is eligible for re-election to membership of the Board but where a Board Member has served 2 consecutive terms they must stand down for a period of at least 12 months before being re-elected.

## **17. VACATION OF OFFICE**

17.1 The office of a Board Member shall become vacant:

- (a) if the Board member dies;
- (b) if the Board member becomes ineligible to act under section 39 of the Act;
- (c) if the Board member resigns their office by notice in writing to the Association;
- (d) if the Board member is absent without leave from meetings of the Board for 3 consecutive meetings unless the Board in the absence of the member decides otherwise;
- (e) if a Board Member ceases to be a Member of the Association;
- (f) upon a resolution being passed by the Association at a General Meeting specially called for the purpose of removing the Board Member from office;
- (g) if the Board Member is directly or indirectly interested in any contract or proposed contract with the Association without declaring such interest; or
- (h) if the Board Member is convicted of an offence under the Act.

17.2 If the office of a Board Member becomes vacant as a result of rule 17.1 or if a vacancy remains on the Board after the application of rule 16.3 or if rule 15.6 applies:

- (a) the Board may appoint a Member to fill that vacancy; and
- (b) a Member appointed under this rule 17.2 will:
  - (i) hold office until the election referred to in rule 17.2 (b) (ii); and
  - (ii) be eligible for election to membership of the Board, at the next following Annual General Meeting.

## **18. CHAIRPERSON AND VICE-CHAIRPERSON**

- 18.1 The Chairperson is responsible for the sound performance of the Board.
- 18.2 The Chairperson will preside at all General Meetings and Board Meetings and in their absence this responsibility will be taken by the Vice-Chairperson.
- 18.3 In the event of the absence from a General Meeting of both the Chairperson and the Vice-Chairperson, then the Members present at the General Meeting shall elect a Board Member to preside as Chairperson at the General Meeting.
- 18.4 The Chairperson will preside at all Board Meetings unless:
- (a) both the Chairperson and Vice-Chairperson are absent from a Board Meeting, in which case the Board Members present at the Board Meeting shall elect a substitute Chairperson to preside over the Board Meeting; or
  - (b) notwithstanding the presence of the Chairperson or Vice-Chairperson, the Chairperson (if present) and/or Vice-Chairperson (if present) agree(s) to a Board Member being elected to act as a substitute Chairperson to preside over the Board Meeting.
- 18.5 In the event that urgent action may be required where there is no stated Association guideline or policy, the Chairperson or a person appointed by the Chairperson, shall so determine the action to be taken subject to ratification by the next Board Meeting.

## **19. STANDING COMMITTEES AND TASK GROUPS**

- 19.1 The Board may appoint standing committees from time to time to collect information, consider policy issues and to bring policy issues to the attention of the Board. The structure, responsibilities and organisation of each standing committee will be determined and controlled by the Board as appropriate.
- 19.2 The Board may appoint task groups to deal with specific issues arising. Each task group will report directly to the Board and will be structured and organised in the manner determined or approved by the Board.
- 19.3 Participants of standing committees and task groups will be approved by the Board, and any conflict of interest must be declared by participants.

## **20. SECRETARY**

- 20.1 The Secretary must ensure that the Association complies with:
- (a) Section 53 of the Act with respect to the register of Members of the Association, as referred to in rule 10;
  - (b) Section 35 of the Act with respect to keeping and maintaining in an up to date condition the rules of the Association and, making available those rules for the inspection of the Member; and

- (c) Section 58 of the Act by maintaining a record of the names and residential, postal or electronic addresses of the persons who hold the offices of the Association provided for by these rules, including all offices held by the persons who constitute the Board and persons who are authorised to use the common seal (if any) of the Association.

20.2 The Secretary must keep full and correct minutes of all proceedings at Board Meetings and General Meetings.

20.3 The Secretary must perform such other duties as are imposed by these rules on the Secretary.

## **21. TREASURER**

21.1 All payments from the funds of the Association must be made in accordance with procedures approved by the Board.

21.2 The Treasurer must ensure the Association complies with section 66 of the Act with respect to the accounting records of the Association by:

- (a) keeping such accounting records as correctly record and explain the financial transactions and financial position of the Association;
- (b) keeping its accounting records in such manner as will enable true and fair accounts of the Association to be prepared from time to time;
- (c) keeping its accounting records in such manner as will enable true and fair accounts of the Association to be conveniently and properly audited;
- (d) submitting to Members at each Annual General Meeting of the Association accounts of the Association showing the financial position of the Association at the end of the immediately preceding financial year;
- (e) whenever directed to do so by the Chairperson, submitting to the Board a report, balance sheet or financial statement in accordance with that direction; and
- (f) performing such other duties as are imposed by these rules on the Treasurer.

