

# Constitution

## Physical Disability Council of NSW

**2018**

**Adopted at a General meeting of the Physical Disability Council of  
NSW on the 17<sup>th</sup> October 2018**

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# Part 1 – Preliminary

## 1. Definitions

(1) In this constitution:

**Director-General** means the Director-General of the Department of Services, Technology and Administration.

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

**secretary** means:

- (a) the person holding office under this constitution as secretary of the association, or
- (b) if no such person holds that office - the public officer of the association.

**Person with A Physical Disability** means a person with a physical impairment that is permanent, or likely to be permanent, and that results in a significantly reduced physical capacity to engage in one or more major life activities such as communication, education, mobility, employment, self-care or recreation.

**Representative** means a parent or guardian of a Person with a Physical Disability under the age of 16.

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

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

**the Regulation** means the *Associations Incorporation Regulation 2016*.

(2) In this constitution:

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

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

## **2. Objects**

**The objects of the Association are:**

- (a) to educate, inform and assist people with physical disabilities in New South Wales regarding the range of services, structures and programs available that enable their full participation, equality of opportunity and equality of citizenship;
- (b) to develop the capacity of people with physical disabilities in New South Wales to advocate for themselves; and
- (c) to educate and inform all stakeholders about the needs of people with physical disabilities so they are able to achieve and maintain full participation, equality of opportunity and equality of citizenship.

## **Part 2 – Membership**

### ***3. Membership generally***

#### ***Full Members***

- (1) A person is a member of the association if:
- (a) the person is a natural person, and
  - (b) the person has been nominated and approved for membership of the association in accordance with clause 4, and
  - (c) the person is a Person with a Physical Disability or is a Representative.

#### ***Associate Members***

- (2) A person is an associate member of the association if the person is a natural person who has been nominated and approved for membership of the association in accordance with clause 4 as an associate member of the association. An associate member has all of the rights and obligations of a member of the association under this constitution other than the right to vote at a meeting of members of the association.

#### ***Organisational Members***

- (3) A person is an organisational member of the association if the person is a not for profit organisation who has been nominated and approved for membership of the association in accordance with clause 4 as an organisational member of the association.

#### ***Corporate Members***

- (4) A person is a corporate member of the association if the person is an organisation who operates on a commercial basis and who has been nominated and approved for membership of the association in accordance with clause 4 as a corporate member of the association. A corporate member has all of the rights and obligations of a member of the association under this constitution other than the right to vote at a meeting of members of the association.

#### ***Life Members***

- (5) A person is a life member of the association if the person is a natural person who has been nominated and approved for membership of the association in accordance with clause 4 as a life member of the association. A life member has all of the rights and obligations of a member of the association under this constitution other than the right to vote at a meeting of members of the association unless, prior to his/her appointment as a life member, that person was entitled to vote at a meeting of members of the association, in which case that right remains and that person has the right to vote at a meeting of members of the association.

### ***4. Nomination for membership***

- (1) A nomination of a person for membership of the association, whether as a full member, associate member, organisational, corporate or life member:
- (a) must be made in writing, and

- (b) must be lodged with the secretary of the association.
- (2) As soon as practicable after receiving a nomination for membership, the secretary must refer the nomination to the Board which is to determine whether to approve or to reject the nomination.
- (3) As soon as practicable after the Board makes that determination, the secretary must:
  - (a) notify the nominee, in writing, that the Board approved or rejected the nomination (whichever is applicable), and
  - (b) if the Board approved the nomination, request the nominee to pay (within the period of 28 days after receipt by the nominee of the notification) the sum payable under this constitution by a member as entrance fee and annual subscription.
- (4) The secretary must, on payment by the nominee of the amounts referred to in subclause (3) (b) within the period referred to in that provision, enter or cause to be entered the nominee's name in the register of members and, on the name being so entered, the nominee becomes a member of the association.

## **5. Cessation of membership**

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

- (a) dies, or
- (b) resigns membership, or
- (c) is expelled from the association, or
- (d) fails to pay the annual membership fee under clause 8 (2) within 3 months after the fee is due.

## **6. Membership entitlements not transferable**

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

- (a) is not capable of being transferred or transmitted to another person, and
- (b) terminates on cessation of the person's membership.

## **7. Resignation of membership**

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

## **8. Register of members**

- (1) The public officer of the association must establish and maintain a register of members of the association (whether in written or electronic form) specifying the name and postal or residential address of each person who is a member of the association together with the date on which the person became a member. The association register may also include the email address of the member.

