

# Constitution and Rules of *Trigeminal Neuralgia Association Australia Incorporated*

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## Part 1 Preliminary

### 1 Definitions in this constitution -

- i) **ACNC** means the Australian Charities and Not-for-profits Commission.
- ii) **ACNC Act** means *Australian Charities and Not-for-profits Commission Act 2012* (Cth) as amended from time to time.
- iii) **association** means the Trigeminal Neuralgia Association Australia Incorporated.
- iv) **Commissioner** means the Commissioner for *Australian Charities and Not-for-profits*.
- v) **committee member** means an office-bearer or ordinary committee member.
- vi) **exercise** a function includes perform a duty.
- vii) **function** includes a power, authority or duty.
- viii) **general meeting** means the meeting of members of the association as described in Part 4 of the constitution, consisting of AGMs and special general meetings.
- ix) **office-bearer** means a committee member who is elected to an office referred to in clause 14 (1)(i).
- x) **ordinary committee member** means a committee member who is not an office-bearer.
- xi) **registered charities** means charities registered with the ACNC.
- xii) **register of members** means the register of members maintained under clause 6.
- xiii) **secretary**, of the association, means:
  - a) the person holding office under this constitution as secretary, or
  - b) if no person holds that office -the public officer of the association.
- ix) **special general meeting**, of the association, means a general meeting of the association other than an annual general meeting.
- x) **special resolution** means a resolution of members:
  - a) of which at least 21 days' notice of the meeting at which it will be considered has been given to members, and
  - b) that is passed at a general meeting by 75% or more of the members voting (who are eligible to vote), voting in favour of it.
- xi) **subcommittee** means a subcommittee established under clause 21.
- xii) **the Act** means the *Associations Incorporation Act 2009*.
- xiii) **the Regulation** means the *Associations Incorporation Regulation 2022*.

### 2 Name of association

- (1) The name of the association is Trigeminal Neuralgia Association Australia Incorporated.
- (2) The association is established to be, and continue as, a charity.
- (3) These rules in this constitution are intended to be binding on members of the association and enforceable by courts in New South Wales.

### 3 Charitable purposes and not-for-profit status

- (1) The Mission of Trigeminal Neuralgia Association Australia is to promote awareness of Trigeminal Neuralgia and provide information, support, and encouragement to people living with Trigeminal Neuralgia, their families, supporters, the community, and the medical and dental professions who treat them.
- (2) The Vision of Trigeminal Neuralgia Association Australia is to holistically improve the quality of life and treatment of Trigeminal Neuralgia with dignity and understanding locally, nationally, and internationally.

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- (3) The association will pursue the following charitable purpose: the purpose of Trigeminal Neuralgia Association Australia is to educate and empower people living with Trigeminal Neuralgia to enable them to overcome challenges and live a fulfilling life.
- (4) The association may do all things that help it to achieve these purposes, in accordance with these rules.
- (5) The association and its committee may only do things and use the income and assets of the association (including those held on trust for the association or its purposes) for the purpose.
- (6) The association, as a registered entity, must ensure its accountability and transparency to its members; and ensure members shall have an adequate opportunity to raise concerns about the governance of the association.
- (7) The association must be able to demonstrate, by reference to its governing rules or by other means, its purposes and its character as a not-for-profit entity; and
  - (i) make information about its purposes available to the public, including members, donors, employees, volunteers and benefit recipients; and
  - (ii) comply with its purposes and its character as a not-for-profit entity.
- (8) The association must operate consistently with legal requirements for registered charities, in particular health promotion charities.

## **Part 2 Members of association**

### **4 Membership generally**

- (1) An individual is taken to be a member of the association if:
  - i) the person applied to be a member under clause 5(1) and the application has been processed, or
  - ii) the person was one of the individuals on whose behalf an application for registration of the association was made under the Act, section 6(1).
- (2) A person who is not an individual is not eligible to be a member of the association.

### **5 Membership applications**

- (1) Anyone who supports the purposes and agrees to be bound by these Rules can apply to join the association as a member.
- (2) An application by a person to be a member of the association must be:
  - i) made in the form determined by the committee, and
  - ii) lodged with the secretary.
- (3) The committee may determine that an application may be made or lodged by email or other electronic means.
- (4) The secretary must ensure the applicant's name is entered in the register of members as soon as practicable after the applicant pays the membership fee in accordance with clause (8).
- (5) The applicant becomes a member once the applicant's name is entered in the register.

### **6 Membership fees**

- (1) Membership fee proposals must be approved by a majority of members voting at an annual general meeting.
- (2) A member must pay to the association an annual membership fee:
  - i) at the time when a person applies to become a member, and
  - ii) twelve months after becoming a member

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- (3) The annual membership fee to be paid to the association by a person as they apply to be a member of the association or apply to renew their membership, is an amount determined by the committee.

