

The Child and Family Wellbeing  
Association of Australia Incorporated



# CONSTITUTION

Adopted - 6 November 2020

### **Useful references**

<https://www.consumer.vic.gov.au/clubs-and-fundraising/incorporated-associations/running-an-incorporated-association/rules#model-rules>

[http://www.acnc.gov.au/ACNC/Pblctns/Factsheets/ACNC/FTS/Fact\\_DGR.aspx#General2](http://www.acnc.gov.au/ACNC/Pblctns/Factsheets/ACNC/FTS/Fact_DGR.aspx#General2)

<http://abr.business.gov.au/SearchByAbn.aspx?abn=65962251319>

**Child and Family Wellbeing Association of Australia Incorporated**  
**Constitution**

An Association incorporated in Victoria under the  
Associations Incorporation Reform Act 2012 (Vic) Registered Number A0032610m

## Contents

PREAMBLE	7
PART 1—PRELIMINARY	7
1.1 Name	7
1.2 Aim and Purposes	7
1.3 Financial year	8
1.4 Definitions	8
PART 2—POWERS OF ASSOCIATION	10
2.1 Powers of Association	10
2.2 Not for profit organisation	10
PART 3—MEMBERS, DISCIPLINARY PROCEDURES AND GRIEVANCES	11
Division 1—Membership	11
3.1 Minimum number of members	11
3.2 Who is eligible to be a member	11
3.3 Categories of membership	11
3.4 State and Territory Peak Membership	11
3.5 The National Aboriginal and Torres Strait Islander child care peak organisation	12
3.6 Organisational Membership	12
3.7 Associate Membership	12
3.8 Application for membership	12
3.9 Consideration of application	13
3.10 New membership	13
3.11 Annual subscription fee	13
3.12 General rights of members	13
3.13 State Peak Members	14
3.14 The National Aboriginal and Torres Strait Islander child care peak organisation	14
3.15 Organisational Members	14
3.16 Associate members	15
3.17 Rights not transferable	15

3.18	Ceasing membership	15
3.19	Resigning as a member	15
3.20	Register of members	15
	Division 2—Disciplinary action	16
3.21	Grounds for taking disciplinary action	16
3.22	Disciplinary subcommittee	16
3.23	Notice to member	16
3.24	Decision of subcommittee	17
3.25	Appeal rights	17
3.26	Conduct of disciplinary appeal meeting	18
	Division 3—Grievance procedure	18
3.27	Application	18
3.28	Parties must attempt to resolve the dispute	18
3.29	Appointment of mediator	18
3.30	Mediation process	19
3.31	Failure to resolve dispute by mediation	19
	PART 4—GENERAL MEETINGS OF THE ASSOCIATION	19
4.1	Annual general meetings	19
4.2	Special general meetings	20
4.3	Special general meeting held at request of members	20
4.4	Notice of general meetings	21
4.5	Proxies	21
4.6	Use of technology	22
4.7	Quorum at general meetings	22
4.8	Adjournment of general meeting	22
4.9	Voting at a general meeting	23
4.10	Special resolutions	23
4.11	Determining whether resolution carried	23
4.12	Minutes of general meeting	24
	PART 5—BOARD	24
	Division 1—Powers of the Board	24
5.1	Role and powers	24
5.2	Delegation	25
	Division 2—Composition of Board and duties of members	25
5.3	Composition and membership of the Board	25
5.4	General Duties	26

5.5	Chair and Deputy Chair	26
5.6	Secretary	26
5.7	Treasurer	27
5.8	Executive Committee	27
	Division 3—Election of Board members and tenure of office	28
5.9	Who is eligible to be a director	28
5.10	Positions to be declared vacant	28
5.11	Nominations	28
5.12	Election of office bearers	28
5.13	Election of directors from organisational members	29
5.14	Appointment of co-opted directors	29
5.15	Appointment of directors from State and Territory Peak Members	29
5.16	Ballot	29
5.17	Term of office	30
5.18	Vacation of office	31
5.19	Filling casual vacancies	31
	Division 4—Board Meetings	32
5.20	Meetings of Board	32
5.21	Notice of meetings	32
5.22	Urgent meetings	32
5.23	Procedure and order of business	32
5.24	Use of technology	32
5.25	Quorum	33
5.26	Voting	33
5.27	Conflict of interest	33
5.28	Minutes of meeting	34
5.29	Leave of absence	34
	PART 6—FINANCIAL MATTERS	34
6.1	Source of funds	34
6.2	Management of funds	34
6.3	Financial records	35
6.4	Financial statements	35
6.5	Auditors	35
	PART 7—GENERAL MATTERS	35
7.1	Common seal	35
7.2	Registered address	36

7.3	Notice requirements	36
7.4	Custody and inspection of books and records	36
7.5	Winding up and cancellation	37
7.6	Members' Liabilities	38
7.7	Gift Fund	38
7.8	Alteration of Rules	38
7.9	Reading these rules with the Corporations Act and other legislation	38
7.10	Interpretation	39

# Child and Family Wellbeing Association of Australia Incorporated Constitution

An Association incorporated in Victoria under the  
Associations Incorporation Reform Act 2012 (Vic)  
Registered Number A0032610m

## PREAMBLE

This organisation was formed at a meeting of delegates from child and family welfare agencies and associations from all Australian States and Territories in Melbourne on 16 October 1995.

## PART 1—PRELIMINARY

### 1.1 Name

The name of the incorporated association is the 'Child and Family Wellbeing Association of Australia Incorporated' and will be hereafter referred to in this Constitution as the Association.

**Note:**

Under section 23 of the Act, the name of the association and its registration number must appear on all its business documents.

### 1.2 Aim and Purposes

- (1) The aim of the Association is to promote the welfare and wellbeing of children and young people placed in out-of-home care and those at risk of placement, together with their families.
- (2) The purposes of the Association are to:
  - (a) inform national policy development and to advocate for policies and initiatives that will address the needs of children and young people at risk and their families;
  - (b) provide advocacy, support and information for community sector not for profit service providers and the community at large, with respect to the provision of appropriate and effective services for children and young people at risk and their families;
  - (c) promote family support, community development and other preventive programs that aim to appropriately maintain children and young people within a family network and enhance parental care and responsibility;
  - (d) support and undertake research into the needs of children at risk, their families and service providers in the industry sector;

- (e) promote, support and undertake provision of appropriate training and skills development for those working in the industry sector;
  - (f) promote and facilitate the development of national quality standards in services for children and young people at risk and their families;
  - (g) support and assist in the development of state and territory associations of child and family welfare or wellbeing service providers (members) that are involved in relieving the suffering, distress and helplessness of vulnerable and disadvantaged families and people, so as to enhance their physical, social and emotional wellbeing;
  - (h) act as a peak body for its Members to add value to their work in promoting the development of their services;
  - (i) represent the views and needs of vulnerable and disadvantaged families and people to governments, the media and the general public in relation to social policies, service planning and service delivery issues; and
  - (j) undertake other activities that promote these objectives.
- (3) Nothing in these purposes shall be construed or implemented in such a way as to limit or interfere with the freedom of individual members of the Association to manage or conduct their own affairs.

### 1.3 Financial year

The financial year of the Association is each period of 12 months ending 30 June.

### 1.4 Definitions

In these Rules:

**absolute majority**, of the Board, means a majority of the Directors currently holding office and entitled to vote at the time (as distinct from a majority of directors present at a board meeting).