- (2) The register of members must be kept in New South Wales:
  - (a) at the main premises of the association, or
  - (b) if the association has no premises, at the association's official address.
- (3) The register of members must be open for inspection, free of charge, by any member of the association at any reasonable hour.
- (4) A member of the association may obtain a copy of any part of the register on payment of a fee of not more than \$1 for each page copied.
- (5) If a member requests that any information contained on the register about the member (other than the member's name) not be available for inspection, that information must not be made available for inspection.
- (6) A member must not use information about a person obtained from the register to contact or send material to the person, other than for:
  - (a) the purposes of sending the person a newsletter, a notice in respect of a meeting or other event relating to the association or other material relating to the association, or
  - (b) any other purpose necessary to comply with a requirement of the Act or the Regulation.
- (7) If the register of members is kept in electronic form:
  - (a) It must be convertible into hard copy, and
  - (b) The requirements of subclauses (2) and (3) apply as if a reference to the register of members is a reference to a current hard copy of the register of members.

## **9. Fees and subscriptions**

- (1) A member of the association, other than a life member, must, on admission to membership, pay to the association a fee of \$1 or, if some other amount is determined by the Board, that other amount.
- (2) In addition to any amount payable by the member under subclause (1), a member of the association, other than a life member, must pay to the association an annual membership fee of \$2 or, if some other amount is determined by the Board, that other amount:
  - (a) except as provided by paragraph (b), before 1 July in each calendar year, or
  - (b) if the member becomes a member on or after 1 July in any calendar year - on becoming a member and before 1 July in each succeeding calendar year.

## **10. Members' liabilities**

The liability of a member of the association to contribute towards the payment of the debts and liabilities of the association or the costs, charges and expenses of the winding up of the association is limited to the amount, if any, unpaid by the member in respect of membership of the association as required by clause 9.

## **11. Resolution of disputes**

- (1) A dispute between a member and another member (in their capacity as members) of the association, or a dispute between a member or members and the association, are to be referred to a community justice centre for mediation under the *Community Justice Centres Act 1983*.
- (2) If a dispute is not resolved by mediation within 3 months of the referral to a community justice centre, the dispute is to be referred to arbitration.



- (3) The *Commercial Arbitration Act 1984* applies to any such dispute referred to arbitration.

## **12. Disciplining of members**

- (1) A complaint may be made to the Board by any person, that a member of the association:
- (a) has refused or neglected to comply with a provision or provisions of this constitution, or
  - (b) has wilfully acted in a manner prejudicial to the interests of the association
- (2) The Board may refuse to deal with a complaint if it considers the complaint to be trivial or vexatious in nature.
- (3) If the Board decides to deal with the complaint, the Board:
- (a) must cause notice of the complaint to be served on the member concerned, and
  - (b) must give the member at least 14 days from the time the notice is served within which to make submissions to the Board in connection with the complaint, and
  - (c) must take into consideration any submissions made by the member in connection with the complaint.
- (4) The Board may, by resolution, expel the member from the association or suspend the member from membership of the association if, after considering the complaint and any submissions made in connection with the complaint, it is satisfied that the facts alleged in the complaint have been proved and the expulsion or suspension is warranted in the circumstances.
- (5) If the Board expels or suspends a member, the secretary must, within 7 days after the action is taken, cause written notice to be given to the member of the action taken, of the reasons given by the Board for having taken that action and of the member's right of appeal under clause 13.
- (6) The expulsion or suspension does not take effect:
- (a) until the expiration of the period within which the member is entitled to appeal against the resolution concerned, or
  - (b) if within that period the member exercises the right of appeal, unless and until the association confirms the resolution under clause 13, whichever is the later.

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

- (1) A member may appeal to the association in general meeting against a resolution of the Board under clause 12, within 7 days after notice of the resolution is served on the member, by lodging with the secretary a notice to that effect.
- (2) The notice may, but need not, be accompanied by a statement of the grounds on which the member intends to rely for the purposes of the appeal.
- (3) On receipt of a notice from a member under subclause (1), the secretary must notify the Board which is to convene a general meeting of the association to be held within 28 days after the date on which the secretary received the notice.
- (4) At a general meeting of the association convened under subclause (3):
- (a) no business other than the question of the appeal is to be transacted, and
  - (b) the Board and the member must be given the opportunity to state their respective cases orally or in writing, or both, and
  - (c) the members present are to vote by secret ballot on the question of whether the

resolution should be confirmed or revoked.

- (5) The appeal is to be determined by a simple majority of votes cast by members of the association.