### **7 Members' liabilities**

- (1) The liability of a member of the association to contribute to the payment of either of the following is limited to the amount of any outstanding fees for the member under clause 8:
  - i) the debts and liabilities of the association,
  - ii) the costs, charges and expenses of the winding up of the association.

### **8 Membership entitlements not transferable**

- (1) A right, privilege or obligation that a person has because the person is a member of the association:
  - i) cannot be transferred to another person, and
  - ii) terminates once the person ceases to be a member of the association.

### **9 Register of members**

- (1) The secretary must establish and maintain a register of members of the association.
- (2) The register:
  - i) may be in written or electronic form, and
  - ii) must include, for each member:
    - a) the member's full name, and
    - b) a residential and postal address, plus phone number, and
    - c) an email address (if the applicant has one), and
    - d) the date on which the person became a member, and
  - iii) must be kept securely, and
  - iv) if kept in electronic form, must be able to be converted to hard copy.
- (3) A member must not use information about a member obtained from the register to contact or send material to the member, unless:
  - i) the information is used to send the member:
    - a) a notice for a meeting or other event relating to the association, or
    - b) other material relating to the association that has been approved by the committee, or
  - ii) it is necessary to comply with a requirement of the Act or the Regulation.
- (4) The committee must record the date that a person stops being a member of the association in the register of members as soon as possible after the person stops being a member.

### **10 Disciplinary action against members**

- (1) A person may make a complaint to the committee that a member of the association has:
  - i) failed to comply with a provision of this constitution, or
  - ii) wilfully acted in a way prejudicial to the interests of the association.
- (2) The committee can take disciplinary action against a member of the association if it considers the member has breached these rules or if the member's behaviour is causing (or has caused) damage or harm to the association. The committee must follow a disciplinary process in accordance with the following subclauses.
- (3) The committee must write to the member to tell them why they propose to take disciplinary action.

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- (4) The committee must arrange a disciplinary procedure that meets these requirements:
  - i) the outcome must be determined by an unbiased decision-maker (who cannot be a committee member),
  - ii) the member must have an opportunity to explain or defend themselves, and
  - iii) the disciplinary procedure must be completed as soon as reasonably practical.
- (5) The committee must notify the member of the outcome of the disciplinary procedure as soon as reasonably practical.
- (6) There will be no liability for any loss or injury suffered by a member as a result of any decision made in good faith (fairly and honestly) under this clause 9.
- (7) The committee may refuse to deal with a complaint if the committee considers the complaint is trivial or vexatious.
- (8) If the committee decides to deal with the complaint, the committee must:
  - i) serve notice of the complaint on the member, and
  - ii) give the member at least 14 days from the day the notice is served on the member within which to make submissions to the committee about the complaint, and
  - iii) consider any submissions made by the member.
- (9) The committee may, by resolution, provide a warning to the member, expel the member from the association or suspend the member's membership if, after considering the complaint, the committee is satisfied that:
  - i) the facts alleged in the complaint have been proved, and
  - ii) the expulsion or suspension is warranted.
- (10) If the committee warns, expels or suspends the member, the secretary must, within 7 days of that action being taken, give the member written notice of:
  - i) the action taken, and
  - ii) the reasons given by the committee for taking the action, and
  - iii) the member's right of appeal under clause 10.
- (11) The expulsion or suspension does not take effect until the later of the following:
  - i) the day the period within which the member is entitled to exercise the member's right of appeal expires, or
  - ii) if the member exercises the member's right of appeal within the period - the day the association confirms the resolution under clause 10.

### **11 Right of appeal against disciplinary action**

- (1) A member may appeal against a resolution of the committee under clause 10 by lodging a notice of appeal with the secretary within 7 days of being served notice of the resolution.
- (2) The member may include, with the notice of appeal, a statement of the grounds on which the member intends to rely for the purposes of the appeal.
- (3) The secretary must notify the committee that the secretary has received a notice of appeal.
- (4) If notified that a notice has been received, the committee must call a general meeting of the association to be held within 28 days of the day the notice was received.
- (5) At the general meeting:
  - i) no business other than the question of the appeal is to be transacted, and
  - ii) the member must be given an opportunity to state the member's case orally or in writing, or both, and

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- iii) the committee must be given the opportunity to state the committee's case orally or in writing, or both, and
  - iv) the members present must vote by secret ballot on the question of whether the resolution should be confirmed or revoked.
- (6) The appeal is to be determined by a simple majority of votes cast by the members.

