

Central Coast Conservatorium Incorporated

# Constitution

## (Draft Revision April 2015)

### Notes:

- Under the Associations Act, an association may either adopt the model constitution, or adopt a modified version of the model constitution.
- This revision of the constitution is an updated version based on the current model constitution under the Associations Act.
- The current CCon constitution is based on a previous model constitution. The previous model constitution is mostly the same, but the language has been updated and some specific provisions are different.
- Some substantive changes have also been made to the CCon's current constitution. All substantive changes to the CCon's current constitution are marked up in yellow and comments have been added which explain why the changes are recommended.
- Changes or updates to language, which do not involve any change in substance or meaning to the CCon's current constitution, have not been highlighted.

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## Part 1 - Preliminary

### 1. Definitions

(1) In this constitution:

**association** means the Central Coast Conservatorium Incorporated.

**committee** means the Committee of Management as constituted under part 4 of this Constitution.

**Director-General** means the Director-General as defined in the *Associations Incorporation Act 2009*.

**ordinary committee member** means a member of the committee who is not an office-bearer of the association.

**secretary** means:

(a) the person holding office under this constitution as secretary of the association, or

(b) if no such person holds that office - the public officer of the association.

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

**the Act** means the *Associations Incorporation Act 2009*.

**the Regulation** means the *Associations Incorporation Regulation 2010*.

(2) In this constitution:

(a) a reference to a function includes a reference to a power, authority and duty, and

(b) a reference to the exercise of a function includes, if the function is a duty, a reference to the performance of the duty.

(3) The provisions of the *Interpretation Act 1987* apply to and in respect of this constitution in the same manner as those provisions would so apply if this constitution were an instrument made under the Act.

**Comment [mw1]:** Updated to bring into line with current legislation

## Part 2 – Name and Objects

### 2. Name

The name of this incorporated association is the Central Coast Conservatorium Incorporated.

**Comment [mw2]:** Current clause 3

**Comment [mw3]:** Transitional clause 2 deleted from old constitution deleted as no longer relevant

### 3. Objects

The objects of the association are to service the needs and aspirations of the Community within the Central Coast region of New South Wales in relation to all aspects and branches of music and particularly:

(a) to promote and encourage the appreciation of music in all its forms, especially among the young

**Comment [mw4]:** Current clause 4

**Comment [MM5]:** Subclause (b) from current constitution deleted as outdated: "To improve and refine musical taste within the community"

- (b) to provide means and opportunity to all students of music on the Central Coast for the achievement of competence and excellence according to their talent in the various branches of music and study, both practical and theoretical
- (c) to provide facilities at the Conservatorium for the teaching and learning of all forms of music, from elementary to advanced levels
- (d) to foster and facilitate the academic study of musical forms by lectures, publications and all other educational means
- (e) to arrange performances by the students and their teachers and also by others by special invitation, both at the Conservatorium and in the community generally
- (f) to **promote** the work of the Conservatorium and otherwise do whatever is necessary or desirable to enhance its reputation and **business** within the community on the Central Coast
- (g) to establish and support a Central Coast community orchestra in which any musician of appropriate standard may participate, including those who are not students at the Central Coast Conservatorium, and
- (h) to do all other things as may be incidental or conducive to the attainment of all or any of these objects.

**Comment [mw6]:** Updated: "promote" replaces "publicise" and "business" replaces "stature"

## Part 3 – Membership

### 4. **Membership generally**

**Comment [mw7]:** Current clause 5

- (1) The membership of the association is divided into the following categories:
  - (a) Ordinary Members
  - (b) Honorary Life Members
  - (c) Committee of Management Members
  - (d) Teacher Members**
- (2) A person is eligible to be an Ordinary Member of the association if:
  - (a) the person is a natural person
  - (b) the person has applied for and been approved for membership of the association in accordance with clause 5, and
  - (c) the person is a student enrolled in one to one tuition at the association, or where the person is less than eighteen years of age, the nominated guardian of that person. Where two or more members of the one family unit are enrolled, then only one person is eligible for membership from that family unit.**
- (3) Honorary Life Membership may be conferred on any person who has rendered outstanding service to the association. To be eligible for Honorary Life Membership:
  - (a) a person must be nominated by one member and seconded by another member, and
  - (b) the nomination must be referred to the committee for approval and, if approved, referred to the next annual general meeting for approval by a special resolution, and

**Comment [mw8]:** New category of membership proposed for Teachers

**Comment [mw9]:** Requirement for a person to be fully financial to qualify for membership is proposed to be deleted, as it results in people losing membership over the holidays or if they have an invoice outstanding. This makes the members register cumbersome to administer.

The clause has also been re-worded to allow a student to become a member in their own right when they turn 18 (current provisions based on age at time of enrolment).

- (c) if the nomination for Honorary Life Membership is approved by a special resolution at the annual general meeting, the person nominated is taken to be an Honorary Life Member with all the rights and privileges of an Ordinary Member of the association, and
- (d) only one Honorary Life Member may be approved each calendar year.
- (4) A person is taken to be a Committee of Management Member of the association if the person is a member of the current committee.
- (5) A person is taken to be a Teacher Member of the association if the person is a current teacher engaged by the association.

