

**AUSTRALIAN DAY SURGERY
NURSES ASSOCIATION INC**

CONSTITUTION

INCORPORATION NUMBER

December 2005

Constitution
of
Australian Day Surgery Nurses Association Inc

PART 1 – INTRODUCTION

1 Name

- 1.0 The name of the incorporated association is the Australian Day Surgery Nurses Association Inc. (“Association”)

2 Interpretation

- 1.0 In this Constitution:

“**Act**” means the Associations Incorporation Act 1981 (Vic.);

“**Association**” means the Australian Day Surgery Nurses Association Inc;

“**Common Seal**” means the common seal of the Association and includes any official seal of the Association;

“**Conference Convenor**” means any person appointed to act as a conference convenor of the Association;

“**Council**” means the Council of the Association;

“**Councillor**” means any person appointed by a State Association to be a voting member of the Council;

“**Executive Officer**” means the person appointed by the Association pursuant to this Constitution as the Principle Executive Officer of the Association and shall include where the context so admits, persons acting as the delegate or substitute for the Executive Officer whether described as Executive Officer or by some another name or title.

"Financial Year" means the year ending 30th of June in each year.

"General Meeting" means the Annual or a Special General Meeting of the Association.

"Management Committee" means the Management Committee of the Association as provided in this Constitution

"Member" means a non voting ordinary registered member of the Association;

"President" means any person appointed to perform the duties of President of the Association;

"Register" means a register of members kept in accordance with these Rules;

"Representative" means the State Representative of a State association who is entitled to be notified of Council meetings and to attend and be heard, but not to vote, at those Council meetings;

"Secretary" means any person appointed to perform the duties of Secretary of the Association;

"State association" means a State Division of the Australian Day Surgery Nurses Association Inc. which is affiliated to and means each of the following associations:

- (a) New South Wales (Day Surgery Nurses Association NSW Incorporated)
- (b) Victoria (Day Surgery Nurses Special Interest Group, Australian Nurses Federation)
- (c) South Australia (Day Surgery Nurses Association South Australia Incorporated)
- (d) Western Australia (The Nurses Association of Short Stay Facilities Western Australia Incorporated)
- (e) Queensland (Day Surgery Nurses Association of Queensland Incorporated)
- (f) Tasmania (Day Surgery Nurses Association of Tasmania); and

"Treasurer" means any person appointed to perform the duties of Treasurer of the Association.

"Voting Member" means a voting member of the Association under these Rules.

2.1 Except so far as the contrary intentions appears in this Constitution:

- a) an expression has in this Constitution the same meaning as in the Act; and
- b) if an expression is given different meaning for the purposes of different provisions of the Act, the expression has, in a provision of this Constitution that deals with a matter dealt with by a particular provision of the Act, the same meaning as in that provision of the Act.

2.2 Headings are for convenience only and do not affect the interpretation of this Constitution.

2.3 Reference to:

- a) one gender include the other genders
- b) the singular includes the plural and the plural includes the singular; and
- c) a person includes a body corporate.

3 Objects and Purposes

3.1 The objects and purposes of the Association are:

- (a) to promote the free exchange and dissemination of knowledge, expertise and developments in all areas of Day Surgery;
- (b) to promote the concept and benefits of Day Surgery to the community;
- (c) to co-operate with the nursing, medical and allied health professionals in the pursuit of quality improvement;
- (d) to form a link with similar international organisations;
- (e) to provide a climate which fosters good fellowship and networking between members;
- (f) to encourage research into all areas of Day Surgery nursing;
- (g) to develop and recommend Day Surgery / Procedural Nursing standards/guidelines and provide expert advice to government and other relevant regulatory agencies.
- (h) to collect, distribute and publish information in connection with all aspects of day surgery nursing.

- (i) strive for governmental, commercial and public recognition of the Association and Day Surgery nurses.
 - (j) to use and protect the intellectual property of the Association, including but not limited to logos, trademarks, copyright and names in any product, publication or event developed by the Association.
 - (k) to promote the interests of its members
- (l) to undertake and to do all such things or activities which are necessary, incidental or conducive to the advancement of these objects and purposes.

4. Powers of the Association

Solely for furthering the purposes set out above the Association has power to:

- (a) acquire by purchase, exchange or otherwise, whether for an estate in fee simple or for any less estate, lands, tenements or hereditaments of any tenure whether subject or not to any charges or encumbrances and to erect, replace, maintain, reconstruct, adapt and furnish any offices or other buildings thereon and to sell, let, alienate, mortgage, charge or deal with all or any such lands, tenements or hereditaments or any part of them;
- (b) purchase, take on lease or in exchange or otherwise acquire any real or personal estate which may be deemed necessary or convenient for any of the purposes of the Association and to sell, manage, lease, mortgage, give in exchange, dispose of or otherwise deal with the same or any part thereof;
- (c) construct, maintain and alter any houses, buildings or works necessary or convenient for the purposes of the Association;
- (d) borrow and raise money in such manner as the Association may think fit;
- (e) raise or borrow money on bonds or mortgage or other security of any property held for or on behalf of the Association or without any such security and upon such terms as the Board shall think fit;
- (f) receive money on deposit with or without allowance of interest thereon;
- (g) invest any monies of the Association, not immediately required for the purposes of the Association, in such manner as may from time to time be determined by the Association;
- (h) do all or any of the matters authorised either alone or in conjunction with any person, company or unincorporated body or by or through any factors, trustees or agents;

- (i) take any gift of property whether subject to any special trust or not for any one or more of the purposes of the Association;
- (j) take such steps by personal or written appeals, public meetings or otherwise as may from time to time be deemed expedient for the purposes of procuring contributions to the funds of the Association in the shape of donations, annual subscriptions or otherwise;
- (k) print and publish any newspapers, periodicals, books or leaflets that the Association may think desirable for the promotion of its purposes;
- (l) appoint, hire, employ, remove, replace or reinstate secretaries, managers, servants, employees and other persons in and for the carrying out the purposes of the Association and to pay them in return for services rendered to the Association, salaries, wages and gratuities;
- (m) subscribe to any charities and to grant donations for any public purpose;
- (n) produce, develop, create, licence and otherwise exploit, use and protect such Intellectual Property, including but not limited to logos, trademarks, copyright and names in any product, publication or event of the Association;
- (o) establish and maintain corporate entities to carry on and conduct the business affairs and undertakings, or any aspect thereof, of the Association and for that purpose, utilise any of the assets of or held on behalf of the Association;
- (p) promote any other person or company for any purpose calculated to benefit the Association;
- (q) purchase or otherwise acquire and undertake all or any part of the property, assets, liabilities and engagements of any one or more of the companies, institutions, societies or associations whose activities or purposes are similar to those of the Association or generally for any purpose calculated to benefit the Association;
- (r) take and effect insurance; and
- (s) do all such acts and things as are incidental, conducive or subsidiary to all or any of the purposes of the Association.

5. Application of Income

- (a) The income and property of the Association shall be applied solely towards the promotion of the purposes of the Association as set forth in this Statement of Purposes.

- (b) No portion of the income or property of the Association shall be paid or transferred, directly or indirectly by way of dividend, bonus or otherwise to any Member or member.

