

International Commission of Jurists (Victoria) Incorporated

Reg. No. A0100918L

CONSTITUTION

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PART 2 – NAME AND PURPOSE

2. Name

2.1 The name of the incorporated association is “International Commission of Jurists (Victoria) Incorporated” (in this constitution, “the Section”).

2.2 The name and registration number of the Section must appear in legible characters in all notices, advertisements and other official publications of the Section, and in all its business documents.

See section 23 of the Act*.

3. Status

The Section is the Australian Section in Victoria of the International Commission of Jurists (in this constitution, “the Commission”):

- (a) recognised by the Commission under its Statute (in this constitution, “the Statute”); and
- (b) autonomous of the Commission and the Australian Section.

4. Purpose

4.1 The purpose of the Section is to advance the objectives of the Commission, which are:

- (1) to support and advance the Rule of Law and human rights on the basis of the principles set out in the preamble to the Statute;
- (2) to advance the independence of the judiciary and the legal profession and the administration of justice in full compliance with standards of international law;
- (3) to promote the global adoption and implementation of international human rights standards and other legal rules and principles that advance human rights and the Rule of Law;
- (4) to promote the establishment and enforcement of a legal system which protects individuals and groups against violations of their human rights;
- (5) to promote understanding of and compliance with the Rule of Law and human rights and provide assistance to those to whom the Rule of Law and human rights are denied; and

- (6) to promote the abolition of the death penalty and support efforts to achieve this goal.

4.2 The Section commits itself to the principles of the Commission, which are:

- (1) The Commission affirms that human rights and humanitarian law are essential to achieve the goals of a just, democratic, peaceful and humane society. The Commission affirms that human rights, as articulated in international standards, are universal, interdependent and indivisible.
- (2) The Commission affirms that the Rule of Law is indispensable to safeguard and advance all human rights.
- (3) The Commission recognises that an independent judiciary and legal profession, maintaining the highest ethical standards, assume a primary role in achieving these goals.

4.3 The Section must:

- (a) act in accordance with the principles of the Commission; and
- (b) not promote or work for any objective that contradicts the work and principles of the Commission.

4.4 The Section undertakes:

- (a) to work to implement human rights norms in its own country and region;
- (b) to co-operate with the Commission; and
- (c) to help carry out the programmes of the Commission.

5. Legal Capacity and Powers

5.1 The Section has the legal capacity of an incorporated body.

See section 29(2) of the Act*.

5.2 The Section has power to do anything incidental or conducive to the attainment of its purpose.

See section 30(d) of the Act*.

5.3 The Section may only:

- (a) exercise its powers; and
 - (b) use its income and assets (including any surplus);
- for its purpose.

6. Not For Profit Organisation

6.1 The Section must not distribute any surplus, income or assets directly or indirectly to its members.

See section 33 of the Act*.

6.2 Clause 6.1 does not prevent the Section from paying its members:

- (a) reimbursement for expenses properly incurred by them, and
- (b) for goods supplied and services provided by them,

if this is done in good faith on terms no more favourable than if the member were not a member.

See section 4 of the Act*.

PART 3 – MEMBERSHIP

7. Composition

As required by the Statute, the membership of the Section must:

- (a) consist wholly or mainly of jurists; and
- (b) not represent a political party or movement.

8. Eligibility

8.1 In clause 8.2, “jurist” means an individual who is or has been: the holder of judicial office, a barrister, a solicitor, a teacher of law, a graduate in law or a law student.

8.2 Any jurist who supports the purpose of the Section is eligible for membership.

8.3 Any other individual who supports the purpose of the Section is eligible for membership, subject to clause 7(a).

9. Applications

Applications for membership must be:

- (a) in writing*, stating that the applicant:
 - (i) wishes to become a member of the Section;
 - (ii) supports the purpose of the Section; and
 - (iii) agrees to comply with the constitution and regulations* of the Section; and

(b) accompanied by the first subscription; and

(c) given to the Secretary.

10. Approval

10.1 The Committee must by resolution approve or reject the application at the next meeting after the Secretary has received it.

10.2 The Committee must without delay notify the applicant in writing* whether the application has been approved or rejected.

10.3 No reason need be given for the rejection of an application.

10.4 If the Committee approves the application:

- (a) the applicant becomes a member from the date of the Committee meeting; and
- (b) the name and address of the new member, and the date of becoming a member must be entered without delay in the register of members.

10.5 If the Committee rejects the application, it must return the subscription to the applicant.

11. Subscriptions

11.1 The Committee must by regulation* set the subscription.

11.2 The amount of the subscription and the date for payment may vary according to criteria set by the Committee in the regulation*.

11.3 The voting and other rights of members who have not paid the subscription by the date for payment are suspended until the subscription is paid.

11.4 Except for the subscription, there are no entrance fees or other amounts to be paid in respect of membership of the Section.