## **Part 3 - The Board**

### **14. Powers of the Board**

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

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

### **15. Composition and membership of the Board**

- (1) The total number of Board members must not exceed 8 and the majority of Board members must be Persons with Physical Disability or a Representative. All Board members are to be elected at the annual general meeting of the association under clause 16.
- (2) The president must be a Person with a Physical Disability
- (3) The office-bearers of the association are as follows:
  - (a) the president,
  - (b) the vice-president,
  - (c) the treasurer, and
  - (d) the secretary.
- (4) A Board member may hold up to 2 offices, other than the president and vice-president offices, that must be held by separate persons.
- (5) There is no maximum number of consecutive terms of office for which a Board member may hold office
- (6) The office bearers of the association will be elected by the Board by a majority vote at the first meeting of the Board following an annual general meeting.
- (7) Each member of the Board is, subject to this constitution, to hold office until the conclusion of the annual general meeting following the date of the member's election, but is eligible for re-election.

### **16. Election of Board members**

- (1) Nominations of candidates for election as ordinary Board members:
  - (a) must be made in writing, signed by 2 persons who are members of the association and accompanied by the written consent of the candidate (which may be endorsed on the form of the nomination), and
  - (b) must be delivered to the secretary of the association at least days 28 days before the date fixed for the holding of the annual general meeting at which the election is to take place.

- (2) If insufficient nominations are received to fill all vacancies on the Board, the candidates nominated are taken to be elected
- (3) Any vacant positions remaining on the Board are taken to be casual vacancies.
- (4) If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated are taken to be elected.
- (5) If the number of nominations received exceeds the number of vacancies to be filled, a ballot is to be held.
- (6) The ballot for the election of ordinary Board members of the Board is to be conducted by postal vote.
- (7) Postal votes will be sent to ordinary members and organisational members who are financial members.
- (8) Completed postal votes must be returned to the Secretary at least 7 days before the date fixed for the holding of the annual general meeting.
- (9) A person nominated as a candidate for election as an ordinary Board member of the association must be a member of the association.

## **17. Secretary**

- (1) The secretary of the association must, as soon as practicable after being appointed as secretary, lodge notice with the association of his or her address.
- (2) It is the duty of the secretary to keep minutes (whether in written or electronic form) of:
  - (a) all appointments of office-bearers and members of the Board, and
  - (b) the names of members of the Board present at a Board meeting or a general meeting, and
  - (c) all proceedings at Board meetings and general meetings.
- (3) Minutes of proceedings at a meeting must be signed by the chairperson of the meeting or by the chairperson of the next succeeding meeting.
- (4) The signature of the chairperson may be transmitted by electronic form for the purposes of subclause (3).

## **18. Treasurer**

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

- (a) that all money due to the association is collected and received and that all payments authorised by the association are made, and
- (b) that correct books and accounts are kept showing the financial affairs of the association, including full details of all receipts and expenditure connected with the activities of the association.

## **19. Casual vacancies**

- (1) In the event of a casual vacancy occurring in the membership of the Board, the Board may appoint a member of the association to fill the vacancy and the member so appointed is to hold office, subject to this constitution, until the conclusion of the annual general meeting next following the date of the appointment.
- (2) A casual vacancy in the office of a member of the Board occurs if the member:

- (a) dies, or
- (b) ceases to be a member of the association, or
- (c) becomes an insolvent under administration within the meaning of the *Corporations Act 2001* of the Commonwealth, or
- (d) resigns office by notice in writing given to the secretary, or
- (e) is removed from office under clause 20, or
- (f) becomes a mentally incapacitated person, or
- (g) is absent without the consent of the Board from 3 consecutive meetings of the Board, or
- (h) is convicted of an offence involving fraud or dishonesty for which the maximum penalty on conviction is imprisonment for not less than 3 months, or
- (i) is prohibited from being a director of a company under Part 2D.6 (Disqualification from managing corporations) of the *Corporations Act 2001* of the Commonwealth.

## **20. Removal of Board members**

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

## **21. Board meetings and quorum**

- (1) The Board must meet at least 3 times in each period of 12 months at such place and time as the Board may determine.
- (2) Additional meetings of the Board may be convened by the president or by any member of the Board.
- (3) Oral or written notice of a meeting of the Board must be given by the secretary to each member of the Board at least 48 hours (or such other period as may be unanimously agreed on by the members of the Board) before the time appointed for the holding of the meeting.
- (4) Notice of a meeting given under subclause (3) must specify the general nature of the business to be transacted at the meeting and no business other than that business is to be transacted at the meeting, except business which the Board members present at the meeting unanimously agree to treat as urgent business.
- (5) The number of Directors present in person to constitute a quorum depends upon the number of directors:

No of sitting Directors	Quorum required
5	3
6	3
7	4
8	4

- (6) No business is to be transacted by the Board unless a quorum is present and if, within half an hour of the time appointed for the meeting, a quorum is not present, the meeting is to stand adjourned to the same place and at the same hour of the same day in the following week
- (7) If at the adjourned meeting a quorum is not present within half an hour of the time appointed for the meeting, the meeting is to be dissolved.
- (8) At a meeting of the Board:
- (a) the president or, in the president's absence, the vice-president is to preside, or
  - (b) if the president and the vice-president are absent or unwilling to act, such one of the remaining members of the Board as may be chosen by the members present at the meeting is to preside.
- (9) A Board meeting may be held at more than one venue and using any technologies provided that each member of the association has a reasonable opportunity to participate in the meeting.

## **22. Delegation by Board to sub-board**

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

### ***23. Voting and decisions***

- (1) Questions arising at a meeting of the Board or of any sub-board appointed by the Board are to be determined by a majority of the votes of members of the Board or sub-board present at the meeting.
- (2) Each member present at a meeting of the Board or of any sub-board appointed by the Board (including the person presiding at the meeting) is entitled to one vote but, in the event of an equality of votes on any question, the person presiding may exercise a second or casting vote.
- (3) Subject to clause 21 (5), the Board may act despite any vacancy on the Board.
- (4) Any act or thing done or suffered, or purporting to have been done or suffered, by the Board or by a sub-board appointed by the Board, is valid and effectual despite any defect that may afterwards be discovered in the appointment or qualification of any member of the Board or sub-board.

## **Part 4 - General meetings**

### ***24. Annual general meetings - holding of***

- (1) The association must hold its first annual general meeting within 18 months after its registration under the Act.
- (2) The association must hold its annual general meetings:
  - (a) within 6 months after the close of the association's financial year, or
  - (b) within such later time as may be allowed by the Director-General or prescribed by the Regulation.

### ***25. Annual general meetings - calling of and business at***

- (1) The annual general meeting of the association is, subject to the Act and to clause 24, to be convened on such date and at such place and time as the Board thinks fit.
- (2) In addition to any other business which may be transacted at an annual general meeting, the business of an annual general meeting is to include the following:
  - (a) to confirm the minutes of the last preceding annual general meeting and of any special general meeting held since that meeting,
  - (b) to receive from the Board reports on the activities of the association during the last preceding financial year,
  - (c) to elect office-bearers of the association and ordinary Board members,
  - (d) to receive and consider any financial statement or report required to be submitted to members under the Act.
- (3) An annual general meeting must be specified as such in the notice convening it.

### ***26. Special general meetings - calling of***

- (1) The Board may, whenever it thinks fit, convene a special general meeting of the association.
- (2) The Board must, on the requisition in writing of at least 5 per cent of the total number of members, convene a special general meeting of the association.
- (3) A requisition of members for a special general meeting:
  - (a) must state the purpose or purposes of the meeting, and
  - (b) must be signed by the members making the requisition, and
  - (c) must be lodged with the secretary, and
  - (d) may consist of several documents in a similar form, each signed by one or more of the members making the requisition.
- (4) If the Board fails to convene a special general meeting to be held within 1 month after that date on which a requisition of members for the meeting is lodged with the secretary, any one or more of the members who made the requisition may convene a special general meeting to be held not later than 3 months after that date.



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

## **27. Notice**

- (1) Except if the nature of the business proposed to be dealt with at a general meeting requires a special resolution of the association, the secretary must, at least 14 days before the date fixed for the holding of the general meeting, give a notice to each member specifying the place, date and time of the meeting and the nature of the business proposed to be transacted at the meeting.
- (2) If the nature of the business proposed to be dealt with at a general meeting requires a special resolution of the association, the secretary must, at least 21 days before the date fixed for the holding of the general meeting, cause notice to be given to each member specifying, in addition to the matter required under subclause (1), the intention to propose the resolution as a special resolution.
- (3) No business other than that specified in the notice convening a general meeting is to be transacted at the meeting except, in the case of an annual general meeting, business which may be transacted under clause 25 (2).
- (4) A member desiring to bring any business before a general meeting may give notice in writing of that business to the secretary who must include that business in the next notice calling a general meeting given after receipt of the notice from the member.