### **12 Resolution of internal disputes**

- (1) If there is a dispute between a member or committee member and:
  - i) one or more members, and
  - ii) one or more committee members
- (1) the parties involved must first attempt to resolve the dispute between themselves within a period of at least 14 days from the date the dispute is known to all parties involved.
- (2) If the dispute cannot be resolved between the people involved, the committee must be notified, and a dispute resolution process must be put in place by the committee. The committee may develop a policy regarding dispute resolution.
- (3) A dispute resolution process must allow each party a reasonable opportunity to be heard and/or submit arguments in writing, and should first attempt to resolve the dispute by the parties reaching agreement. If agreement cannot be reached, the committee may appoint an unbiased person to decide the outcome of the dispute. The unbiased person may be a member, non-member or professional mediator who is not connected with the dispute or the people involved in it.
- (4) The following disputes must be referred to a Community Justice Centre within the meaning of the *Community Justice Centres Act 1983* for mediation:
  - i) a dispute between 2 or more members of the association, but only if the dispute is between the members in their capacity as members, or
  - ii) a dispute between 1 or more members and the association.
- (5) If the dispute is not resolved by mediation within 3 months of being referred to the Community Justice Centre, the dispute must be referred to arbitration.
- (6) The *Commercial Arbitration Act 2010* applies to a dispute referred to arbitration.

### **13 Member resignation**

- (1) A member is deemed to have resigned if their annual membership is 6 months overdue.
- (2) If a member resigns after payment of an annual membership fee for the year but before one year has passed, the association is not required to refund any portion of the membership fee already paid.
- (3) A person ceases to be a member of the association if the person:
  - i) dies, or
  - ii) resigns from being a member, or
  - iii) is expelled from the association.

## **Part 3      Committee**

### ***Division 1              Constitution***

#### **14    Composition of committee**

- (1) The committee must have 7 members aged 18 years or older resident in Australia, as elected in accordance with clause 15, consisting of:
  - i) the following office-bearers:
    - a) the president,
    - b) the vice-president,
    - c) the secretary,
    - d) the treasurer, and
  - ii) at least 3 ordinary committee members.
- (2) An office-bearer may hold up to 2 offices, other than both the offices of president and vice-president.
- (3) Within 14 days after vacating office, a former committee member of an association must ensure that all documents in his or her possession that belong to the association are delivered to the public officer for uploading into the online data vault, for access by his or her successor.

#### **15    Election of committee members**

- (1) Each committee member finishes their time on the committee at the end of the next AGM after they were appointed, but they can be elected again subject to clause 16.
- (2) Any member of the association may be nominated as a candidate for election as an office-bearer or ordinary committee member, subject to their not being ineligible to be a responsible person under the ACNC Act.
- (3) The nomination must be:
  - i) made in writing, and
  - ii) signed by at least 2 members of the association, not including the candidate, and
  - iii) accompanied by the written consent of the candidate to the nomination, and
  - iv) given to the secretary before the date fixed for the annual general meeting at which the election is to take place.
- (4) If insufficient nominations are received to fill all vacancies:
  - i) the candidates nominated are taken to be elected, and
  - ii) a call for further nominations must be made at the meeting.
- (5) A nomination made at the meeting in response to a call for further nominations must be made in the way directed by the member presiding at the meeting.
- (6) Vacancies that remain after a call for further nominations are taken to be casual vacancies.
- (7) If the number of nominations received is equal to the number of vacancies to be filled, the members nominated are taken to be elected.
- (8) If the number of nominations received is more than the number of vacancies to be filled, a ballot must be held at the meeting in the way directed by the committee.

#### **16    Terms of office**

- (1) Subject to this constitution, a committee member holds office from the day the member is elected until immediately before the next annual general meeting.



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- (2) A member is eligible, if otherwise qualified, for re-election subject to subclause (3).
- (3) The maximum number of consecutive terms of office of any office bearer on the committee shall be six.