**ACNC Act** means the *Australian Charities and Not-for-profits Commission Act 2012* (Cth).

**Associate member** means a member referred to in rule 3.7.

**at risk** in the context of this Constitution and CAFWAA's operations means children, young people and families who are involved in, or at risk of becoming involved in, the statutory child protection, out of home care systems or associated family support services in any jurisdiction in Australia as a result of abuse, neglect or other harm.

**Board** means the Board having directorship of the business of the Association.

**Board meeting** means a meeting of the Board held in accordance with these Rules.

**Chair**, of a general meeting or Board meeting, means the person chairing the meeting as required under rule 5.5.



**Corporations Act** means the *Corporations Act 2001* (Cth).

**Director** means a director of the Board elected or appointed under Division 3 of Part 5.

**Disciplinary appeal meeting** means a meeting of the members of the Association convened under rule 3.25(3).

**Disciplinary meeting** means a meeting of the Board convened for the purposes of rule 3.24.

**Disciplinary subcommittee** means the subcommittee appointed under rule 3.22.

**Financial year** means the 12 month period specified in rule 1.3.

**General meeting** means a general meeting of the members of the Association convened in accordance with Part 4 and includes an annual general meeting, a special general meeting and a disciplinary appeal meeting.

**Member** means a member of the Association.

**Member entitled to vote** means a member who under rule 3.12(2) is entitled to vote at a general meeting.

**Member present** means, in connection with a **general meeting**, a **member present** in person, by representative or by proxy at the venue or venues for the meeting.

**Special resolution** means a resolution that requires not less than three-quarters of the members voting at a general meeting, whether in person or by proxy, to vote in favour of the resolution.

**Surplus assets** means any assets of the **Association** that remain after paying all debts and other liabilities of the **Association**, including the costs of winding up.

**the Act** means the **Associations Incorporation Reform Act 2012** (Vic) and includes any regulations made under that Act.

**the Registrar** means the Registrar of Incorporated Associations.

**the regulator** means any official performing a regulatory role under Australian law, including the *Associations Incorporation Reform Act 2012* (Vic), *Corporations Act* or the *ACNC Act*.

**wellbeing organisations** means those organisations whose purpose includes relieving the suffering, distress and helplessness of vulnerable and disadvantaged families and people, so as to enhance their physical, social and emotional wellbeing.

## PART 2—POWERS OF ASSOCIATION

### 2.1 Powers of Association

- (1) Subject to the Act, the Association has power to do all things incidental or conducive to achieve its purposes.
- (2) Without limiting subrule (1), the Association may:
  - (a) acquire, hold and dispose of real or personal property;
  - (b) receive moneys and grants;
  - (c) open and operate accounts with financial institutions;
  - (d) invest its money in any security in which trust monies may lawfully be invested;
  - (e) raise and borrow money on any terms and in any manner as it thinks fit;
  - (f) accept donations of money and property and enter into sponsorships;
  - (g) secure the repayment of money raised or borrowed, or the payment of a debt or liability;
  - (h) appoint agents to transact business on its behalf;
  - (i) enter into any other contract it considers necessary or desirable.
- (3) The Association may only exercise its powers and use its income and assets (including any surplus) for its purposes.

### 2.2 Not for profit organisation

- (1) The Association must not distribute any surplus, income or assets directly or indirectly to its members.
- (2) Subrule (1) does not prevent the Association from paying a member:
  - (a) reimbursement for expenses properly incurred by the member; or
  - (b) for goods or services provided by the member;if this is done in good faith on terms no more favourable than if the member was not a member.

**Note:**

Section 33 of the Act provides that an incorporated association must not secure pecuniary profit for its members. Section 4 of the Act sets out in more detail the circumstances under which an incorporated association is not taken to secure pecuniary profit for its members.

## **PART 3—MEMBERS, DISCIPLINARY PROCEDURES AND GRIEVANCES**

### **Division 1—Membership**

#### **3.1 Minimum number of members**

The Association must have at least 5 members.

#### **3.2 Who is eligible to be a member**

Any person who supports the purposes of the Association is eligible for membership.

#### **3.3 Categories of membership**

- (1) The Association shall have the following categories of membership:
  - (a) State Peak Membership, under rule 3.4;
  - (b) the National Aboriginal and Torres Strait Islander child care peak organisation, under rule 3.5.
  - (c) Organisational Membership, under rule 3.6; and
  - (d) Associate Membership, under rule 3.7.
- (2) The Board may create additional categories of membership, together with qualification requirements, in the best interests of the Association provided these categories comply with all other rules of this Constitution.

#### **3.4 State and Territory Peak Membership**

- (1) This category of membership shall comprise those State and Territory Associations performing the peak co-ordinating role for non-government child and family welfare agencies in the respective Australian states and territories.
- (2) This category of membership may also include additional Aboriginal and Torres Strait Islander State and Territory Associations where those organisations perform the peak co-ordinating role for Aboriginal and Torres Strait Islander non-government child and family welfare agencies in the respective Australian states and territories.
- (3) There shall be no more than eight (8) general and eight (8) Aboriginal and Torres Strait Islander State Peak Members.
- (4) In the absence of a state peak co-ordinating association, or where there is more than one application from a state or territory, the appropriate State Peak Member shall be determined by the Board of the Association.
- (5) The Peak Member or Members of each State or Territory are entitled, when combined, to a total of two votes for that State or Territory. If there is one Peak Member, that member shall be entitled to two votes at general meetings of the Association. If there are two Peak members, each member shall be entitled to one vote at general meetings of the Association.

**Examples:**

If there is only one State or Territory Peak in a specific State or Territory, that Peak is entitled to exercise two (2) votes.

If there is a State or Territory Peak and an Aboriginal and Torres Strait Islander State or Territory Peak member, each member is entitled to exercise one (1) vote each, making a total of two (2) votes for that State or Territory.

**3.5 The National Aboriginal and Torres Strait Islander Child Care peak organisation**

- (1) This category of membership is limited to the national Aboriginal and Torres Strait Islander Child Care peak organisation. At the time this rule was agreed to, the recognised organisation performing this role was SNAICC.
- (2) The organisation holding this membership shall be entitled to one vote at general meetings of the Association.

**3.6 Organisational Membership**

- (1) This category of membership shall consist of those non-government organisations at a local, state or national level that agree to subscribe to the objectives of the Association.
- (2) Organisational members may be a direct service delivery organisation, group of service delivery organisations, or a stakeholder representative organisation operating within the sector.
- (3) Each organisational member shall be entitled to one vote at general meetings of the Association.

**3.7 Associate Membership**

- (1) This category of membership shall consist of individuals or organisations who wish to support the Association and who are in agreement with the stated Objectives of the Association.
- (2) Associate Membership carries no voting rights at any general meetings but Associate Members may attend and be heard at any general meeting and be nominated or co-opted to perform a Board role.

**3.8 Application for membership**

- (1) To apply to become a member of the Association, a person must submit a written application to the Secretary stating that the person:
  - (a) wishes to become a member of the Association; and
  - (b) supports the purposes of the Association; and
  - (c) agrees to comply with these Rules.
- (2) The application:
  - (a) must be signed by the applicant;
  - (b) may be accompanied by the annual membership fee; and
  - (c) must be accompanied by the applicant's current Constitution and most recent Annual Report except if the applicant is an individual.

### **3.9 Consideration of application**

- (1) As soon as practicable after an application for membership is received, the Board must decide by resolution whether to accept or reject the application.
- (2) The Board must notify the applicant in writing of its decision as soon as practicable after the decision is made.
- (3) If the Board rejects the application, it must return any money accompanying the application to the applicant.
- (4) No reason need be given for the rejection of an application.