**Comment [mw10]:** A new category of membership is proposed for Teachers.

## 5. Application for membership

- (1) An application of a person for ordinary membership of the association:
  - (a) must be made by a person eligible to be an ordinary member of the association in writing in the form determined by the committee from time to time, and
  - (b) must be lodged with the secretary of the association.
- (2) As soon as practicable after receiving an application for membership, the secretary must refer the application to the committee which is to determine whether to approve or to reject the application.
- (3) As soon as practicable after the committee makes that determination, the secretary must notify the applicant, in writing, that the committee has approved or rejected the application (whichever is applicable). If the committee rejects the application, the committee must refund to the applicant any membership application fee paid by the member.
- (4) The secretary must, on approval of the application for membership, enter or cause to be entered the applicant's name in the register of members and, on the name being so entered, the applicant becomes an ordinary member of the association.

**Comment [MM11]:** Transitional provisions from the Model Constitution have been deleted as they are not relevant.

**Comment [mw12]:** This is a proposed new clause based on the model constitution to create a membership application process. This will make membership status clearer and make the register of members easier to administer. The model constitution is based on nominations for membership, but the proposed new clause provides for an application process which is simpler and reflects the current CCCon constitution.

## 6. Cessation of membership

A person ceases to be a member of the association if the person:

- (a) dies
- (b) resigns membership
- (c) is expelled from the association
- (d) if they fail to satisfy the eligibility requirements for membership in clause 4, or
- (e) if the person is an Ordinary Member, fails to pay the annual membership fee under clause 10(2) within 3 months after the fee is due.

**Comment [mw13]:** Current clause 6

**Comment [mw14]:** New provision to reflect new membership application structure to streamline membership arrangements

## 7. Membership entitlements not transferable

A right, privilege or obligation which a person has by reason of being a member of the association:

- (a) is not capable of being transferred or transmitted to another person, and

**Comment [mw15]:** Current clause 7

(b) terminates on cessation of the person's membership.

## 8. Resignation of membership

- (1) A member of the association may resign from membership of the association by first giving to the secretary written notice of at least one month (or such other period as the committee may determine) of the member's intention to resign and, on the expiration of the period of notice, the member ceases to be a member.
- (2) If a member of the association ceases to be a member under subclause (1), and in every other case where a member ceases to hold membership, the secretary must make an appropriate entry in the register of members recording the date on which the member ceased to be a member.

**Comment [mw16]:** Current clause 8. Deleted requirement in current constitution that a member must be fully financial before they are entitled to resign, as this is not an appropriate or practical way to enforce payment of fees. This change also brings the clause in line with the model constitution.

## 9. Register of members

- (1) The public officer of the association must establish and maintain a register of committee members in accordance with section 29 of the Act. The register of committee members must include the particulars set out in the Act and the Regulation. The register of committee members must, at all reasonable hours, be available for inspection, free of charge, by any person.
- (2) The public officer of the association must also establish and maintain a register of all other members of the association specifying the name, postal or residential address and email address of each person who is a member of the association together with the date on which the person became a member.
- (3) The register of members and the register of committee members must be kept in New South Wales:
  - (a) at the main premises of the association, or
  - (b) if the association has no premises, at the association's official address.
- (4) The name of each member, membership category and date on which the person became a member contained in the register of members must be available for inspection, free of charge, by any member of the association at any reasonable hour.
- (5) A member of the association may obtain a copy of the information referred to in subclauses (1) or (4) on payment of a fee of not more than \$1 for each page copied.
- (6) If a member requests that any information contained on the register about the member (other than the member's name) not be available for inspection, that information must not be made available for inspection.
- (7) A member must not use information about a person obtained from the register to contact or send material to the person, other than for:
  - (a) the purposes of sending the person a newsletter, a notice in respect of a meeting or other event relating to the association or other material relating to the association, or
  - (b) any other purpose necessary to comply with a requirement of the Act or the Regulation.

**Comment [mw17]:** Current clause 9. Changes have been added to ensure private, confidential or privileged information about a member, employee or teacher does not have to be disclosed. Register of committee members is dealt with separately, as additional information about committee members must be kept and disclosed under the Act.

**Comment [mw18]:** These changes ensure members' addresses are not required to be disclosed as this is private information. Same comment applies for changes to subclause (5).

## 10 Fees and subscriptions

- (1) An applicant for Ordinary Membership of the association must, with their application for membership, pay to the association a membership application fee of \$5 or, if some other amount is determined by the committee, that other amount.
- (2) In addition to any amount payable by the member under subclause (1), a member of the association must pay to the association an annual membership fee of \$5 or, if some other amount is determined by the committee, that other amount:
  - (a) except as provided by subclause 2(b), before 1 April in each calendar year, or
  - (b) if the member applies for membership on or after 1 April in any calendar year - on application for membership and before 1 April in each succeeding calendar year.