6. Liability of Members

The liability of the Members of the Association is limited.

7. Interpretation Clause

- (a) The specification of the purposes of the Association in clause 3, and the powers in clause 4, of this Statement, are not in any particular order and are not to be construed so as to lead to the construction that any object or power is more important than any other object or power nor than any purpose or power which is specified in detail is more important than any purpose or power which has not been specified in detail, and no particular purpose or power will be limited by reference to any other and the rule of construction known as the ejusdem generis rule shall not apply.
- (b) If any provision of this Statement or any phrase contained in it is invalid or unenforceable in any jurisdiction, the phrase or provision is to be read down for the purpose of that jurisdiction, if possible so as to be valid and enforceable, and otherwise shall be severed to the extent of the invalidity or unenforceability, without affecting the remaining provisions of this Statement or affecting the validity or enforceability of that provision in any other jurisdiction.

- (c) In this Statement:
- (i) words importing the singular include the plural and vice versa;
 - (ii) words importing any gender include the other genders;
 - (iii) references to persons include corporations and bodies politic;
 - (iv) references to a person include the legal personal representatives, successors and permitted assigns of that person;
 - (v) a reference to a statute, ordinance code or other law includes regulations and other statutory instruments under it and consolidations, amendments, re-enactments or replacements of any of them (whether of the same or any legislative authority having jurisdiction);
 - (vi) words and phrases defined in the Rules of the Association will apply to this Statement, unless the context otherwise requires.

PART 2 – MEMBERSHIP

8 The Number of Members

8.1 The number of members which the Association proposes to be registered is 1200, but the Councillors may from time to time register an increase in the number of members.

9. Categories of Membership

9.1 The members of the Association shall consist of are:

- (a) the voting ordinary members who shall have voting rights at general meetings of the Association;
- (b) the non-voting ordinary members who shall not have any voting rights at general meetings of the Association;
- (c) the State associations.
- (d) individual members of State Associations who shall not have any voting rights at General Meetings of the Association.

9.2 The Association has power to create new classes of membership from time to time

9.3 The Secretary shall maintain a register of members in which shall be entered, the full name, address and date of entry of the name of each member and the registrar shall be available for inspection and copying by members upon request

10 State Association Membership

- 10.1 Each State association will be admitted as a member of the Association upon signing and delivering to the Association an application for membership in a form approved by the Council.
- 10.2 A State association member has the right to receive notices of General Meetings of the Association but has no right to attend or vote thereat.
- 10.3 Each State Association shall be affiliated to the Association and shall be responsible for administering the interests of Day Surgery Nurses in the relevant State in accordance with the purposes of the Association.
- 10.4 Each State Association shall
 88. rules which reflect, and which are generally in conformity with the Rules of the Association,
 89. by adopting the objects and purposes of the Association, agree to abide by these rules.
- 10.5 The State Associations agree that they are bound by these rules and that these rules operate to create a single, uniform entity through and by which the purposes of the Association and the interests of Day Surgery Nurses are to be conducted, promoted and administered.
- 10.6 State Divisions shall maintain, in a form acceptable to the Association, a register of all members and voting members in that State. The State Association shall provide a copy, at a time, and in a form acceptable to the Association and its register and regular updates of it to the Association.
- 10.7 Each State Association will provide to the Association, a copy of its constitution or other constituent documents and all amendments to these documents.

11. Application for Ordinary Membership

11.1 Any person who:

- (a) if a natural person, is not less than 18 years of age at the date of application; or
- (b) is a body corporate; or
- (c) is a financial member of a State association,

may apply for ordinary membership of the Association.

12. Form of Application

12.1 An application for ordinary membership must be:

- (a) in writing in a form approved by the Council;
- (b) signed by the applicant.

13. Admission to Membership

13.1 The Management Committee must consider an application for membership as soon as practicable after its receipt and determine, in its discretion, the admission or rejection of the applicant.

13.2 The Management Committee need give no reason for the rejection of an application.

13.3 Each member must promptly notify the Secretary in writing of any change in the qualification of the member to be a member of the Association.

14 Foundation Members

14.1 If the funds and assets of the Unincorporated Association become the absolute property of the Association after incorporation every person who:

- (a) is a member of the Unincorporated Association at the date of incorporation;
and
- (b) within 12 months after incorporation agrees in writing to become a member of the Association,

shall be admitted by the Management Committee as a member of the Association.

15 Register of Members

15.1 A register of members of the Association must be kept in accordance with the Act.

15.2 The following must be entered in the Register in respect of each member:

- (a) the full name of the member;
- (b) the address and facsimile;
- (c) the date of admission to and cessation of membership;
- (d) the category of membership; and
- (e) such other information as the Council requires.

15.3 Each member must notify the Secretary in writing of any change in that person's name, address or facsimile number within 1 month after the change.

15.4 All notices given in accordance with Part 21 to the address last notified will be considered fully received.

PART 3 – ANNUAL SUBSCRIPTIONS AND CAPITATION FEES

16 Annual Subscriptions

16.1 The Annual Membership Subscription (if any) and fees payable by members to the Association, the time for, and manner of payment, shall be determined by the Management Committee from time to time.

17. Unpaid Annual Subscription

17.1 In the case of:

- (a) the annual subscription, if any, of a member remains unpaid for two months after it becomes payable; and
- (c) a notice of default is given to the member.

the member ceases to be entitled to any rights or privileges of membership, but these may be reinstated on payment of all arrears if Council so determines.

18. Capitation Fees

18.1 Each State association must pay to the Association an annual capitation fee.

18.2 The annual capitation fee payable by each State association is such amount as shall be determined by the Council from time to time.

18.3 The annual capitation fees are due and payable:

- (a) on or before the last day of November in each year; or
- (b) within thirty days after the date of the determination by the Council of the amount of the annual capitation fee.

18.4 If any State association's annual capitation fee is not received by the Treasurer of the Association within thirty days after the due date of payment, then all members of such defaulting State association cease to be members of the Association.

18.5 On the application of a State association, made before the expiry of the time for payment specified in these Rules, the Council may grant extensions for payment for such periods and upon such conditions, if any, it determines appropriate.

PART FOUR – CESSATION OF MEMBERSHIP, DISPUTES AND MEDIATION

19 Resignation

- 19.1 A member may resign from membership of the Association by giving written notice to the Secretary through the member's State association.
- 19.2 The resignation of a member is deemed to take effect from the date of receipt of notice of resignation or from such later date as is provided in the notice.

20 Failure to Pay

- 20.1 If a member has not paid all arrears of annual subscription in accordance with these Rules or, if paid, the member's rights and privileges are not reinstated:
- (a) the member remains liable for all the obligations and liabilities of membership until the expiration of six months after the date of notification under these Rules; and
 - (b) the member ceases to be a member and the member's name will be removed from the register at the expiration of the six month period.