### **3.10 New membership**

- (1) If an application for membership is approved by the Board:
  - (a) the resolution to accept the membership must be recorded in the minutes of the Board meeting; and
  - (b) the Secretary must, as soon as practicable, enter the name and address of the new member, and the date of becoming a member, in the register of members.
- (2) A person becomes a member of the Association and, subject to rule 3.12(2), is entitled to exercise his or her rights of membership from the date, whichever is the later, on which:
  - (a) the Board approves the person's membership; or
  - (b) the person pays the membership fee.

### **3.11 Annual subscription fee**

- (1) At each annual general meeting, the Association must determine:
  - (a) the amount of the annual subscription (if any) for the following financial year; and
  - (b) the date for payment of the annual subscription.
- (2) The Association may determine that a lower annual subscription is payable by associate members.
- (3) The Association may determine that any new member who joins after the start of a financial year must, for that financial year, pay a fee equal to:
  - (a) the full annual subscription; or
  - (b) a pro rata annual subscription based on the remaining part of the financial year; or
  - (c) a fixed amount determined from time to time by the Association.
- (4) The rights of a member (including the right to vote) who has not paid the annual subscription by the due date are suspended until the subscription is paid.

### **3.12 General rights of members**

- (1) A member of the Association who is entitled to vote has the right:

- (a) to receive notice of general meetings and of proposed special resolutions in the manner and time prescribed by these Rules; and
  - (b) to submit items of business for consideration at a general meeting; and
  - (c) to attend and be heard at general meetings; and
  - (d) to vote at a general meeting; and
  - (e) to have access to the minutes of general meetings and other documents of the Association as provided under rule 7.4; and
  - (f) to inspect the register of members.
- (2) A member is entitled to vote if:
- (a) the member is a member other than an associate member; and
  - (b) more than 10 business days have passed since he or she became a member of the Association; and
  - (c) the member's membership rights are not suspended for any reason.

### **3.13 State Peak Members**

- (1) Each State Peak Member has the right to appoint:
- (a) up to two representatives to attend general meetings of the Association consistent with rule 3.4(5); and
  - (b) a proxy in the event of a representative being unable to attend a general meeting.
- (2) Each State Peak Member shall submit to the Secretary at each annual general meeting the names of its representatives.

### **3.14 The National Aboriginal and Torres Strait Islander Child Care peak organisation**

- (1) The National Aboriginal and Torres Strait Islander Child Care peak organisation has the right to appoint:
- (a) one representative to attend general meetings of the Association consistent with rule 3.5(2); and
  - (b) a proxy in the event of the representative being unable to attend a general meeting.
- (2) The National Aboriginal and Torres Strait Islander Child Care peak organisation shall submit to the Secretary at each annual general meeting the name of its representative.

### **3.15 Organisational Members**

Each Organisational Member has the right to:

- (a) nominate one representative to attend general meetings of the Association at the time of application for membership and at each annual general meeting;
- (b) appoint a proxy in the event a representative is unable to attend a general meeting.

### **3.16 Associate members**

- (1) Associate members of the Association include any other category of member as determined by special resolution at a general meeting.
- (2) An associate member must not vote at a general meeting but may have other rights as determined by the Board or by resolution at a general meeting, including the right to attend and be heard at any general meeting and to be nominated or co-opted to perform a Board role.

### **3.17 Rights not transferable**

The rights of a member are not transferable and end when membership ceases.

### **3.18 Ceasing membership**

- (1) The membership of a person ceases on resignation, expulsion or death.
- (2) If a person ceases to be a member of the Association, the Secretary must, as soon as practicable, enter the date the person ceased to be a member in the register of members.

### **3.19 Resigning as a member**

- (1) A member may resign by notice in writing given to the Association.

**Note:**

Rule 7.3(3) sets out how notice may be given to the Association. It includes by post or by handing the notice to a member of the board.

- (2) A member is taken to have resigned if:
  - (a) the member's annual subscription is more than 12 months in arrears; or
  - (b) where no annual subscription is payable:
    - i. the Secretary has made a written request to the member to confirm that he or she wishes to remain a member; and
    - ii. the member has not, within 3 months after receiving that request, confirmed in writing that he or she wishes to remain a member.

### **3.20 Register of members**

- (1) The Secretary must keep and maintain a register of members that includes:
  - (a) for each current member:
    - iii. the member's name;
    - iv. the address for notice last given by the member;
    - v. the date of becoming a member;
    - vi. if the member is an associate member, a note to that effect;
    - vii. any other information determined by the Board; and
  - (b) for each former member, the date of ceasing to be a member.

- (2) Any member may, at a reasonable time and free of charge, inspect the register of members.

**Note:**

Under section 59 of the Act, access to the personal information of a person recorded in the register of members may be restricted in certain circumstances. Section 58 of the Act provides that it is an offence to make improper use of information about a person obtained from the Register of Members.

## **Division 2—Disciplinary action**

### **3.21 Grounds for taking disciplinary action**

The Association may take disciplinary action against a member in accordance with this Division if it is determined that the member:

- (a) has failed to comply with these Rules; or
- (b) refuses to support the purposes of the Association; or
- (c) has engaged in conduct prejudicial to the Association.

### **3.22 Disciplinary subcommittee**

- (1) If the Board is satisfied that there are sufficient grounds for taking disciplinary action against a member, the Board must appoint a disciplinary subcommittee to hear the matter and determine what action, if any, to take against the member.
- (2) The members of the disciplinary subcommittee:
  - (a) may be Directors, members of the Association or anyone else; but
  - (b) must not be biased against, or in favour of, the member concerned.

### **3.23 Notice to member**

- (1) Before disciplinary action is taken against a member, the Secretary must give written notice to the member:
  - (a) stating that the Association proposes to take disciplinary action against the member; and
  - (b) stating the grounds for the proposed disciplinary action; and
  - (c) specifying the date, place and time of the meeting at which the disciplinary subcommittee intends to consider the disciplinary action (the ***disciplinary meeting***); and
  - (d) advising the member that he or she may do one or both of the following:
    - i. attend the disciplinary meeting and address the disciplinary subcommittee at that meeting;
    - ii. give a written statement to the disciplinary subcommittee at any time before the disciplinary meeting; and
  - (e) setting out the member's appeal rights under rule 3.25.
- (2) The notice must be given no earlier than 28 days, and no later than 14 days, before the disciplinary meeting is held.



### **3.24 Decision of subcommittee**

- (1) At the disciplinary meeting, the disciplinary subcommittee must:
  - (a) give the member an opportunity to be heard; and
  - (b) consider any written statement submitted by the member.
- (2) After complying with subrule (1), the disciplinary subcommittee may:
  - (a) take no further action against the member; or
  - (b) subject to subrule (3):
    - i. reprimand the member; or
    - ii. suspend the membership rights of the member for a specified period; or
    - iii. expel the member from the Association.
- (3) The disciplinary subcommittee may not fine the member.
- (4) The suspension of membership rights or the expulsion of a member by the disciplinary subcommittee under this rule takes effect immediately after the vote is passed.

