

Corporations Act 2001

A company limited by guarantee
taken to be registered in New South Wales

CONSTITUTION

of

IRRIGATION AUSTRALIA LIMITED
ACN 002 567 633

(as amended by special resolution on 19 May 2008)

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GENERAL

1. **Definitions**

The following definitions apply in this Constitution unless the context otherwise requires.

Association means Irrigation Australia Limited ACN 002 567 633.

Chairman means the chairman of the board of directors.

Financial in relation to a Member, means that that Member has paid all fees and other moneys due to the Association by it within thirty (30) days from the due date for those fees or from a demand by the Association for those moneys.

Honorary Member means a person appointed as an honorary member under rule 13.

Industry means the irrigation industry in Australia.

Law means the *Corporations Act 2001* and the *Corporations Regulations* as amended from time to time.

Life Member means a person elected to life membership under rule 14.

Member means a person who has agreed to be bound by this Constitution and the guarantee hereunder and has been accepted by the directors and entered into the Register of Members, but does not include an Honorary Member.

Member Present means, in connection with a meeting, the Member present in person, by corporate representative, by attorney or by proxy at the meeting, who is entitled to vote.

Seal means any common seal or duplicate common seal of the Association.

Special Resolution means a resolution of which notice has been given as required by the Law and has been passed by at least 75% of the votes cast by Members Present and entitled to vote on the resolution.

Two-thirds Resolution means a resolution that has been passed by at least two-thirds of the votes cast by Members Present and entitled to vote on the resolution.

2. Interpretation

2.1 Headings are for convenience only and do not affect interpretation. The following rules of interpretation apply unless the context requires otherwise.

- (a) A **gender** includes all genders.
- (b) The **singular** includes the plural and conversely.
- (c) Where a **word** or **phrase** is defined, its other grammatical forms have a corresponding meaning.
- (d) A reference to a **paragraph** or **sub-paragraph** is to a paragraph or sub-paragraph, as the case may be, of the rule or paragraph, respectively, in which the reference appears.
- (e) A reference to any **legislation** or to any **provision** of any legislation includes any modification or re-enactment of it, any legislative provision substituted for it, and all regulations and statutory instruments issued under it.
- (f) An expression used in this Constitution has the meaning given to that expression in the Law.
- (g) An expression has, in a provision of this Constitution which relates to a particular provision of the Law, the same meaning as in that provision of the Law.
- (h) A mention of anything after **include**, **includes** or **including** does not limit what else might be included.

2.2 A decision by the directors on the construction or interpretation of this Constitution or any by-laws shall be conclusive and binding on all Members, unless it is overruled or varied by Members in general meeting or a court of competent jurisdiction.

3. Replaceable rules

The provisions of the Law which operate as replaceable rules do not apply to the Association.

4. Actions authorised under the Law

Where the Law authorises or permits a company to do any matter or thing if so authorised by its Constitution, the Association is and shall be taken by this rule to be authorised or permitted to do that matter or thing, despite any other provision of this Constitution.

5. Alteration of this Constitution

This Constitution may only be modified or repealed by Special Resolution.

NAME AND OBJECTS

6. Name

The name of the Association is "Irrigation Australia Limited".

7. Objects

The objects for which the Association is established are:

- (a) to represent the interests of the Industry to governments, statutory authorities, other group and organisations and the public;
- (b) to promote and contribute to the development and expansion of the Industry including through facilitating and supporting appropriate research and development and education and training;
- (c) to provide information and liaison at government and other enquiries, investigations and forums concerning the Industry;
- (d) to disseminate technological, agronomic and other information by way of bulletins and seminars, field days, radio television, newspapers and other means for the purpose of benefiting the Industry; and
- (e) to co-operate with the International Commission on Irrigation and Drainage for the distribution and interchange of information concerning irrigation, drainage, river training, flood control and natural resource management between the international Committees of the participating countries.

LIABILITY OF MEMBERS

8. Guarantee on winding up

The liability of each Member is limited to \$5.00 on winding up.

9. Membership Fees

9.1 Each Member shall pay, in the amount(s) and manner, and by the date(s), determined by the directors from time to time a fee for each year the Member subscribes to be a Member.

9.2 The directors may in their discretion charge a different fee for different categories of membership and for different Members within categories of membership.

9.3 Life Members and Honorary Members shall not be required to pay a fee for their membership or honorary membership.

9.4 The directors, when determining fees and/or other payments for an applicant or a Member, shall have regard to the nature and size of the business or operations from time to time of the applicant or Member and such other matters as they deem to be relevant. The directors may vary their determination, either on their own motion or on application in writing by the relevant applicant or Member. The directors shall not be required to assign any reason for any such determination or variation of a determination.

