



THE ATTIC THEATRICAL INC CONSTITUTION

ESTABLISHED 2019

THE ATTIC THEATRICAL INC1901555

Contents

Part 1	Preliminary	3
1	Definitions.....	3
Part 2	Membership	4
2	Membership generally.....	4
3	Application for membership.....	4
4	Cessation of membership	5
5	Membership entitlements not transferable.....	5
6	Resignation of membership	5
7	Register of members.....	5
8	Fees and subscriptions	6
9	Members' liabilities	6
10	Resolution of disputes	7
11	Disciplining of members	7
12	Right of appeal of disciplined member.....	8
Part 3	The Board of Directors	9
13	Powers of the Board of Directors	9
14	Composition and membership of Board of Directors	9
15	Election of Board of Directors members	10
16	Chairperson.....	10
17	Vice Chairperson.....	11
18	Secretary	11
19	Treasurer	11
20	Casual vacancies	12
21	Removal of Board of Directors members.....	13
22	Board of Directors meetings and quorum	14
23	Appointment of association members as Board of Directors members to constitute quorum	14
24	Use of technology at Board meetings	15
25	Delegation by Board of Directors to sub-Board of Directors.....	15
26	Voting and decisions	16
Part 4	General meetings	17
27	Annual general meetings - holding of.....	17
28	Annual general meetings - calling of and business at	17
29	Special general meetings - calling of	17
30	Notice.....	18
31	Quorum for general meetings.....	18
32	Presiding member	19
33	Adjournment	19
34	Making of decisions	19
35	Special resolutions	20
36	Voting.....	20
37	Proxy votes not permitted.....	20
38	Postal or electronic ballots	20
39	Use of technology at general meetings.....	20
Part 5	Miscellaneous	20
40	Insurance	20
41	Funds - source.....	20
42	Funds - management	20
43	Association is non-profit	20
44	Distribution of property on winding up of association	20
45	Change of name, objects and constitution.....	21
46	Custody of books etc.....	21
47	Inspection of books etc.....	21
48	Service of notices	21
49	Financial year	23

Part 1 Preliminary

1 Definitions

(1) In this constitution:

ordinary Board of Directors member means a member of the Board of Directors who is not an executive director of the association.

secretary means:

- (a) the person holding office under this constitution as secretary of the association, or
- (b) if no person holds that office - the public officer of the association.

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

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.

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
 - (b) the person has applied and been approved for membership of the association in accordance with clause 3.
 - (c) Senior membership 16+ with voting rights.
 - (d) Junior membership 6 -16 years no voting rights.
 - (e) Annual membership is the calendar year
- (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.
- (4) The five founding members are automatically life members
- (5) Life members can be nominated by any director and will be awarded life membership upon a majority vote at any board meeting.
 - (a) Life members will receive a complementary ticket to each show and will not have to pay annual membership fees.

3 Application for membership

- (1) An application by a person for membership of the association:
 - (a) must be made in writing (including by email or other electronic means, if the Board of Directors so determines) in the form determined by the Board of Directors, and
 - (b) must be lodged (including by electronic means, if the Board of Directors so determines) with the secretary of the association.
- (2) As soon as practicable after receiving an application for membership, the secretary must refer the application to the Board of Directors, which is to determine whether to approve or to reject the application.
- (3) As soon as practicable after the Board of Directors makes that determination, the secretary must:

- (a) notify the applicant in writing (including by email or other electronic means, if the Board of Directors so determines) that the Board of Directors approved or rejected the application (whichever is applicable), and
 - (b) if the Board of Directors approved the application, request the applicant to pay (within the period of 28 days after receipt by the applicant of the notification) the sum payable under this constitution by a member as entrance fee and annual subscription.
- (4) The secretary must, on payment by the applicant of the amounts referred to in subclause (3) (b) within the period referred to in that provision, enter or cause to be entered the applicant's name in the register of members and, on the name being so entered, the applicant becomes a member of the association.

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.

