



For all creatures great and small.

Constitution of

**The Royal Society for
the Prevention of
Cruelty to Animals
(Victoria)**

ACN 131 965 761

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1 Name and History of Corporation

1.1 The Name of the Company

The name of the Company is The Royal Society for the Prevention of Cruelty to Animals (Victoria) ABN 56 749 449 191.

1.2 The History of the Company

The Company was formed in 1871 and formally incorporated in 1895 under the Hospitals and Charities Act 1890 (confirmed under the Royal Society for the Prevention of Cruelty to Animals Act 1968). When the Hospitals and Charities Act 1890 was repealed in 1992, the Society was incorporated under the Associations Incorporation Act 1981 as "Royal Society for the Prevention of Cruelty to Animals (Victoria) Incorporated". The Company was incorporated under the Corporations Act.

2 Status of the Constitution

2.1 Constitution of the Company

This is the constitution of the Company.

2.2 Replaceable Rules

This Constitution displaces the Replaceable Rules, accordingly, none of the Replaceable Rules apply.

3 Interpretation

3.1 Definitions

In this Constitution:

Auditor means the person appointed for the time being as the auditor of the Company.

Board means the Directors and alternates present at a meeting, duly convened as a Board meeting, at which a quorum is present.

Board Members' Code of Conduct means a document having that name which governs the conduct of Board members.

Business Day means a day which is not a Saturday, Sunday or bank or public holiday in Melbourne, Victoria.

CEO means the Chief Executive Officer of the Company appointed pursuant to **clause 21** of this Constitution.

Company means The Royal Society for the Prevention of Cruelty to Animals (Victoria) ABN 56 749 449 191.

Compliance Undertaking means a written undertaking, in a form specified by the Board, by which:

- (a) a candidate for election to the Board agrees, should that candidate become a member of the Board, to comply; or
- (b) a Board member agrees to comply,

at all times with the Board Members' Code of Conduct, this Constitution and any other policies and procedures determined by the Board or the Company from time to time.

Constitution means the constitution for the time being of the Company as constituted by this document and any resolutions of the Company modifying, repealing or replacing this document.

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

Director means a person who is a director for the time being of the Company and **Directors** means more than one Director, and in relation to rules applying to meetings of the Board, including voting by Directors and material personal interests, references to Directors include alternates.

Member means a natural person who is, or who is registered as, a member of the Company and **Members** means more than one Member.

Members Guarantee Amount means the sum specified in **clause 6.2**.

Membership means being a Member of the Company.

Non-voting Member means any Member referred to as such in **clause 7.1** of this Constitution.

Register of Members means the register of Members maintained pursuant to the Corporations Act.

Replaceable Rules means the replaceable rules applicable to a public company limited by guarantee set out in the Corporations Act.

Seal means the common seal for the time being of the Company.

Secretary means any person appointed for the time being as, or to perform the functions of, secretary of the Company.

Special Resolution has the meaning given to that term in the Corporations Act.

Voting Member means any Member referred to as such in **clause 7.1(a)(i)** of this Constitution.

3.2 Interpretation

In this Constitution:

- (a) the words "including", "include" and "includes" are to be construed without limitation;
- (b) a reference to legislation is to be construed as a reference to that legislation, any subordinate legislation under it, and that legislation and subordinate legislation as amended, re-enacted or replaced for the time being;
- (c) headings are used for convenience only and are not intended to affect the interpretation of this Constitution; and

- (d) a word or expression defined in the Corporations Act and used, but not defined, in this Constitution has the same meaning given to it in the Corporations Act when used in this Constitution.

4 Statement of purposes

4.1 Statement of purposes

The RSPCA considers and acts for the welfare of animals within the internationally recognised policy framework known as the five freedoms for animals, being:

- Freedom from hunger and thirst
- Freedom from discomfort
- Freedom from pain and injury or disease
- Freedom to express normal behaviour
- Freedom from fear and distress

Accordingly, RSPCA's aims and purposes are to promote and enhance the wellbeing of society and the welfare of its animals by:

1. Educating the Victorian community regarding the humane treatment and management of animals, and increasing public awareness of and support for animal welfare.
2. Enforcing the existing laws to prevent cruelty to animals.
3. Influencing the amendment or development of legislation and standards considered necessary for the protection and welfare of animals.
4. Encouraging and providing a sustainable, needs based network of animal welfare services across the state, for the care, shelter, treatment, rehabilitation, and protection of animals within the capacity and strategic directions of the organisation.
5. Providing relief programs to assist people within the community who are experiencing adverse circumstances, to enable them to care for or manage their animals.