12. Honorary Members

12.1 A individual who has made an outstanding contribution to the work of the Section may be made an honorary member by unanimous resolution of the Committee.

12.2 Clauses 9–11 do not apply to honorary members.

13. Rights, Obligations and Liability

13.1 The rights of members include:

- (a) to submit items of business for consideration at general meetings under clause 21.3;
- (b) to receive notice of general meetings under clause 21;
- (c) to participate in general meetings under clause 26;
- (d) to elect the Committee under clause 29; and
- (e) to have access to the records of the Section under clause 56.

See sections 53, 57, 60 and 61 of the Act*.

13.2 The rights of members are not transferable, and end when the member ceases to be a member in accordance with clause 16.

13.3 By becoming and remaining members, members agree to support the purpose of the Section.

13.4 Members agree that all intellectual property created by them while participating in the Section belongs to the Section and must not be used without its permission.

13.5 Members must at all times comply with the constitution and regulations*.

13.6 This constitution is an enforceable contract between the Section and each member.

See sections 46 and 67 of the Act*.

13.7 Members and Committee members are not liable to contribute to the debts and liabilities of the Section only because of their membership of the Section or the Committee.

See section 52(1) of the Act*.

14. Disciplinary Action

14.1 The Committee may by resolution passed by an absolute majority* reprimand, suspend or expel a member for:

- (a) failing to comply with the constitution or regulations*; or
- (b) conduct prejudicial to the Section.

14.2 The Committee must not pass a resolution under clause 14.1 unless the member concerned has been:

- (a) informed of the grounds for the proposed disciplinary action; and

- (b) given a reasonable opportunity to be heard.

See section 54(3)(a) of the Act*.

14.3 The Committee:

- (a) may delegate its powers under this clause to a disciplinary subcommittee appointed by the Committee; and
- (b) must do so if any Committee member is biased against (or in favour of) the member concerned.

See section 54(3)(b) of the Act*.

14.4 The members of the disciplinary subcommittee:

- (a) need not be Committee members or members of the Section; but
- (b) must not be biased against (or in favour of) the member concerned.

See section 54(3)(b) of the Act*.

14.5 Clauses 14.1 and 14.2 apply to the disciplinary subcommittee in the same way as the Committee.

14.6 The disciplinary procedure under this clause must be completed as soon as is reasonably practicable.

See section 54(3)(c) of the Act*.

14.7 The Section must not take disciplinary action under this clause against a member who is involved in the grievance procedure under clause 18 until the grievance procedure has been completed.

Compare section 55(4) of the Act*.

14.8 The Section may not fine members.

15. Resignation

15.1 Members may resign by writing* to the Secretary.

15.2 Members whose subscriptions are more than 2 years in arrears are taken to have resigned.

16. Cessation

16.1 Members cease to be members on resignation, expulsion or death.

16.2 If a member ceases to be a member:

- (a) the date of ceasing to be a member must be entered in the register of members; and

- (b) the address and date of becoming a member of the former member must be removed from the register of members; within 14 days.

See sections 56(3) and 56(4) of the Act*.

17. Register of Members

17.1 The Committee must ensure that a register is kept containing:

- (a) for current members:
 - (i) the name of the member,
 - (ii) the address for notices last given by the member, and
 - (iii) the date of becoming a member; and
- (b) for former members:
 - (i) the name of the member, and
 - (ii) the date of ceasing to be a member.

See section 56 of the Act*.

17.2 Members may inspect and obtain copies of the register in accordance with clause 56.

See section 57 of the Act*.

18. Grievance Procedure

18.1 The grievance procedure in this clause applies to disputes under this constitution between:

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

18.2 The parties must first attempt to resolve the dispute themselves.

18.3 If the parties are unable to resolve the dispute, the Committee must appoint a conciliator and arbitrator (in this clause, “conciliator”).

18.4 The conciliator:

- (a) must not have a personal interest in the dispute;
- (b) must not be biased in favour of or against any party;
See section 55(3)(b) of the Act*.
- (c) may be a member or former member of the Section; and
- (d) if possible, must be appointed with the agreement of all parties.

18.5 The conciliator must conduct a conciliation at which each party is given a reasonable opportunity to be heard.

See section 55(3)(a) of the Act*.

18.6 The parties must in good faith attempt to resolve the dispute by conciliation.

18.7 The conciliator may during, and must at the end of, the conciliation attempt to resolve the dispute by agreement between the parties.

18.8 If the conciliator is unable to resolve the dispute by agreement between the parties, the conciliator must determine the respective rights and obligations under this constitution of the parties and any other members.

18.9 A determination of a conciliator under clause 18.8 is binding on the parties and all members.

18.10 A party may appoint another person to act on its behalf in the grievance procedure.

See section 55(2) of the Act*.