5 Membership entitlements not transferable

A right, privilege or obligation which a person has by reason of being a member 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 any other period that the Board of Directors may determine) of the member's intention to resign and, on the expiration of the period of notice, the member ceases to be a member.
- (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 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.
- (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 determined by the Board of Directors, that other amount.
- (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 determined by the Board of Directors, that other amount:
 - (a) except as provided by paragraph (b), before the first day of the financial year of the association in each calendar year, or
 - (b) if the member becomes a member on or after the first day of the financial year of the association in any calendar year—on becoming a member and before the first day of the financial year of the association in each succeeding calendar year.
- (3) This company's annual membership is valid for the calendar year.
 - (a) For membership totals refer Membership Fee's policy.

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.

11 Disciplining of members

- (1) A complaint may be made to the Board of Directors by any person that a member of the association:
 - (a) (i) has refused or neglected to comply with a provision or provisions of this constitution, or
(ii) has refused or neglected to comply with a provision or provisions of this associations bi laws. (*See attached Conflict of Interest Policy and Work place Harassment Policy*)
 - (b) has wilfully acted in a manner prejudicial to the interests of the association.
- (2) The Board of Directors may refuse to deal with a complaint if it considers the complaint to be trivial or vexatious in nature.
- (3) If the Board of Directors decides to deal with the complaint, the Board of Directors:
 - (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 Board of Directors in connection with the complaint, and
 - (c) must take into consideration any submissions made by the member in connection with the complaint.
- (4) The Board of Directors may, by resolution, expel the member from the association or suspend the member from membership of the association 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 Board of Directors expels or suspends a member, 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 Board of Directors for having taken that action and of the member's right of appeal under clause 12.

- (6) The expulsion or suspension 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.

12 Right of appeal of disciplined member

- (1) A member may appeal to the association in general meeting against a resolution of the Board of Directors 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 Board of Directors, which is to convene a general meeting of the association to be held within 28 days after the date on which the secretary received the notice.
- (4) At a general meeting of the association convened under subclause (3):
 - (a) no business other than the question of the appeal is to be transacted, and
 - (b) the Board of Directors 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 or revoked.
- (5) The appeal is to be determined by a simple majority of votes cast by members of the association.

Part 3 The Board of Directors

13 Powers of the Board of Directors

Subject to the Act, the Regulation, this constitution and any resolution passed by the association in general meeting, the Board of Directors:

- (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 the acts and do all things that appear to the Board of Directors to be necessary or desirable for the proper management of the affairs of the association.
- (d) Two (2) cast members may be elected by the cast to be part of the Board of Directors for the duration of each show, provided that they are willing to accept certain positions as determined by the Board of Directors. These members shall have voting rights for matters pertaining to that show.
- (e) The choice of production will be the decision of the Board of Directors.
- (f) The production teams will be the decision of the Board of Directors.
- (g) The Board of Directors must approve cast for all productions, prior to cast being advertise and/or notified.
- (h) A Board of Directors representative, not attached to the production or production team, must be present at all auditions. As a silent representative.

14 Composition and membership of Board of Directors

- (1) The Board of Directors is to consist of:
 - (a) the Executive Directors of the association, and
 - (b) at least 3 ordinary Board of Directors members,
each of whom is to be elected at the annual general meeting of the association under clause 15.

Note. Section 28 of the Act contains further requirements concerning eligibility for membership and composition of the Board of Directors.
- (2) The total number of Board of Directors members is to be no less than 7.
- (3) The executive directors of the association are as follows:
 - (a) the Chairperson,
 - (b) the vice-Chairperson,
 - (c) the treasurer,
 - (d) the secretary.
- (4) A Board of Directors member may hold up to 2 offices (other than both the offices of Chairperson and vice-Chairperson).

- (5) There is no maximum number of consecutive terms for which a Board of Directors member may hold office.
 - (a) Term length is 2 years.

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 Executive Directors on the Board of Directors.

- (6) Each member of the Board of Directors is, subject to this constitution, to hold office until immediately before the election of Board of Directors members at the annual general meeting next following the date of the member's election, and is eligible for re-election.

15 Election of Board of Directors members

- (1) Nominations of candidates for election as Board of Directors members:
 - (a) must be made in writing, signed by 2 members of the association 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 21 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 Board of Directors, 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 Board of Directors 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 the Board of Directors members is to be conducted at the annual general meeting in any usual and proper manner that the Board of Directors directs.
- (7) A person nominated as a candidate for election as Board of Directors member of the association must be a member of the association.
- (8) Board of Directors serving term is 2 years.
- (9) Executive Directors will be selected by the Board of Directors at the third meeting after the Annual General Meeting.
- (10) Nominated Directors must receive majority 2/3 votes from members present at the Annual General Meeting to be elected.
- (11) At least 2 founding members must be on the board of directors at all times.