The object of the Company is to pursue charitable purposes only and to apply the income and property of the Company whensoever derived solely to promote those purposes.

4.2 Limitation of powers

The Company is prohibited from making distributions to Members and paying fees (or other remuneration) to the Directors. The Directors must approve all other payments the Company makes to Directors.

5 Modification, repeal or replacement of this Constitution

5.1 Modifying, repealing, or replacing Constitution

This Constitution may be modified, repealed or replaced only by a Special Resolution of the Company in a general meeting.

5.2 Date of effect of modification, repeal or replacement

Any modification, repeal or replacement of this Constitution takes effect on the date the Special Resolution is passed or any later date specified, or provided for, in the resolution.

6 Member's liability

6.1 Liability to contribute

Subject to **clause 6.2**, if the Company is wound up and the property of the Company is insufficient to satisfy:

- (a) payment of all debts and liabilities of the Company;
- (b) payment of the costs, charges and expenses of the winding up; and
- (c) any adjustment of the rights of the contributories among Members,

each person who is a Voting Member, and each person who was a Voting Member during the year ending on the day of the commencement of the winding up of the Company, is liable to contribute to the property of the Company for:

- (d) payment of debts and liabilities of the Company;
- (e) payment of the costs, charges and expenses of winding up; and
- (f) any adjustment of the rights of the contributories among Members.

6.2 Limited liability

The amount that each Member or past Member is liable to contribute to the Company's property if the Company is wound up is limited to ten dollars.

7 Members

7.1 Membership categories

- (a) Membership of the Company comprise the following categories:
 - (i) Voting Members:
 - (A) Adult Members;
 - (B) Family Members, each being a family of one or two adults and any child or children under the age of 18 years old and being collectively counted as one Voting Member;

- (C) Concession Members, being individuals who are eligible for, and receive, a pension from the Commonwealth or any State or Territory and any bona fide full time student;
 - (D) Life Members, being individuals who have been Members for a period of five years or more and who have contributed, on their own behalf, in one donation to the Company, an amount fixed for the purpose at the relevant time by the Board;
 - (E) Honorary Life Members, being individuals elected by the Board to the position and who have made conspicuous and exemplary contribution to the objects and purposes of the Company and animal welfare generally as determined by the Board in its absolute discretion; and
 - (F) Champion Circle Members, being individuals who have contributed, on their own behalf, the fee fixed for the purpose at the relevant time by the Board.
- (ii) Non-Voting Members:
- Junior Members, being persons under the age of eighteen years. Junior Members progress to become Adult Members on attaining the age of eighteen years and who contribute, in one donation to the Company, an amount fixed for the purpose at the relevant time by the Board.
- (b) The Board may determine eligibility criteria for each Membership category from time to time.
 - (c) The Board may from time to time remove or vary any of the above Membership categories or create new Membership categories as it sees fit.

7.2 Rights of Members

- (a) Voting Members are entitled to full rights and privileges of the Company as determined by this Constitution. This includes the right to attend meetings of the Company, to vote at general meetings of the Company and to stand for and hold office.
- (b) Non-voting Members are entitled to attend meetings of the Company but do not have the right to vote or take office.

7.3 Pre-condition to Membership

No person is entitled to become a Voting Member unless that person agrees, subject to **clause 6**, to contribute an amount up to the Members' Guarantee Amount to the Company's property, if the Company is wound up.

7.4 Application for Membership

- (a) The Board may prescribe the form of the application for Membership and, subject to **clause 7.4(b)**, the procedures applicable to applications.
- (b) An application for Membership must be:
 - (i) in writing signed by the applicant; and

- (ii) if the Board has prescribed the form of the application for Membership, in that prescribed form.

7.5 Consideration for application for Membership

The Board must consider the application and either accept, accept subject to conditions or reject the application.

7.6 Registration as Member

If the Board accepts an application for Membership, the name of the person will be entered in the Register of Members as soon as practicable thereafter and any conditions on that Membership recorded there.

7.7 Becoming a Member

Subject to the Corporations Act, a person becomes a Member on the registration of that person's name in the Register of Members.