### **17 Vacancies in office**

- (1) A casual vacancy in the office of a committee member arises if the member:
  - i) dies, or
  - ii) ceases to be a member of the association, or
  - iii) resigns from office by written notice given to the secretary, or
  - iv) is removed from office by the association under this clause, or
  - v) is absent from 3 consecutive meetings of the committee without offering an apology for their absence and/or the consent of the committee, or
  - vi) becomes an insolvent under administration within the meaning of the *Corporations Act 2001* of the Commonwealth, or
  - vii) is prohibited from being a director of a company under the *Corporations Act 2001* of the Commonwealth, Part 2D.6, or
  - viii) is convicted of an offence involving fraud or dishonesty for which the maximum penalty is imprisonment for at least 3 months, or
  - ix) becomes a mentally incapacitated person, or
  - x) a committee member stops being on the committee if they become ineligible to be a responsible entity (committee member) under the ACNC Act.
- (2) If a committee member stops being on the committee before the next AGM, the committee can temporarily appoint a member of the association to fill the vacancy on the committee until the next AGM.
- (3) The association in a special general meeting as convened by clause 30, may, by resolution:
  - i) remove a committee member from office at any time, and
  - ii) appoint another member of the association to hold office for the balance of the committee member's term of office.
- (4) A committee member to whom a proposed resolution referred to in subclause (2) relates may:
  - i) give a written statement, of a reasonable length, to the president or secretary, and
  - ii) request that the committee send a copy of the statement to each member of the association at least 7 days before the general meeting at which the proposed resolution will be considered.
- (5) If the committee fails to send a copy of a statement received under subclause (3)(a) to each member in accordance with a request made under subclause (3)(b), the statement must be read aloud by the member presiding at the general meeting at which the proposed resolution will be considered.
- (6) The committee may appoint a member of the association to fill a casual vacancy other than a vacancy arising from the removal from office of a committee member.
- (7) Subject to this constitution, a member appointed to fill a casual vacancy holds office until the next annual general meeting.

### **18 Secretary**

- (1) As soon as practicable after being elected as secretary, the secretary must lodge a notice with the association specifying the secretary's address.
- (2) The secretary must keep minutes of:
  - i) all elections of committee members, and

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- ii) the names of committee members present at a meeting of the committee or a general meeting, and
  - iii) all proceedings at committee meetings and general meetings.
- (3) The minutes must be:
- i) kept in written or electronic form, and
  - ii) approved at the next committee meeting with a motion proposed, seconded and approved by that committee meeting, and recorded in the minutes of that meeting, and
  - iii) saved as PDFs and securely stored in an online data vault.

### **19 Treasurer**

- (1) The treasurer of the association must ensure—
- i) all money owed to the association is collected, and
  - ii) all payments authorised by the association are made, and
  - iii) correct books and accounts are kept showing the financial affairs of the association, including full details of receipts and expenditure relating to the association's activities.

### **20 Functions of committee**

- (1) Subject to the Act and the Regulation, this constitution and any resolution passed by the association in general meeting, the committee:
- i) is to control and manage the affairs of the association, and
  - ii) may exercise all the functions that may be exercised by the association, other than a function that is required to be exercised by the association in general meeting, and
  - iii) has power to do all things that are necessary or convenient to be done for the proper management of the affairs of the association.
  - iv) The committee can exercise all powers and functions of the association (consistently with these rules, relevant Australian laws and requirements for registered charities), except for powers and functions that the members are required to exercise at a general meeting (under these rules, relevant Australian laws or requirements for registered charities).
- (2) Duties of committee. Among its other responsibilities, the committee is responsible for making sure that:
- i) accurate minutes of general meetings and committee meetings are made and kept
  - ii) other records are kept in accordance with clause 42, and
  - iii) documents of the association are made available to members in accordance with clauses 43.
- (3) Committee members must:
- i) comply with their legal duties under Australian laws and ensure that the association complies with its duties under Australian laws, and
  - ii) meet the requirements for responsible entities (committee members) of registered charities and comply with the duties described in governance standard 5 of the regulations made under the ACNC Act which are:
    - a) to exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were a committee member of the association, and

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- b) to act in good faith (fairly and honestly) in the best interests of the association and to further the charitable purpose(s) of the association set out in clause 3, and
- c) not to misuse their position as a committee , and
- d) not to misuse information they gain in their role as a committee member, and
- e) to disclose any perceived or actual material conflicts of interest, and
- f) to ensure that the financial affairs of the association are managed responsibly, and
- g) not to allow the association to operate while it is insolvent.

### **21 Delegation to subcommittees**

- (1) The committee may:
  - i) establish 1 or more subcommittees to assist the committee to exercise the committee's functions, and
  - ii) appoint 1 or more members of the association to be the members of the subcommittee.
- (2) The committee may delegate to the subcommittee the exercise of the committee's functions specified in the instrument, other than:
  - i) this power of delegation, or
  - ii) a duty imposed on the committee by the Act or another law.

## **Division 2 Procedure**

### **22 Committee meetings**

- (1) The committee can decide how often it meets, and the way in which it meets, including by allowing committee members to attend through technology, so long as it allows everyone to communicate.
- (2) A committee meeting may be held at 2 or more venues using any technology that gives each of the committee members a reasonable opportunity to participate.
- (3) The committee must meet at least 3 times in each 12-month period at the place and time determined by the committee.
- (4) Additional meetings of the committee may be called by any committee member.
- (5) The procedure for calling and conducting business at a meeting of a subcommittee is to be as determined by the subcommittee.