16 Chairperson

- (1) The Chairperson or, in the Chairperson's absence, the vice-Chairperson, is to preside as chairperson at each general meeting of the association.
- (2) It is the duty of the Chairperson, in conjunction with the Executive Directors, to take the lead on all governance and correspondence, remaining open and transparent with the Board of Directors.
- (3) The Chairperson must, in a reasonable manner, notify the Executive Directors of any correspondence and/or decisions made in relation to company business.
- (4) The Chairperson must not make any decisions in regard to company business without prior consultation with one or more of the Executive Directors.
- (5) The Chairperson, in conjunction with the Executive Directors, will delegate tasks according to the requirements of the company.

17 Vice Chairperson

- (1) The vice Chairperson, in the Chairperson's absence, is to preside as chairperson at each general meeting of the association.
- (2) It is the duty of the vice Chairperson, in conjunction with the Executive Directors, to assist the Chairperson with all governance and correspondence, remaining open and transparent with the Board of Directors.
- (3) The vice Chairperson, in the Chairperson's absence, is to adopt the Chairperson's duties in relation to all company business.

18 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 Executive Directors and members of the Board of Directors, and
 - (b) the names of members of the Board of Directors present at a Board of Directors meeting or a general meeting, and
 - (c) all proceedings at Board of Directors meetings and general meetings.
- (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).
- (5) Minutes must be sent to all directors within 7 days.

19 Treasurer

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.

20 Casual vacancies

- (1) In the event of a casual vacancy occurring in the membership of the Board of Directors, the Board of Directors may appoint a member of the association to fill the vacancy and the member so appointed is to hold office, subject to this constitution, until the annual general meeting next following the date of the appointment.
- (2) A casual vacancy in the office of a member of the Board of Directors 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) is absent without the consent of the Board of Directors from 3 consecutive meetings of the Board of Directors, or
 - (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.

21 Removal of Board of Directors members

- (1) The association in general meeting may by resolution remove any member of the Board of Directors 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 Board of Directors to whom a proposed resolution referred to in subclause (1) relates makes representations in writing to the secretary or Chairperson (not exceeding a reasonable length) and requests that the representations be notified to the members of the association, the secretary or the Chairperson 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.

22 Board of Directors meetings and quorum

- (1) The Board of Directors must meet at least 3 times in each period of 12 months at the place and time that the Board of Directors may determine.
- (2) Additional meetings of the Board of Directors may be convened by the Chairperson or by any member of the Board of Directors.
- (3) Oral or written notice of a meeting of the Board of Directors must be given by the secretary to each member of the Board of Directors at least 48 hours (or any other period that may be unanimously agreed on by the members of the Board of Directors) 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 Board of Directors members present at the meeting unanimously agree to treat as urgent business.
- (5) Any 3 members of the Board of Directors constitute a quorum for the transaction of the business of a meeting of the Board of Directors.
- (6) No business is to be transacted by the Board of Directors 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 Board of Directors:
 - (a) the Chairperson or, in the Chairperson's absence, the vice-Chairperson is to preside, or
 - (b) if the Chairperson and the vice-Chairperson are absent or unwilling to act, one of the remaining members of the Board of Directors chosen by the members present at the meeting is to preside.
- (9) At least 2 founding members must be on the board of directors at all times.

23 Appointment of association members as Board of Directors members to constitute quorum

- (1) If at any time the number of Board of Directors members is less than the number required to constitute a quorum for a Board of Directors meeting, the existing Board of Directors members may appoint a sufficient number of members of the association as Board of Directors members to enable the quorum to be constituted.
- (2) A member of the Board of Directors so appointed is to hold office, subject to this constitution, until the annual general meeting next following the date of the appointment.