**Comment [mw19]:** Model provisions recommended (as amended) to make the members register easier to administer. Current CCCon constitution has no provision for payment of membership fees and membership is instead dependent on being fully financial at all times, which makes the membership register impractical to administer and results in people losing their membership at the end of each year or if they have an invoice overdue.

## 11. Members' liabilities

The liability of an Ordinary Member of the association to contribute towards the payment of the debts and liabilities of the association or the costs, charges and expenses of the winding up of the association is limited to the amount, if any, unpaid by the member in respect of membership fees due to the association as required by clause 10, and in the case of other categories of members, \$20.

**Comment [mw20]:** Current clause 10.

## 12. Resolution of disputes

- (1) A dispute between a member and another member (in their capacity as members) of the association, or a dispute between a member or members and the association, is to be referred to the committee. The committee must give the relevant members a reasonable opportunity to make submissions to the committee in connection with the dispute. The committee and the relevant members must work together in good faith and use all reasonable endeavours to try to resolve the dispute.
- (2) At least 7 days before the dispute is heard by the committee, the parties are to exchange statements of the issues that are in dispute between them and supply copies to the committee.
- (3) If the dispute is not resolved within 30 days, the dispute may be referred to a community justice centre for mediation under the Community Justice Centres Act 1983.

**Comment [mw21]:** Current clause 46

**Comment [MM22]:** New mechanism required to allow for disputes to be referred to the committee at first instance. Also to remove the current requirement to go to arbitration which is no longer considered a cheaper and faster alternative to the courts. Requirement for statement of issues to be exchanged prior to mediation removed, as mediation procedures determined by relevant legislation.

## 13. Disciplining of members

- (1) A complaint may be made to the committee by any person that a member of the association:
  - (a) has refused or neglected to comply with a provision or provisions of this constitution, or
  - (b) has wilfully acted in a manner prejudicial to the interests of the association.
- (2) The committee may refuse to deal with a complaint if it considers the complaint to be trivial or vexatious in nature.

**Comment [mw23]:** Current clause 11

**Comment [mw24]:** Current constitution states "persistently refused or neglected..."

**Comment [mw25]:** Current constitution states "persistently and wilfully acted..."

**Comment [mw26]:** Model provision added



- (3) If the committee decides to deal with the complaint, the committee:
  - (a) must convene a committee meeting to consider the complaint
  - (b) must cause notice of the complaint to be served on the member concerned
  - (c) must give the member at least 14 days from the time the notice is served within which to make written submissions to the committee in connection with the complaint
  - (d) must give the member the opportunity to attend and speak at that meeting, and
  - (e) must take into consideration any submissions made by the member in connection with the complaint.
- (4) The committee may, by resolution, expel the member from the association or suspend the member from membership of the association if, after considering the complaint and any submissions made in connection with the complaint, it is satisfied that the facts alleged in the complaint have been proved and the expulsion or suspension is warranted in the circumstances.
- (5) If the committee expels or suspends a member, the secretary must, within 7 days after the action is taken, cause written notice to be given to the member of the action taken, of the reasons given by the committee for having taken that action and of the member's right of appeal under clause 14.
- (6) The expulsion or suspension does not take effect:
  - (a) until the expiration of the period within which the member is entitled to appeal against the resolution concerned, or
  - (b) if within that period the member exercises the right of appeal, unless and until the association confirms the resolution under clause 14, whichever is the later.

#### **14. Right of appeal of disciplined member**

- (1) A member may appeal to the association in general meeting against a resolution of the committee under clause 13, within 7 days after notice of the resolution is served on the member, by lodging with the secretary a notice to that effect.
- (2) The notice may, but need not, be accompanied by a statement of the grounds on which the member intends to rely for the purposes of the appeal.
- (3) On receipt of a notice from a member under subclause (1), the secretary must notify the committee which is to convene a general meeting of the association to be held within 28 days after the date on which the secretary received the notice.
- (4) At a general meeting of the association convened under subclause (3):
  - (a) no business other than the question of the appeal is to be transacted, and
  - (b) the committee and the member must be given the opportunity to state their respective cases orally or in writing, or both, and
  - (c) the members present are to vote by secret ballot on the question of whether the resolution should be confirmed or revoked.
- (5) The appeal is to be determined by a simple majority of votes cast by members of the association.

**Comment [mw27]:** current clause 12. Current constitution only contains sub-clause (1). The remaining provisions are from the model constitution.

## Part 4 - The committee

### 15. Powers of the committee

Comment [mw28]: Current clause 13

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

- (a) is to control and manage the affairs of the association, and
- (b) may exercise all such functions as may be exercised by the association, other than those functions that are required by this constitution to be exercised by a general meeting of members of the association, and
- (c) has power to perform all such acts and do all such things as appear to the committee to be necessary or desirable for the proper management of the affairs of the association.