9.5 If an applicant is elected to membership during the financial year, the applicant shall only be required to pay the pro-rata amount of the fee for that year calculated on a quarterly basis.

APPLICATION OF INCOME AND PROPERTY AND OF SURPLUS ON WINDING UP

10. Income and property

The income and property of the Association shall be applied solely towards the promotion of the objects of the Association and no portion shall be paid or transferred directly or indirectly as a dividend, bonus or any other method by way of profit to the Members provided that nothing shall prevent the payment in good faith of remuneration to any officers or employees of the Association nor to any Member or other person in return for any services actually rendered to the Association nor prevent the payment of interest on money lent nor reasonable and proper rent for premises demised or let by any Member or officer, employee or other person to the Association.

11. **Winding up**

If upon the winding up or dissolution of the Association there remains after the satisfaction of all its debts and liabilities any property whatsoever, such property shall not be paid to or distributed amongst the Members but shall be given or transferred to some other institution or institutions having objects similar to the objects of the Association and which shall prohibit the distribution of its or their income and property among its or their members to an extent at least as great as is imposed on the Association under this Constitution. Such institution or institutions are to be determined by the Members of the Association at or before the time of dissolution and, in default thereof, by the Chief Judge in Equity of the Supreme Court of New South Wales or such other judge of that court as may have or acquire jurisdiction in the matter and if so far as effect cannot be given to the aforesaid provision then to some charitable object.

MEMBERSHIP

12. **Membership**

12.1 Membership of the Association shall be divided into the following classes of Members:

(A) Class A Members (Individuals and Affiliates), being categories as determined by the Board from time to time

(B) Class B Members (Small Enterprises), being corporations, partnerships, entities or authorities (statutory, governmental or otherwise) with not less than 1 employee and not more than 5 employees or an annual turnover not more than \$5 million.

(C) Class C Members (Medium Enterprises), being corporations, partnerships, entities or authorities (statutory, governmental or otherwise) with not less than 6, and not more than 20, employees or an annual turnover of more than \$5 million and less than \$20 million.

(D) Class D Members (Large Enterprises), being corporations, partnerships, entities or authorities (statutory, governmental or otherwise) with more than 20 employees or annual turnover of \$20 million or more.

Membership classes will be determined by the member's employee number and/or turnover derived from irrigation products or services or irrigation related activity.

12.2 A person under 18 years of age is not eligible to become a Member.

- 12.3 Any person (whether an individual, corporation or other body or entity) may apply to become a Member by completing an application for membership in writing in a form approved or accepted by the directors.
- 12.4 The details of the name, address and occupation (and any other information the directors direct) of each applicant shall be forwarded to each director by the secretary.
- 12.5 The directors may only accept an applicant for membership after the expiration of 14 days from the date of the application.
- 12.6 The directors may in their absolute discretion:
- (a) refuse to register any person as a Member;
 - (b) determine the category of membership of an applicant;
 - (c) revoke their acceptance of an applicant if the applicant does not pay any fee due by the applicant in respect of its membership within thirty (30) days from the date of notice under rule 12.8,

without ascribing any reason therefore.

- 12.7 An applicant becomes a Member after acceptance by the directors and upon entry into the Register of Members by an authorised officer of the Association, which shall not occur until all applicable fees are paid.
- 12.8 The directors shall notify an applicant for membership of the success of his or her application.

13. **Honorary Membership**

- 13.1 The directors shall confer honorary membership on any person, other than a Member, who has rendered outstanding service to the Association or holds, or has held, a prominent position in the community or Industry, and who is approved by a resolution of directors.
- 13.2 An Honorary Member is not a Member for the purposes of this Constitution and shall only be entitled to such rights and privileges as granted (or revoked) by the directors from time to time.
- 13.3 The directors may cancel the honorary membership of an Honorary Member at any time without notice or assigning any reason.

14. **Life Membership**

- 14.1 The directors shall confer life membership on any individual who has rendered outstanding service to the Association and is approved by at least a two third majority of the Board, provided that, unless the Members resolve otherwise, not more than two (2) Members shall be made Life Members in any financial year.
- 14.2 No more than ten (10) Life Members shall be allowed at any one time unless the Members resolve otherwise.
- 14.3 A Life Member is taken to be a member of Category A, unless the directors otherwise determine.

15. **Change of membership category**

The directors may, at their discretion and on the written application of a Member:

- (a) transfer that Member from any category of membership to any other category of membership; and
- (b) refund or reduce any fee paid or payable by that Member for the then financial year.