18.11 A member who is the subject of a disciplinary procedure under clause 14 must not initiate the grievance procedure under this clause until the disciplinary procedure has been completed.

See section 54(4) of the Act*.

18.12 The State, Territory and Commonwealth Acts applying to commercial arbitrations do not apply to the grievance procedure in this clause.

PART 4 – GENERAL MEETINGS

19. Annual General Meeting

19.1 The Committee must convene* an annual general meeting each year.

See section 63(1) of the Act*.

19.2 The annual general meeting must be held within 5 months after the end of the Section’s financial year under clause 49.

See section 63(4) of the Act*.

19.3 At the annual general meeting, the Committee must submit to the members:

- (a) the financial statements for the last financial year prepared in accordance with clause 52, and

- (b) if required by clause 53 – the accompanying review or audit report.

See sections 94, 97 and 100 of the Act*.

19.4 The ordinary business of the annual general meeting is:

- (a) to verify the minutes of:
 - (i) the last annual general meeting, and
 - (ii) any special general meetings since the last annual general meeting;
- (b) to consider the annual report of the Committee on the activities of the Section during its last financial year;
- (c) to consider the financial statements and any accompanying review or audit report; and
- (d) to elect the Committee in accordance with clause 29.

19.5 The annual general meeting may only consider other business of which notice has been given in accordance with clause 21.2(c).

19.6 At, or as soon as practicable after, the conclusion of the annual general meeting, a Committee member must certify in the form approved by the Registrar* that:

- (a) the Committee member attended the annual general meeting; and
- (b) the financial statements were submitted to the members at the annual general meeting.

See sections 94(3), 97(3) and 100(3) of the Act*.

19.7 The Secretary must lodge with the Registrar*:

- (a) an annual statement in the form approved by the Registrar*,
- (b) the financial statements and any accompanying review or audit report, and
- (c) a statement of the terms of any resolution passed at the annual general meeting concerning the financial statements,

within 1 month after the annual general meeting.

See section 102 of the Act*.

20. Special General Meetings

20.1 The Committee may by resolution convene* a special general meeting whenever it considers appropriate.

20.2 The Committee must convene* a special general meeting if requested in writing* by at least 25% of members entitled to vote.

20.3 The request:

- (a) must state the business to be considered at the meeting, including any resolution to be proposed;
- (b) may consist of multiple copies of the same document;
- (c) must include the names, addresses and signatures of the members making the request; and
- (d) must be given to the Secretary.

20.4 If the Committee does not arrange for the special general meeting to be held within 6 weeks of the request being made, the members making the request (or any of them) may convene* the special general meeting.

20.5 A special general meeting convened by members under clause 20.4:

- (a) must be held within 3 months of the original request having been made; and
- (b) may only consider the business stated in the original request.

20.6 The Section must reimburse all reasonable expenses incurred by the members convening a special general meeting under clause 20.4.

20.7 Special general meetings may only consider business of which notice has been given in accordance with clause 21.2(c).

21. Notice

21.1 At least 21 days notice in writing* of general meetings must be given to each member entitled to vote.

See section 60 of the Act*.

21.2 The notice must state:

- (a) the date, time and place (or places) of the meeting,

See section 60(a) of the Act*.

- (b) if the meeting is to be held at more than 1 place – the technology that will be used,
- (c) the general nature of each item of business to be considered, and
- (d) if a special resolution* is to be proposed:
 - (i) the proposed resolution in full, and
 - (ii) the intention to propose the resolution as a special resolution*.

See section 64(3) of the Act*.

21.3 The notice must include under clause 21.2(c) any item of business that any member has requested in writing* be considered at least 7 days before the notice is sent.

21.4 The notice must also include:

- (a) a statement that:
 - (i) members may appoint a proxy to attend, speak and vote instead of the member in accordance with clause 22, and
 - (ii) proxies must be members of the Section, and

(b) a copy of clause 22.

21.5 The notice may include a form of appointment for the purposes of clause 22, but members are not required to use the form for the appointment to be valid.

21.6 Despite clause 21.1, the accidental omission to give notice of the meeting to a member or members, or the non-receipt by a member or members of notice of the meeting does not invalidate the meeting.

22. Proxies

22.1 Members may only appoint other members as proxies.

22.2 Appointments of proxies must be:

- (a) in writing*, naming the member (or members, in order) appointed;
- (b) signed by the member making the appointment; and
- (c) sent to the Section or given to the chair of the meeting before the commencement of the meeting.

23. Use of Technology

General meetings may be held at more than 1 place, provided that the technology used enables each member present at all places the meeting is held to communicate clearly and simultaneously with every other such member.

See section 62 of the Act*.

24. Quorum

24.1 The quorum for consideration of the ordinary business of the annual general meeting is the presence in person of at least 7 members entitled to vote.