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

24 Use of technology at Board of Directors meetings

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

25 Delegation by Board of Directors to sub-Board of Directors

- (1) The Board of Directors may, by instrument in writing, delegate to one or more sub-Board of Directorss (consisting of the member or members of the association that the Board of Directors thinks fit) the exercise of any of the functions of the Board of Directors that are specified in the instrument, other than:
 - (a) this power of delegation, and
 - (b) a function which is a duty imposed on the Board of Directors by the Act or by any other law.
- (2) A function the exercise of which has been delegated to a sub-Board of Directors under this clause may, while the delegation remains unrevoked, be exercised from time to time by the sub-Board of Directors 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 Board of Directors may continue to exercise any function delegated.
- (5) Any act or thing done or suffered by a sub-Board of Directors 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 Board of Directors.
- (6) The Board of Directors may, by instrument in writing, revoke wholly or in part any delegation under this clause.
- (7) A sub-Board of Directors may meet and adjourn as it thinks proper.

26 Voting and decisions

- (1) Questions arising at a meeting of the Board of Directors or of any sub-Board of Directors appointed by the Board of Directors are to be determined by a majority of the votes of members of the Board of Directors or sub-Board of Directors present at the meeting.
- (2) Each member present at a meeting of the Board of Directors or of any sub-Board of Directors appointed by the Board of Directors (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 Board of Directors may act despite any vacancy on the Board of Directors.
- (4) Any act or thing done or suffered, or purporting to have been done or suffered, by the Board of Directors or by a sub-Board of Directors appointed by the Board of Directors, is valid and effectual despite any defect that may afterwards be discovered in the appointment or qualification of any member of the Board of Directors or sub-Board of Directors.
- (5) Where a decision is to be made with a possible conflict of interest to one or more of the Board of Directors members, the conflicted members void their right to vote. It is at the discretion of the Board of Directors if they may remain in the meeting or not. In the case of disciplinary circumstances, they are not to be present. (please refer conflict of interest policy)

Part 4 General meetings

27 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.

28 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 Board of Directors 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 Board of Directors reports on the activities of the association during the last preceding financial year,
 - (c) to elect Executive Directors of the association and ordinary Board of Directors 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.

29 Special general meetings - calling of

- (1) The Board of Directors may, whenever it thinks fit, convene a special general meeting of the association.
- (2) The Board of Directors must, on the requisition of at least 5% of the total number of members, 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 Board of Directors 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.

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

30 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 14 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) 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 28 (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 must include that business in the next notice calling a general meeting given after receipt of the notice from the member.

31 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) Five members present (being members entitled under this constitution to vote at a general meeting) 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—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, the members present (being at least 3) are to constitute a quorum.

32 Presiding member

- (1) The Chairperson or, in the Chairperson's absence, the vice-Chairperson, is to preside as chairperson at each general meeting of the association.
- (2) If the Chairperson and the vice-Chairperson are absent or unwilling to act, the members present must elect one of their number to preside as chairperson at the meeting.

33 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.

34 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 39 applies, any appropriate corresponding method that the Board of Directors 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 Board of Directors 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.

35 Special resolutions

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

36 Voting

- (1) On any question arising at a general meeting of the association a member has one vote only.
- (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.
- (4) A member is not entitled to vote at any general meeting of the association if the member is under 16 years of age.

37 Proxy votes not permitted

Proxy voting must not be undertaken at or in respect of 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.

38 Postal or electronic ballots

- (1) The association may hold a postal or electronic ballot (as the Board of Directors determines) to determine any issue or proposal (other than an appeal under clause 12).
- (2) A postal or electronic ballot is to be conducted in accordance with Schedule 3 to the Regulation.

39 Use of technology at general meetings

- (1) A general meeting may be held at 2 or more venues using any technology approved by the Board of Directors 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

40 Insurance

The association may effect and maintain insurance.

41 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 Board of Directors 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.

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

43 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.

44 Distribution of property on winding up of association

- (1) Subject to the Act and the Regulations, 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.

45 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 Board of Directors member.

46 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 Board of Directors determines), or
- (b) if the association has no premises, at the association's official address, in the custody of the public officer.

47 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,
 - (c) minutes of all Board of Directors meetings and general meetings of the association.
- (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 Board of Directors 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.

48 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.

49 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 31st of December, and
- (b) each period of 12 months after the expiration of the previous financial year of the association, commencing on 1 January and ending on the following 31st of December.

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*.