7.8 Conduct of Members

The Board may regulate the conduct of the Members and to that end may:

- (a) make by-laws and issue codes of conduct for the continuation of sound practice, the prevention of illegal and dishonourable practices and prohibiting whatever acts in that regard it thinks fit; and
- (b) investigate the conduct of any Member and provide sanctions for those Members who wilfully refuse or neglect to comply with the rules of any such by-law or code of conduct.

7.9 Annual subscriptions

- (a) There will be no application fee for any category of membership.
- (b) The Board may determine the amount of all fees, subscriptions, dues and levies due to the Company, including annual Membership subscriptions, where relevant, for each Membership category from time to time.
- (c) Each Member must pay to the Company the amount of all fees, subscriptions, dues and levies due to the Company, including annual Membership subscriptions, no later than thirty days after receipt of an invoice from the Company. Where relevant, the Company will issue a tax invoice.
- (d) A Member cannot exercise any rights as a Member until all amounts due have been paid to the Company.
- (e) Unless the Board resolves otherwise, a Member must pay all fees, subscriptions, dues and levies in full for a membership year.
- (f) If a Member resigns or the Member's membership is terminated or suspended, then:
 - (i) if the Member has paid all fees, subscriptions, dues and levies in full, the Member is not entitled to a refund of any payment for the period following termination, resignation or suspension; or

- (ii) if the Member has not paid all fees, subscriptions, dues and levies in full, the Member remains liable for payment to the Company of any moneys outstanding.

8 Rights of Members are non-transferable

The rights and obligations of a Member are personal and are not transferable.

9 Cessation of Membership

9.1 Cessation of Membership of a natural person

A person ceases to be a Member:

- (a) if the person resigns as a Member in accordance with this Constitution;
- (b) if the person is expelled as a Member in accordance with this Constitution;
- (c) if the person fails to pay any amount payable to the Company within three months of being required to and the Board resolves that Membership of the Member be terminated;
- (d) if the person dies;
- (g) if the person is subject to assessment or treatment under any mental health law and the Board resolves that the person should cease to be a Member;
- (h) if the person's whereabouts are unknown to the Board for more than six months and the Board resolves that the person should cease to be a Member;
or
- (i) if the person becomes a bankrupt.

9.2 Resignation of Member

A Member may resign from the Company by giving the Company at least thirty days' written notice. If no period is specified in such notice, the resignation takes effect 30 days after the Company receives the notice.

9.3 Expulsion of Member

- (a) If the Board resolves that it is not in the best interests of the Company for a person to remain as a Member, that person is thereupon expelled as a Member.
- (b) The Board must give notice to a Member of a meeting at which the resolution for the Member's expulsion is proposed:
 - (i) setting out the place, date and time of the meeting;
 - (ii) setting out the proposed resolution and the grounds for the proposed expulsion; and
 - (iii) informing the Member that the Member may submit written submissions to the Board before the resolution is put to the vote and may attend the meeting at which the resolution for the Member's expulsion is proposed.

10 Maintenance of Register

10.1 Register of Members

The Secretary must maintain a Register of Members setting out:

- (a) the name and address of each Member;
- (b) the date on which each person became a Member;
- (c) any conditions imposed on a Member's Membership; and
- (d) in respect of each person who has ceased to be a Member, the date on which that person ceased to be a Member.

10.2 Inspection of Register of Members

The Register of Members must be kept at the Company's registered office. A Member may inspect the Register of Members between the hours of 9.00 am and 5.00 pm on any Business Day. The registered office will be open for at least three hours on any Business Day as determined by the Company. No amount may be charged to Members for inspection.

11 General meetings

11.1 Annual general meetings

The Company must hold an annual general meeting in each calendar year with such meeting to be held after 1 July and not later than 31 October.

11.2 Business at annual general meeting

The business of an annual general meeting may include any of the following, even if not referred to in the notice of meeting:

- (a) the consideration of the annual financial report, directors' report and Auditor's report;
- (b) the election of the Directors; and
- (c) the appointment of the Auditor.

11.3 Director convening a general meeting

Any Director or the Directors may convene a general meeting.

11.4 Notice of general meeting

At least twenty-one days' notice of a general meeting must be given to the Members, Directors and Auditor. The notice must:

- (a) state the date, time and place (or places) of the meeting;
- (b) state the general nature of the business to be conducted at the meeting;
- (c) state any proposed resolutions;
- (d) state the names of proxies that have been appointed (if any); and

- (e) contain a statement informing the Voting Members of the right to appoint a proxy.