16. **Cessation and suspension of membership**

16.1 A Member shall cease to be a Member, upon and from the time:

- (a) the Member is expelled under rule 16.2;
- (b) the Member has died, become insolvent, bankrupt or an externally administered body corporate, has entered into an arrangement, composition or assignment for the benefit of its creditors generally, is convicted of a serious criminal offence or has become insane;
- (c) the Association has received the written resignation of the Member;
- (e) in the case of a Member required by these rules to pay a fee, the Member does not renew its membership by payment of the fee within thirty (30) days of a notice to the Member by the Association requiring payment of that fee, issued at least thirty (30) days after the fee becomes due.

16.2 The directors may reprimand, expel or suspend a Member for any period of time it determines if:

- (a) the Member has wilfully or negligently failed to observe any of these rules or the by-laws of the Association or has committed any conduct which, in the opinion of the directors, is either prejudicial to the interests of the Association or renders that Member unfit for membership;
- (b) the Member has received at least fourteen (14) days' notice of the meeting at which the reprimand, expulsion or suspension is proposed, of the intended resolution of the Member's reprimand, expulsion or suspension and of the reasons therefor;
- (c) the Member is given the opportunity to attend and address, or make written submissions to, that meeting; and
- (d) the directors resolve by secret ballot, at a meeting held within two (2) months from the date of the relevant conduct or complaint (or adjournment thereof), and by not less than a two-thirds majority of directors present and voting to reprimand, expel or suspend the Member.

16.3 Any Member expelled under rule 16.2 may apply to be re-admitted as a Member at any time.

16.4 The directors may at any time suspend all rights of a Member under these rules, who is notified or proposed to be notified under rule 16.2, until the meeting referred to in that rule is held and the matter resolved.

16.5 In relation to a resolution under rule 16.2:

- (a) the directors' resolution is final;
- (b) the Member may not appeal the directors' resolution;
- (c) the directors' need not assign reasons for their resolution; and
- (d) the Member shall have no right of action in law or equity or other remedy whatsoever (to the extent permitted by law) against the Association or any director, in respect of any reprimand, suspension or expulsion or any act or notice in relation thereto.

16.6 Any former Member shall continue to be liable for all fees and other moneys due to the Association by that former Member as at the date its membership ceased, notwithstanding any cessation in membership.

17. **Register of Members**

The secretary shall keep, at the registered office of the Association or such other place as appointed by the directors, a Register of Members in accordance with the Law and any direction of the directors. Every Member shall, on becoming a Member, advise the secretary of an address at which notices may be served upon the Member and shall further advise the secretary from time to time of any change of address. The addresses so supplied will be recorded on the register of Members and shall be the registered address of that Member.

18. **Rights of Members**

18.1 Membership is not transferable.

18.2 Subject to this Constitution, the Association shall be entitled to treat each Member as a Member in his or her or its own right notwithstanding that he or she may be a person representing a body corporate or an unincorporated association or a government or statutory corporation or instrumentality or any person, other than a Member. The Association shall not, except as ordered by a court of competent jurisdiction or as by statute required, be bound to recognise any equitable or other claim by or interest of any person other than a Member in the benefits of membership of the Association. In particular the Association shall be entitled to look only to the Member and not to any person whom he or she represents for a contribution to the assets of the Association pursuant to rule 8.

GENERAL MEETINGS

19. **Powers of directors to convene**

19.1 The directors may convene a general meeting, whenever they think fit.

19.2 The directors must convene a general meeting (the annual general meeting) once each calendar year, within five (5) months of the end of the financial year.

19.3 The directors may postpone a general meeting or change the place at which it is to be held by notice, not later than seventy-two (72) hours prior to the time of the meeting, to all persons to whom the notice of meeting (the **first notice**) was given. The postponing notice shall specify the place, date and time of the meeting. The meeting shall be taken to have been duly convened under the first notice.

19.4 The directors must convene a general meeting on request of Members with at least 10% of votes that may be cast at a general meeting or of at least thirty (30) Members who are entitled to vote at that meeting, as soon as practicable but in any event, within two (2) months of that request.

19.5 Any request for the convening of a general meeting must be in writing, state the purpose of the meeting, any resolution to be proposed at the meeting, be signed by the Members making the request (or consist of several identical documents which together have been signed by the Members making the request), and be lodged at the registered office of the Association.

20. **Notice of general meetings**

20.1 At least twenty-one (21) days' notice must be given of a general meeting, unless shorter notice is allowed under the Law.

20.2 Each notice convening a general meeting shall contain the information required by the Law.

20.3 The non-receipt of a notice convening a general meeting by or the accidental omission to give notice to any person entitled to receive notice shall not invalidate the proceedings at or any resolution passed at the meeting.

20.4 Notice of every general meeting shall be given in the manner authorised by rule 62 to:

(a) every Member entitled to vote at the meeting and to each director; and

(b) the auditor of the Association, and

no other person is entitled to receive notice of general meetings.