## **22. BOARD MEETING PROCEEDINGS**

22.1 The Board must meet together for the dispatch of business not less than 10 times in each year and the Chairperson, or at least half the Board Members, may at any time convene a Board Meeting. The presence of a Board Member at a Board meeting need not be by attendance in person but may be by that Board Member and each other Board Member at the meeting being simultaneously in contact by telephone or other means of instantaneous communication. A Board Member who participates in a committee meeting using technology as allowed under this rule is taken to be present at the meeting and, if the Board Member votes at the meeting, the Board Member is taken to have voted in person.

22.2 Each Board Member has a deliberative vote.

- 22.3 A question arising at a Board meeting must be decided by a majority of votes, but, if there is no majority, the Chairperson presiding at the Board meeting will have a casting vote in addition to their deliberative vote.
- 22.4 At a Board meeting, 50 percent plus 1 Board Member including two Office Bearers shall constitute a quorum.
- 22.5 Subject to these rules, the procedure and order of business to be followed at a Board Meeting must be determined by the Board Members present at the Board Meeting.
- 22.6 As required under sections 42 and 43 of the Act, a Board Member having any direct or indirect pecuniary interest in a contract, or proposed contract, made by, or in the contemplation of, the Board (except if that pecuniary interest exists only by virtue of the fact that the member of the Board is a member of a class of persons for whose benefit the Association is established), must:
- (a) as soon as they become aware of that interest, disclose the nature and extent of their interest to the Board; and
  - (b) not take part in any deliberations or decision of the Board with respect to that contract.
- 22.7 Rule 22.7(a) does not apply with respect to a pecuniary interest that exists only by virtue of the fact that the Member of the Board is an employee of the Association.
- 22.8 The Secretary must cause every disclosure made under rule 22.7(a) by a Member of the Board to be recorded in the minutes of the meeting of the Board at which it is made.
- 22.9 The Board may, at its discretion, appoint one or more subcommittees to assist the Board with the conduct of the Association's business. In this rule – Board Member includes a member of a subcommittee; Board Meeting includes a meeting of a subcommittee.
- 22.10A Board 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 Board meetings; or
  - (b) In attending a General Meeting; or
  - (c) Otherwise in connection with the Association's business.

These payments must be approved by the Board prior to the expense being reimbursed and noted in the minutes.

## **23. STAFF**

- 23.1 The Board shall be responsible for the appointment and dismissal of the Chief Executive Officer who shall be responsible to the Board.
- 23.2 The Chief Executive Officer must attend all Board Meetings (unless excused by the Board) but will not be entitled to vote.



23.3 The Chief Executive Officer shall be responsible for ensuring that Rules and Objectives are consistently and effectively applied in:

- (a) the day to day management of the Association;
- (b) recruitment, development and supervision of staff;
- (c) development of the budget;
- (d) development and implementation of the business plan; and
- (e) interaction with the Members and other stakeholders.

## **GENERAL MEETINGS**

### **24. ANNUAL GENERAL MEETINGS**

24.1 The Board must convene an Annual General Meeting within the time limits provided for the holding of such meetings by section 50 of the Act (that is for the time being, in every calendar year within 6 months after the end of the Association's Financial Year or such longer period as may in a particular case be allowed by the Commissioner).

24.2 The Secretary must give to all Members not less than 21 days' notice of an Annual General Meeting and that notice must specify:

- (a) when and where the Annual General Meeting concerned is to be held; and
- (b) particulars of the business to be transacted at the Annual General Meeting concerned and of the order in which business is to be transacted.

24.3 The Secretary must give a notice under rule 24.2 by:

- (a) serving it on a Member personally; or
- (b) sending it by post or electronic means (including email) to a Member at the address or electronic address of the Member appearing in the register of Members kept and maintained under rule 10.