11.5 Shorter notice of general meeting

Subject to the Corporations Act, shorter notice of a general meeting may be given if the calling of the general meeting on shorter notice is agreed to:

- (a) in the case of an annual general meeting, by all Members entitled to attend and vote at the meeting; and
- (b) in the case of any other general meeting, by 95% of the Members entitled to attend and vote at the general meeting agree before the meeting,

and accordingly, any such general meeting will be treated as having been duly convened.

11.6 Notice of resumption of an adjourned meeting

If a general meeting is adjourned for thirty days or more, at least thirty days' notice must be given to the Members, Directors and Auditor of the day, time and place (or places) for the resumption of the adjourned general meeting.

11.7 General meetings at two or more places

A general meeting may be held in one place or two or more places. If a general meeting is held in two or more places, the Company must use technology that gives Members a reasonable opportunity to participate at that general meeting.

11.8 Postponement or cancellation of general meeting

- (a) Subject to this Constitution and the Corporations Act, the Board may change the place (or places) of, postpone or cancel a general meeting.
- (b) If a general meeting is convened pursuant to a request by Members, the Board may not postpone or cancel the general meeting without the consent of the requesting Members.

11.9 Notice of change, postponement or cancellation of meeting

- (a) If the Directors have convened a general meeting, the Board may change the place (or places) of the general meeting, postpone or cancel the general meeting. If a Director has convened a general meeting, only the Director who convened the general meeting may change the place (or places) of the general meeting, or postpone or cancel the general meeting.
- (b) If the Board changes the place (or places) of a general meeting, notice must be given to each Member and each person entitled to receive notice of the meeting of the new place (or places) of the meeting.
- (c) If the Board postpones a general meeting, notice must be given to each Member and each other person entitled to receive notice of the new date, time and place (or places) of the meeting.
- (d) If the Board cancels a general meeting, notice must be given to each Member and each other person entitled to receive notice of general meetings.

11.10 Omission to give notice relating to general meeting

No resolution passed at or proceedings at any general meeting will be invalid because of any unintentional omission or error in giving or not giving notice of:

- (a) that general meeting;
- (b) any change of place (or places) of that general meeting;
- (c) postponement of that general meeting, including the date, time and place (or places) for the resumption of the adjourned meeting; or
- (d) resumption of that adjourned general meeting.

12 Proceedings at general meetings

12.1 Quorum

- (a) A quorum at a general meeting is twenty-five or more Voting Members present in person or by proxy. The quorum must be present at all times during the general meeting.
- (b) If a Voting Member has appointed more than one proxy and two or more proxies attend a general meeting, only one proxy will be counted for the purposes of determining whether there is a quorum.

12.2 Lack of quorum

- (a) If a quorum is not present within thirty minutes after the time appointed for a general meeting (or any longer period of time as the chairman may allow) or ceases to be present at any time during the general meeting, the general meeting:
 - (i) if convened by a Director or on the request of Members, is dissolved; or
 - (ii) in any other case:
 - (A) is adjourned to be resumed on a day, time and place (or places) as the chairman determines or if the chairman is not present as the Directors or Director at the meeting may determine; or
 - (B) if the Directors do not so determine, no Director is present or no Director present so determines:
 - (1) the date for the resumption of the adjourned general meeting will be on the same day in the next week;
 - (2) the time for the resumption of the adjourned general meeting will be at the same time as the adjourned meeting; and
 - (3) the place (or places) for the resumption of the adjourned general meeting, will be at the same place (or places) as the adjourned meeting.
- (b) If a quorum is not present within thirty minutes after the time appointed for the resumption of the adjourned general meeting or ceases to be present during the meeting, the general meeting is dissolved.

12.3 Chairing general meetings

- (a) The chairman of the general meeting will be the Director elected for the time being as chairman of the Board meetings.
- (b) The deputy chairman of the general meeting will be the Director elected for the time being as deputy chairman of the Board meetings.
- (c) If the chairman is not present within fifteen minutes after the time appointed for any general meeting or if the chairman is unwilling or unable to act as chair for the whole or any part of that general meeting, the deputy chairman will chair the general meeting. If the deputy chairman is not present within fifteen minutes after the time appointed for the general meeting or if the deputy chairman is unwilling or unable to act as chairman for the whole or any part of that general meeting, the Directors present may elect a Director present to chair that general meeting.
- (d) If no Director is elected or if all the Directors present decline to take the chair for the whole or any part of that general meeting, the Voting Members present (whether in person or by proxy) may elect a Voting Member present (in person) to chair for the whole or any part of that general meeting. If the Voting Members do not so elect a chairman, the meeting will be adjourned to be resumed on the same day, at the same time and at the same place (or places) in the following week.