21 Cessation of Membership

- 21.1 A member ceases to be a member:
- (a) upon the death of the member; or
 - (b) on ceasing to be a member of the State association; or
 - (c) if the State association of which the individual is a member fails to pay its annual capitation fee in accordance with these Rules; or
 - (d) the member is expelled under these Rules

22 Disciplining Members

22.1 If any member:

- (a) wilfully refuses or neglects to comply with any provisions of this Constitution; or
- (b) is guilty of any conduct which, in the opinion of the Council, is unbecoming of a member or prejudicial to the interest of the Association,

the Council may resolve to censure, fine, suspend or expel the member from the Association and, in the case of expulsion, to remove the member's name from the register.

22.2 The expulsion of a member does not take effect:

- (a) until the expiration of 14 days after the service on the member of a notice under these Rules; or
- (b) if the member exercises a right to appeal under this clause, until the conclusion of the general meeting convened to hear the appeal,

whichever is the later date.

22.3 Where the Council expels a member from the Association the Secretary must, without undue delay, cause to be served on the member a notice in writing:

- (a) stating that the Council has expelled the member;
- (b) specifying the grounds for the expulsion; and
- (c) informing the member that the member may appeal against the expulsion as provided in these Rules.

22.4 Notice under these Rules is served, may appeal against the expulsion to a general meeting by delivering or sending by post to the Secretary within 14 days after the service of the notice, a requisition in writing to demand the convening of a General Meeting for the purpose of hearing the member's appeal.

22.5 Upon receipt of the requisition under these Rules, the Secretary must notify the Council of its receipt and the Council must cause a general Council meeting to be held within 21 days after the date on which the requisition is received by the Secretary.

22.6 At the general meeting convened in accordance with these Rules:

- (a) no business other than the question of the expulsion shall be raised;

(b) the Council may place before the meeting details of the grounds of the expulsion and the Council's reason for the expulsion;

(c) the expelled member must be given the opportunity to be heard; and

(d) the members present must vote by secret ballot on the question whether the expulsion should be lifted or confirmed.

22.7 If at the general meeting a majority of the members present vote in favour of the lifting of the expulsion, the expulsion is deemed to have been lifted and the expelled member is entitled to continue to be a member of the Association.

22.8 If at the general meeting a majority of the members present vote in favour of the confirmation of the expulsion, the expulsion takes effect and the expelled member ceases to be a member of the Association.

22.9 If any member ceases to be a member in accordance with these Rules, the Council may reinstate the member and restore the name of that member to the Register upon and subject to such terms and conditions as it shall determine at its discretion.

23. Effect of Cessation of Membership

23.1 If any member ceases to be a member with in the provisions of this Constitution the member remains liable to pay to the Association for any monies whatsoever, which, at the time of the member ceasing to be a member, the member owes to the Association on any account whatsoever and for any sum not exceeding one dollar for which the member is liable under this Constitution or the Act.

24. DISPUTES AND MEDIATION

24.1 The grievance procedure set out in this rule applies to disputes under these Rules between:

- (a) a member and another member, or
- (b) a member and the Association.

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

24.3 If the parties are unable to resolve the dispute at the meeting, or if party fails to attend that meeting, then the parties must, within 10 days, hold a meeting in the presence of a mediator.

- 24.4 The mediator must be:
- (a) a person chosen by agreement between the parties; or
 - (b) in the absence of agreement:
 - (i) in the case of a dispute between a member and another member, a person appointed by the committee of the Association; or
 - (ii) in the case of a dispute between a member and the Association, a person who is a mediator appointed or employed by the Dispute Settlement Centre of Victoria (Department of Justice)
- 24.5 A member of the Association can be a mediator.
- 24.6 The mediator cannot be a member who is a party to the dispute.
- 24.7 The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.
- 24.8 The mediator, in conducting the mediation must:
- (a) give the parties to the mediation process every opportunity to be heard; and
 - (b) allow due consideration by all parties of any written statement submitted by any party; and
 - (c) ensure that natural justice is accorded to the parties to the dispute throughout the mediation process.
- 24.9 The mediator must not determine the dispute.
- 24.10 If the mediation process does not result in the dispute being resolved, the parties may seek to resolve the dispute in accordance with the Act or otherwise at law.

PART FIVE - GENERAL MEETINGS

25. Convening of General Meetings

25.1 Except as permitted by the Act a general meeting, to be called the "Annual General Meeting", must be held at least once in every calendar year within six months after the end of the previous financial year.

25.2 The Council may convene a general meeting whenever it determines appropriate.

25.3 Except as provided in the Act, no member or members are entitled to convene a general meeting.

25.4 The Council must, on the requisition in writing of not less than four of the State associations, convene at a general meeting of the Association.

25.5 A requisition for a general meeting must state the objects of the meeting and must be signed by the requisitionists and be deposited at the registered office of the Association and may consist of several documents in the like form each signed by one or more of the requisitionists.

25.6 If the Council does not cause a general meeting to be held within eight weeks after the date on which a requisition is deposited at the registered office of the Association, the requisitionist or any of them may convene a meeting but any meeting so convened will not be held after four months from the date of the deposit of the requisition.

25.7 A general meeting convened by the requisitionist, pursuant to these Rules, must be convened in the same manner as nearly as possible as that in which meetings are convened by the Council and all reasonable expenses incurred in convening the meeting must be refunded by the Association to the persons incurring them.

26. Notice of General Meetings

26.1 Except where otherwise provided in this Constitution at least four (4) weeks notice (exclusive of the day on which the notice is served or deemed served and of the day for which the notice is given) of a general meeting must be given to such persons as are entitled to receive notices from the Association.

26.2 A notice of a general meeting must specify the place, the day and the hour of the meeting and, in the case of special business, the general nature of the special business.

27. Accidental Omission to Give Notice

27.1 The accidental omission to give notice of any general meeting to or the non-receipt of the notice by any person entitled to receive notice of a general meeting under this Constitution or the accidental omission to advertise (if necessary) the meeting does not invalidate the proceedings at or any resolution passed at the meeting.

28. Postponement of General Meetings

28.1 The Councillors may postpone the holding of any general meeting whenever they determine appropriate (other than a meeting requisitioned by members pursuant to the Act or a meeting requisitioned under these Rules) for not more than 21 days after the date for which it was originally called.

28.2 Whenever any meeting is postponed for 10 days or more, not less than two days notice must be sent to the persons entitled to notice of the original meeting. It is not necessary to specify in the notice the nature of the business to be transacted at the postponed meeting.

29. Representation of Member

29.1 Any member may be represented at any general meeting of the Association by their proxy and if so represented is deemed to be personally present.

PART 6 - PROCEEDINGS AT GENERAL MEETINGS

30. Quorum

30.1 No business shall be transacted at any general meeting unless a quorum is present at the time when the meeting proceeds to business. A quorum for general meetings of the Association shall be 50% of the voting members plus 1, at least 4 of whom each must be a representative of a different State Association.

31. Absence of Quorum

31.1 If a quorum is not present within 30 minutes after the time appointed for the meeting:

(1) where the meeting was convened upon the requisition of members the meeting is dissolved; or

(2) in any other case:

- (a) the meeting stands adjourned to the day, and the time and place, which the Council determined or, if no determination is made by the Council, to the same day in that next week at the same time and place; and
- (b) if at the adjourned meeting a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting is dissolved.