24.4 When a notice is sent by post under rule 24.2 sending of the notice will be deemed to be properly effected if the notice is sufficiently addressed and posted to the Member concerned by ordinary prepaid mail. When a notice is sent by electronic means under rule 24.2 sending of the notice will be deemed to be properly effected if the sender's transmission report shows that the document was sent to the correct electronic address.

24.5 The particulars and order in which business is to be transacted at an Annual General Meeting, is as follows:

- (a) first to confirm the minutes of the last preceding Annual General Meeting and of any General Meeting held since that Meeting;

- (b) second to present the annual report;
- (c) third to receive and approve audited financial records;
- (d) fourth the election of Board Members to replace outgoing Board Members;
- (e) fifth to determine subscription fees for the following 12 months; and
- (f) sixth any other business requiring consideration by the Association at the Annual General Meeting.

## **25. SPECIAL GENERAL MEETINGS**

### 25.1 The Board:

- (a) may at any time convene a Special General Meeting; and
- (b) must convene a Special General Meeting within 30 days of the Secretary receiving a request to do so by at least 5% of the Members.

### 25.2 A request under rule 25.1(b) to hold a Special General Meeting must:

- (a) be made in writing;
- (b) state the business to be considered at the Special General Meeting; and
- (c) be signed by each of the Members making the request.

25.3 If a Special General Meeting is not convened within the relevant period of 30 days referred to in rule 25.1(b), the Members who made the request concerned may themselves convene a Special General Meeting as if they were the Board.

25.4 The Association must reimburse any reasonable expenses incurred by the Members convening and holding the Special General Meeting.

The Secretary or, in the case of a Special General Meeting convened under rule 25.1(b), the Members convening the meeting, must give to all Members not less than 21 days' notice of a Special General Meeting and that notice must specify:

- (a) when and where the Special General Meeting concerned is to be held; and
- (b) particulars of the business to be transacted at the Special General Meeting concerned and of the order in which that business is to be transacted.

### 25.5 The Secretary must give a notice under rule 25.4 by:

- (a) serving it on a Member personally; or
- (b) sending it by post or electronic means to a Member at the address or electronic address of the Member appearing in the register of Members kept and maintained under rule 10.

25.6 When a notice is sent by post under rule 25.5, sending of the notice will be deemed to be properly effected if the notice is sufficiently addressed and posted to the Member concerned by ordinary prepaid mail. When a notice is sent by electronic means under rule 25.5 sending of the notice will be deemed to be properly effected if the sender's transmission report shows that the document was sent to the correct electronic address.

## **26. SPECIAL RESOLUTIONS**

26.1 A Special Resolution may be moved either at a Special General Meeting or at an Annual General Meeting; however, the Secretary must give to all Members not less than 21 days' notice of the meeting at which a Special Resolution is to be proposed. The notice must also include the resolution to be proposed and the intention to propose the resolution as a Special Resolution.

26.2 A Special Resolution must be passed by a majority of not less than 75% of the Members in attendance who are entitled to vote, in person or by proxy.

## **27. QUORUM AND PROCEEDINGS AT GENERAL MEETINGS**

27.1 The quorum for the meeting is 10 voting Members or one third of the total number of voting Members of the Association whichever is less. If within 30 minutes from the time appointed for the meeting a quorum is not present:

- (a) in the case of a Special General meeting, the meeting lapses; and
- (b) in the case of an Annual General Meeting, the meeting is adjourned to the same time and day in the following week and 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.

27.2 If a quorum is not present within 30 minutes of the commencement time of an Annual General Meeting that has been adjourned under rule 27.1, any 2 voting Members will be taken to constitute a quorum.

27.3 The Chairperson may, with the consent of a General Meeting at which a quorum is present, and must, if so directed by such a General Meeting, adjourn that General Meeting from time to time and from place to place.

27.4 No business may be conducted on the resumption of an adjourned General Meeting other than business left unfinished or on the agenda at the time when the General Meeting was adjourned.

27.5 When a General Meeting is adjourned with the consent of the General Meeting in accordance with rule 27.3 for a period of 30 days or more, the Secretary must give notice under rule 24.2 of the adjourned General Meeting as if that General Meeting were a fresh General Meeting.