### **23 Notice of committee meeting**

- (1) The secretary must give each committee member oral or written notice of a meeting of the committee at least 48 hours, or another period on which the committee members unanimously agree, before the time the meeting is due to commence.
- (2) The notice must describe the general nature of the business to be transacted at the meeting.
- (3) The only business that may be transacted at the meeting is:
  - i) the business described in the notice, and
  - ii) additional business that the committee members present at the meeting agree to discuss at the meeting.

**24 Quorum**

- (1) The quorum for a meeting of the committee is 3 committee members (either in person or through the use of technology).
- (2) No business may be transacted by the committee unless a quorum is present.
- (3) If a quorum is not present within half an hour of the time the meeting commences, the meeting is adjourned:
  - i) to the same place, and
  - ii) to the same time of the same day in the following week.

**25 Presiding committee member**

- (1) The following committee member presides at a meeting of the committee:
  - i) the president,
  - ii) if the president is absent - the vice-president,
  - iii) if both the president and vice-president are absent - 1 of the members present at the meeting, as elected by the other members.
- (2) The member presiding at the meeting has:
  - i) a deliberative vote, and
  - ii) in the event of an equality of votes - a second or casting vote.

**26 Voting**

- (1) A decision supported by a majority of the votes cast at a meeting of the committee or a subcommittee at which a quorum is present is the decision of the committee or subcommittee. A resolution is passed if more than half of the committee members voting at the committee meeting vote in favour of the resolution.

**27 Acts valid despite vacancies or defects**

- (1) Subject to clause 26(1), the committee may act despite there being a casual vacancy in the office of a committee member.
- (2) An act done by a committee or subcommittee is not invalidated because of a defect relating to the qualifications or appointment of a member of the committee or subcommittee.

**28 Transaction of business outside meetings or by telephone or other means**

- (1) The committee may transact its business by the circulation of papers, including by electronic means, among all committee members.
- (2) If the committee transacts business by the circulation of papers, a written resolution, approved in writing by a majority of committee members, is taken to be a decision of the committee made at a meeting of the committee.
- (3) The committee may transact its business at a meeting at which 1 or more committee members participate by telephone or other electronic means, provided a member who speaks on a matter can be heard by the other members.
- (4) The member presiding at the meeting and each other member have the same voting rights as they would have at an ordinary meeting of the committee for the purposes of:
  - i) the approval of a resolution under subclause (2), or
  - ii) a meeting held in accordance with subclause (3).
- (5) A resolution approved under subclause (2) must be recorded in the minutes of the meetings of the committee.

## **Part 4      General meetings of association**

### **29    Annual general meetings**

- (1) The association must hold the association's first annual general meeting within 18 months of the day the association was registered under the Act.
- (2) The association must hold subsequent annual general meetings within:
  - i) 6 months of the last day of the association's financial year, or
  - ii) the later period allowed or prescribed in accordance with the Act, section 37(2)(b).
- (3) Subject to the Act and subclauses (1) and (2), the annual general meeting is to be held at the place and time determined by the committee.
- (4) A general meeting may be held at 2 or more venues using any technology that gives each of the association's members a reasonable opportunity to participate.
- (5) The business that may be transacted at an annual general meeting includes the following:
  - i) confirming the minutes of the previous annual general meeting and any special general meetings held since the previous annual general meeting,
  - ii) receiving reports from the committee on the association's activities during the previous financial year,
  - iii) electing office-bearers and ordinary committee members,
  - iv) receiving and considering financial statements or reports required to be submitted to members of the association under the Act.
- (6) The Chair (clause 25) will chair the annual general meetings. If the Chair does not attend, the members at the meeting can choose another committee member to be the chair for that meeting. The Chair is responsible for the conduct of the general meeting and, for this purpose, must give members a reasonable opportunity to make comments and ask questions (including to the auditor or reviewer (if any)).

### **30    Special general meetings**

- (1) The committee may call a special general meeting whenever the committee thinks fit.
- (2) The committee must call a special general meeting if the committee receives a request made by at least 5% of the total number of members.
- (3) The members must state in the request any resolution to be proposed at the meeting.
- (4) The request:
  - i) must be in writing, and
  - ii) must state the purpose of the meeting, and
  - iii) must be signed by the members making the request, and
  - iv) may consist of more than 1 document in a similar form signed by 1 or more members, and
  - v) must be lodged with the secretary, and
  - vi) may be in electronic form and signed and lodged by electronic means.
- (5) If the committee fails to call a special general meeting within 1 month of the request being lodged, 1 or more of the members who made the request may call a special general meeting to be held within 3 months of the date the request was lodged.
- (6) A special general meeting held under subclause (2) must be conducted, as far as practicable, in the same way as a special general meeting called by the committee.