### **3.25 Appeal rights**

- (1) A person whose membership rights have been suspended or who has been expelled from the Association under rule 22 may give notice to the effect that he or she wishes to appeal against the suspension or expulsion.
- (2) The notice must be in writing and given:
  - (a) to the disciplinary subcommittee immediately after the vote to suspend or expel the person is taken; or
  - (b) to the Secretary not later than 48 hours after the vote.
- (3) If a person has given notice under subrule (2), a disciplinary appeal meeting must be convened by the Board as soon as practicable, but in any event not later than 21 days, after the notice is received.
- (4) Notice of the disciplinary appeal meeting must be given to each member of the Association who is entitled to vote as soon as practicable and must:
  - (a) specify the date, time and place of the meeting; and
  - (b) state:
    - i. the name of the person against whom the disciplinary action has been taken; and
    - ii. the grounds for taking that action; and
    - iii. that at the disciplinary appeal meeting the members present must vote on whether the decision to suspend or expel the person should be upheld or revoked.

### **3.26 Conduct of disciplinary appeal meeting**

- (1) At a disciplinary appeal meeting:
  - (a) no business other than the question of the appeal may be conducted; and
  - (b) the Board must state the grounds for suspending or expelling the member and the reasons for taking that action; and
  - (c) the person whose membership has been suspended or who has been expelled must be given an opportunity to be heard.
- (2) After complying with subrule (1), the members present and entitled to vote at the meeting must vote by secret ballot on the question of whether the decision to suspend or expel the person should be upheld or revoked.
- (3) A member may not vote by proxy at the meeting.
- (4) The decision is upheld if not less than three quarters of the members voting at the meeting vote in favour of the decision.

## **Division 3—Grievance procedure**

### **3.27 Application**

- (1) The grievance procedure set out in this Division applies to disputes under these Rules between:
  - (a) a member and another member;
  - (b) a member and the Board;
  - (c) a member and the Association.
- (2) A member must not initiate a grievance procedure in relation to a matter that is the subject of a disciplinary procedure until the disciplinary procedure has been completed.

### **3.28 Parties must attempt to resolve the dispute**

The parties to a dispute must attempt to resolve the dispute between themselves within 14 days of the dispute coming to the attention of each party.

### **3.29 Appointment of mediator**

- (1) If the parties to a dispute are unable to resolve the dispute between themselves within the time required by rule 3.28, the parties must within 10 days:
  - (a) notify the Board of the dispute; and
  - (b) agree to or request the appointment of a mediator; and
  - (c) attempt in good faith to settle the dispute by mediation.

- (2) The mediator must be:
  - (a) a person chosen by agreement between the parties; or
  - (b) in the absence of agreement:
    - i. if the dispute is between a member and another member, a person appointed by the Board; or
    - ii. if the dispute is between a member and the Board or the Association, a person appointed or employed by the Dispute Settlement Centre of Victoria.
- (3) A mediator appointed by the Board may be a member or former member of the Association but in any case, must not be a person who:
  - (a) has a personal interest in the dispute; or
  - (b) is biased in favour of or against any party.

### **3.30 Mediation process**

- (1) The mediator to the dispute, in conducting the mediation, must:
  - (a) give each party every opportunity to be heard; and
  - (b) allow due consideration by all parties of any written statement submitted by any party; and
  - (c) ensure that natural justice is accorded to the parties throughout the mediation process.
- (2) The mediator must not determine the dispute.

### **3.31 Failure to resolve dispute by mediation**

- (1) If the mediation process does not resolve the dispute, the parties may seek to resolve the dispute in accordance with the Act or otherwise at law.

## **PART 4—GENERAL MEETINGS OF THE ASSOCIATION**

### **4.1 Annual general meetings**

- (1) The Board must convene an annual general meeting of the Association to be held within 5 months after the end of each financial year.
- (2) The Board may determine the date, time and place of the annual general meeting.
- (3) The ordinary business of the annual general meeting is as follows:
  - (a) to confirm the minutes of the previous annual general meeting and of any special general meeting held since then;
  - (b) to receive and consider:
    - i. the annual report of the Board on the activities of the Association during the preceding financial year; and

- ii. the financial statements of the Association for the preceding financial year submitted by the Board in accordance with Part 7 of the Act;
  - (c) to elect the members of the Board; and
  - (d) to confirm or vary the amounts (if any) of the annual subscription and joining fee.
- (4) The annual general meeting may also conduct any other business of which notice has been given in accordance with these Rules.

#### **4.2 Special general meetings**

- (1) Any general meeting of the Association, other than an annual general meeting or a disciplinary appeal meeting, is a special general meeting.
- (2) The Board may convene a special general meeting whenever it thinks fit.
- (3) No business other than that set out in the notice under rule 4.4 may be conducted at the meeting.

**Note:**

General business may be considered at the meeting if it is included as an item for consideration in the notice under rule 4.4 and the majority of members at the meeting agree.

#### **4.3 Special general meeting held at request of members**

- (1) The Board must convene a special general meeting if a request to do so is made in accordance with subrule (2) by at least 10% of the total number of members, and a majority of State Peak members.
- (2) A request for a special general meeting must:
  - (a) be in writing; and
  - (b) state the business to be considered at the meeting and any resolutions to be proposed; and
  - (c) include the names and signatures of the members requesting the meeting; and
  - (d) be given to the Secretary.
- (3) If the Board does not convene a special general meeting within one month after the date on which the request is made, the members making the request (or any of them) may convene the special general meeting.
- (4) A special general meeting convened by members under subrule (3):
  - (a) must be held within 3 months after the date on which the original request was made; and
  - (b) may only consider the business stated in that request.
- (5) The Association must reimburse all reasonable expenses incurred by the members convening a special general meeting under subrule (3).

#### **4.4 Notice of general meetings**

- (1) The Secretary (or, in the case of a special general meeting convened under rule 4.3(3), the members convening the meeting) must give to each member of the Association:
  - (a) at least 21 days' notice of a general meeting if a special resolution is to be proposed at the meeting; or
  - (b) at least 14 days' notice of a general meeting in any other case.
- (2) The notice must:
  - (a) specify the date, time and place of the meeting; and
  - (b) indicate the general nature of each item of business to be considered at the meeting; and
  - (c) if a special resolution is to be proposed:
    - i. state in full the proposed resolution; and
    - ii. state the intention to propose the resolution as a special resolution; and
  - (d) comply with rule 4.5(5).
- (3) This rule does not apply to a disciplinary appeal meeting.

**Note:**

Rule 3.25(4) sets out the requirements for notice of a disciplinary appeal meeting.

#### **4.5 Proxies**

- (1) A member may appoint another member as his or her proxy to vote and speak on his or her behalf at a general meeting other than at a disciplinary appeal meeting.
- (2) The appointment of a proxy must be in writing and signed by the member making the appointment.
- (3) The member appointing the proxy may give specific directions as to how the proxy is to vote on his or her behalf, otherwise the proxy may vote on behalf of the member in any matter as he or she sees fit.
- (4) If the Board has not approved a form for the appointment of a proxy, the member may use any other form that clearly identifies the person appointed as the member's proxy and that has been signed by the member.
- (5) Notice of a general meeting given to a member under rule 33 must:
  - (a) state that the member may appoint another member as a proxy for the meeting; and
  - (b) include a copy of any form that the Board has approved for the appointment of a proxy.
- (6) A form appointing a proxy must be given to the Chair of the meeting before or at the commencement of the meeting.

- (7) A form appointing a proxy sent by post or electronically is of no effect unless it is received by the Association no later than 24 hours before the commencement of the meeting.

#### **4.6 Use of technology**

- (1) A member not physically present at a general meeting may be permitted to participate in the meeting by the use of technology that allows that member and the members present at the meeting to clearly and simultaneously communicate with each other.
- (2) For the purposes of this Part, a member participating in a general meeting as permitted under subrule (1) is taken to be present at the meeting and, if the member votes at the meeting, is taken to have voted in person.