12.4 Conduct of general meetings

The chairman of each general meeting has charge of conduct of that meeting, including the procedures to be adopted and the application of those procedures at that meeting.

12.5 Adjournment

- (a) The chairman of a general meeting at which a quorum is present may, with the consent of the Voting Members present in person or by proxy, adjourn the general meeting.
- (b) If a majority of Voting Members present at a general meeting in person or by proxy determine that the meeting should be adjourned, the chairman must adjourn the meeting to another date, time and place (or places) determined by the chairman.
- (c) No business may be transacted on the resumption of an adjourned or postponed general meeting other than the business referred to in the notice convening the adjourned or postponed general meeting.

13 Proxy

13.1 Appointment of proxy

- (a) A Voting Member who is entitled to attend and to vote at a general meeting of the Company may appoint a person as proxy to attend, speak and vote for that Voting Member. The instrument appointing a proxy may restrict the exercise of any power.

- (b) A proxy may be, but does not have to be, a Voting Member.
- (c) An appointment of a proxy may be a standing one.
- (d) A proxy is not entitled to vote on a show of hands.
- (e) A proxy is not entitled to vote if the Voting Member who has appointed the proxy is present in person at the meeting.

13.2 Proxy instruments

- (a) An appointment of a proxy must be in writing and be signed by the Voting Member appointing the proxy or by the duly authorised attorney of the Voting Member and state:
 - (i) the Voting Member's name and address;
 - (ii) the Company's name;
 - (iii) the proxy's name or the name of the office held by the proxy; and
 - (iv) the general meeting at which the proxy may be used, or if the appointment is a standing one, a clear statement to that effect.
- (b) Where a proxy is signed pursuant to a power of attorney, a copy of the power of attorney (certified as a true copy of the original) must be attached to the proxy instrument sent to the Company.
- (c) An instrument appointing a proxy may direct the way in which a proxy is to vote on a particular resolution. If an instrument contains a direction, the proxy is not entitled to vote on the proposed resolution except as directed in the instrument.

13.3 Proxy to be received by Company

The instrument appointing a proxy is not effective unless it is received, together with any additional documentation, including a copy of the power of attorney (certified as a true copy of the original), by the Company at least forty-eight hours before the general meeting or, as the case may be, the resumption of an adjourned general meeting, at any of the following:

- (a) the registered office;
- (b) a facsimile number at the registered office; or
- (c) a place, facsimile number or electronic address specified for that purpose in the notice of the general meeting.

13.4 Power to demand poll

A proxy may demand, or join in demanding, a poll.

13.5 Revocation of proxy

The appointment of a proxy may be revoked by the Voting Member who appointed the proxy by notice to the Company from the Voting Member or, as the case may be, the duly authorised attorney of the Voting Member, stating that the appointment of a proxy is revoked or by appointing a new proxy.

13.6 Validity of votes of proxy

A vote cast by a proxy will be valid unless before the start of a general meeting (or, in the case of an adjourned or postponed general meeting, not less than forty-eight hours before the resumption of the adjourned or postponed general meeting) at which a proxy votes:

- (a) the Voting Member who appointed the proxy ceases to be a Voting Member; or
- (b) the Company receives notice of:
 - (i) the revocation of the instrument appointing the proxy;
 - (ii) the appointment of a new proxy; or
 - (iii) the revocation of any power of attorney under which the proxy was appointed.

13.7 No liability

The Company is not responsible for ensuring that any directions provided in the instrument appointing the proxy or the way in which a proxy is to vote on a particular resolution are complied with, and accordingly is not liable if those directions are not complied with.

14 Voting

14.1 Entitlement to vote

- (a) Only Voting Members are entitled to vote at a general meeting. Each Voting Member entitled to vote at a general meeting may vote in person or by proxy. Each Voting Member has one vote, whether on a show of hands, or on a poll. No Voting Member is entitled to vote on any matter under this Constitution until a period of one calendar month has elapsed from the date upon which Membership has been conferred by the Board and until all amounts due to the Company by the Member have been paid in accordance with **clause 7.9**.
- (b) A Voting Member who is an employee of the Company must not vote on any matter or be a member of the Board for the duration of their employment with the Company.