32. Ordinary and Special Business

32.1 The business of an annual general meeting is:

- (1) to receive and consider the statement of income and expenditure, assets and liabilities, mortgages, charges and securities affecting the property of the Association for each financial year, and the reports of the Council and of the Auditors;
- (2) when necessary, to appoint Councillors in place of those retiring or otherwise and if an election year, to conduct the election of Councillors in the place of those retiring;
- (3) when necessary, to appoint auditors; and
- (4) to transact any other business, which under this Constitution or the Act ought to be transacted at an annual general meeting.

32.2 All other business transacted at an annual general meeting and all business transacted at any other general meeting is special business.

33. Chairperson

33.1 The President of the Association, if present, presides as chairperson at every general meeting.

33.2 Where a general meeting is held and:

- (1) there is no President of the Association; or
- (2) the President is not present within 30 minutes after the time appointed for the holding of the meeting or is unwilling to act;

the President-elect of the Association will be chairperson of the meeting.

34. Adjournment of Meetings

34.1 The chairperson may with the consent of any meeting at which a quorum is present, and must if so directed by the meeting, adjourn the meeting from time to time and from place to place, but no business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

34.2 When a meeting is adjourned for 14 days or more, notice of the adjourned meeting must be given as in the case of an original meeting.

34.2 Except as provided by these Rules, it is not necessary to give any notice of an adjournment, or of the business to be transacted at an adjourned meeting.

PART 7 - VOTING AT GENERAL MEETINGS

35. Voting Rights

35.1 The voting members of the Association shall be:-

- (a) The Councillors;
- (b) The State Representatives of each State Association;

Whom shall all be entitled to one vote.

36. Voting Disqualification

36.1 A member is not entitled to vote at a general meeting if the Capitation Fee, if any, of the State association of which he or she is a Representative is more than one month in arrears at the date of the meeting or the postponed or adjourned meeting.

37. Power to Demand a Poll

37.1 At any general meeting a resolution put to the vote of the meeting is decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded:

- (a) by the chairperson; or
- (b) by at least three members.

38. Evidence of Resolutions

38.1 Unless a poll is so demanded, a declaration by the chairperson that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the Minutes of the proceedings of the Association, signed by the chairperson of that or their next succeeding meeting, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

39. Conduct of Poll

39.1 If a poll is duly demanded, it must be taken in such manner and subject to these Rules either at once or after an interval or adjournment or otherwise as the chairperson directs, and the result of the poll is the resolution of the meeting at which the poll was demanded.

39.2 A poll demanded on the election of a chairperson or on a question of adjournment must be taken forthwith without adjournment.

39.3 The demand for a poll does not prevent the continuance of a meeting for the transaction of any business other than the question on which a poll has been demanded.

39.4 The demand for a poll may be withdrawn.

40. Casting Vote

40.1 In the case of an equality of votes, whether on a show of hands or on a poll, the chairperson of the meeting at which the show of hands takes place or at which the poll is demanded, in addition to his or her deliberative vote (if any), has a casting vote. The chairperson has a discretion both as to use of the casting vote and as to the way in which it is used.

41. Objections to Exercise of Voting Rights

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

41.2 The objection must be referred to the chairperson of the meeting, whose decision is final.

41.3 A vote not disallowed following the objection is valid for all purposes.

PART EIGHT - PROXIES

42. Appointment of Proxy

42.1 A member of the Association may appoint one proxy, who must also be a member.

43. Deposit of Proxy and Attorney Instrument

43.1 An instrument appointing a proxy may not be treated as valid unless the instrument, and the power of attorney or other Authority (if any) under which the instrument is signed, or proof of the power or authority to the satisfaction of the Councillors is or are deposited at the registered office of the Association or at any other place specified for that purpose in the notice of convening the meeting not less than 24 hours before the time for the holding of the meeting or adjourned meeting as the case may be at which the person named in the instrument proposes to vote.

43.2 For the purpose of these Rules, it is sufficient if the proxy instrument is received at the registered office of the Association by facsimile transmission or by a similar means of communication in a reasonably legible form. If the proxy instrument is required to be accompanied by other documents, then these documents may also be received at the registered office by facsimile transmission.

44. Proxy Instrument to be in Writing

44.1 An instrument appointing a proxy must be in writing under the hand of the appointer or of the appointers' Attorney duly authorised in writing.

45. Form of Proxy

45.1 The instrument of proxy must be in the form determined by the Council but the form must:

(a) enable the member to specify that manner in which the proxy must vote in respect of a particular transaction; and

(b) leave blank for the member to fill in the name of the person primarily appointed as proxy.

45.2 The form may provide that if that member leaves it blank as to the person primarily appointed as proxy or if the person or persons named as proxy fails or fail to attend, the chairperson of the meeting is appointed proxy.

45.3 Despite these Rules, an instrument appointing a proxy may be in the following form or in a form that is as similar to the following form as the circumstances allow:

Australian Day Surgery Nurses Association Inc

I, _____ of _____, being a member of the abovenamed Association, and a member of the _____ (name of State association) appoint _____ of _____ or, in his or her absence, _____ of _____

as my proxy to vote for me on my behalf at the *Annual General * General meeting of the Association to be held on _____ 20 _____, and at any adjournment of that meeting.

This form is to be used * in favour of * against the resolution.

Signed on _____ 20 _____.

* Strike out whichever it is not desired.

To be inserted if desired.

46. Effect of Proxy Instrument

46.1 An instrument appointing a proxy is deemed to confer authority to demand or join in demanding a poll.

46.2 If a proxy is only for a single meeting, it may be used at any postponement or adjournment of that meeting, unless the proxy states otherwise.

46.3 A proxy may be revoked at any time by notice in writing to the Association.

47. Voting Rights of Proxies and Attorneys

47.1 An instrument appointing a proxy may specify the manner in which the proxy is to vote in respect of a particular resolution and, where an instrument of proxy so provides, the proxy is not entitled to vote on the resolution except as specified in the instrument.

47.2 A vote given in accordance with the terms of an instrument of proxy or of a power of attorney is valid despite:

47.3 the previous death or unsoundness of mind of the principal; or

47.4 the revocation of the instrument (or of the authority under which the instrument was executed) or of the power, if the Association has not received written notification of the death, unsoundness of mind or revocation at the registered office of the Association before the commencement of the meeting or adjourned meeting at which the instrument is used or the power is exercised.

PART NINE – COUNCIL AND THE MANAGEMENT COMMITTEE

48.1 There shall be a Council, which shall comprise:-

- (a) 6 Councillors who shall have voting rights; and
- (b) 6 State Representatives, who shall not have any voting rights at Council Meetings.

48.2 Each State Association shall nominate one Councillor and one State Representative from amongst its members to be part of the Association's Council.

48.3 Nomination of a Councillor or a State Representative must be in writing addressed to the Association and consented to in writing by the appointee.

48.4 A Councillor or State Representative shall hold office for a period of two years.

49. Councillors' and Representatives' Qualifications

49.1 No person may be a Councillor or a Representative unless that person is a member of the Association.

50. Management Committee and Office Bearers

50.1 The Management Committee shall comprise of:-

- (a) the President;
- (b) the Treasurer;
- (c) the Secretary; and
- (d) the Executive Officer.