21. **By-Laws**

The directors may make by-laws from time to time not inconsistent with this Constitution or the Law dealing with the conduct of any operation of the Association, and Members shall be bound to observe these by-laws.

22. **Business of general meetings**

No business shall be transacted at any general meeting unless a quorum of Members is present at the time when the meeting proceeds to business.

23. **Quorum**

Two Members Present shall be a quorum for a general meeting for the choice of a chairman and the adjournment of the meeting. For all other purposes, subject to rule 24, the quorum for a general meeting shall be thirty (30) Members Present. The quorum for a meeting of any class of Members shall be that number of Members Present in that class equal to five (5) Members in that class.

24. If quorum not present

If a quorum is not present within fifteen (15) minutes after the time appointed for the meeting, the meeting, if convened on requisition of Members, is dissolved, and in any other case the meeting stands adjourned to a day and at a time and place as the directors present decide (not being later than twenty-one (21) days from the date appointed for the meeting) or, if no decision is made by the directors, then the meeting shall be adjourned to the same day in the next week at the same time and place. If, at the adjourned meeting, a quorum is not present within fifteen (15) minutes after the time appointed for the meeting, the Members Present shall be a quorum.

25. Chair of meetings

The chairman of every general meeting shall be:

- (a) the Chairman;
- (b) if the Chairman is absent or unwilling to act - the Vice Chairman; or
- (c) if the Vice Chairman is absent or unwilling to act - the Members Present shall elect a director present or one of their number to act as chairman.

26. Adjournments

- 26.1 The chairman may, with the consent of the meeting, and shall if so directed by the meeting, adjourn the meeting from time to time and from place to place.
- 26.2 No business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- 26.3 When a meeting is adjourned for twenty-one (21) days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.

26.4 A resolution passed at an adjourned meeting is taken to be passed on the date of that adjourned meeting.

27. Voting at general meetings

27.1 Any resolution to be considered at a meeting shall be decided on a show of hands unless a poll is demanded.

27.2 A declaration by the chairman that a resolution (of any type) has on a show of hands been carried or lost and an entry to that effect in the minutes of the meeting shall be taken as conclusive evidence of the fact without the need to show the number or proportion of the votes recorded in favour of or against the resolution.

27.3 A poll for a resolution may be demanded by the chairman or by any Member Present who is entitled to vote on the resolution. A demand for a poll may be withdrawn.

27.4 At meetings of Members or classes of Members each Member entitled to attend and vote may attend and vote in person, by proxy, by attorney or by corporate representative.

27.5 On a show of hands, every Member present in person, has one vote. On a poll every Member Present who is entitled to vote at the meeting has, in respect of each of the following classes, the number of votes appearing adjacent to that class:

Class A - 1 vote;

Class B – 2 votes;

Class C – 5 votes;

Class D – 10 votes.

27.6 No Member shall be entitled to vote unless that Member is a Financial Member at the time of the vote.

28. Procedure for polls

28.1 Subject to this rule, a poll when demanded shall be taken in the manner and at the time the chairman directs. Any Member may request a poll to be taken by secret ballot.

28.2 The result of the poll shall be a resolution of the meeting at which the poll was demanded.

28.3 The demand for a poll shall not prevent a meeting from continuing with the transaction of any business other than that on which a poll has been demanded.

28.4 A poll demanded on the election of a chair or on a resolution for adjournment shall be taken forthwith.

29. **Chairman's casting vote**

In the case of an equality of votes on a show of hands or on a poll the chairman has a casting vote in addition to any vote to which he or she may be entitled as a Member.

30. **Members of unsound mind**

30.1 If a Member is:

- (a) of unsound mind; or
- (b) a person whose person or estate is liable to be dealt with in any way under the law relating to mental health,

the management or guardianship of the Member's estate or affairs may, subject to rule 30.2, exercise any rights of the Member in relation to a general meeting as if the committee, trustee or other person were the Member.

30.2 Any person with powers of management or guardianship shall not exercise any rights under rule 30.1 unless and until the person has provided the directors with satisfactory evidence of the person's appointment and status.

31. **Objections to qualification to vote**

31.1 An objection to the qualification of a person to vote may be raised only at the meeting or adjourned meeting at which the vote objected to is tendered.

31.2 Any objection shall be referred to the chairman, whose decision shall be final.

31.3 A vote allowed after an objection shall be valid for all purposes.

32. **Right of officers and advisers to attend general meeting**

Any person (whether a Member or not) requested by the directors to attend any general meeting shall be entitled to be present and, at the request of the chair, to speak at that general meeting.