14.2 Casting vote

If on any ordinary resolution an equal number of votes is cast for and against a resolution, the chairman has a casting vote in addition to any vote cast by the chairman as a Voting Member.

14.3 Proxy vote to be identified

Before a vote is taken the chairman must inform the Members present whether any proxy votes have been received and, if so, how the proxy votes are to be cast.

14.4 Voting on resolution

At any general meeting, a resolution put to a vote must be determined by a show of hands unless a poll is demanded in accordance with this Constitution.

14.5 Objection to right to vote

- (a) A challenge to a right to vote at a general meeting:
 - (i) may only be made at that general meeting; and
 - (ii) must be determined by the chairman.
- (b) A determination made by the chairman in relation to a challenge to a right to vote is binding on all Members and is final.

14.6 Voting Rights of Joint Membership

In the case of joint membership, including Family Membership:

- (a) the joint members have only one vote between them; and
- (b) that vote may be exercised by the adult whose name appears first in the Register of Members unless that adult otherwise directs.

14.7 Minutes

- (a) Unless a poll is demanded in accordance with this Constitution, a declaration by the chairman that a resolution has, on a show of hands, been:
 - (i) carried;
 - (ii) carried unanimously;
 - (iii) carried by a particular majority; or
 - (iv) lost or not carried by a particular majority,is conclusive evidence of the fact declared. An entry to that effect made in the minutes book of the Company signed by the chairman is evidence of that fact unless the contrary is proved.
- (b) Within one month after each general meeting, the Directors must record or cause to be recorded in the minutes book:
 - (i) the proceedings and resolutions of each general meeting;
 - (ii) any declarations at each general meeting; and
 - (iii) all resolutions passed by Voting Members without a general meeting.
- (c) The chairman, or the chairman of the next meeting, must sign the minutes within a reasonable time after the general meeting.
- (d) The minute books must be kept at the registered office.
- (e) Members may inspect the minute books for the meetings of Members and for resolutions of Members passed without meetings between the hours of 9.00 am and 5.00 pm on any Business Day. The registered office will be open for at least three hours on any Business Day as determined by the Company. No amount may be charged to Members for inspection.

14.8 Disputes to be resolved by chairman

The chairman will determine any dispute in relation to any vote, and the determination of the chairman is binding on all Members and is final.

15 Poll

15.1 Chairman may determine to take a poll

The chairman of a general meeting may determine that a poll be taken on any resolution.

15.2 Right to demand poll

A poll may be demanded on any resolution at a general meeting other than the election of a chairman or the question of an adjournment by:

- (a) at least five Members entitled to vote on the resolution; or
- (b) Members with at least five percent of the votes that may be cast on the resolution on a poll.

15.3 Procedure for demanding poll

- (a) A poll may be demanded:
 - (i) before a vote on a show of hands is taken;
 - (ii) before the result of a vote on a show of hands is declared; or
 - (iii) immediately after the result of a vote on a show of hands is declared.
- (b) If a poll is demanded on the election of a chairman or on the question of an adjournment, it must be taken immediately. If a poll is demanded on any other matter, it may be taken in the manner and at the time and place (or places) as the chairman directs.
- (c) Other than where a poll is demanded on the election of a chairman or the question of an adjournment, a demand for a poll may be withdrawn at any time by the person or persons who demanded it. A demand for a poll which is withdrawn does not invalidate the result of a show of hands declared before the demand for the poll was made.
- (d) Other than where a poll is demanded on the election of a chairman or the question of an adjournment, a demand for a poll does not prevent the general meeting continuing for the transaction of any business.

16 Appointment and removal of Directors

16.1 Number of Directors

The number of Directors (not counting alternates) must not be less than seven or, unless the Company resolves, more than nine.

16.2 Directors' Qualifications

- (a) No person may be a Director unless that person is in a category of Voting Member other than a Family Member and has been such a Voting Member for at least three months prior to nomination acceptance.
- (b) No person may be a Director unless that person resides ordinarily in Victoria.

16.3 Compliance Undertaking

No person may be appointed as a Director unless that person has first signed a Compliance Undertaking.

16.4 Appointment of Directors

- (a) Subject to this Constitution, the Company may by resolution at a general meeting appoint a person as a Director.
- (b) Subject to this Constitution, the Board may by resolution at a Board meeting appoint a natural person as a Director, as an additional Director or to fill the office of a Director vacated when a Director ceases to be a Director.
- (c) An appointment of a person as a Director is not effective unless:
 - (i) a signed consent to the appointment is provided by that person to the Company; and
 - (ii) that person has first signed a Compliance Undertaking.
- (d) The appointment of a person as a Director will take effect on the later of the date of appointment and the date on which the Company receives the signed consent.
- (e) The Board may determine procedures for election or other methods of appointment of Directors from time to time.