### 16. Composition and membership of committee

Comment [mw29]: Current clause 14

- (1) The committee is to consist of:
  - (a) the office-bearers of the association,
  - (b) 5 ordinary committee members, each of whom is to be elected at the annual general meeting of the association under clause 28
  - (c) 1 additional ordinary committee member who is to be the nominee of the University of Newcastle
  - (d) 1 additional ordinary committee member who is to be the Teacher's Representative nominated by the Central Coast Conservatorium teachers to represent the teachers on the committee.
- (2) All committee members are to be over 18 years of age and resident in Australia, and at least three must reside in New South Wales.
- (3) The total number of committee members is to be 11.
- (4) The office-bearers of the association are as follows:
  - (a) president
  - (b) vice-president
  - (c) treasurer
  - (d) secretary.
- (5) A committee member may hold up to 2 offices (other than both the president and vice-president offices).
- (6) Each member of the committee is, subject to this constitution, to hold office until the conclusion of the annual general meeting following the date of the member's election, but is eligible for re-election.
- (7) There are no restrictions on the length of time that a member may serve on the committee or as an office-bearer, with the exception of the president whose term of office as president is limited to 4 years. The president is however subsequently eligible for election to the committee or to any other office.

Comment [mw30]: Added from model constitution

## **17. Payment of Office Bearers and Members**

**Comment [mw31]:** Current clause 15

- (1) A member of the committee must not be appointed to any salaried or paid position in the association.
- (2) No remuneration or other benefit in money or money's worth may be given by the association to any member of the committee except:
  - (a) repayment of out-of-pocket expenses
  - (b) interest at a rate not exceeding interest at the rate for the time being which is or would be charged by the association's bankers from money lent to the association, and
  - (c) reasonable rent for premises let to the association.
- (3) The committee may in a general meeting resolve to waive the operation of this rule in a particular case if a member of the committee fully discloses his or her interest in a contract or other benefit receivable from the association and the committee considers it appropriate to waive the rule in the particular case.

## **18. Election of committee members**

**Comment [mw32]:** Current clause 16

- (1) Nominations of candidates for election as office-bearers of the association or as ordinary committee members:
  - (a) must be made in writing, signed by 2 members of the association and accompanied by the written consent of the candidate (which may be endorsed on the form of the nomination), and
  - (b) must be delivered to the secretary of the association at least 7 days before the date fixed for the holding of the annual general meeting at which the election is to take place.
- (2) If insufficient nominations are received to fill all vacancies on the committee, the candidates nominated are taken to be elected and further nominations are to be received at the annual general meeting.
- (3) If insufficient further nominations are received, any vacant positions remaining on the committee are taken to be casual vacancies.
- (4) If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated are taken to be elected.
- (5) If the number of nominations received exceeds the number of vacancies to be filled, a ballot is to be held.
- (6) The ballot for the election of office-bearers and ordinary committee members of the committee is to be conducted at the annual general meeting in such usual and proper manner as the committee may direct.
- (7) A person nominated as a candidate for election as an office-bearer or as an ordinary committee member of the association is not required to be eligible to be an Ordinary Member of the association.

**Comment [mw33]:** Currently in clause 16(1)(a) (language updated)

## **19. Secretary**

**Comment [MM34]:** Current clause 17

- (1) The secretary of the association must, as soon as practicable after being appointed as secretary, lodge notice with the association of his or her address.

- (2) It is the duty of the secretary to keep minutes of:
- (a) all appointments of office-bearers and members of the committee
  - (b) the names of members of the committee present at a committee meeting or a general meeting, and
  - (c) all proceedings at committee meetings and general meetings.
- (3) Minutes of proceedings at a meeting must be signed by the chairperson of the meeting or by the chairperson of the next succeeding meeting.

## 20. **Treasurer**

**Comment [MM35]:** Current clause 18

It is the duty of the treasurer of the association to ensure:

- (a) that all money due to the association is collected and received and that all payments authorised by the association are made
- (b) that correct books and accounts are kept showing the financial affairs of the association, including full details of all receipts and expenditure connected with the activities of the association, and
- (c) that no committee member secures any monetary gain from the association other than in accordance with clause 17, and any surplus produced is used to pursue the objects of the association.

## 21. **Casual vacancies**

**Comment [mw36]:** Current clause 19

- (1) In the event of a casual vacancy occurring in the membership of the committee, the committee may appoint a member of the association to fill the vacancy and the member so appointed is to hold office, subject to this constitution, until the conclusion of the annual general meeting next following the date of the appointment.
- (2) A casual vacancy in the office of a member of the committee occurs if the member:
- (a) dies
  - (b) becomes an insolvent under administration within the meaning of the *Corporations Act 2001* of the Commonwealth
  - (c) resigns office by notice in writing given to the secretary
  - (d) is removed from office under clause 22
  - (e) becomes a mentally incapacitated person
  - (f) is absent without the consent of the committee from 3 consecutive meetings of the committee
  - (g) subject to clause 17, the member holds an office of profit in the association or the member has directly or indirectly an interest in any contract or proposed contract with the association
  - (h) is convicted of an offence involving fraud or dishonesty for which the maximum penalty on conviction is imprisonment for not less than 3 months, or
  - (i) is prohibited from being a director of a company under Part 2D.6 (Disqualification from managing corporations) of the *Corporations Act 2001* of the Commonwealth.