24.2 The quorum for consideration of a proposed resolution (including a special resolution) recommended by the Committee is the presence in person or by proxy of at least 10% of members entitled to vote.

24.3 The quorum for the consideration of all other business at general meetings is the presence in person or by proxy of at least 25% of members entitled to vote.

24.4 If a quorum is not present within 30 minutes from the time of the meeting of which notice has been given, the meeting must not proceed.

25. Chairing

25.1 The following in order of priority are entitled to chair general meetings:

- (a) the Chair,
- (b) the Deputy Chair,
- (c) a Committee member nominated by the Committee members present,
- (d) a member elected by the meeting.

25.2 The chair of the meeting does not have a casting vote.

26. Participation

All members are entitled to attend and speak and vote at general meetings, except those whose rights have been suspended under clause 11.3 or 14.1.

See section 61 of the Act*.

27. Voting

27.1 Each member has 1 vote.

27.2 Members may vote in person or by proxy.

- 27.3 Voting is by show of hands, unless a count is demanded.
Compare section 65(2) of the Act*.
- 27.4 Any member entitled to vote (including the chair of the meeting) may demand a count before or immediately after the declaration of the result on a show of hands.
Compare section 65(3) of the Act*.
- 27.5 If a count is demanded, the votes of each member must be counted, as directed by the chair of the meeting.
- 27.6 If an equal number of votes are cast for and against a motion or amendment, the chair of the meeting must declare the motion or amendment lost.
- 27.7 The declaration by the chair of the meeting of the result of the vote is conclusive evidence of that result.
Compare section 65(1) of the Act*.

PART 5 – THE COMMITTEE

28. Membership

- 28.1 The members of the Committee are:
- (a) the President,
 - (b) 2 Vice-Presidents,
 - (c) the Chair,
 - (d) the Deputy Chair,
 - (e) the Treasurer, and
 - (f) the Secretary.
- 28.2 The Committee may by regulation* establish other Committee member positions.

29. Election

- 29.1 The annual general meeting must elect the Committee members.
- 29.2 Only members entitled to vote at the annual general meeting are eligible to be elected as Committee members.
- 29.3 Each of the positions in clause 28 must be elected separately, except that the 2 Vice-Presidents must be elected in a single ballot.
- 29.4 The chair of the meeting must call for nominations for each position. Candidates may nominate themselves. Candidates may be nominated by another member, if they consent.

- 29.5 If the number of candidates for a position is fewer than the number to be elected:
- (a) the chair of the meeting must declare elected those candidates who have nominated; and
 - (b) the Committee may subsequently fill the remaining vacancies in accordance with clause 31.7.
- 29.6 If the number of candidates for a position is equal to the number to be elected, the chair of the meeting must declare those candidates elected.
- 29.7 If there are more candidates for a position than the number to be elected, a ballot must be held in accordance with clause 30.

30. Ballot

- 30.1 The chair of the meeting must appoint a returning officer to conduct the ballot (who may be the chair of the meeting).
- 30.2 The candidates may each make a short speech in support of their election.
- 30.3 The election must be by secret ballot.
- 30.4 The returning officer must give:
- (a) each member present in person, and
 - (b) each proxy appointed by a member, a blank piece of paper for each ballot.
- 30.5 For each ballot, voters must:
- (a) write down the names of the candidate or candidates they wish to vote for; and
 - (b) not write down the names of more candidates than the number to be elected in that ballot.
- 30.6 Ballot papers that do not comply with clause 30.5(b) are informal.
- 30.7 Each formal ballot paper where the name of a candidate has been written down counts as 1 vote for that candidate.
- 30.8 The returning officer must declare elected the number of candidates to be elected who receive the most votes, subject to clause 30.9.
- 30.9 If 2 or more candidates receive the same number of votes, and not all of those candidates are to be elected, the returning officer must decide by lot which is to be elected.

31. Term of Office

- 31.1 Committee members hold office from the time of their election until a new Committee is elected, subject to clauses 31.2–31.5.
- 31.2 Committee members may be re-elected.
- 31.3 Committee members may resign by writing* to the Secretary.
See section 78(2)(a) of the Act*.
- 31.4 Committee members cease to be Committee members if they:
- (a) cease to be members of the Section;
 - (b) fail to attend 3 consecutive Committee meetings without leave of absence under clause 46;
 - (c) become insolvent under administration;
See section 38 of the Victorian *Interpretation of Legislation Act 1984*.
 - (d) become a represented person under the Victorian *Guardianship and Administration Act 1986*;
 - (e) are disqualified under the *Commonwealth Corporations Act 2001*, the *Commonwealth Corporations (Aboriginal and Torres Strait Islander) Act 2006* or the *Co-operatives National Law (Victoria)*; or
 - (f) in the case of the Secretary – cease to reside in Australia.
See section 78(2) of the Act*.
- 31.5 Clause 31.4(b) does not apply to the President and Vice-Presidents.
- 31.6 A general meeting may by resolution passed by a simple majority:
- (a) remove any Committee member; and
 - (b) fill the resulting vacancy.
Compare section 78(2)(b) of the Act*.
- 31.7 If there is a vacancy in its membership (including a vacancy in accordance with clause 31.6(a) not filled under clause 31.6(b)), the Committee may appoint an individual who would be eligible to be elected under clause 29.2 to fill the vacancy for the remainder of the term of office.
- 31.8 The Committee may continue to act despite any vacancy in its membership.