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- (7) At least 10% of the members that are entitled to vote at the meeting must be present at a special general meeting (either in person or through technology that allows for clear and simultaneous, interactive, communication of all meeting participants, for the meeting to be held (this is the quorum for special general meetings).
- (8) The Chair (clause 25) will chair general meetings. If the Chair does not attend, the members at the meeting can choose another committee member to be the chair for that meeting. The Chair is responsible for the conduct of the general meeting, and for this purpose must give members a reasonable opportunity to make comments and ask questions (including to the auditor or reviewer, if any).

### **31 Notice of special general meeting**

- (1) The secretary must give each member notice of a special general meeting:
  - i) if a matter to be determined at the meeting requires a special resolution - at least 21 days before the meeting, or
  - ii) otherwise - at least 14 days before the meeting.
- (2) Notice to members must be sent to the members' contact addresses listed on the register of members.
- (3) The notice must specify:
  - i) the place and time, and the technology that will be used to facilitate this, at which the meeting will be held, and
  - ii) the nature of the business to be transacted at the meeting, and
  - iii) if a matter to be determined at the meeting requires a special resolution - that a special resolution will be proposed, and
  - iv) for an annual general meeting - that the meeting to be held is an annual general meeting.
- (4) The only business that may be transacted at the meeting is:
  - i) the business specified in the notice, and
  - ii) for an annual general meeting - business referred to in clause 29(5).
- (5) A member may give written notice to the secretary of business the member wishes to raise at a special general meeting.
- (6) A group of at least 10% of members who are eligible to vote at a general meeting can propose resolutions to be voted on at a general meeting by writing to the committee advising them of the proposed resolutions, so long as requirements to notify members of the resolutions prior to the general meeting can be met (which will depend on the type of resolution proposed).
- (7) If the secretary receives a notice under subclause (4), the secretary must specify the nature of the business in the next notice calling a general meeting.

### **32 Quorum**

- (1) The quorum for a special or annual general meeting is 5 members of the association entitled to vote under this constitution.
- (2) No business may be transacted at a special or annual general meeting unless a quorum is present.
- (3) If a quorum is not present within half an hour of the time the meeting commences, the meeting:
  - i) if called on the request of members - is dissolved, or
  - ii) otherwise - is adjourned:
    - a) to the same time of the same day in the following week, and
    - b) to the same place, unless another place is specified by the member presiding at the meeting at the time of the adjournment or in a written notice given to members at least 1 day before the

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adjourned meeting.

- (4) If a quorum is not present within half an hour of the time an adjourned meeting commences, but there are at least 3 members present, the members present constitute a quorum.

### **33 Adjourned meetings**

- (1) The member presiding at a general meeting may, with the consent of the majority of the members present, adjourn the meeting to another time and place.
- (2) The chair can adjourn the meeting if there are not enough members at the meeting (clause 32), or if there is not enough time at a meeting to consider all business.
  - i) A new notice must be sent to members for the adjourned meeting.
  - ii) Only unfinished business may be dealt with at a resumed meeting.
  - iii) The chair must adjourn the meeting if a majority of members entitled to vote at the meeting direct the chair to do so.
- (3) The secretary must give each member oral or written notice, at least 1 day before the adjourned meeting, of:
  - i) the time and place at which the adjourned meeting will be held, and
  - ii) the nature of the business to be transacted at the adjourned meeting.

### **34 Voting**

- (1) A member is not entitled to vote at a special or annual general meeting unless the member:
  - i) is at least 18 years of age, and
  - ii) has paid all money owed by the member to the association.
- (2) Each member has 1 vote, except as provided by clause 25 (2).
- (3) A question raised at the meeting must be decided by:
  - i) a show of hands, or
  - ii) if clause 36 applies - an appropriate method that is deemed fair and reasonable in the circumstances, as determined by the committee, or
  - iii) a written ballot, but only if:
    - a) the member presiding at the meeting moves that the question be decided by ballot, or
    - b) at least 5 members agree the question should be determined by ballot.
  - iv) If a vote is held initially by show of hands, any member can request a vote be held again by written ballot.
- (4) If a question is decided using a method referred to in subclause (3)(i) or 3(ii), either of the following is sufficient evidence that a resolution has been carried, whether unanimously or by a majority, or lost, using the method:
  - i) a declaration by the member presiding at the meeting,
  - ii) an entry in the association's minute book
- (5) A resolution (other than a special resolution) is passed if more than half of the members present at a general meeting vote in favour of the resolution.
- (6) If a vote of the members is tied, the chair of the meeting does not have an additional, deciding vote and shall declare that the motion has failed.
- (7) The chair and the meeting minutes do not need to state the number or proportion of the votes in favour or against on a show of hands.
- (8) A written ballot must be conducted in accordance with the directions of the member presiding.
- (9) A member who wishes to vote by proxy at a general meeting must submit a signed document to the Secretary authorizing another member to vote on their

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behalf. Electronic submission is sufficient to be able to vote remotely by proxy, but the scanned document must have an original signature.