50.2 The Members of the Management Committee shall have voting rights at Management Committee meetings, except for the Executive Director who will be ex-officio and have no voting rights.

50.3 The Office Bearers of the Association shall consist of the President, the Treasurer and the Secretary.

50.4 The Office Bearers shall be appointed by the Council from among the Councillors.

50.5 The Office Bearers shall be entitled to vote as Councillors but shall not be entitled to any additional vote by virtue of their positions as Office Bearers, except that where there is an equality of votes the President shall have a casting vote to be exercised at his or her discretion.

50.6 Each person elected to a position under this clause will hold office for a term of two years and may be re-elected at the end of that term.

50.7 Meetings of the Management Committee shall be held as often as may be necessary for properly conducting the business and operations of the Association, but shall be held at least once in every four (4) calendar months.

50.8 For the purposes of the meetings of the Management Committee, two or more Councillors shall constitute a quorum.

50.9 Otherwise the meetings and proceedings of the Management Committee shall be governed by the provisions in this Constitution regulating the meetings and proceedings of Council.

51. The President

The President shall be the nominal head of the Association and will chair any Council meeting, General Meeting or Management Committee meeting at which she/he is present. In the event of the President not acting as Chairman, the Council shall appoint a Chairman from the members of the Council.

52. The Secretary

The Secretary shall be the Secretary to the Council and will be responsible for the conduct of Council Meetings. The Secretary shall liaise with the Executive Officer and perform other functions as directed by the President and Executive Officer as are required by the Constitution and Rules of the Association.

PART 10 – GENERAL PROVISIONS AS TO COUNCIL MEMBERSHIP

53. Casual Vacancies and Additional Councillors or Representatives

53.1 The Association in general meeting may by resolution and the Council may at any time appoint any person qualified to be a Councillor or a Representative under these Rules as an addition to the existing Councillors and Representatives, but so that the total number of Councillors or Representatives does not at any time exceed the number fixed in accordance with this Constitution.

53.2 In the event of a casual vacancy, the State association whose member has caused the casual vacancy will nominate another of its members to act as Councillor or Representative as the case may be.

53.3 A person who is so appointed holds office until the termination of the annual general meeting next held after his or her appointment but is eligible for election at that meeting.

54. Insufficient Councillors

54.1 In the event of a vacancy or vacancies in the office of a Councillor or offices of Councillors, the remaining Councillors may act, but if the number of remaining Councillors is not sufficient to constitute a quorum at a Council meeting, they may act only for the purpose of increasing the number of Councillors in accordance with these Rules to a number sufficient to constitute such a quorum or convening a general meeting of the Association.

51. Resignation of Councillor or Representatives

51.1 Any Councillor or Representative may retire from office upon giving notice in writing to the Association of his or her intention to do so.

52. Removal of Councillors or Representatives

52.1 Subject to the provisions of this Constitution and the Act, the nominating State association or the Association may by a resolution passed at any general meeting, remove any Councillor or Representative and the State association may appoint another person in his or her stead.

52.2 Any Councillor or Representative removed in accordance with this Constitution shall not be entitled to appeal against the removal.

53. Vacation of Office of Councillor or Representatives

53.1 In addition to the circumstances in which the office of a Councillor becomes vacant by virtue of the Act, the office of a Councillor or Representative becomes vacant if the Councillor or Representative:

- (1) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the Act relating to Mental Health;
- (2) is absent from three consecutive meetings of Council without the prior leave of the Council or, where no leave is granted, the Council is not satisfied that such absence was justified in all the circumstances;
- (3) fails to pay all arrears of subscription due within 14 days after the receipt of a notice in writing signed by the Secretary stating that the person has ceased to be a financial member of the Association;
- (4) ceases to be qualified as a Councillor or Representative in accordance with these Rules; or
- (5) holds any office of profit under the Association.

54. Remuneration and Expenses of Councillors and Representatives

54.1 No Councillor or Representative may receive any remuneration for his or her services in his or her capacity as a Councillor of the Association.

54.2 Despite these Rules, Councillors and Representatives may be paid all travelling and other expenses properly incurred by them in attending and returning from meetings of the Council or any committee of the Association or general meetings of the Association or otherwise in connection with the business of the Association.

PART 11 – ALTERNATE COUNCILLORS AND REPRESENTATIVES

55. Power to Appoint

55.1A A State association whose member is unable to act personally by reason of illness, absence or any other cause as either a Councillor or Representative as the case may be, may appoint any person as an alternate Councillor or Representative as the case may be and may do so generally or for a meeting or for any other purpose or for a specified period.

56. Rights and Powers of Alternate Councillors and Representatives

56.1 An alternate Councillor or Representative is entitled to notice of meetings of the Council and, if the Councillor or Representative for whom the alternate Councillor or Representative is appointed to act as alternate is not present at such a meeting, is entitled to attend and in the case of alternate Councillor, may vote in his or her stead.

56.2 An alternate Councillor or Representative may exercise any powers that the Councillor or Representative, for whom the alternate Councillor or Representative is appointed to act as alternate may exercise and the exercise of any power by the alternate Councillor or Representative is deemed to be the exercise of the power by the Councillor or the Representative for whom the alternate Councillor or Representative is appointed to act as alternate.

56.3 An alternate Councillor is not taken into account for the purpose of these Rules.

57. Suspension or Revocation of Appointment

57.1 The State association may revoke or suspend the appointment of an alternate appointed by it.

58. Form of Appointment Suspension or Revocation

58.1 Every appointment revocation or suspension under these Rules must be made by notice in writing signed by the State association making it.

58.2 The notice may be given by facsimile.

59. Termination of Appointment

59.1 The appointment of an alternate Councillor or Representative automatically terminates:

- (1) if the Councillor or Representative for whom the alternate Councillor or Representative acts as alternate ceases to hold office as Councillor or Representative;
- (2) on the happening in respect to the alternate Councillor or Representative of any event which causes a Councillor or Representative to vacate the office of Councillor or Representative; or
- (3) if by writing left at the registered office of the Association, the alternate Councillor or Representative resigns from the appointment.

60. Power to Act as Alternate for More than One Councillor or Representative

60.1A Councillor or Representative or any other person may act as alternate Councillor or Representative to represent more than one Councillor or Representative.

PART 12 – EXECUTIVE OFFICER

61. Power to Appoint

61.1 The Council may appoint any person, not being a Councillor or Representative, to the position of Executive Officer for such period and on such terms as it may determine and, subject to the terms of any agreement entered into in a particular case, may revoke the appointment.

61.2 The Executive Officer is not a member of the Council, but may attend meetings of the Council except where the Councillors and the Representatives otherwise request.

62. Temporary Appointments

62.1 If an Executive Officer becomes incapable of acting in that capacity, the Council may appoint any other person, not being a Councillor or Representative, to act temporarily as Executive Officer.

63. Powers of the Executive Officer

63.1 The Council may, upon such terms and conditions and with such restrictions as it may determine, confer upon the Executive Officer any of the powers exercisable by it.