- 31.9 Even if it is subsequently found that a person who has acted as a Committee member was not properly elected or appointed, the validity of:
- (a) the acts of that person as a Committee member, and
 - (b) decisions of Committee meetings in which that person has participated, is not affected.

32. Responsibility and Powers

- 32.1 The Committee is responsible for the management of the Section, subject to clause 32.4.
- 32.2 The Committee may exercise all powers of the Section on its behalf.
- 32.3 The Committee may by resolution:
- (a) establish subcommittees with such membership and terms of reference as it considers appropriate; and
 - (b) delegate its powers as it considers appropriate.
- 32.4 A general meeting may by resolution direct the Committee on any matter within its powers.

33. Regulations

- 33.1 The Committee may by resolution passed by an absolute majority* make regulations to give effect to this constitution.
- 33.2 Members must at all times comply with the regulations as if they formed part of this constitution.

34. Public Statements

- 34.1 The Committee may by regulation* or resolution authorise a Committee member (or Committee members) to make public statements on behalf of the Section.
- 34.2 No person may make any public statement on behalf of the Section unless authorised by the Committee.

35. Duties

- 35.1 Committee members and former Committee members must not make improper use of:
- (a) their position, or
 - (b) information acquired by virtue of holding their position,

so as:

- (c) to gain an advantage for themselves or any other person; or
- (d) to cause detriment to the Section.

See section 83 of the Act*.

35.2 Committee members must exercise their powers and discharge their duties with reasonable care and diligence.

See section 84 of the Act*.

35.3 Committee members must exercise their powers and discharge their duties:

- (a) in good faith in the best interests of the Section; and
- (b) for a proper purpose.

See section 85 of the Act*.

36. Indemnity

The Section indemnifies Committee members against any liability incurred in good faith by them in the course of performing their duties.

See section 87 of the Act*.

37. Secretary

37.1 The Secretary is the secretary of the Section for the purposes of the Act*.

37.2 The Secretary must notify the Registrar* of:

- (a) their appointment, and
- (b) any change of address, within 14 days.

See sections 74 and 74A of the Act*.

37.3 The Committee must fill any vacancy in the position of Secretary within 14 days.

See section 73 of the Act*.

37.4 The Secretary whose appointment was last notified to the Registrar* remains the secretary of the Section in some circumstances under the Act* until the appointment of a new Secretary is notified.

See section 215 of the Act*.

38. Advisory Council

38.1 The members of the Advisory Council are:

- (a) the Committee members, and
- (b) those individuals appointed by the Committee.

38.2 The function of the Advisory Council is to advise the Committee.

38.3 The Advisory Council must meet when requested by the Committee.

38.4 The procedure for meetings of the Advisory Council is otherwise the same as for the Committee.

PART 6 – COMMITTEE MEETINGS

39. Convening

39.1 The Secretary, Chair or any other 2 Committee members may convene* a Committee meeting.

39.2 Ordinary Committee meetings must be held at least 6 times each year.

39.3 At its first meeting after the annual general meeting each year the Committee must by resolution set the dates, times and places of ordinary Committee meetings until the next annual general meeting.

39.4 The Committee may by resolution subsequently change the dates, times and places of ordinary meetings.

40. Notice

40.1 Each Committee member must be given at least 7 days notice in writing* of Committee meetings, subject to clause 40.4.

40.2 Notice may be given of more than 1 Committee meeting at the same time.

40.3 The notice must state the date, time and place (or places) of the meeting, but need not include the business to be considered.

40.4 In cases of urgency a meeting may be held without the notice required by clause 40.1, provided that:

- (a) as much notice as practicable is given to each Committee member by the quickest practicable means; and
- (b) resolutions may only be passed by an absolute majority*.

41. Use of Technology

41.1 Committee meetings may be held at more than 1 place, provided that the technology used enables each Committee member present at all places the meeting is held to communicate clearly and simultaneously with every other such Committee member.

See section 79 of the Act*.

41.2 Without limiting clauses 40.4(a) and 41.1, Committee meetings may be convened* and held by telephone.

42. Quorum

The quorum for Committee meetings is the presence in person of at least 4 Committee members.

43. Chairing

43.1 The following in order of priority are entitled to chair Committee meetings:

- (a) the Chair,
- (b) the Deputy Chair,
- (c) a Committee member elected by the Committee members present.