#### **4.7 Quorum at general meetings**

- (1) No business may be conducted at a general meeting unless a quorum of members entitled to vote is present.
- (2) The quorum for a general meeting is the presence (physically, by proxy or as allowed under rule 4.6) of 10% of the members entitled to vote.
- (3) If a quorum is not present within 30 minutes after the notified commencement time of a general meeting:
  - (a) in the case of a meeting convened by, or at the request of, members under rule 4.3—the meeting must be dissolved;  
**Note:**  
If a meeting convened by, or at the request of, members is dissolved under this subrule, the business that was to have been considered at the meeting is taken to have been dealt with. If members wish to have the business reconsidered at another special meeting, the members must make a new request under rule 4.3.
  - (b) in any other case:
    - i. the meeting must be adjourned to a date not more than 21 days after the adjournment; and
    - ii. notice of the date, time and place to which the meeting is adjourned must be given at the meeting and confirmed by written notice given to all members as soon as practicable after the meeting.
- (4) If a quorum is not present within 30 minutes after the time to which a general meeting has been adjourned under subrule (3)(b), the members present at the meeting (if not fewer than 3) may proceed with the business of the meeting as if a quorum were present.

#### **4.8 Adjournment of general meeting**

- (1) The Chair of a general meeting at which a quorum is present may, with the consent of a majority of members present at the meeting, adjourn the meeting to another time at the same place or at another place.
- (2) Without limiting subrule (1), a meeting may be adjourned:

- (a) if there is insufficient time to deal with the business at hand; or
- (b) to give the members more time to consider an item of business.

**Example:**

The members may wish to have more time to examine the financial statements submitted by the Board at an annual general meeting.

- (3) No business may be conducted on the resumption of an adjourned meeting other than the business that remained unfinished when the meeting was adjourned.
- (4) Notice of the adjournment of a meeting under this rule is not required unless the meeting is adjourned for 14 days or more, in which case notice of the meeting must be given in accordance with rule 4.4.

#### **4.9 Voting at a general meeting**

- (1) On any question arising at a general meeting:
  - (a) subject to subrule (3), each State Peak member who is entitled to vote has up to two votes as determined under subrule 3.4(5); and
  - (b) subject to subrule (3), each Organisational member who is entitled to vote has one vote; and
  - (c) members may vote personally or by proxy; and
  - (d) except in the case of a special resolution, the question must be decided on a majority of votes.
- (2) If votes are divided equally on any question, the proposal shall be declared to be lost. The Chair of the meeting does not have a second or casting vote.
- (3) If the question is whether or not to confirm the minutes of a previous meeting, only members who were present at that meeting may vote.
- (4) This rule does not apply to a vote at a disciplinary appeal meeting conducted under rule 3.26.

#### **4.10 Special resolutions**

A special resolution is passed if not less than three quarters of the members voting at a general meeting (whether in person or by proxy) vote in favour of the resolution.

**Note:**

In addition to certain matters specified in the Act, a special resolution is required:

- (a) to remove a director from office ;
- (b) to alter these Rules, including changing the name or any of the purposes of the Association.

#### **4.11 Determining whether resolution carried**

- (1) Subject to subsection (2), the Chair of a general meeting may, on the basis of a show of hands, declare that a resolution has been:
  - (a) carried; or
  - (b) carried unanimously; or

(c) carried by a particular majority; or

(d) lost;

and an entry to that effect in the minutes of the meeting is conclusive proof of that fact.

- (2) If a poll (where votes are cast in writing) is demanded by three or more members on any question:
  - (a) the poll must be taken at the meeting in the manner determined by the Chair of the meeting; and
  - (b) the Chair must declare the result of the resolution on the basis of the poll.
- (3) A poll demanded on the election of the Chair or on a question of an adjournment must be taken immediately.
- (4) A poll demanded on any other question must be taken before the close of the meeting at a time determined by the Chair.

#### **4.12 Minutes of general meeting**

- (1) The Board must ensure that minutes are taken and kept of each general meeting.
- (2) The minutes must record the business considered at the meeting, any resolution on which a vote is taken and the result of the vote.
- (3) In addition, the minutes of each annual general meeting must include:
  - (a) the names of the members attending the meeting; and
  - (b) proxy forms given to the Chair of the meeting under rule 4.5(6); and
  - (c) the financial statements submitted to the members in accordance with rule 4.1(3)(b)(ii); and
  - (d) the certificate signed by two directors certifying that the financial statements give a true and fair view of the financial position and performance of the Association; and
  - (e) any audited accounts and auditor's report or report of a review accompanying the financial statements that are required under the Act.

## **PART 5—BOARD**

### **Division 1—Powers of the Board**

#### **5.1 Role and powers**

- (1) The business of the Association must be managed by or under the direction of a Board.
- (2) The Board may exercise all the powers of the Association except those powers that these Rules or the Act require to be exercised by general meetings of the members of the Association.



- (3) The Board may:
  - (a) appoint and remove staff;
  - (b) establish subcommittees consisting of members with terms of reference it considers appropriate.

## **5.2 Delegation**

- (1) The Board may delegate to a director, subcommittee or staff, any of its powers and functions other than:
  - (a) this power of delegation; or
  - (b) a duty imposed on the Board by the Act or any other law.
- (2) The delegation must be in writing and may be subject to the conditions and limitations the Board considers appropriate.
- (3) The Board may, in writing, revoke a delegation wholly or in part.

### **Division 2—Composition of Board and duties of members**

## **5.3 Composition and membership of the Board**

- (1) The Board shall consist of not more than fourteen directors, and not less than seven directors, namely:
  - (a) the office-bearers of the Association, and
  - (b) up to nine directors.
- (2) Directors shall be elected or appointed as follows:
  - (a) up to eight directors appointed by the State and Territory Peak Members, consistent with the provisions of rule 3.4; and
  - (b) one representative appointed by SNAICC, formally known as SNAICC - National Voice For Our Children (Aboriginal and Torres Strait Islander Corporation) ICN 8450, and consistent with the provisions of rule 3.5.
  - (c) up to three directors elected from the Organisational membership at the annual general meeting of the Association, and consistent with the provisions of rule 3.6.
  - (d) up to two directors co-opted by the Board where at least one must be from a consumer-representative body.
- (3) All co-opted directors must be from organisations whose aims and objectives are consistent with those of CAFWAA.
- (4) The office-bearers of the Association shall be:
  - (a) the Chair
  - (b) the Deputy Chair
  - (c) the Secretary, and
  - (d) the Treasurer.

- (5) Each director shall, subject to these rules, hold office until the conclusion of the third annual general meeting following the date of the member's election but is eligible for re-election or co-option.
- (6) In the event of a casual vacancy occurring amongst the office-bearers in the Board, the Board may appoint a member of the Board to fill the vacancy and the member so appointed shall hold office subject to these rules for the remainder of the original term.

#### **5.4 General Duties**

- (1) As soon as practicable after being elected or appointed to the Board, each director must become familiar with these Rules and the Act.
- (2) The Board is collectively responsible for ensuring that the Association complies with the Act and that all directors comply with these Rules.
- (3) Directors must exercise their powers and discharge their duties with reasonable care and diligence.
- (4) Directors must exercise their powers and discharge their duties:
  - (a) in good faith in the best interests of the Association; and
  - (b) for a proper purpose.
- (5) Directors and former directors must not make improper use of:
  - (a) their position; or
  - (b) information acquired by virtue of holding their position;so as to gain an advantage for themselves or any other person or to cause detriment to the Association.