27.6 At a General Meeting:

- (a) an Ordinary Resolution put to the vote will be decided by a majority of votes cast on a

show of hands;

- (b) a Special Resolution put to the vote will be decided in accordance with rule 26.2.
- (c) voting for the election of officers and Board Members will be by a Poll or a show of hands.
- (d) the Chairperson will have the deciding vote if the vote is tied (equal).

27.7 The presence of a Member at a General Meeting need not be by attendance in person but may be by that Member and each other Member at the meeting being simultaneously in contact by telephone or other means of instantaneous communication. A Member who participates in a General Meeting using technology as allowed under this rule is taken to be present at the meeting and, if the Member is entitled to vote and votes at the meeting, the Member is taken to have voted in person.

## 28. MINUTES OF MEETINGS OF ASSOCIATION

28.1 The Secretary must cause proper minutes of all proceedings of all General Meetings and Board Meetings to be taken and then to be entered within 30 days after the holding of each General Meeting or Board Meeting, as the case requires, in a record kept specifically for that purpose.

28.2 The Chairperson must ensure that the minutes taken of a General Meeting or Board Meeting are checked as correct by the Chairperson of the General Meeting or Board Meeting to which those minutes relate or by the Chairperson of the next succeeding General Meeting or Board Meeting, as the case requires and subsequently signed as such.

28.3 When minutes have been entered and signed as correct under this rule, they are, until the contrary is proved, evidence that:

- (a) the General Meeting or Board Meeting to which they relate (in this rule 28.3 (a) called **the meeting**) was duly convened and held;
- (b) all proceedings recorded as having taken place at the meeting did in fact take place at the meeting; and
- (c) all appointments or elections purporting to have been made at the meeting have been validly made.

## 29. VOTING AND VOTING RIGHTS OF MEMBERS OF ASSOCIATION

29.1 Subject to these rules, each Individual Member and Consumer Group Member present in person or by proxy at a General Meeting that is entitled to vote has one deliberative vote. Each Consumer Group Member is entitled one vote only, regardless of whether there are multiple parties within the relevant consumer group.

29.2 A Member which is a body corporate may appoint a person to represent it at a particular General Meeting or at all General Meetings. Appointments of corporate representatives must be received in writing by the Secretary at least 72 hours before the commencement of

the General Meeting.

- 29.3 A declaration by the Chairperson of a General Meeting that a resolution has been passed at the Meeting will be evidence of that fact unless, during the General Meeting at which the resolution is submitted, a Poll is demanded.
- 29.4 At a General Meeting, a Poll may be demanded by the Chairperson or by three or more Members present in person or by proxy and, if so demanded, must be taken in such manner as the Chairperson directs.
- 29.5 If a Poll is demanded and taken in respect of a resolution, a declaration by the Chairperson of the result of the poll is evidence of the matter so declared.
- 29.6 A Poll must be taken immediately on that demand being made.

## **30. PROXIES OF MEMBERS OF ASSOCIATION**

- 30.1 A Member may appoint in writing another Member who is a natural person to be the proxy of the appointing Member and to attend, and vote on behalf of the appointing Member at, any General Meeting.
- 30.2 Proxy appointments must be received in writing by the Secretary at least 72 hours before the commencement of the General Meeting.

## **31. RULES OF ASSOCIATION**

- 31.1 The Association may alter or rescind these rules, or make rules additional to these rules, in accordance with the procedure set out in sections 30, 31 and 33 of the Act, which is as follows:
- (a) the Association may alter its rules by Special Resolution but not otherwise;
  - (b) within one month of the passing of a Special Resolution altering its rules, or such further time as the Commissioner may in a particular case allow (on written application by the Association), the Association must lodge with the Commissioner notice of the Special Resolution setting out particulars of the alteration together with a certificate given by a member of the Board certifying that the resolution was duly passed as a Special Resolution and that the rules of the Association as so altered conform to the requirements of this Act;
  - (c) an alteration of the rules of the Association does not take effect until rule 31.2 is complied with;
- 31.2 An alteration of the rules of the Association having effect to change the name of the Association, or to alter its Objectives or Purpose does not take effect until rule 31.1 are complied with and the approval of the Commissioner is given to the change;
- 31.3 These rules bind every member and the Association to the same extent as if every Member and the Association had signed and sealed these rules and agreed to be bound by all their provisions.