**Comment [MM37]:** Same as old Constitution – Committee members are not required to be ordinary members

**Comment [MM38]:** Current constitution states “is absent without the consent of the committee from all meetings of the committee held during a period of six months – changes to bring in line with model constitution

## **22. Removal of committee members**

**Comment [mw39]:** Current clause 20

- (1) The association in general meeting may by resolution remove any member of the committee from the office of member before the expiration of the member's term of office and may by resolution appoint another person to hold office until the expiration of the term of office of the member so removed.
- (2) If a member of the committee to whom a proposed resolution referred to in subclause (1) relates makes representations in writing to the secretary or president (not exceeding a reasonable length) and requests that the representations be notified to the members of the association, the secretary or the president may send a copy of the representations to each member of the association or, if the representations are not so sent, the member is entitled to require that the representations be read out at the meeting at which the resolution is considered **and to address the meeting**.

**Comment [MM40]:** Natural justice provision added

## **23 Public Officer**

**Comment [mw41]:** Current clause 21. Updated to reflect provisions in the Act, but no substantive changes.

- (1) The committee must appoint a public officer, to be the official statutory point of contact for the association.
- (2) The public officer does not become a member of the association or a committee member by virtue of being appointed as public officer, unless already a member or committee member when appointed.
- (3) A new public officer must be appointed by the committee within 28 days and the position may be held by a committee member, an ordinary member or a person from outside the association.
- (4) The public officer must be a person who is aged 18 years or more and is ordinarily resident in New South Wales.
- (5) The public officer must:
  - (a) be the official contact for the association, including taking delivery of documents served on the association and bringing them to the attention of the committee as soon as possible
  - (b) keep custody of any documents are required by the constitution
  - (c) collect documents from former committee members within 14 days and transfer them to the other committee members
  - (d) lodge an annual summary of financial affairs with the Director-General within one month of the association's annual general meeting
  - (e) notify the Director-General within 28 days of any change in the association's official address, and
  - (f) on vacating office, return all association documents to a committee member within 14 days.

## **24 Authorised Signatories**

**Comment [mw42]:** New clause which incorporates provisions of the Act.

- (1) The public officer is, by virtue of that office, an authorised signatory for the association.

- (2) The committee may from time to time appoint additional authorised signatories from among its members as are ordinarily resident in Australia, and may at any time revoke any such appointment.
- (3) A person (other than the public officer) ceases to be an authorised signatory if:
  - (a) their appointment as an authorised signatory is revoked
  - (b) they cease to be a committee member, or
  - (c) they cease to be ordinarily resident in Australia.

## **25. Committee meetings and quorum**

**Comment [mw43]:** Current clause 22

- (1) The committee must meet at least 3 times in each period of 12 months at such place and time as the committee may determine. A meeting may be conducted in more than one venue, as provided for in clause 29(4).
- (2) Additional meetings of the committee may be convened by the president or by any member of the committee.
- (3) Oral or written notice of a meeting of the committee must be given by the secretary to each member of the committee at least 48 hours (or such other period as may be unanimously agreed on by the members of the committee) before the time appointed for the holding of the meeting.
- (4) Notice of a meeting given under subclause (3) must specify the general nature of the business to be transacted at the meeting and no business other than that business is to be transacted at the meeting, except business which the committee members present at the meeting unanimously agree to treat as urgent business.
- (5) Any 5 members of the committee constitute a quorum for the transaction of the business of a meeting of the committee.
- (6) No business is to be transacted by the committee unless a quorum is present and if, within half an hour of the time appointed for the meeting, a quorum is not present, the meeting is to stand adjourned to the same place and at the same hour of the same day in the following week.
- (7) If at the adjourned meeting a quorum is not present within half an hour of the time appointed for the meeting, the meeting is to be dissolved.
- (8) At a meeting of the committee:
  - (a) the president or, in the president's absence, the vice-president is to preside, or
  - (b) if the president and the vice-president are absent or unwilling to act, such one of the remaining members of the committee as may be chosen by the members present at the meeting is to preside.

## **26. Delegation by committee to sub-committee**

**Comment [mw44]:** Current clause 23

- (1) The committee may, by instrument in writing, delegate to one or more sub-committees (consisting of such member or members of the association as the committee thinks fit) the exercise of such of the functions of the committee as are specified in the instrument, other than:
  - (a) this power of delegation, and

- (b) a function which is a duty imposed on the committee by the Act or by any other law.
- (2) A function the exercise of which has been delegated to a sub-committee under this clause may, while the delegation remains unrevoked, be exercised from time to time by the sub-committee in accordance with the terms of the delegation.
  - (3) A delegation under this clause may be made subject to such conditions or limitations as to the exercise of any function, or as to time or circumstances, as may be specified in the instrument of delegation.
  - (4) Despite any delegation under this clause, the committee may continue to exercise any function delegated.
  - (5) Any act or thing done or suffered by a sub-committee acting in the exercise of a delegation under this clause has the same force and effect as it would have if it had been done or suffered by the committee.
  - (6) The committee may, by instrument in writing, revoke wholly or in part any delegation under this clause.
  - (7) A sub-committee may meet and adjourn as it thinks proper.