33. Proxies

33.1 Member may appoint a proxy. A proxy need not be a Member.

33.2 An instrument appointing a proxy must:

- (a) be in writing under the hand of the appointor or of the appointor's attorney duly authorised in writing; or
- (b) if the appointor is a corporation, be either under seal or under the hand of a duly authorised officer or attorney.

33.3 A proxy may vote as the proxy thinks fit on any motion or resolution in respect of which no manner of voting is indicated.

33.4 An instrument appointing a proxy shall be in any form that the directors may accept or stipulate.

33.5 The documents to be received under the Law for an appointment of a proxy to be effective must be received by the Association at least forty-eight (48) hours before the meeting commences or resumes (as the case may be) or at least twenty-four (24) hours before the time appointed for the taking of a poll.

33.6 For an instrument appointing an attorney to act on behalf of a Member at all meetings of the Association or at all meetings for a specified period to be effective the following documents must be received by the Association at any time before commencement of the meeting or adjourned meeting at which the attorney proposes to vote:

- (a) the power of attorney or a certified copy of that power of attorney; and
- (b) any evidence that the directors may require of the validity and non-revocation of that power of attorney.

33.7 For the purposes of this rule 33, the Association receives documents when they are received at any of the following:

- (a) the Association's registered office;
- (b) a fax number at the Association's registered office; or
- (c) a place, fax number or electronic address specified for the purpose in the notice of meeting.

33.8 A vote exercised in accordance with the terms of an instrument of proxy, a power of attorney or other relevant instrument of appointment is valid despite:

- (a) the previous death or unsoundness of mind of the principal;
- (b) the revocation of the instrument (or of the authority under which the instrument was executed) or the power; or
- (c) the transfer of the share in respect of which the instrument or power is given,

if no notice in writing of the death, unsoundness of mind, revocation or transfer has been received by the Association at its registered office at least 48 hours (or any shorter period as the directors may permit) before the commencement of the meeting or adjourned meeting at which the instrument is used or the power is exercised.

33.9 No instrument appointing a proxy shall be treated as invalid merely because it does not contain:

- (a) the address of the appointor or of a proxy;
- (b) the proxy's name or the name of the office held by the proxy; or
- (c) in relation to any or all resolutions, an indication of the manner in which the proxy is to vote.

33.10 Where the instrument does not specify the name of a proxy, the instrument shall be taken to be given in favour of the chair of the meeting.

DIRECTORS

34. Number

The number of directors at any given time shall be not less than six (6) and not more than ten (10).

35. Chairman and Vice-Chairman

The directors shall from time to time elect from their number a Chairman, and Vice-Chairman to hold office until the next Annual General Meeting or until relevant director retires (whether by rotation or otherwise).

36. Qualification of directors

Any person shall be eligible to be a director provided he or she:

- (a) is a Financial Member or a nominee of a Financial Member; and
- (b) is not, and his or her appointor (if he or she is to be a nominee director) is not, currently suspended from Membership.

37. Election of directors

37.1 Subject to this Constitution and the Law, eligible persons shall be appointed as directors on election by ballot by the Association in general meeting or at any other time, determined by the directors. If in respect of any election, there are no more candidates than positions vacant, each candidate shall be deemed duly elected without need for an election.

37.2 A candidate for a vacant position of director must be nominated in writing signed by the candidate and by one other Financial Member to be eligible for election.

37.3 All nominations must be lodged with the secretary at least forty-five (45) days prior to the date of the general meeting at which the result of the election is to be announced.

37.4 The Association in general meeting may prescribe or, in the absence of such a prescription, the directors may prescribe, a by-law that is not inconsistent with this Constitution and sets out the manner in which election ballots are to be conducted. All ballot papers shall be counted by a returning officer and at least two (2) scrutineers (who are not directors or candidates in the elections).

37.5 In the event of an equality of votes in an election, the position shall be filled by a candidate selected by lot by the Chairman from the candidates who received the equal highest number of votes, subject to this Constitution.

38. Removal

Subject to the Law and this Constitution, the Association may at any time by resolution passed in general meeting remove any director from office and appoint another person in his or her stead.

39. Casual Vacancy

Subject to the Law and this Constitution, a casual vacancy of the directors (including a vacancy arising from insufficient candidates for election) may

be filled by the directors appointing a person as director until the next annual general meeting.

40. Rotation of directors

40.1 Subject to rules 40.2 and 40.3, each director (other than any managing director) must retire from office at the second annual general meeting after that director's appointment.

40.2 At the first annual general meeting after the adoption of this Constitution, all the directors must retire.

40.3 Half of the directors (rounded to the nearest whole number) appointed at the first annual general meeting after the adoption of this Constitution and who still hold office must retire at the following annual general meeting, by retiring in order of who received the least number of votes in his or her last election. All other directors shall retire in accordance with rules 39 and 40.1.