43.2 The chair of the meeting does not have a casting vote.

44. Voting

44.1 Each Committee member has 1 vote.

44.2 There is no voting by proxy.

44.3 If an equal number of votes are cast for and against a motion or amendment, the chair of the meeting must declare the motion or amendment lost.

45. Conflict of Interest

45.1 Committee members who have a material personal interest in a matter that is being considered at a Committee meeting must:

- (a) disclose the nature and extent of their interest:
 - (i) to the Committee as soon as they become aware of the interest; and
 - (ii) at the next general meeting;
- (b) not be present while the matter is being considered at the meeting; and
- (c) not vote on the matter.

See sections 80 and 81 of the Act*.

45.2 Clause 45.1 does not apply to material personal interests that:

- (a) exist only because the Committee member belongs to a class of persons for whose benefit the Section is established; or
- (b) the Committee member has in common with all or a substantial proportion of the members of the Section.

See sections 80 and 81 of the Act*.

46. Leave of Absence

46.1 The Committee may by resolution grant Committee members leave of absence from Committee meetings for up to 3 months.

46.2 The Committee may not grant leave of absence retrospectively unless it is satisfied that it was not feasible for the Committee member concerned to seek leave of absence in advance.

47. Resolutions without Meeting

47.1 A resolution agreed to in writing* by all Committee members has the same effect as a resolution passed at a Committee meeting.

47.2 In clause 47.1, “all Committee members” does not include those Committee members who:

- (a) would be prohibited by clause 45.1(c) from voting on the matter at a Committee meeting; or
- (b) have leave of absence from Committee meetings under clause 46.

PART 7 – FINANCIAL AND LEGAL

48. Sources of Funds

The funds of the Section may be derived from subscriptions, donations, fund-raising activities, grants, interest and any other sources approved by the Committee.

49. Financial Year

The financial year of the Section is from 1 July to 30 June, unless the Committee by regulation* adopts a different financial year.

50. Management of Funds

50.1 The Committee is responsible for the management of the funds of the Section.

- 50.2 The Section must keep financial records that:
- (a) correctly record and explain its transactions and financial position and performance; and
 - (b) would enable true and fair financial statements to be prepared in accordance with clause 52.

See section 89(1) of the Act*.

- 50.3 All money received by or on behalf of the Section must be deposited without delay into a bank account in the name of the Section.

51. Payments

- 51.1 All payments by the Section must be:
- (a) specifically authorised in writing*, and
 - (b) in the case of cheques – signed, by at least 2 Committee members nominated by the Committee by regulation* or resolution.
- 51.2 The Committee may nominate a list of individuals or positions for the purposes of clause 51.1.
- 51.3 Signatories must not sign cheques until the payee and amount have been written in.
- 51.4 This clause does not apply to credit card and petty cash payments where the amount is within limits set by the Committee by regulation* or resolution.

52. Financial Statements

- 52.1 In this clause and clause 53:
- (a) “tier one association” means an incorporated association that has a total revenue of less than \$250,000;
 - (b) “tier two association” means an incorporated association that has a total revenue of between \$250,000 and \$1 million;
 - (c) “tier three association” means an incorporated association that has a total revenue of more than \$1 million; and
 - (d) “total revenue” means the total income of the incorporated association during its last financial year from all the activities of the association before any expenses, including the cost to the association of goods sold by it, are deducted.

See section 90 of the Act*.

- 52.2 As soon as practicable after the end of the Section’s financial year under clause 49, the Committee must cause financial statements of the Section for that year to be prepared in accordance with this clause.

See sections 92(1), 95(1) and 98(1) of the Act*.

- 52.3 For tier one associations, the financial statements must give a true and fair view of the financial position and performance of the incorporated association during and at the end of its last financial year.

See section 92(2)(a) of the Act*.

- 52.4 For tier two associations and tier three associations, the financial statements must be prepared in accordance with the Australian Accounting Standards.

See sections 95(2)(a) and 98(2)(a) of the Act*.

- 52.5 The financial statements must contain particulars of:

- (a) the income and expenditure of the Section during and at the end of its last financial year,
- (b) the assets and liabilities of the Section at the end of its last financial year,
- (c) the mortgages, charges and securities of any description affecting any property of the Section at the end of its last financial year,
- (d) the same particulars in respect of each trust of which the Section was trustee during any part of its last financial year, and
- (e) any trust, held on behalf of the Section by a person or body other than the Section, in which funds or assets of the Section are placed.

See section 101(1) of the Act*.

- 52.6 The financial statements must also deal with any matters prescribed by the regulations under the Act*.

See sections 92(2)(b), 95(2)(b) and 98(2)(b) of the Act*.

52.7 The financial statements must have a certificate attached in the form prescribed under the Act* signed by 2 Committee members in accordance with a resolution of the Committee certifying that the financial statements give a true and fair view of the financial position and performance of the Section during and at the end of its last financial year.