## **27. Voting and decisions**

- (1) Questions arising at a meeting of the committee or of any sub-committee appointed by the committee are to be determined by a majority of the votes of members of the committee or sub-committee present at the meeting.
- (2) Each Committee of Management Member present at a meeting of the committee or of any sub-committee appointed by the committee (including the person presiding at the meeting) is entitled to one vote, **with the exception of the Teacher Representative who is not entitled to vote**. In the event of an equality of votes on any question, the person presiding may exercise a second or casting vote.
- (3) Subject to clause 25 (5), the committee may act despite any vacancy on the committee.
- (4) Any act or thing done or suffered, or purporting to have been done or suffered, by the committee or by a sub-committee appointed by the committee, is valid and effectual despite any defect that may afterwards be discovered in the appointment or qualification of any member of the committee or sub-committee.

**Comment [mw45]:** Current clause 24

**Comment [mw46]:** The Teacher Representative is not currently entitled to vote in committee meetings due to potential conflict of interest

## Part 5 - General meetings

### 28. Annual general meetings - holding of

Comment [mw47]: Current clause 26

- (1) The association must hold its annual general meetings:
  - (a) within 6 months after the close of the association's financial year, or
  - (b) within such later time as may be allowed by the Director-General or prescribed by the Regulation.

### 29. Annual general meetings - calling of and business at

Comment [mw48]: Current clause 26

- (1) The annual general meeting of the association is, subject to the Act and to clause 28, to be convened on such date and at such place and time as the committee thinks fit.
- (2) In addition to any other business which may be transacted at an annual general meeting, the business of an annual general meeting is to include the following:
  - (a) to confirm the minutes of the last preceding annual general meeting and of any special general meeting held since that meeting
  - (b) to receive from the committee reports on the activities of the association during the last preceding financial year
  - (c) to elect office-bearers of the association and ordinary committee members
  - (d) to receive and consider any financial statement or report required to be submitted to members under the Act.
- (3) An annual general meeting must be specified as such in the notice convening it.
- (4) Meetings of the association may be conducted in more than one venue, using any technology that allows members in different places to participate.

### 30. Special general meetings - calling of

Comment [mw49]: Current clause 27

- (1) The committee may, whenever it thinks fit, convene a special general meeting of the association.
- (2) The committee must, on the requisition in writing of at least 5 per cent of the total number of members, and who are fully financial, convene a special general meeting of the association.
- (3) A requisition of members for a special general meeting:
  - (a) must state the purpose or purposes of the meeting
  - (b) must, if the purpose of the meeting relates to issues or concerns about one or more members, including Committee of Management Members, be accompanied by a separate statement of particulars in sufficient detail to enable the member or members concerned to respond to the issues raised
  - (c) must be signed by the members making the requisition
  - (d) must be lodged with the secretary, and
  - (e) may consist of several documents in a similar form, each signed by one or more of the members making the requisition.

Comment [mw50]: Current constitution requires the lesser of 5% or 10 members to requisition a special general meeting. Requirement for 10 members proposed to be deleted given size of association today – 5% threshold considered more appropriate. Requirement to be fully financial in order to requisition a meeting reflects current constitution which requires a person to be fully financial to qualify for membership.

Comment [mw51]: Natural justice provision added



(4) If subclause 3(b) applies, the secretary must serve the statement of particulars on the members concerned within 7 days from the time the requisition of members is received.

**Comment [MM52]:** Natural justice provisions added

(5) If the committee fails to convene a special general meeting to be held within 1 month after that date on which a requisition of members for the meeting is lodged with the secretary, any one or more of the members who made the requisition may convene a special general meeting to be held not later than 3 months after that date.

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

(7) If the purpose of the meeting relates to concerns about the committee or an individual member, the committee or member must be given the opportunity to participate in the meeting and state their case orally or in writing, or both.

**Comment [mw53]:** Natural justice provisions added to ensure not overridden in a Special General Meeting

(8) Nothing in this clause affects the rights of a member under clause 13 (Disciplining Members), clause 14 (Right of Appeal of Disciplined Member) and clause 22 (Removal of Committee Members).

**Comment [mw54]:** New provision to ensure natural justice provisions are not overridden in a Special General Meeting

(9) A special general meeting may be conducted in more than one venue, as provided for in clause 29(4).

### **31. Notice**

(1) Except if the nature of the business proposed to be dealt with at a general meeting requires a special resolution of the association, the secretary must, at least 14 days before the date fixed for the holding of the general meeting, give a notice to each member specifying the place, date and time of the meeting and the nature of the business proposed to be transacted at the meeting.