40.4 A retiring director shall hold office as a director until the end of the meeting at which the director retires.

40.5 A retiring director shall be eligible for re-election provided that no director may serve more than three (3) consecutive terms in office.

40.6 A director who serves three (3) consecutive terms in office is not eligible for re-election or election as a director until the second annual general meeting after he or she last retires (if he or she retires at an annual general meeting) or otherwise until 24 months have elapsed since his or her retirement.

40.7 For the purpose of counting the number of consecutive terms of a director, only terms that commenced after the adoption of the Constitution shall be counted.

41. Vacation of office

In addition to the circumstances in which the office of a director becomes vacant:

- (a) under the Law; or
- (b) because of a resolution under rule 38,

the office of a director becomes vacant if:

- (c) the director becomes bankrupt or enters into an arrangement, composition or assignment for the benefit of his or her creditors generally;
- (d) the director's appointor (if he or she is a nominee director) becomes insolvent or an externally administered body corporate or enters into an arrangement, composition or assignment for the benefit of its creditors generally;
- (e) the director becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
- (f) the director resigns by notice in writing to the secretary or refuses to act;
- (g) the director is absent without the consent of the directors from meetings of directors for a continuous period of six (6) months;
- (h) the director dies;
- (i) the director or his or her appointor (if he or she is a nominee director) ceases to be a Member;
- (j) the director becomes prohibited from being a director or his or her office is vacated pursuant to the Law or an order under the Law; or
- (k) the director is convicted of any offence under the Law or is convicted of any offence and sentenced to any period of imprisonment without the option of a fine.

42. Remuneration of directors

Subject to an ordinary resolution passed by Members Present at a general meeting, the Chairman shall be paid such remuneration as the Board shall determine from time to time.

43. No retiring allowance for directors

The Association shall not make any payment or give any benefit to any director or any other person in connection with the director's retirement, resignation from or loss of office or death while in office.

POWERS AND DUTIES OF DIRECTORS

44. Powers of directors

44.1 Subject to the Law and this Constitution, the business of the Association shall be managed by the directors, who may exercise all powers of the directors which are not, by the Law or this Constitution, required to be exercised by the Association in general meeting.

44.2 Without limiting the generality of rule 44.1, the directors may exercise all the powers of the Association:

- (a) to borrow money, to charge any property or business of the Association or all or any of its uncalled capital; and
- (b) to issue debentures or give any other security for a debt, liability or obligation of the Association or of any other person.

45. Appointment of attorneys

45.1 The directors may, by power of attorney, appoint any person to be the attorney of the Association for the purposes, with the powers, authorities and discretions vested in or exercisable by the directors for any period and subject to any conditions as they think fit.

45.2 Any appointment under rule 45.1 may be made on terms for the protection and convenience of persons dealing with the attorney as the directors think fit and may also authorise the attorney to delegate all or any of the powers, authorities and discretions vested in the attorney.

46. Negotiable instruments

All negotiable instruments of the Association shall be executed by the persons and in the manner that the directors decide from time to time.

PROCEEDINGS OF DIRECTORS

47. Proceedings

47.1 The directors shall meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit, provided that directors' meetings shall be held at least once each quarter.

47.2 The Chairman may at any time, and the secretary shall on the request of the Chairman or any three directors, convene a meeting of directors.

47.3 Reasonable notice must be given to every director of the place, date and time of every meeting of directors. Where any director is for the time being outside of Australia, notice need only be given to that director if contact details have been given.

47.4 Subject to this Constitution, questions arising at a meeting of directors shall be decided by a majority of votes of directors present and voting and any such decision shall for all purposes be taken to be a decision of the directors.

47.5 In the case of an equality of votes, the Chairman of the meeting has directors or casting vote in addition to the Chairman's deliberative vote.

48. **Disclosure of interests**

48.1 A director is not disqualified by the director's office from contracting with the Association in any capacity.

48.2 A contract or arrangement made by the Association with a director or in which a director is in any way directly or indirectly interested shall not be avoided merely because the director is a party to or interested in it.

48.3 A director is not liable to account to the Association for any profit derived in respect of a matter in which the director has a material personal interest, merely because of the director's office or the fiduciary relationship it entails, if the director has:

- (a) declared the director's interest in the matter as soon as practicable after the relevant facts have come to the director's knowledge; and
- (b) not contravened this Constitution or the Law in relation to the matter.

A general notice that the director is an officer or member of a specified body corporate or firm stating the nature and extent of the director's interest in the body corporate or firm shall, in relation to a matter involving the Association and that body corporate or firm, be a sufficient declaration of the director's interest, provided the extent of that interest is no greater at the time of first consideration of the relevant matter by the directors than was stated in the notice.