**Note:**  
See also Division 3 of Part 6 of the Act which sets out the general duties of the office holders of an incorporated association.
- (6) In addition to any duties imposed by these Rules, a director must perform any other duties imposed from time to time by resolution at a general meeting.

#### **5.5 Chair and Deputy Chair**

- (1) Subject to subrule (2), the Chair or, in the Chair's absence, the Deputy Chair is the Chair for any general meetings and for any Board meetings.
- (2) If the Chair and the Deputy Chair are both absent, or are unable to preside, the Chair of the meeting must be:
  - (a) in the case of a general meeting, a member elected by the other members present; or
  - (b) in the case of a Board meeting, a director elected by the other Board members present.

#### **5.6 Secretary**

- (1) The Secretary must perform any duty or function required under the Act to be performed by the secretary of an incorporated association.

**Example:**

Under the Act, the secretary of an incorporated association is responsible for lodging documents of the association with the Registrar.

- (2) The Secretary must:
  - (a) maintain the register of members in accordance with rule 3.20; and
  - (b) keep custody of the common seal (if any) of the Association and, except for the financial records referred to in rule 6.3(3), all books, documents and securities of the Association in accordance with rules 7.1 and 7.4; and
  - (c) subject to the Act and these Rules, provide members with access to the register of members, the minutes of general meetings and other books and documents; and
  - (d) perform any other duty or function imposed on the Secretary by these Rules.
- (3) The Secretary must give to the Registrar notice of his or her appointment within 14 days after the appointment.

## **5.7 Treasurer**

- (1) The Treasurer must:
  - (a) receive all moneys paid to or received by the Association and issue receipts for those moneys in the name of the Association; and
  - (b) ensure that all moneys received are paid into the account of the Association within 5 working days after receipt; and
  - (c) make any payments authorised by the Board or by a general meeting of the Association from the Association's funds; and
  - (d) ensure payments are authorised by 2 directors.
- (2) The Treasurer must:
  - (a) ensure that the financial records of the Association are kept in accordance with the Act; and
  - (b) coordinate the preparation of the financial statements of the Association and their certification by the Board prior to their submission to the annual general meeting of the Association.
- (3) The Treasurer must ensure that at least one other director has access to the accounts and financial records of the Association.

## **5.8 Executive Committee**

- (1) The office-bearers of the Association are the Executive Committee.
- (2) The Executive Committee is responsible for the financial and staffing responsibilities of the Association and shall make recommendations about such matters to the Board for approval.
- (3) Non-members may be co-opted to the Executive Committee to facilitate good governance of the Association.

## **Division 3—Election of Board members and tenure of office**

### **5.9 Who is eligible to be a director**

- (1) A member, or a representative of a member, is eligible to be elected or appointed as a director provided the person:
  - (a) is 18 years or over;
  - (b) gives the association their signed consent to act as a director of the association;
  - (c) has not been disqualified from holding office by a regulatory authority including as described in the *Associations Incorporation Reform Act 2012* (Vic), Corporations Act or the ACNC Act; and
  - (d) has not been the subject of a substantiated finding of any form of child abuse or neglect, or had their 'working with children' clearance, however described within any jurisdiction, cancelled.

### **5.10 Positions to be declared vacant**

- (1) This rule applies to any annual general meeting of the Association, after the annual report and financial statements of the Association have been received.
- (2) The Chair of the meeting must declare all positions on the Board vacant and hold elections for those positions in accordance with rules 51 to 54.

### **5.11 Nominations**

- (1) Prior to the election of each position, the Chair of the meeting must call for nominations to fill that position.
- (2) Nominations must be made in writing, signed by two members of the Association and accompanied by the written consent of the candidate (that may be endorsed on the form of the nomination),
- (3) Nominations must be delivered to the returning officer nominated by the Board not less than seven (7) days before the advertised commencement of the annual general meeting at which the election is to take place.

### **5.12 Election of office bearers**

- (1) At the annual general meeting, separate elections must be held for each of the following positions:
  - (a) Chair;
  - (b) Deputy Chair;
  - (c) Secretary;
  - (d) Treasurer.
- (2) If only one member is nominated for the position, the Chair of the meeting must declare the member elected to the position.
- (3) If more than one member is nominated, a ballot must be held in accordance with rule 5.16.

- (4) On his or her election, the new Chair may take over as Chair of the meeting.

### **5.13 Election of directors from organisational members**

- (1) The annual general meeting may elect up to three directors from the Association's Organisational members.
- (2) A single election may be held to fill all three positions.
- (3) If the number of nominations to fill the ordinary member positions on the Board is less than or equal to the number to be elected, the Chair of the meeting must declare each of those members to be elected to the position.
- (4) If the number of members nominated exceeds the number to be elected, a ballot must be held in accordance with rule 5.16.
- (5) If the number of nominations received for any director position is less than the number of positions to be filled, the remaining positions are deemed to be casual vacancies and the Board has the power to fill the vacancy as it sees fit at a subsequent Board meeting.

### **5.14 Appointment of co-opted directors**

The Board may appoint at any time up to two directors in accordance with the provisions of rule 5.3(2)(d).

### **5.15 Appointment of directors from State and Territory Peak Members**

- (1) The State and Territory Peak Members of each state or territory may nominate one director from their respective state or territory to the Board in accordance with rule 5.3(2)(a).
- (2) Each State or Territory Peak Member nomination must be made in writing, signed by an authorised representative of the member organisation and accompanied by the written consent of the candidate (which may be endorsed on the nomination form).

### **5.16 Ballot**

- (1) If a ballot is required for the election for a position, the Chair of the meeting must appoint a member to act as returning officer to conduct the ballot.
- (2) The returning officer must not be a member nominated for the position.
- (3) Before the ballot is taken, each candidate may make a short speech in support of his or her election.
- (4) The election must be by secret ballot.
- (5) The returning officer must give a blank piece of paper to:
  - (a) each member present in person; and
  - (b) each proxy appointed by a member.

**Example:**

If a member has been appointed the proxy of 5 other members, the member must be given 6 ballot papers—one for the member and one each for the other members.

- (6) If the ballot is for a single position, the voter must write on the ballot paper the name of the candidate for whom they wish to vote.
- (7) If the ballot is for more than one position:
  - (a) the voter must write on the ballot paper the name of each candidate for whom they wish to vote;
  - (b) the voter must not write the names of more candidates than the number to be elected.
- (8) Ballot papers that do not comply with subrule (7)(b) are not to be counted.
- (9) Each ballot paper on which the name of a candidate has been written counts as one vote for that candidate.
- (10) The returning officer must declare elected the candidate or, in the case of an election for more than one position, the candidates who received the most votes.
- (11) If the returning officer is unable to declare the result of an election under subrule (10) because 2 or more candidates received the same number of votes, the returning officer must:
  - (a) conduct a further election for the position in accordance with subrules (4) to (10) to decide which of those candidates is to be elected; or
  - (b) with the agreement of those candidates, decide by lot which of them is to be elected.

**Examples:**

The choice of candidate may be decided by the toss of a coin, drawing straws or drawing a name out of a hat.