Compare sections 94(2)(b), 97(2)(b) and 100(2)(b) of the Act*.

52.8 The Committee must submit the financial statements (including the attached certificate) to the annual general meeting under clause 19.3(a).

See sections 94, 97 and 100 of the Act*.

52.9 If different amounts are prescribed under the Act*, the amounts in clause 52.1 are varied accordingly.

See section 90 of the Act*.

53. Review and Audit of Accounts

53.1 For tier two associations, the Committee must:

- (a) have the financial statements reviewed in accordance with the Act*; and
- (b) submit the review report to the annual general meeting under clause 19.3(b).

See sections 96 and 97(2)(c) of the Act*.

53.2 For tier three associations, the Committee must:

- (a) have the financial statements audited in accordance with the Act*; and
- (b) submit the audit report to the annual general meeting under clause 19.3(b).

See sections 99 and 100(2)(c) of the Act*.

53.3 For tier one associations, if a majority of the members present at a general meeting vote to have the financial statements reviewed, the financial statements must be reviewed as if it were a tier two association.

See section 93 of the Act*.

53.4 An auditor may only be removed by a general meeting in accordance with the procedure set out in the Act*.

See sections 106 and 107 of the Act*.

54. Minutes

54.1 The Committee must ensure that minutes are taken and kept of all general meetings, Committee meetings, Advisory Council meetings and resolutions without meeting.

Compare item 14 of Schedule 1 of the Act*.

54.2 The minutes of annual general meetings must include a copy of the financial statements and any accompanying review or audit report submitted at the meeting in accordance with clause 19.3.

See sections 94(4), 97(4) and 100(4) and item 15 of Schedule 1 of the Act*.

54.3 The minutes of special general meetings must include a copy of any financial statements submitted at the meeting.

See item 15 of Schedule 1 of the Act*.

54.4 Members may inspect and obtain copies of minutes in accordance with clause 56.

55. Retention of Records

55.1 The Committee must provide for the safe keeping of the records of the Section.

55.2 The Section must keep its financial records for at least 7 years after the transactions covered by the records are completed.

See section 89(2) of the Act*.

55.3 The Section must keep the financial statements submitted to the annual general meeting for at least 7 years after the annual general meeting.

See section 105(1) of the Act*.

55.4 The Section must keep the certificate referred to in clause 19.6 for at least 7 years after the certificate was signed.

See section 105(2) of the Act*.

55.5 The Section must keep all its other records for at least 7 years after the record was created.

55.6 A person who is no longer entitled to custody of records of the Section must return them to the Committee within 28 days.

See section 88 of the Act*.

56. Access to Records

56.1 Members may on request inspect:

- (a) the register of members,
- (b) the minutes of general meetings,

- (c) a copy of any trust deed referred to in clause 52.5(e), and
 - (d) subject to clause 56.2, the other records of the Section, including the minutes of Committee meetings,
- at any reasonable time.

See sections 53(1), 57 and 101(2) and items 13, 15 and 16 of Schedule 1 of the Act*.

- 56.2 Members may not inspect the records of the Section that relate to confidential personal, employment, commercial and legal matters, except as permitted by the Committee.

See items 13 and 16 of Schedule 1 of the Act*.

- 56.3 The Section must on request make copies of the constitution and regulations* available to members and applicants for membership without charge.

Compare section 53 of the Act*.

- 56.4 The Section must within 7 days of request make copies of:

- (a) the register of members (subject to clause 56.5),
- (b) the minutes of general meetings, and
- (c) any trust deed referred to in clause 52.5(e),

available to members without charge.

Compare section 53(2) and see items 13 and 15 of Schedule 1 of the Act*.

- 56.5 Members may only have copies of records inspected under clause 56.1(d) if permitted by the Committee.

- 56.6 A member may request that access to their personal information in the register of members be restricted in accordance with the Act*, if there are special circumstances that justify doing so.

See section 59 of the Act*.

57. Use of Register of Members

- 57.1 Members may only use or disclose information from the register of members to contact or send material to other members if this is directly related to the management or purpose of the Section.

See section 58 of the Act*.

- 57.2 Non-members must not use or disclose information from the register of members to contact or send material to members unless this is:

- (a) directly related to the management or purpose of the Section; and
- (b) authorised by the Committee.

See section 58 of the Act*.

58. Signing of Documents

- 58.1 The Section may sign contracts and other documents by having the document signed by 2 Committee members.

See section 38 of the Act*.

- 58.2 A document may only be signed by 2 Committee members if authorised by resolution of the Committee.

59. Common Seal

The Section does not have a common seal.

60. Registered Address

- 60.1 The Section must have a registered address for the service of documents on the Section.

See sections 28 and 217 of the Act*.