63.2 Any powers so conferred may be concurrent with, or to the exclusion of, the powers of the Councillors or Representatives.

63.3 The Council may at any time, withdraw or vary any of the powers so conferred on an Executive Officer.

64. Remuneration of Executive Officer

64.1 Subject to the Act, and to the provisions of any contract between the Association and the Executive Officer, the remuneration of the Executive Officer shall be fixed by the Councillors.

PART 13 – POWERS AND DUTIES OF COUNCILLORS

65. General Business Management

65.1 Subject to the Act and to any other provision of this Constitution, the business of the Association is managed by the Council, who may pay all expenses incurred in promoting and forming the Association, and may exercise all powers of the Association which are not, by the Act or by this Constitution, required to be exercised by the Association in general meeting.

65.2 No amendment made or resolution passed by the Association in general meeting can invalidate any prior act of the Council, which would have been valid if that amendment or resolution had not been made or passed.

66. Borrowing Powers

66.1 Without limiting the generality of these Rules, the Council may exercise all the powers of the Association to borrow money, to charge any property or business of the Association or all or any of its uncalled capital and to issue debentures or give any other security for a debt, liability or obligation of the Association or of any other person.

67. Appointment of Attorney

67.1 The Council may appoint any person or persons to be the attorney or attorneys of the Association for the purposes, with the powers, authorities and discretions (being powers, authorities and discretions vested in or exercisable by the Council), for the period and subject to the conditions it determines appropriate.

67.2 Any power of attorney may contain those provision for the protection and convenience of persons dealing with the attorney that the Councillors determine appropriate and may also authorise the attorney to delegate all or any of the powers, authorities and discretions vested in the attorney.

PART 14 – PROCEEDINGS OF COUNCIL

68. Meetings of Council

68.1 The Council must meet for the dispatch of business at least once a year and may adjourn and otherwise regulate its meetings as it determines appropriate.

68.2 The minutes of any Council meeting must state the method of meeting and the persons present.

69. Convening of the Meeting

69.1 The President may at any time, and the Secretary must on the requisition of the President, convene a Council meeting, subject to the agreement of all of the State associations.

70. Notice of Meeting

70.1 Notice of a Council meeting must be given to each Councillor, Representative and alternate Councillor and Representative except that it is not necessary to give notice of a Council meeting to any Councillor or Representative who:

- (1) has been given special leave of absence; or
- (2) is absent from Australia and has not left a facsimile number at which he or she may be given notice.

70.2 Any notice of a Council meeting may be given in writing or orally, and whether by facsimile, telex telegram, cable, telephone or any other means of communication.

71. Quorum

71.1 At a Council meeting, the number of Councillors whose presence is necessary to constitute a quorum is 50% plus 1. An alternate Councillor is counted in a quorum at a meeting at which the Councillor who appointed the alternate is not present (so long as the alternate is, under the Act, entitled to vote).

72. Chairperson at Council Meetings

72.1 The President is the chairperson of all Council meetings.

72.2 At a Council meeting if:

- a) no President has been elected as provided by these Rules; or

- b) the President is not present within 10 minutes after the time appointed for the holding of the meeting or is unwilling to act,

the President-elect will chair the Council.

73. Voting

73.1 Subject to this Constitution, questions arising at a Council meeting are decided by a majority of votes of Council and voting and any such decision is for all purposes deemed a decision of the Council.

73.2 In case of an equality of votes, the president has the casting vote. It is up to the president's discretion as to whether the casting vote is used and the way in which it is used.

73.3 The president and president-elect when acting as chairperson, do not hold the voting rights of the State association.

73.4 A person who is an alternate Councillor is entitled (in addition to his or her own vote if he or she is a Councillor) to 1 vote on behalf of each Councillor whom he or she represents as an alternate Councillor at the meeting and who is not present at the meeting.

74. Tele-conference Council Meetings

74.1 For the purpose of this Constitution, the contemporaneous linking together in oral communication by telephone, audio-visual or other instantaneous means ("**telecommunication meeting**") of a number of the Councillors not less than a quorum is deemed to constitute a Council meeting. All the provisions of this Constitution relating to a Council meeting apply to a telecommunication meeting in so far as they are not inconsistent with the provisions of these Rules. The following provisions apply to a telecommunication meeting:

- a) all the Councillors and Representatives for the time being entitled to receive notice of a Council meeting Councillors (including any alternate Councillor or Representative) are entitled to notice of a meeting;
- b) all the Councillors and Representatives participating in the meeting must be linked by telephone, audio-visual or other instantaneous means for the purpose of the telecommunication meeting;
- c) notice of the meeting may be given on the telephone or other electronic means;
- d) each of the Councillors and Representatives taking part in the meeting must be able to hear and be heard by each of the other Councillors and

Representatives taking part at the commencement of the meeting and each Councillor and Representative so taking part is deemed for the purposes of this Constitution to be present at the meeting; and

- e) at the commencement of the meeting, each Councillor and Representative must announce his or her presence to all the other Councillors and Representatives taking part in the meeting.

74.2 If the Secretary is not present at a telecommunication meeting, one of the Councillors present must take minutes of the meeting.

74.3A Councillor may not leave a telecommunication meeting by disconnecting his or her telephone, audio-visual or other communication equipment unless the Councillor has previously notified the chairperson of the meeting.

74.4A Councillor is conclusively presumed to have been present and to have formed part of a quorum at all times during a telecommunication meeting unless that Councillor has previously obtained the express consent of the chairperson to leave this meeting.

74.5A minute of the proceedings of a telecommunication meeting is sufficient evidence of the proceedings and of the observance of all necessary formalities if the minute is certified to be a correct minute by the chairperson of the meeting.

75 Circulated Resolutions

75.1 If all the Councillors at that time present in Australia and any Councillor absent from Australia who has left a facsimile number at which he or she may be given notice have signed a document containing a statement that they are in favour of a resolution of the Council in terms set out in the document, a resolution in those terms is deemed to have been passed at a Council meeting held on the day on which the document was signed and at the time at which the document was last signed by a Councillor or, if the Councillors signed the document on different days, on the day on which, and at the time at which, the document was last signed by a Councillor.

75.2 For the purposes of these Rules, 1, 2 or more separate documents containing statements in identical terms each of which is signed by one or more Councillors are deemed together to constitute one document containing a statement in those terms signed by those Councillors on the respective days on which they signed the separate documents.

75.3A reference in these Rules to all the Councillors does not include a reference to a Councillor who, at a Council meeting, would not be entitled to vote on the resolution.

75.4 Every resolution passed under these Rules must as soon as practicable be entered in the minutes of the Council meetings.

75.5A facsimile, telex, cable, email, telegram or similar means of communication addressed to or received by the Association and purposing to be signed by a Councillor for the purpose of this Constitution is deemed to be a document in writing signed by that Councillor.

76. Committees of Council

76.1 The Council may delegate any of its powers to:

- a) the Management Committee; and
- b) other committees consisting of those Councillors it determines appropriate or consisting of any other persons it determines appropriate, whether or not those persons are members of the Association provided that such persons will not be entitled to vote,

and may revoke or vary the delegation.