### **35 Postal or electronic ballots**

- (1) The association may hold a postal or electronic ballot, as determined by the committee, to decide any matter other than an appeal under clause 10.
- (2) The ballot must be conducted in accordance with Schedule 2 of the Association Incorporation Regulations Act.

### **36 Transaction of business outside meetings or by telephone or other means**

- (1) The association may transact its business by the circulation of papers, including by electronic means, among all members of the association.
- (2) If the association transacts business by the circulation of papers, a written resolution, approved in writing by a majority of members, is taken to be a decision of the association made at a general meeting.
- (3) The association may transact its business at a general meeting at which 1 or more members participate by telephone or other electronic means, provided a member who speaks on a matter can be heard by the other members.
- (4) The member presiding at the meeting and each other member have the same voting rights as they would have at an ordinary meeting of the association for the purposes of:
  - i) the approval of a resolution under subclause (2), or
  - ii) a meeting held in accordance with subclause (3).
- (5) A resolution approved under subclause (2) must be recorded in the minutes of the meetings of the association.

## **Part 5 Administration**

### **37 Change of name, objects or constitution**

- (1) Subject to subclause (2) below, these rules may be changed, added to, or replaced by special resolution of the association's members at a general meeting. This includes a change to the association's name.
- (2) The members must not pass a special resolution that amends these rules if passing it causes the association to no longer be a charity.
- (3) An application for registration of a change in the association's name, objects or constitution made under the Act, section 10 must be made by:
  - i. the public officer, or
  - ii. a committee member.
- (3) An association may apply to the Commissioner for Fair Trading, Department of Finance, Services and Innovation for registration of a change in the association's name, objects or constitution.

### **38 Non-profit status**

- (1) Subject to the Act and the Regulation, the association must not conduct the association's affairs in a way that provides a pecuniary gain for a member of the association.
- (2) Non-distribution of profits
  - i) The income and property of the association however derived, shall subject to any obligation under charitably trust law or any other statutory requirements, be used and applied solely in the promotion of its objects and in the exercise of powers conferred upon it by the rules.



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- ii) No portion of this income and property shall be distributed, paid or transferred directly or indirectly by way of dividend, bonus or otherwise by way of profit or amongst the members of the Association.
- iii) The requirement contained in ii) shall not however, prevent the payment in good faith of:
  - a) Interest (at prevailing Bank rates or less) to any such member in respect of monies advanced by that member to the Association or otherwise owing by the Association to that member.
  - b) Any remuneration to any officers or servants of the Association or other person in return for services genuinely rendered to the Association.

### **39 Funds**

- (1) Subject to a resolution passed by the association, the association's funds may be derived from the following sources:
  - i) membership fees,
  - ii) donations,
  - iii) grants,
  - iv) fundraising,
  - v) interest,
  - vi) any other lawful sources approved by the committee that are consistent with furthering the association's purposes.
- (2) Funds received
  - i) One or more bank accounts shall be established and maintained to accept income including donations on an ongoing basis.
  - ii) A record should be kept of donors and their donations.
- (3) The committee must establish policies about the holding and management of funds and assets on behalf of the association or its purposes, and that set out who oversees these funds and assets and who can make decisions about them.
- (4) As soon as practicable, after receiving money, the association must:
  - i) deposit the money, without deduction, to the credit of the association's authorised deposit-taking institution account, and
  - ii) issue a receipt for the amount of money received to the person from whom the money was received.
- (5) The association's funds and assets must be used to pursue the association's objects in the way that the committee determines.
- (6) Authorised signatories
  - (i) The association must have a minimum of two authorised signatories.
  - (ii) The association's public officer is, by virtue of that office, automatically an authorised signatory for the association.
  - (iii) The committee may from time to time appoint additional authorised signatories from among such of its members, and may at any time revoke any such appointment.
  - (iv) A person (other than the association's public officer) vacates office as an association's authorised signatory if—
    - (a) his or her appointment as an authorised signatory is revoked, or
    - (b) he or she ceases to be a committee member.
  - (v) Any withdrawal of funds from an association bank account to make payments connected with association expenses shall require the sign off of two authorised signatories.
  - (vi) Any transfer of funds between association or other bank accounts, to make payments connected with association expenses shall require the sign off of two authorised signatories.