16.5 Confirmation of appointment

If a person is appointed as a Director by the Board, the Company must confirm the appointment at the next annual general meeting. If the appointment is not confirmed, the person ceases to be a Director at the conclusion of the annual general meeting.

16.6 Removal of Director

- (a) The Company may remove a Director by resolution at a general meeting.
- (b) At least two months' notice must be given to the Company of the intention to move a resolution to remove a Director at a general meeting.
- (c) If notice of intention to move a resolution to remove a Director at a general meeting is received by the Company, a Director must be given a copy of the notice as soon as practicable.
- (d) The Director must be informed that the Director may:
 - (i) submit a written statement to the Company for circulation to the Members before the meeting at which the resolution is put to a vote; and
 - (ii) speak to the motion to remove the Director at the general meeting at which the resolution is to be put to a vote.
- (e) At least twenty-one days' notice must be given to the Members of a general meeting at which the resolution for the removal of a Director is proposed. The notice must set out the proposed resolution and the grounds for the proposed resolution.

16.7 Cessation of Directorship

- (a) Subject to **clause 16.7(b)**, a person ceases to be a Director and the office of Director is vacated if the person:
 - (i) is removed from office as a Director by a resolution of the Company at a general meeting;
 - (ii) resigns as a Director in accordance with this Constitution;
 - (iii) if the person is subject to assessment or treatment under any mental health law;
 - (iv) dies;
 - (v) is disqualified from acting as a Director under the Corporations Act;
 - (vi) is absent from Board meetings for a continuous period of six months without leave of absence from the Board;
 - (vii) in the opinion of the Board (excluding the Director in question), brings the Society into disrepute;
 - (viii) ceases to be a Voting Member;
 - (ix) ceases to reside ordinarily in Victoria;
 - (x) does not sign a Compliance Undertaking within thirty days (or such other period as the Board may prescribe) after the Board first adopts a Board Members' Code of Conduct;
 - (xi) breaches his or her Compliance Undertaking; or
 - (xii) acts contrary to this Constitution or any regulation or policy determined by the Board.
- (b) If a Director is to cease to be a Director and the office of Director is to be vacated pursuant to **clause 16.7(a)(iii), 16.7(a)(vi), 16.7(a)(vii), 16.7(a)(xi) or 16.7(a)(xii)**, the Directors (excluding the Director in question), after having considered the matter, may resolve by a two thirds majority of all Directors (excluding the Director in question), that the Director in question should not cease to be a Director and the office held should not be vacated. In the event the Directors do so resolve, the Director in question must retire at the next annual general meeting. The retiring Director is eligible for re-appointment.
- (c) If a Director ceases to be a Director by virtue of **clause 16.7(a)(i), 16.7(a)(vi), 16.7(a)(vii), 16.7(a)(xi) or 16.7(a)(xii)**, that person will not be permitted to be nominated for or appointed to the Board for a period of two years from the date on which that person ceased to be a director.

16.8 Rotation of Directors

- (a) At each annual general meeting, one-third of the Directors are subject to retirement by rotation (or, if the number of Directors is not a multiple of three then the number nearest to but not exceeding one-third of the Directors must retire from office as Directors).

- (b) The Directors to retire by rotation at each annual general meeting must include any Director whose appointment will cease under **clause 16.5** if not re-appointed and Director who wishes to retire and does not wish to be re-appointed as a Director. Any further Director required to retire must be the Director who has been in office the longest as Director.
- (c) If there are two or more Directors that have been in office for an equal amount of time, and an agreement cannot be reached between those Directors on who will retire, The Director or Directors who will retire will be determined by lot.
- (d) A retiring Director is eligible for re-appointment.
- (e) Unless a resolution is passed to appoint some other person to fill the office of Director to be vacated by the retiring Director, a retirement by rotation at a general meeting does not become effective until the end of the meeting.

16.9 Resignation of Directors

A Director may resign from the office of Director by giving notice of resignation to the Company at its registered office.