76.2 Any committee formed under these Rules must in the exercise of the powers so delegated conform to any regulations that may from time to time be imposed upon it by the Council.

76.3 Otherwise the meetings and proceedings of any committee consisting of 2 or more members are governed by the provisions in this Constitution regulating the meetings and proceedings of the Council.

76.4 The Council may establish any local boards or agencies for managing any of the affairs of the Association in any specified locality and may appoint any persons to be members of the local board or any managers or agents and may fix their remuneration.

77. Validation of Acts of Councillors

77.1 All acts done at any Council meeting or by a committee of Council or by any person acting as a Councillor are, although it is afterwards discovered that there was some defect in the appointment or continuance in office of any of the persons concerned or that any of them were disqualified or were not entitled to vote, as valid as if each of them had been duly appointed and had duly continued in office and was qualified to be a Councillor and was entitled to vote.

PART 15 – COUNCILLOR’S AND REPRESENTATIVES’ INTERESTS

78. Prohibition on Being Present or Voting

78.1 Except to the extent permitted by the Act, a Councillor who has a material personal interest in a matter that is being considered at a Council meeting;

- a) must not be counted in the quorum;
- b) must not vote on the matter;
- c) must not be present while the matter is being considered at the meeting.

78.2 If a Councillor who has a material personal interest in a matter that is being considered at a Council meeting Councillors is not prohibited by the Act from being present at the meeting and voting, the Councillor may be present, be counted in the quorum and may be heard but may not vote on the matter.

78.3 Except to the extent permitted by the Act, a Representative who has a material personal interest in a matter that is being considered at a Council meeting must not be present while the matter is being considered at the meeting.

78.4 If a Representative who has a material interest in a matter that is being considered at a Council meeting is not prohibited by the Act from being present at the meeting, the Representative may be present and may be heard.

79. Existence of Interest

79.1 A Councillor or Representative may not hold any other office or place of profit under the Association in conjunction with the office of Councillor or Representative as the case may be.

79.2 A Councillor or Representative may to the extent permitted by the Act:

- a) enter into contracts or arrangements or have dealings with the Association either as vendor, purchaser, mortgagee or otherwise; or
- b) be interested in any contract, operation, undertaking or business entered into, undertaken or assisted by the Association or in which the Association is or may be interested.

79.3 The Councillor or Representative is not because of entering into any relationship or transaction referred to in these Rules:

- a) disqualified from the office of Councillor or Representative; or
- b) liable to account to the Association for any profit arising from the relationship or transaction by reason of being a Councillor or Representative of the Association or of the fiduciary relationship between Councillor or Representative and the Association.

79.4 For the purpose of these Rules “**Association**” includes any subsidiary of the Association and any other Association in which the Association or any subsidiary of the Association is or becomes a shareholder or is otherwise interested.

80. Disclosure of Interest

80.1 The nature of the Councillor’s or Representative’s interest as referred to in these Rules must be disclosed by the Councillor or Representative before or at the Council meeting at which the question of entering into the contract or arrangement is first taken into consideration if the interest then exists or in any other case at the first Council meeting after the Councillor or Representative becomes so interested.

80.2 It is the duty of a Councillor or Representative of the Association who is in any way whether directly or indirectly interested in a contract or proposed contract with the Association to declare the nature of his or her interest in accordance with the provisions of the Act.

80.3 It is the duty of a Councillor or Representative of the Association who holds any office or possesses any property whereby, whether directly or indirectly, duties or interests might be created in conflict with his or her duties or interests as Councillor or Representative to declare the fact and the nature, character and extent of the conflict in accordance with the provisions of the Act.

PART 16 – EDITOR

81. Appointment of Editor

81.1 The Council may appoint a person (**‘Editor’**) to oversee the production of any journal or other publication of the Association.

81.2 The Editor will be given notice of all Council Meetings and shall be entitled to attend Council meetings by invitation.

PART 17 – INADVERTENT OMISSIONS

82. Formalities Omitted

82.1 If some formality required by this Constitution is inadvertently omitted or is not carried out, the omission does not invalidate any resolution, act, matter or thing which but for the omission would have been valid unless it is proved to the satisfaction of the Councillors that the omission had directly prejudiced any member financially. The decision of the Councillors is final and binding on all members.

PART 18 – MINUTES

83.1 The Councillors must carry out the obligations imposed on the Association by the Act to cause:

- a) minutes of all proceedings of general meetings, Council meetings and Management Committee meetings to be entered, within 1 month after the relevant meeting is held, in books kept for that purpose; and
- b) those minutes to be signed by the chairperson of the meeting at which the proceedings took place or by the chairperson of the next succeeding meeting, verifying their accuracy; and
- c) the minute book for each general meeting to be open for inspection at all reasonable times by any financial member who previously applies.

83.2 Without limiting these Rules the Councillors must cause minutes to be made of:

- a) All appointments of officers and servants;
- b) The names of Councillors and Representatives and alternate Councillors and Representative present at all Council meetings and the Association; and
- c) Of the method by which a Council meeting Councillors was held.

PART 19 – COMMON SEAL

84. Common Seal of the Association

84.1 The Councillors must ensure the Association has a common seal.

84.2 The Councillors must provide for safe custody of the common seal.

84.3 The common seal of the Association may not be affixed to any instrument except by the authority of a resolution of the Council or of a committee of the Councillors, duly authorised by the Councillors

84.4 Every instrument to which the common seal is affixed, must be signed by at least one Councillor and countersigned by another Councillor, the Secretary or another person appointed by the Councillors to countersign that document or a class of documents in which that document is included.

85. Affixing of Seal by Interested Councillor

85.1 A Councillor may sign or countersign as Councillor, any instrument to which the common seal of the Association is affixed although the instrument relates to a contract, arrangement, dealing, or other transaction in which he or she is interested and his or her signature is effective in regard to compliance with the requirements of this Constitution as to the affixing of the common seal despite of his or her interests.

PART 20 – ACCOUNTS, AUDIT, RECORDS AND FUNDS

86. Accounts

86.1 The Councillors must cause proper accounting and other records to be kept in accordance with the Act.

86.2 The Councillors must ensure the safe custody of books, documents, instruments of title and securities of the Association.

86.3 The Treasurer will faithfully keep all general records and documents, accounting books and records of receipts and expenditure connected with the operations and business of the Association in such form and manner as the Councillors may decide.

86.4 The Treasurer will on behalf of the Association, receive all monies paid to the Association and forthwith after receipt, issue receipt of such monies.

86.5 The Councillors will cause to be open with such bank as the select a bank account in the name of the Association into which all monies received will be paid by the Treasurer as soon as possible after receipt.