### **5.17 Term of office**

- (1) Subject to subrule (3) and rule 5.18, a director holds office until the positions of the Board are declared vacant at the third annual general meeting after the last election.
- (2) A director may be re-elected or re co-opted.
- (3) A general meeting of the Association may:
  - (a) by special resolution remove a director from office; and
  - (b) elect an eligible member of the Association to fill the vacant position in accordance with this Division.
- (4) A member who is the subject of a proposed special resolution under subrule (3)(a) may make representations in writing to the Secretary or Chair of the Association (not exceeding a reasonable length) and may request that the representations be provided to the members of the Association.
- (5) The Secretary or the Chair may give a copy of the representations to each member of the Association or, if they are not so given, the member may require that they be read out at the meeting at which the special resolution is to be proposed.

- (6) Any member affected by the outcome of a special resolution is entitled to a right of Appeal in accordance with Division 3 of these rules.

#### **5.18 Vacation of office**

- (1) A director may resign from the Board by written notice addressed to the Board.
- (2) A person ceases to be a director if he or she:
- (a) dies; or
  - (b) is removed as a director by a resolution of the members; or
  - (c) ceases to be a member of the Association; or
  - (d) is a representative of a member, and that member stops being a member; or
  - (e) is a representative of a member, and the member notifies the association that the representative is no longer a representative ; or
  - (f) becomes ineligible to be a director of the association under the *Associations Incorporation Reform Act 2012* (Vic), Corporations Act or the ACNC Act; or
  - (g) is the subject of a substantiated finding of any form of child abuse or neglect; or has their 'working with children' clearance, however described within any jurisdiction, cancelled; or is found guilty of any charge of child abuse or neglect; or
  - (h) fails to attend 3 consecutive Board meetings (other than special or urgent board meetings) without leave of absence under rule 5.29; or
  - (i) otherwise ceases to be a director by operation of section 78 of the Act.

**Note:**

A director may not hold the office of secretary if they do not reside in Australia.

#### **5.19 Filling casual vacancies**

- (1) The Board may appoint an eligible member of the Association to fill a position on the Board that:
- (a) has become vacant under rule 5.18; or
  - (b) was not filled by election at the last annual general meeting.
- (2) If the position of Secretary becomes vacant, the Board must appoint a member to the position within 14 days after the vacancy arises.
- (3) Rule 5.17 applies to any director appointed by the Board under subrule (1) or (2).
- (4) The Board may continue to act despite any vacancy in its membership.
- (5) If the number of directors is reduced to fewer than three or is less than the number required for a quorum, the continuing directors may act for the purpose of increasing the number of directors to three (or higher if required for a quorum) or calling a **general meeting**, but for no other purpose.

## **Division 4—Board Meetings**

### **5.20 Meetings of Board**

- (1) The Board must meet at least 3 times in each year at the dates, times and places determined by the Board.
- (2) The date, time and place of the first Board meeting must be determined by the members of the Board as soon as practicable after the annual general meeting of the Association at which the members of the Board were elected.
- (3) Special Board meetings may be convened by the Chair or by any 4 directors.

### **5.21 Notice of meetings**

- (1) Notice of each board meeting must be given to each director no later than 7 days before the date of the meeting.
- (2) Notice may be given of more than one board meeting at the same time.
- (3) The notice must state the date, time and place of the meeting.
- (4) If a special board meeting is convened, the notice must include the general nature of the business to be conducted.
- (5) The only business that may be conducted at the meeting is the business for which the meeting is convened.

### **5.22 Urgent meetings**

- (1) In cases of urgency, a meeting can be held without notice being given in accordance with rule 5.21 provided that as much notice as practicable is given to each director by the quickest means practicable.
- (2) Any resolution made at the meeting must be passed by an absolute majority of Directors.
- (3) The only business that may be conducted at an urgent meeting is the business for which the meeting is convened.

### **5.23 Procedure and order of business**

- (1) The procedure to be followed at a Board meeting must be determined from time to time by the Board.
- (2) The order of business may be determined by the Directors present at the meeting.

### **5.24 Use of technology**

- (1) A director who is not physically present at a board meeting may participate in the meeting by the use of technology that allows that director and the Directors present at the meeting to clearly and simultaneously communicate with each other.
- (2) For the purposes of this Part, a director participating in a board meeting as permitted under subrule (1) is taken to be present at the meeting and, if the member votes at the meeting, is taken to have voted in person.



## 5.25 Quorum

- (1) No business may be conducted at a Board meeting unless a quorum is present.
- (2) The quorum for a board meeting is the presence (in person or as allowed under rule 5.24) of a majority of the directors holding office.
- (3) If a quorum is not present within 30 minutes after the notified commencement time of a board meeting:
  - (a) in the case of a special meeting—the meeting lapses;
  - (b) in any other case—the meeting must be adjourned to a date no later than 14 days after the adjournment and notice of the time, date and place to which the meeting is adjourned must be given in accordance with rule 5.21.

## 5.26 Voting

- (1) On any question arising at a board meeting, each director present at the meeting has one vote.
- (2) A motion is carried if a majority of directors present at the meeting vote in favour of the motion.
- (3) Subrule (2) does not apply to any motion or question which is required by these Rules to be passed by an absolute majority of the Board.
- (4) If votes are divided equally on any question, the proposal shall be declared to be lost. The Chair of the meeting does not have a second or casting vote.
- (5) Voting by proxy is not permitted.

## 5.27 Conflict of interest

- (1) A director who has a material personal interest in a matter being considered at a board meeting must disclose the nature and extent of that interest to the Board.
- (2) The director:
  - (a) must not be present while the matter is being considered at the meeting; and
  - (b) must not vote on the matter.

**Note:**

Under section 81(3) of the Act, if there are insufficient directors to form a quorum because a director who has a material personal interest is disqualified from voting on a matter, a general meeting may be called to deal with the matter.

- (3) This rule does not apply to a material personal interest:
  - (a) that exists only because the director belongs to a class of persons for whose benefit the Association is established; or
  - (b) that the director has in common with all, or a substantial proportion of, the members of the Association.

### **5.28 Minutes of meeting**

- (1) The Board must ensure that minutes are taken and kept of each board meeting.
- (2) The minutes must record the following:
  - (a) the names of the members in attendance at the meeting;
  - (b) the business considered at the meeting;
  - (c) any resolution on which a vote is taken and the result of the vote;
  - (d) any material personal interest disclosed under rule 65.

### **5.29 Leave of absence**

- (1) The Board may grant a director leave of absence from board meetings for a period not exceeding 3 months.
- (2) The Board must not grant leave of absence retrospectively unless it is satisfied that it was not feasible for the director to seek the leave in advance.

## **PART 6—FINANCIAL MATTERS**

### **6.1 Source of funds**

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

### **6.2 Management of funds**

- (1) The Association must open an account with a financial institution from which all expenditure of the Association is made and into which all of the Association's revenue is deposited.
- (2) Subject to any restrictions imposed by a special meeting of the Association, the Board may approve expenditure on behalf of the Association.
- (3) The Board may authorise the Treasurer to expend funds on behalf of the Association (including by electronic funds transfer) up to a specified limit without requiring approval from the Board for each item on which the funds are expended.
- (4) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be authorised by two Directors, one of whom must be the Chair or Treasurer, and signed in accordance with the policy and practice of the organisation performing the secretariat function.
- (5) All funds of the Association must be deposited into the financial account of the Association no later than 5 working days after receipt.
- (6) Subject to any resolution passed by the Association in general meeting, the funds of the Association shall be used in pursuance of the objects of the Association in such manner as the Board determines.