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- (viii) Withdrawals and transfers may be effected either in electronic (with personalised security tokens/passwords or other means of individual identification as required by a bank) or hard copy form.
- (ix) The committee shall maintain a register of authorised signatories.
- (8) The association must not distribute any income or assets, directly or indirectly, to its members.
- (9) Subclause 7 (v) and (vi) does not stop the association from doing the following things, provided they are done in good faith (fairly and honestly):
  - i) paying a member for goods or services they have provided or expenses they have properly incurred at fair and reasonable rates or rates more favourable to the association, or
  - ii) making a payment or providing a benefit to a member in carrying out the association's charitable purpose(s).
- (10) Indemnity
  - i) To the extent possible under law, members (including committee members) are entitled to be indemnified out of the assets held for the association for any debts or liabilities incurred personally by a member when acting on behalf of the association, so long as the member was:
    - (a) authorised by the association to take that action, and
    - (b) acting in good faith (fairly and honestly) and in the best interests of the association.
  - ii) This indemnity is a continuing obligation and is enforceable by a person even if that person is no longer a member of the association. This indemnity only applies to the extent that the person is not otherwise entitled to be indemnified and is not actually indemnified by another person (including an insurer under an insurance policy).

### **40 Insurance**

The association may take out and maintain insurance as appropriate for the association's assets and liabilities.

### **41 Service of notices**

- (1) For the purposes of this constitution, a notice may be given to or served on a person:
  - i) by delivering the notice to the person personally, or
  - ii) by sending the notice by pre-paid post to the address of the person, or
  - iii) by sending the notice by electronic transmission to an address specified by the person for giving or serving the notice.
- (2) A notice is taken to have been given to or served on a person, unless the contrary is proved:
  - i) for a notice given or served personally - on the date on which the notice is received by the person, or
  - ii) for a notice sent by pre-paid post - on the date on which the notice would have been delivered in the ordinary course of post, or
  - iii) for a notice sent by electronic transmission:
    - a) on the date the notice was sent, or
    - b) if the machine from which the transmission was sent produces a report indicating the notice was sent on a later date—on the later date.

### **42 Records and books**

- (1) The association must make and keep financial records that:

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- i) correctly record and explain the association's transactions and financial position and performance, and
  - ii) enable true and fair financial statements to be prepared and to be audited.
- (2) A registered entity must give an *information statement* for a financial year to the Commissioner in the approved form no later than 31 December in the following financial year.
- (4) The association must also keep-records that correctly document its operations, and be able to produce these records if required by law.
- (5) A record or minute kept in electronic form must be able to be converted to hard copy.
- (6) The association must retain its records for at least seven years after the transactions, operations or acts covered by the records are completed, or as otherwise required by any laws that may apply.
- (7) The committee members must take reasonable steps to ensure that the association's records are kept safe.
- (8) Except as otherwise provided by this constitution, all records, books and other documents relating to the association must be kept in the custody of either of the following persons, as determined by the committee:
  - a) the public officer,
  - b) a member of the association.

### **43 Inspection of records and books**

- (1) The following documents must be available for inspection, free of charge, by members of the association within a reasonable time:
  - i) this constitution,
  - ii) minutes of committee meetings and general meetings of the association,
  - iii) records, books and other documents relating to the operation of the association, but not membership records.
- (2) A member may inspect a document referred to in subclause (1):
  - i) in hard copy, or
  - ii) in electronic form, if available.
- (3) A member may obtain a hard copy of a document referred to in subclause (1) on payment of a fee of not more than \$1, as determined by the committee, for each page copied.
- (4) The committee may refuse to allow a member to inspect or obtain a copy of a document under this clause:
  - i) that relates to confidential, personal, commercial, employment or legal matters, or
  - ii) if the committee considers it would be prejudicial to the interests of the association for the member to do so.

### **44 Financial year**

- (1) The association's financial year is one of the following, commencing at the expiration of the previous financial year—
  - i) each period of 12 months,
  - ii) another period, of not more than 18 months, as resolved by the association.

### **45 Winding up the association**

- (1) The association can be wound up by its members if the members pass a special resolution to wind up the association at a general meeting.

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- (2) If the association is wound up, after it has paid all debts and other liabilities (including the costs of winding up), any remaining assets:
  - i) must not be distributed to the members or former members of the association, and
  - ii) subject to the requirements of Australian laws and any Australian court order, must be distributed to another organisation or other organisations, with similar purposes, which is/are charitable at law, and which is/are not carried on for the profit or personal gain of members.
- (3) Surplus property that is property supplied by a government department or public authority, including an unexpended portion of a grant, if any, must be returned--
  - i) to the department or authority that supplied it, or
  - ii) to a body nominated by the department or authority.