- 86.6 The Councillors may receive from the Association's bank or bank as for the time being the cheques drawn by the Association on any of its accounts with the bank or bankers and may release and indemnify the bank or bankers from and against all claims, action suits or demands that may be brought against the bank or bankers arising directly or indirectly out of those cheques or they surrender to the Association.
- 86.7 No cheques will be drawn on the Association's bank account except for the payments of expenditure that has been authorised by the officers of the Association. All such expenditure will be reported to the Council meeting Councillors next following the date of payment.
- 86.8 Each cheque, draft, bill of exchange, promissory note and other negotiable instruments will be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by any one of the President, Secretary or Treasurer.
- 86.9 Any funds not required for the purpose of the Association from time to time may be invested in such manner authorised for the investment of trust funds as the Councillors will decide. No funds will be withdrawn from such an investment except on the written order of any two of the President, Secretary or Treasurer.
- 86.10 The Councillors must prepare, lodge and distribute copies of a statement of income and expenditure, assets and liabilities, mortgages, charges and securities affecting the property of the Association for each financial year (including every document required by Act to be attached thereto) as required by the Act.
- 86.11 The statement described in these Rules must be presented, after audit, to the members in General Meeting.
- 86.12 The income and property of the Association must be used solely in promoting the Association's objects and exercising the Association's powers.

87. Audit

- 87.1 A registered Association auditor must be appointed at each Annual General Meeting of the Association.
- 87.2 A person so appointed will hold office until the next General Meeting and is eligible for reappointment.
- 87.3 The first auditor of the Association may be appointed by the Councillors before the first Annual General Meeting and if so appointed will hold office until the first Annual General Meeting, unless previously removed by a resolution, the members at a General Meeting in which case the members at that meeting may appoint an auditor to act until the first Annual General Meeting.

87.4 Except as provided in these Rules the auditor may only be removed from office by a special resolution.

87.5 If a casual vacancy occurs in the office of auditor during the course of the financial year of the Association, the Councillors may appoint a person as the Auditor and the person so appointed will hold office until the next Annual General Meeting.

87.6 The remuneration of the Auditor must be fixed and the Auditor's duties regulated in accordance with the Act.

87.7 The accounts (including the statements) of the Association will be examined by the Auditor at least once in each financial year, which shall close on 30 June in each year.

87.8 The auditor will certify as to the correctness of the accounts of the Association and will be reported to the members present at the Annual General Meeting.

87.9 In the auditor's report and in certifying the accounts, the auditor will state:

- a) whether the information supplied by the auditor has been requested;
- b) whether in the auditor's opinion, the accounts are properly drawn up so as to exhibit a true and correct view of the financial position of the Association according to the information at the disposal of and the explanation given to the auditor and as shown by the books of the Association; and
- c) whether the rules relating to the administration of the funds of the Association have been observed.

87.10 The Secretary will cause to be delivered to the auditor a list of all accounts, books and records of the Association within 6 months of the close of the financial year prescribed in these Rules.

87.11 The auditor:

- a) has a right of access to the accounts, books, records, vouchers and documents of the Association;
- b) may require from the servants of the Association such information and explanation as may be necessary for the performance of the auditor's duty as auditor;
- c) may employ persons to assist in investigating the accounts of the Association; and

- d) may in relation to the accounts of the Association examine any Councillor, Representative or any other servant of the Association given they have due cause to examine such persons.

87.12 The secretary must present the audited statement to the annual general meeting for adoption, and within one month of the adoption of the financial statement the secretary must lodge the Annual Return of the Association to the Office of Fair Trading.

88. Rights of Inspection

88.1 Subject to this Constitution and the Act, the Councillors determine whether and to what extent, and at what times and places and under what conditions, the accounting records and other documents of the Association or any of them are open to the inspection of members other than Councillors, and a member other than a Councillor does not have the right to inspect any document of the Association except as provided by the Act or authorised by the Councillors or by the Association in a General Meeting.

89. Funds of the Association

89.1 The funds of the Association shall be derived from entrance fees, annual subscriptions, donations and such other sources as the committee determines.

PART 21 – NOTICES

90. Service of Notices

90.1 A notice may be given by the Association to any member either by serving it on the member personally or by sending it by post, facsimile or email transmission to the member at the address shown in the register or the address or the facsimile number supplied by the member to the Association for the giving of notices.

91. Method of Service

91.1 If a notice is sent by post, the service of the notice is deemed to be effected by properly addressing, repaying and posting a letter containing the notice, and to be effected, on the next business day after the date of its posting.

91.2 If a notice is sent by facsimile or email transmission, service of the notice is deemed to be effected by properly addressing the facsimile / email and transmitting it to the number supplied to the Association for that purpose and to be effected on the next business day after the date of its transmission unless:

- a) the Association's facsimile machine fails to issue a transmission report which shows that the relevant number of pages comprised in the notice has been sent;
- or

- b) the addressee notifies the Association immediately that the notice was not fully received in a legible form;
 - c) the email server does not return the mail as unable to send to the given address supplied to the Association by the addressee.
- 91.3 For the purpose of this clause “**business day**” means a day that is not a Saturday, Sunday or any other day which is a public holiday or a bank holiday in the place where the Association has its registered office.

92. Persons Entitled to Notice of General Meeting

92.1 Notice of every General Meeting must be given in the manner authorised by these rules to:

- (a) each State association;
- (b) each Councillor and Representative; and
- (c) the auditor for the time being of the Association.

92.2 No other persons are entitled to receive notices of General Meetings.

92.3 All other voting members of the Association, being members of a State association, shall be deemed to have received notice of any General Meeting upon receipt of such notice by that State association.

PART 22 – INDEMNITY

93. The Right to Indemnity

93.1 To the extent permitted by the Act, any person who is, or was, a Councillor, Representative, Secretary, or Executive Officer (as defined in the Act) of the Association shall be indemnified by the Association against any liability occurring by such person in that capacity to a person (other than the Association or a related body corporate) unless the liability arises out of conduct involving a lack of good faith.

93.2 Every person who is or was a Councillor, Representative, Secretary or Executive Officer (as defined in the Act) of the Association shall be indemnified by the Association against any liability for costs and expenses incurred by the person in defending any proceedings, whether civil or criminal, issued against the person in connection with the performance by the person of his or her position in the Association in which judgement is given in favour of the person or in which the person is acquitted or in connection with an application in relation to any proceedings in which the court grants relief under the Act.

93.3 The Association may, at the discretion of the Councillors, pay a premium in respect of a contract insuring a person who is, or has been, a Councillor, Representative, Secretary or Executive Officer of the Association against liability incurred by such person in that capacity except for a liability arising out of the conduct involving a wilful breach of duty in relation to the Association. In the case of a Councillor or Representative, any such premium may be paid in addition to remuneration paid to that Councillor or Representative by the Association in accordance with this Constitution.

PART 23 – WINDING UP

94. Winding Up

94.1 This clause applies if the Association:

- (a) is wound up under Part 10 of the Act; and
- (b) it has surplus assets.

94.2 The surplus assets must not be distributed among the Association members.

94.3 The surplus assets must be given to another entity:

- (a) having objects similar to the Association's objects; and
- (b) the rules of which prohibit the distribution of the entity's income and assets to its members.

94.5 In this section, "surplus assets" has the meaning given to it by section 92(3) of the Act.

PART 24 – ALTERATION OF CONSTITUTION

95. Alteration of Rules

- 95.1 Subject to the Act, the Constitution and statement of purposes of the Association may only be amended, repealed or added to by a special resolution carried at a General Meeting of the Association.
- 95.2 However an amendment, repeal or addition is valid only if it is registered by the Association.