**Comment [mw55]:** Current clause 28. Provision relating to service of notices on public notice board has been moved to the service of notices clause

(2) If the nature of the business proposed to be dealt with at a general meeting requires a special resolution of the association, the secretary must, at least 21 days before the date fixed for the holding of the general meeting, cause notice to be given to each member specifying, in addition to the matter required under subclause (1), the intention to propose the resolution as a special resolution.

(3) No business other than that specified in the notice convening a general meeting is to be transacted at the meeting except, in the case of an annual general meeting, business which may be transacted under clause 29 (2).

(4) A member desiring to bring any business before a general meeting may give notice in writing of that business to the secretary who must include that business in the next notice calling a general meeting given after receipt of the notice from the member.

### **32. Quorum for general meetings**

**Comment [mw56]:** Current clause 29 ("Procedure")

(1) No item of business is to be transacted at a general meeting unless a quorum of members entitled under this constitution to vote is present during the time the meeting is considering that item.

(2) Five members present (being members entitled under this constitution to vote at a general meeting) constitute a quorum for the transaction of the business of a general meeting.

- (3) If within half an hour after the appointed time for the commencement of a general meeting a quorum is not present, the meeting:
  - (a) if convened on the requisition of members, is to be dissolved, and
  - (b) in any other case, is to stand adjourned to the same day in the following week at the same time and (unless another place is specified at the time of the adjournment by the person presiding at the meeting or communicated by written notice to members given before the day to which the meeting is adjourned) at the same place.
- (4) If at the adjourned meeting a quorum is not present within half an hour after the time appointed for the commencement of the meeting, the members present (being at least 3) are to constitute a quorum.

### **33. Presiding member**

**Comment [mw57]:** Current clause 30

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

### **34. Adjournment**

**Comment [mw58]:** Current clause 31

- (1) The chairperson of a general meeting at which a quorum is present may, with the consent of the majority of members present at the meeting, adjourn the meeting from time to time and place to place, but no business is to be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.
- (2) If a general meeting is adjourned for 14 days or more, the secretary must give written or oral notice of the adjourned meeting to each member of the association stating the place, date and time of the meeting and the nature of the business to be transacted at the meeting.
- (3) Except as provided in subclauses (1) and (2), notice of an adjournment of a general meeting or of the business to be transacted at an adjourned meeting is not required to be given.

### **35. Making of decisions**

**Comment [mw59]:** Current clause 32

- (1) A question arising at a general meeting of the association is to be determined by either:
  - (a) a show of hands, or
  - (b) if on the motion of the chairperson or if 5 or more members present at the meeting decide that the question should be determined by a written ballot—a written ballot.
- (2) If the question is to be determined by a show of hands, a declaration by the chairperson that a resolution has, on a show of hands, been carried or carried unanimously or carried by a particular majority or lost, or an entry to that effect in the minute book of the association, is evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against that resolution.
- (3) If the question is to be determined by a written ballot, the ballot is to be conducted in accordance with the directions of the chairperson.

**Comment [mw60]:** Changed from 3 to 5 in line with model constitution

### **36. Special resolutions**

**Comment [mw61]:** Current clause 33

- (1) A resolution is passed by the association as a special resolution:
  - (a) at a meeting of the association of which notice has been given to members no later than 21 days before the date on which the meeting is held, or
  - (b) in such other manner as the Director-General may direct,if it is supported by at least three-quarters of the votes cast by members of the association who, under this constitution, are entitled to vote on the proposed resolution.
- (2) A notice referred to in subclause (1)(a) must include the terms of the resolution and a statement to the effect that the resolution is intended to be passed as a special resolution.
- (3) A direction under subclause (1)(b) may not be given unless the Director-General is satisfied that, in the circumstances, it is impracticable to require votes to be cast in the manner provided by subclause (1)(a).

### **37. Voting**

**Comment [mw62]:** Current clause 34. Proposal to give the President more than 2 proxies, so that proxies do not have to be re-distributed across members before a meeting.

- (1) On any question arising at a general meeting of the association a member has one vote only.
- (2) Votes must be given personally or by proxy. **With the exception of the President of the association,** no member may hold more than 2 proxies.
- (3) In the case of an equality of votes on a question at a general meeting, the chairperson of the meeting is entitled to exercise a second or casting vote.
- (4) A member or proxy is not entitled to vote at any general meeting of the association unless all money due and payable by the member or proxy to the association has been paid.
- (5) A member is not entitled to vote at any general meeting of the association if the member is under 18 years of age.

### **38. Appointment of Proxies**

**Comment [mw63]:** New clause. Currently covered in clause 34(2)

- (1) A member is entitled to appoint another member as proxy, by notice given to the secretary no later than 7 days before the date of the meeting in respect of which the proxy is appointed.
- (2) The notice appointing the proxy must be in the form determined by the committee.