48.4 If the provisions of this rule and the Law have been observed by any director with regard to any contract or arrangement in which the director is in any way interested, the fact that the director signed the document evidencing the contract or arrangement shall not in any way affect its validity.

48.5 A director may, notwithstanding the director's interest, and whether or not the director is entitled to vote, or does vote, participate in the execution of any instrument by or on behalf of the Association and whether through signing, sealing or delivering the instrument or otherwise, and no act of the Association is invalid or voidable by reason only of the failure of the director to comply with rule 48.6.

48.6 A director who has a material personal interest in a matter that is being considered at a directors' meeting may not attend the meeting while the matter is being considered or vote on the matter unless the directors not having a material personal interest in the matter pass a resolution which:

- (a) identifies the director, the nature and extent of the director's interest in the matter and its relation to the affairs of the Association; and
- (b) states that those directors are satisfied that the interest should not disqualify the director from voting or being present, or

the director is otherwise permitted to attend and vote under the Law.

49. **Meetings by technology**

49.1 For the purposes of the Law, each director, on becoming a director (or on the adoption of this Constitution), consents to the use of the following technology for calling or holding a directors' meeting:

- (a) video;
- (b) telephone;
- (c) electronic mail;
- (d) any other technology which permits each director to communicate with every other director; or
- (e) any combination of the technologies described in the above paragraphs.

49.2 A director may not withdraw the consent given under this rule.

49.3 Where the directors are not all in attendance at one place and are holding a meeting using technology and each director can communicate with the other directors:

- (a) the participating directors shall, for the purpose of every provision of this Constitution concerning meetings of directors, be taken to be assembled together at a meeting and to be present at that meeting; and
- (b) all proceedings of directors conducted in that manner shall be as valid and effective as if conducted at a meeting at which all of them were present.

50. Quorum at meetings

The quorum for a meeting of directors shall be that number of directors which exceeds half of the number of directors holding such office at the time. Unless the directors determine otherwise, the quorum need only be present at the time when the meeting proceeds to business. Where the number of directors is insufficient to make a quorum, directors may only act to appoint a new director (under rule 39) or convene a general meeting.

51. Chairman

The chairman of every meeting of directors shall be:

- (a) the Chairman;
- (b) if the Chairman is absent or unwilling to act - the Vice Chairman; or
- (c) if the Vice Chairman is absent or unwilling to act - the directors present shall elect one of their number.

52. Observers

52.1 The directors may invite any person to be present and observe and/or advise at meetings of the directors.

53. Committees

53.1 The directors may delegate any of their powers to a committee or committees consisting of such number of them as they think fit. A committee may consist of three or more persons.

53.2 A committee may elect a chairman of its meetings. If no such chairman is present within five (5) minutes after the time appointed for the holding of the meeting the committee members present may choose one of their number to be chairman of the meeting.

- 53.3 A committee to which any powers have been so delegated shall exercise the powers delegated in accordance with any directions of the directors. A power so exercised shall be taken to have been exercised by the directors.
- 53.4 Rules 47, 49 and 51 shall apply to any committee as if each reference in those rules to the directors were a reference to the members of the committee and each reference to a meeting of directors were to a meeting of the committee except committees shall not be required to meet at least once a quarter.
- 53.5 The number of members whose presence at a meeting of the committee is necessary to constitute a quorum is the number determined by the directors and, if not so determined, is two (2). Unless the directors determine otherwise, the quorum need only be present at the time when the meeting proceeds to business.
- 53.6 Minutes of all the proceedings and decisions of every committee shall be made, entered and signed in the same manner in all respects as minutes of proceedings of the directors are required by the Law to be made, entered and signed.
- 53.7 The Association will specifically foster and support the establishment and development of Regional and Special Interest Committees where sufficient member support is demonstrated.

54. **Written resolutions**

54.1 If a document:

- (a) is sent to all those entitled to receive notice of a meeting at which a resolution could be put;
- (b) contains a statement that the signatories to it are in favour of that resolution;
- (c) sets out or identifies the terms of the resolution; and
- (d) has been signed by all of the directors entitled to vote on that resolution,

a resolution in those terms is passed on the day on which and at the time at which the document was signed by such directors and the document has effect as a minute of the resolution.

54.2 For the purposes of rule 54.1:

- (a) two or more separate documents containing statements in identical terms each of which is signed by one or more directors shall together be taken to constitute one document containing a statement in those terms signed by those directors at the time at which the last of those documents to be signed was signed by a director; and
- (b) a facsimile which is received by the Association or an agent of the Association and is sent for or on behalf of a director shall be taken to be signed by that director not later than the time of receipt of the facsimile by the Association or its agent in legible form.