### **6.3 Financial records**

- (1) The Association must keep financial records that:
  - (a) correctly record and explain its transactions, financial position and performance; and
  - (b) enable financial statements to be prepared as required by the Act.
- (2) The Association must retain the financial records for 7 years after the transactions covered by the records are completed.
- (3) The Treasurer must keep in his or her custody, or under his or her control:
  - (a) the financial records for the current financial year; and
  - (b) any other financial records as authorised by the Board.

### **6.4 Financial statements**

- (1) For each financial year, the Board must ensure that the requirements under the Act relating to the financial statements of the Association are met.
- (2) Without limiting subrule (1), those requirements include:
  - (a) the preparation of the financial statements;
  - (b) if required, the review or auditing of the financial statements;
  - (c) the certification of the financial statements by the Board;
  - (d) the submission of the financial statements to the annual general meeting of the Association;
  - (e) the lodgement with the relevant Regulator(s) of the financial statements and accompanying reports, certificates, statements and fee.

### **6.5 Auditors**

- (1) Subject to the requirements of the Act, an auditor or auditors shall be appointed at each annual general meeting of the Association and hold office until the next annual general meeting.
- (2) In the event of a casual vacancy in the office of Auditor, the Executive Committee may appoint, temporarily, some person qualified to hold such office.
- (3) In the event the Act does not require an auditor to be appointed, this shall be reported to the annual general meeting in place of appointing an auditor.
- (4) A person appointed as an auditor must be qualified to perform the function as provided in the Act.

## **PART 7—GENERAL MATTERS**

### **7.1 Common seal**

- (1) The Association may have a common seal.

- (2) If the Association has a common seal:
  - (a) the name of the Association must appear in legible characters on the common seal;
  - (b) a document may only be sealed with the common seal by the authority of the Board and the sealing must be witnessed by the signatures of two directors;
  - (c) the common seal must be kept in the custody of the Secretary or in another safe place as directed by the Board.

## **7.2 Registered address**

The registered address of the Association is:

- (a) the address determined from time to time by resolution of the Board; or
- (b) if the Board has not determined an address to be the registered address—the postal address of the Secretary.

## **7.3 Notice requirements**

- (1) Any notice required to be given to a member or a director under these Rules may be given:
  - (a) by handing the notice to the member personally; or
  - (b) by sending it by post to the member at the address recorded for the member on the register of members; or
  - (c) by email or other electronic transmission.
- (2) Subrule (1) does not apply to notice given under rule 5.22.
- (3) Any notice required to be given to the Association or the Board may be given:
  - (a) by handing the notice to a member of the Board; or
  - (b) by sending the notice by post to the registered address; or
  - (c) by leaving the notice at the registered address; or
  - (d) if the Board determines that it is appropriate in the circumstances:
    - i. by email to the email address of the Association or the Secretary;  
or
    - ii. by facsimile transmission to the facsimile number of the Association.

## **7.4 Custody and inspection of books and records**

- (1) Members may on request inspect free of charge:
  - (a) the register of members;
  - (b) the minutes of general meetings;
  - (c) subject to subrule (2), the financial records, books, securities and any other relevant document of the Association.

**Note:**

See note following rule 3.20 for details of access to the register of members.

- (2) The Board may refuse to permit a member to inspect records of the Association that relate to confidential, personal, employment, commercial or legal matters or where to do so may be prejudicial to the interests of the Association.
- (3) The Board must on request make copies of these rules available to members and applicants for membership free of charge.
- (4) Subject to subrule (2), a member may make a copy of any of the other records of the Association referred to in this rule and the Association may charge a reasonable fee for provision of a copy of such a record.

- (5) For purposes of this rule:

**relevant documents** means the records and other documents, however compiled, recorded or stored, that relate to the incorporation and management of the Association and includes the following:

- (a) its membership records;
- (b) its financial statements;
- (c) its financial records;
- (d) records and documents relating to transactions, dealings, business or property of the Association.

## **7.5 Winding up and cancellation**

- (1) The Association may be wound up voluntarily by special resolution at a special general meeting of the Association called to consider a motion for dissolution, provided that notice of intention to propose such a motion has been given to all Members at least twenty-one (21) days prior to the Meeting at which the question shall be considered.
- (2) In the event of the winding up or the cancellation of the incorporation of the Association, the surplus assets of the Association must not be distributed to any members or former members of the Association.
- (3) Subject to the Act, any court order made under section 133 of the Act and the satisfaction of all Association debts and liabilities, the surplus assets must be given or transferred to another child or youth welfare, or family welfare organisation or organisations that has similar purposes to the Association and which is not carried on for the profit or gain of its individual members.
- (4) The Board may make recommendations on the distribution of surplus assets to a special general meeting called for the purpose of determining where to distribute surplus assets.
- (5) The organisation or organisations to which the surplus assets are to be given must be decided by special resolution.

## 7.6 Members' Liabilities

The liability of a member is limited to the amount, if any, unpaid by the member in respect of membership of the Association, for:

- (a) payment of the debts and liabilities of the Association contracted before the person or organisation ceased to be a member; and
- (b) the cost, charges and expenses of the winding up of the Association.

## 7.7 Gift Fund

- (1) If a Gift Fund of the Association is wound up or the Association's endorsement as a Deductible Gift Recipient is revoked, any surplus assets of the Gift Fund being wound up or of all the Gift Funds of the Association if the Association's endorsement as a Deductible Gift Recipient is revoked must be transferred to a child or youth welfare, or family welfare organisation or organisations in Australia (including another Gift Fund of the Association if a Gift Fund of the Association is being wound up), to which deductible gifts can be made under Division 30 of the *Income Tax Assessment Act 1997* (Cth).
- (2) If surplus assets of a Gift Fund are transferred to more than one child or youth welfare, or family welfare organisation or organisations in Australia, the same shall be transferred in such proportions as the Association shall decide, or as may be recommended by the Executive Committee and adopted at the general meeting called to consider a winding up or revocation.
- (3) 'Deductible Gift Recipient' has the meaning given to it by the *Income Tax Assessment Act 1997* (Cth).
- (4) 'Gift Fund' means a fund maintained by the Association in accordance with Section 30-125 of the *Income Tax Assessment Act 1997* (Cth).

## 7.8 Alteration of Rules

- (1) These Rules may only be altered by special resolution of a general meeting of the Association, and subject to the following provisions:
- (2) No less than three (3) weeks prior notice of the proposed amendment must be given in writing to all Member Organisations.
- (3) The quorum for such a meeting, including those represented through proxy, shall be at least two-thirds of the State and Territory Peak member organisations and one-quarter (25%) of the Organisational Member organisations.

**Note:**

An alteration of these Rules does not take effect unless or until it is approved by the Registrar. If these Rules (other than rule 1, 2 or 3) are altered, the Association is taken to have adopted its own rules, not the model rules.

## 7.9 Reading these rules with the Corporations Act and other legislation

- (1) The replaceable rules set out in the **Corporations Act** do not apply to the **association**.

- (2) If the **association** is a **registered charity**, the **ACNC Act** and the **Corporations Act** override any clauses in this constitution which are inconsistent with those Acts.
- (3) If the **association** is not a **registered charity** (even if it remains a charity), the **Corporations Act** overrides any clause in this constitution which is inconsistent with that Act.
- (4) A word or expression that is defined in the **Corporations Act**, or used in that Act and covering the same subject, has the same meaning as in this constitution.

## **7.10 Interpretation**

In this constitution:

- (a) the words 'including', 'for example', or similar expressions mean that there may be more inclusions or examples than those mentioned after that expression, and
- (b) reference to an Act includes every amendment, re-enactment, or replacement of that Act and any subordinate legislation made under that Act (such as regulations).