## **28. Quorum for general meetings**

- (1) No item of business is to be transacted at a general meeting unless a quorum of members entitled under this constitution to vote is present during the time the meeting is considering that item.
- (2) Five members present (being members entitled under this constitution to vote at a general meeting) constitute a quorum for the transaction of the business of a general meeting.
- (3) If within half an hour after the appointed time for the commencement of a general meeting a quorum is not present, the meeting:
  - (a) if convened on the requisition of members, is to be dissolved, and
  - (b) in any other case, is to stand adjourned to the same day in the following week at the same time and (unless another place is specified at the time of the adjournment by the person presiding at the meeting or communicated by written notice to members given before the day to which the meeting is adjourned) at the same place.
- (4) If at the adjourned meeting a quorum is not present within half an hour after the time appointed for the commencement of the meeting, the members present (being at least 3) are to constitute a quorum.

## **29. Presiding member**

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

### **30. Adjournment**

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

### **31. Making of decisions**

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

### **32. Special resolutions**

A special resolution may only be passed by the association in accordance with section 39 of the Act.

### **33. Voting**

- (1) On any question arising at a general meeting of the association a member has one vote only.
- (2) In the case of an equality of votes on a question at a general meeting, the chairperson of the meeting is entitled to exercise a second or casting vote.
- (3) A member is not entitled to vote at any general meeting of the association unless all money due and payable by the member to the association has been paid.
- (4) A member is not entitled to vote at any general meeting of the association if the member is under 18 years of age.
- (5) An associate member is not entitled to vote.
- (6) A corporate member is not entitled to vote.

### **34. Proxy votes not permitted**

Proxy voting must not be undertaken at or in respect of a general meeting.

*Note: Schedule 1 of the Act provides that an association's constitution is to address whether members of the association are entitled to vote by proxy at general meetings.*

### **35. Postal ballots**

- (1) The association may hold a postal ballot to determine any issue or proposal (other than an appeal under clause 13).
- (2) A postal ballot is to be conducted in accordance with Schedule 3 to the Regulation.

## **Part 5 – Miscellaneous**

### **36. Insurance**

The association may effect and maintain insurance.

### **37. Funds - source**

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

### **38. Funds - management**

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

### **39. Association is non-profit**

Subject to the Act and the Regulation, the association must apply its funds and assets solely in pursuance of the objects of the association and must not conduct its affairs so as to provide a pecuniary gain for any of its members.

### **40. Distribution of Property**

- (1) Subject to the Act and the Regulations, in a winding up of the association, any surplus property of the association is to be transferred to another organisation with similar objects and which is not carried on for the profit or gain of its individual members.
- (2) In this clause, a reference to the surplus property of an association is a reference to that property of the association remaining after satisfaction of the debts and liabilities of the association and the costs, charges and expenses of the winding up of the association.

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

An application to the Director-General for registration of a change in the association's name, objects or constitution in accordance with section 10 of the Act is to be made by the public officer or a Board member.

## **42. Custody of books etc**

Except as otherwise provided by this constitution, all records, books and other documents relating to the association must be kept in New South Wales:

- (a) at the main premises of the association, in the custody of the public officer or a member of the association (as the committee determines), or
- (b) if the association has no premises, at the association's official address, in the custody of the public officer.

## **43. Inspection of books etc**

- (1) The following documents must be open to inspection, free of charge, by a member of the association at any reasonable hour:
  - (a) records, books and other financial documents of the association,
  - (b) this constitution,
  - (c) minutes of all Board meetings and general meetings of the association.
- (2) A member of the association may obtain a copy of any of the documents referred to in subclause (1) on payment of a fee of not more than \$1 for each page copied.
- (3) Despite subclauses (1) and (2), the committee may refuse to permit a member of the association to inspect or obtain a copy of 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.

## **44. Service of Notices**

- (1) For the purpose of this constitution, a notice may be served on or given to a person:
  - (a) by delivering it to the person personally, or
  - (b) by sending it by pre-paid post to the address of the person, or
  - (c) by sending it by facsimile transmission or some other form of electronic transmission to an address specified by the person for giving or serving the notice.
- (2) For the purpose of this constitution, a notice is taken, unless the contrary is proved, to have been given or served:
  - (a) in the case of a notice given or served personally, on the date on which it is received by the addressee, and
  - (b) in the case of a notice sent by pre-paid post, on the date when it would have been delivered in the ordinary course of post, and
  - (c) in the case of a notice sent by facsimile transmission or some other form of electronic transmission, on the date it was sent or, if the machine from which the transmission was sent produces a report indicating that the notice was sent on a later date, on that date.

## **45. Financial Year**

The financial year of the association is:

- (a) the period of time commencing on the date of incorporation of the association and ending on the following 30 June, and
- (b) each period of 12 months after the expiration of the previous financial year of the

association, commencing on 1 July and ending on the following 30 June.

*Note: Schedule 1 of the Act provides that an association's constitution is to address the association's financial year.*