- 60.2 The registered address of the Section must be the address of the Secretary, unless the Committee by regulation* nominates a different address.

- 60.3 The Section must notify the Registrar* of any change of registered address within 14 days.

See section 28(3) of the Act*.

61. Amendment of Constitution

- 61.1 This constitution may only be amended by special resolution*.

See section 50(1) of the Act*.

- 61.2 An amendment to this constitution does not take effect until it has been approved by the Registrar*.

See section 50(2) of the Act*.

- 61.3 The Secretary must apply to the Registrar* for approval of the amendment within 28 days after the special resolution* was passed.

See section 50(3) of the Act*.

62. Winding Up

62.1 The Section may be wound up voluntarily by special resolution*.

See section 125 of the Act*.

62.2 If the Section is:

- (a) wound up voluntarily or otherwise; or
 - (b) its incorporation is cancelled;
- the surplus assets of the Section must not be distributed to any member.

See section 132(4) of the Act*.

62.3 The surplus assets must be given to a body that:

- (a) has a similar purpose to the Section; and
- (b) also prohibits the distribution of any surplus, income and assets to its members to at least as great an extent as the Section;

subject to clauses 62.5.

62.4 If the Section is wound up voluntarily, the body to which its surplus assets are to be given must be decided by special resolution*.

62.5 The surplus assets of the Section do not include any property supplied by a government department, public authority or municipal council, including the unexpended portion of a grant. On winding up, that property must be returned to the body that supplied it or its nominee.

See section 132(3) of the Act*.

63. Notices

63.1 Members must give the Section their address for notices, and any change in that address.

63.2 The address for notices may include an email address.

63.3 The Section must enter any change in the address of a member in the register of members without delay.

63.4 Notice may be given to a member by sending it to the address last given by the member.

63.5 In this constitution a period of notice of a meeting expressed in days:

- (a) does not include the day on which notice is given; but

- (b) includes the day on which the meeting is held.

63.6 Notices sent by prepaid post are taken to have been given on the third day after posting that is not a Saturday, Sunday or public holiday at that address.

63.7 Notices sent by email are taken to have been given on the first day after sending that is not a Saturday, Sunday or public holiday at that address.

63.8 In this clause, “member” includes a Committee member.

64. Interpretation

64.1 In this constitution, unless the contrary intention appears:

- (a) “absolute majority” means a majority of the votes of all Committee members entitled to vote at the time, whether or not those Committee members are present, and whether or not they vote;

- (b) “the Act” means the Victorian *Associations Incorporation Reform Act 2012*;

- (c) “the Commission” has the meaning given in clause 3;

- (d) “convene” means call and arrange to hold, and includes setting the date, time and place of the meeting;

- (e) “the Registrar” means the Registrar of Incorporated Associations under the Act*;

- (f) “regulations” means regulations of the Section made under clause 33, and “regulation” has a corresponding meaning;

- (g) “the Section” has the meaning given in clause 2.1;

- (h) “special resolution” means a resolution:
 - (i) to amend this constitution;
 - (ii) to change the name of the Section;
 - (iii) to amalgamate the Section with another association incorporated under the Act*; or

- (iv) to wind up the Section;

which may only be passed at a general meeting where:

- (v) at least 21 days notice of the proposed resolution has been given to each member entitled to vote;
- (vi) the notice specifies that it is intended that the resolution be proposed as a special resolution; and
- (vii) at least three-quarters of those members who vote at the meeting (whether in person, by representative or by proxy), vote in favour; and

See section 64 of the Act*.

- (i) “writing” includes emails and documents sent electronically.

- 64.2 The Secretary may resign as a member or Committee member by writing* to the President.
- 64.3 The headings form part of this constitution.
- 64.4 The explanatory notes inserted in a smaller font size after provisions of this constitution are for guidance only and do not form part of this constitution.
- 64.5 This constitution is to be interpreted in accordance with the Victorian *Interpretation of Legislation Act 1984* as if this constitution were an Act of the State of Victoria, unless the contrary intention appears.
- 64.6 The Committee is responsible for the interpretation of the constitution and regulations*.
- 64.7 The provisions of this constitution are the rules of the Section for the purposes of the Act*.
- 64.8 This constitution is intended to make provision for all matters required by the Act*, with the intention that none of the model rules prescribed under the Act* apply to the Section.

See section 48(3) and Schedule 1 of the Act*.

65. Transitional

- 65.1 The persons who were members of the Section immediately before its incorporation become the first members of the incorporated association.

See section 51(1)(a) of the Act*.

- 65.2 The persons who were the Committee members of the Section immediately before its incorporation become the first Committee members of the incorporated association.

See section 77(a) of the Act*.

- 65.3 Despite clause 19.1, the Section may hold its first annual general meeting at any time within 18 months after its incorporation.

See section 63(3) of the Act*.

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