### **39. Postal ballots**

**Comment [mw64]:** Current clause 32(4)

- (1) The association may not vote on any resolution by means of a postal ballot.

## **Part 6 – Miscellaneous**

#### **40. Insurance**

The association may effect and maintain insurance.

**Comment [mw65]:** Current clause 43

#### **41. Funds – source**

- (1) The funds of the association are to be derived from **tuition fees, events, sponsorship, grants,** annual subscriptions of members, donations and, subject to any resolution passed by the association in general meeting, such other sources as the committee determines.
- (2) All money received by the association must be deposited as soon as practicable and without deduction to the credit of the association's bank or other authorised deposit-taking institution account.
- (3) The association must, as soon as practicable after receiving any money, issue an appropriate receipt.

**Comment [mw66]:** Current clause 36. Updated to reflect current sources of funding.

#### **42. Funds - management**

- (1) Subject to any resolution passed by the association in general meeting, the funds of the association are to be used in pursuance of the objects of the association in such manner as the committee determines.
- (2) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by any 2 members of the committee or employees of the association, being members or employees authorised to do so by the committee.

**Comment [mw67]:** Current clause 37

#### **43. Execution of Documents**

- (1) The association may execute a document without using a common seal if the document is signed by 2 of its authorised signatories.
- (2) The association may execute a document by affixing the common seal and the fixing of the seal is witnessed by 2 of its authorised signatories.
- (3) The association may execute a deed if the document is expressed to be executed as a deed and is executed in accordance with subclause (1) or (2).
- (4) The common seal is to be kept in the custody of the public officer, and must not be affixed to any instrument except by resolution of the committee.
- (5) The public officer is an authorised signatory by virtue of the office. The committee may appoint and can revoke other authorised signatories from among the members of the committee and management

**Comment [mw68]:** Current clause 38, updated to reflect the Associations Act. No substantive changes.

#### **44. Change of name, objects and constitution**

- (6) The association's name, objects or constitution may be changed only by a special resolution of the association.
- (2) An application to the Director-General for registration of a change in the association's name, objects or constitution in accordance with section 10 of the Act is to be made by the public officer or a committee member.

**Comment [mw69]:** Current clause 44, updated to reflect provisions in the Act. No substantive changes.

#### 45. Custody of books etc

Except as otherwise provided by this constitution, the public officer must keep in his or her custody or under his or her control all records, books and other documents relating to the association.

**Comment [mw70]:** Current clause 39

#### 46. Inspection of books etc

(1) Subject to subclause (3), the following documents must be open to inspection, free of charge, by a member of the association at any reasonable hour:

- (a) financial records, books and other financial documents of the association,
- (b) this constitution,
- (c) minutes of all committee meetings and general meetings of the association.

(2) A member of the association may obtain a copy of any of the documents referred to in subclause (1) on payment of a fee of not more than \$1 for each page copied.

(3) The association is not required to make available for inspection or copying the following information:

- (a) personal, confidential or privileged information relating to the association or any member, student, teacher or employee of the association, or
- (b) minutes of confidential closed committee meetings.

**Comment [mw71]:** Current clause 40

**Comment [mw72]:** Clarification

**Comment [mw73]:** Amendment required to protect personal, confidential and privileged information from disclosure.

#### 47. Service of notices

(1) For the purpose of this constitution, a notice may be served on or given to a person:

- (a) by delivering it to the person personally, or
- (b) by sending it by pre-paid post to the address of the person, or
- (c) by sending it by email or some other form of electronic transmission to an address specified by the person for giving or serving the notice.

(2) In the case of a member who is an enrolled student of the association, or a member who is a nominated guardian of an enrolled student under 18 years of age, a notice is taken to have been given if it is placed on the public notice board at the registered address of the association as well as on the association's website.

(3) For the purpose of this constitution, a notice is taken, unless the contrary is proved, to have been given or served:

- (a) in the case of a notice given or served personally, on the date on which it is received by the addressee
- (b) in the case of a notice sent by pre-paid post, on the date when it would have been delivered in the ordinary course of post
- (c) in the case of a notice sent by email or some other form of electronic transmission, on the date it was sent successfully or, if the device from which the transmission was sent produces a report indicating that the notice was sent successfully on a later date, on that date, and

**Comment [mw74]:** Current clause 41. Changed to allow notices to be sent by email

**Comment [mw75]:** Changes to allow notices to be given by email and for public notices to also be placed on the website; also a change to allow notices to nominated guardians of an enrolled student to receive notices via the public noticeboard and website.

(d) in the case of a notice given in accordance with subclause (2), on the date the notice has been posted on both the public notice board and the website.

#### **48. Financial year**

The financial year of the association is the calendar year from January 1 to December 31.

#### **49 Distribution of Surplus Property**

(1) In a winding up of the association, any surplus property of the association is to be distributed in accordance with clause 65 of the Act.

**Comment [mw76]:** Current clause 42. Changed to comply with the Act – current clause is outdated and inconsistent with the Act.

**Appendix 1 Application for Membership Form** deleted – not relevant any more