55. Defects in appointments

55.1 All acts done by any meeting of directors, committees of directors, or any person acting as a director are as valid as if each person was duly appointed and qualified to be a director or a member of the committee.

55.2 Rule 55.1 applies even if it is afterwards discovered that there was some defect in the appointment of a person to be a director or a member of a committee or to act as a director or that a person so appointed was disqualified.

SECRETARIES AND OTHER OFFICERS

56. Secretaries

56.1 Subject to this rule, the secretary of the Association holds office on the terms and conditions, as to remuneration and otherwise, as the directors decide.

56.2 The directors may at any time terminate the appointment of a secretary.

56.3 There shall only be one secretary at any one time.

57. Audit Committee

The Audit Committee shall supervise the financial affairs of the Association in such manner the directors determine.

58. Other officers

58.1 The directors may from time to time:

- (a) create any other position or positions in the Association with the powers and responsibilities as the directors from time to time confer; and
- (b) appoint any person, whether or not a director, to the position or positions created under sub-rule 58.1(a).

58.2 The directors may at any time terminate the appointment of a person holding a position created under sub-rule 58.1(a) and may abolish the position.

58.3 A person who holds a position created under sub-rule 58.1(a) must either stand for re-election or seek the directors' executive approval (as the directors may from time to time determine) to remain in office, every twelve (12) months after their initial appointment.

SEALS

59. Common seal

The Association may have a common seal. If the Association has a common seal, it may also have a duplicate common seal.

INSPECTION OF RECORDS, ACCOUNTS AND AUDIT

60. Inspection of records

- (a) The directors may authorise a Member to inspect books of the Association (to the extent, at the time and places and under the conditions the directors consider appropriate).
- (b) A Member (other than a director) does not have the right to inspect any document of the Association except as provided by law or authorised by the directors.

61. Auditor

A properly qualified auditor or auditors shall be appointed to the Association and to review and report on the accounts of the Association. The auditor's remuneration shall be fixed by the directors.

NOTICES

62. Notices generally

62.1 Any Member who has not left at or sent to the registered office a place of address, facsimile number or an electronic mail address (for registration in the register) at or to which all notices and documents of the Association may be served or sent shall not be entitled to receive any notice.

62.2 A notice may be given by the Association to any Member by:

- (a) serving it on the Member personally;
- (b) sending it by post to the Member or leaving it at the Member's address as shown in the register of Members or the address supplied by the Member to the Association for the giving of notices;
- (c) serving it in any manner contemplated in this rule 62.2 on a Member's attorney as specified by the Member in a notice given under rule 62.3; or
- (d) facsimile or electronically to the fax number or electronic address supplied by the Member to the Association for the giving of notices.

62.3 A Member may by written notice to the secretary left at or sent to the registered office require that all notices to be given by the Association or the directors be served on the Member's attorney at an address specified in the notice.

62.4 Notice to a Member whose address for notices is outside Australia shall be sent by airmail, facsimile or electronic mail.

62.5 Where a notice is sent by post, service of the notice shall be taken to be effected by properly addressing, prepaying and posting a letter containing the notice and to have been effected:

- (a) in the case of a notice of a meeting, on the day after the date of its posting; and
- (b) in any other case, at the time at which the letter would be delivered in the ordinary course of post.

62.6 Where a notice is sent by fax or electronic transmission, service of the notice shall be taken to be effected by properly addressing and sending or transmitting the notice and to have been effected on the day it is sent.

63. Indemnity for officers

63.1 To the extent permitted by law and without limiting the powers of the Association, the Association must indemnify each person who is, or has been, a director or secretary of the Association against any liability which results from facts or circumstances relating to the person serving or having served in that capacity in relation to the Association:

- (a) to any person (other than the Association or a related body corporate), except where the liability does not arise out of conduct in good faith or is in respect of a liability for a pecuniary penalty order or a compensation order under the Law;
- (b) to the extent permitted by law, for costs and expenses incurred by the person in defending or resisting an action for a liability incurred as an officer of the Association.

63.2 The Association need not indemnify a person as provided for in rule 63.1 in respect of a liability to the extent that the person is entitled to an indemnity in respect of that liability under a contract of insurance.

63.3 To the extent permitted by law and without limiting the powers of the Association, the directors may authorise the Association to, and the Association may enter into any:

- (a) documentary indemnity in favour of; or
- (b) insurance policy for the benefit of,

a person who is, or has been, a director, secretary, auditor, employee or other officer of the Association.

63.4 The benefit of each indemnity given in rule 63.1 continues, even after its terms or the terms of this paragraph are modified or deleted, in respect of a liability arising out of acts or omissions occurring prior to the modification or deletion.

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