## 32. DISPUTES AND MEDIATION

32.1 The grievance procedure set out in this rule applies to disputes under these rules between Members and the Association in relation to the Association's activities.

32.2 The parties to the dispute must meet and discuss the matter in dispute, and, if possible, resolve the dispute within 14 days after the dispute comes to the attention of all of the parties.

32.3 If the parties are unable to resolve the dispute at the meeting, or if a party fails to attend that meeting, then the parties must, within 10 days, hold a meeting in the presence of a mediator (at the cost of the Association). The mediator must be:

- (a) a person chosen by agreement between the parties; or
- (b) in the absence of agreement:
  - (iii) in the case of a dispute between a Member and another Member, a person appointed by the Board of the Association;
  - (iv) in the case of a dispute between a Member or other party and the Association, a person chosen by the Association who is a mediator appointed to, or employed with, a not for profit organisation.

32.4 A Member of the Association can be a mediator.

32.5 The mediator cannot be a Member who is a party to the dispute.

32.6 The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.

32.7 The mediator, in conducting the mediation, must:

- (a) give the parties to the mediation process every opportunity to be heard;
- (b) allow due consideration by all parties of any written statement submitted by any party; and
- (c) ensure that natural justice is accorded to the parties to the dispute throughout the mediation process.

32.8 The mediator must not determine the dispute.

32.9 The mediation must be confidential and without prejudice.

32.10 If the mediation process does not result in the dispute being resolved, the parties may seek to resolve the dispute in accordance with the Act or otherwise at law.

### **33. DISTRIBUTION OF SURPLUS PROPERTY ON WINDING UP OF ASSOCIATION**

- 33.1 In the event of the Association being dissolved, the amount that remains after dissolution and the satisfaction of all debts and liabilities shall be transferred to another organisation which is incorporated under the Act with similar purposes which is not carried on for profit or gain of its individual members.
- 33.2 If the Association is wound up or if the endorsement of the Association as a deductible gift recipient is revoked, the following assets remaining after the payment of the Association's liabilities shall be transferred to a fund, authority or institution which is incorporated under the Act to which income tax deductible gifts can be made:
- (a) gifts of money or property for the principal purpose of the Association;
  - (b) contributions made in relation to an eligible fundraising event held for the principal purpose of the Association; and
  - (c) money received by the Association because of gifts and contributions.

### **34. INDEMNITY AND INSURANCE**

#### 34.1 Indemnity

The Association shall indemnify each Board Member:

- (a) against all damages and costs, including legal costs, for which that Board Member may be or become liable to any third party in consequences of any act or omission, except fraudulent or wilful misconduct, which is performed or made whilst acting in their capacity as a Board Member; and
- (b) against any liability incurred by that Board Member:
  - (i) in defending any proceedings, whether civil or criminal, in which judgment is given in the Board Member's favour;
  - (ii) in defending any proceedings, whether civil or criminal, in which the Board Member is acquitted; or
  - (iii) In connection with any application in relation to proceedings mentioned in paragraphs (a) and (b) in which relief is granted to the Board Member by a court.

#### 34.2 Extent of Indemnity

The indemnity in this rule 34:

- (a) is a continuing obligation and is enforceable by a person to whom rule 34 applies even though that person has ceased to be [a Board Member of the Association]; and

- (b) operates only to the extent that the loss or liability is not covered by insurance.

### 34.3 Insurance

The Association may, to the extent permitted by law:

- (a) purchase and maintain insurance; or
- (b) pay or agree to pay a premium for insurance,

for any person to whom this rule 34 applies, against any loss or liability incurred by the person as [a Board Member of the Association].

## **35. FINANCIAL MATTERS**

- 35.1 The funds of the Association may be derived from entrance fees, annual subscriptions, donations, fund-raising activities, grants, interest, service income and any other sources approved by the Board.
- 35.2 The Association must open 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.
- 35.3 All funds of the Association must be deposited into the Association's account within 5 working days after their receipt.
- 35.4 For each Financial Year, the Board 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.