17 Powers and duties of Board

- (a) Subject to this Constitution and the Corporations Act, the activities of the Company are to be managed by, or under the direction of, the Board.
- (b) Subject to this Constitution and the Corporations Act, the Board may exercise all powers of the Company that are not required to be exercised by the Company in a general meeting.
- (c) The powers of the Board include the power to:
 - (i) appoint up to three persons as Patrons of the Company, one of whom may be (but is not required to be) the Governor of the State of Victoria or the Lieutenant Governor of the State of Victoria;
 - (ii) effect affiliation with any other body which has similar objectives, either within Victoria or elsewhere, upon such terms as it sees fit;
 - (iii) from time to time, adopt (or vary) a Board Members' Code of Conduct;
 - (iv) borrow or otherwise raise money, provided that:
 - (A) such borrowing is recommended by a majority of the Budget and Finance Committee or such other committee having responsibility for oversight of financial matters (where such committee has been appointed in accordance with this Constitution) and confirmed by a majority of the Board; or
 - (B) where no such Budget and Finance Committee or other committee having responsibility for oversight of financial matters has been appointed, the borrowing is confirmed by a majority of the Board;
 - (v) mortgage, charge (including in the form of a floating charge) any of the Company's assets (both present and future); and

- (vi) issue debentures and other securities, and any instrument (including any bond).
- (d) The Board may delegate any of its powers to:
 - (i) a Director;
 - (ii) a committee;
 - (iii) an employee of the Company; or
 - (iv) any other person.

18 Alternate Directors

18.1 Appointment and terms of appointment

- (a) With the prior consent of the Board, a Director may appoint another Director to act as the alternate of the appointing Director and may specify the terms of the alternate's appointment. The terms of that appointment may provide for the alternate to exercise some or all of the powers of the appointing Director.
- (b) A Director may be appointed as alternate of more than one Director.
- (c) An alternate is not an agent of the Director appointing the alternate.
- (d) The Director appointing an alternate must give notice to the Company of that appointment. If the notice does not detail the terms of the appointment, the alternate will have the power to exercise all of the powers of the Director. The appointment will continue until notice of termination of the appointment is received by the Company.

18.2 Voting of alternate

- (a) Unless the appointor notifies the Company otherwise, an alternate is entitled to a vote on behalf of each Director that the alternate is appointed to represent.
- (b) Any such vote is in addition to the vote which the alternate is already entitled to in the alternate's own capacity as a Director.

18.3 Termination of appointment of alternate

- (a) A Director who appointed an alternate may terminate the appointment of the alternate at any time by notice to the alternate, the Directors and the Company.
- (b) An alternate may terminate the alternate's appointment at any time by notice to the Directors and the Company.
- (c) A termination of appointment does not take effect until the Directors and the Company have received notice of termination.

18.4 Cessation of appointment of alternate

An alternate ceases to be an alternate if the person who appointed that alternate ceases to be a Director.

19 Investments

- (a) Subject to this **clause 19**, the Company may invest all assets in its possession, in any investments authorised to trustees in the State of Victoria, provided that the Board may, in its discretion, retain any investments gifted to the Company in the form in which they were gifted, whether or not such investments are authorised trustee investments.
- (b) Where urgent action is required, a change in the investments of the Company may be made with the approval of a majority of the members of the Board and such approval may be obtained by telephone, email or any other convenient means. Such approval must be noted in the minutes of the following meeting of the Board.

20 Negotiable instruments

All negotiable instruments and all receipts for money paid to the Company must be signed, drawn, accepted, endorsed or otherwise executed in such manner as the Board may determine.

21 Chief Executive Officer

- (a) The Board may appoint one or more persons to the office of Chief Executive Officer for such period, and on such terms (including as to remuneration), as the Board determines.
- (b) The Board may confer on a CEO any of the powers that the Board may exercise.
- (c) The Board may vary or revoke a conferral of any power on the CEO.
- (d) The Board may at any time vary or revoke an appointment of a CEO.

22 Remuneration and reimbursement for expenses

22.1 Remuneration of Director

The Company must not pay and a Director is not entitled to receive any fee (or other remuneration) from the Company for services performed as a Director.

22.2 Reimbursement of expenses

- (a) Subject to **clause 22.2(b)**, Directors and alternates are entitled to be reimbursed by the Company for reasonable costs and expenses incurred or to be incurred in connection with attendance at meetings of the Board and committees of the Board.
- (b) The Directors must approve all payments the Company makes to its Directors.

23 Board meetings

23.1 Number of meetings

The Board must meet at least six times per calendar year.

23.2 Convening meetings

- (a) In the ordinary course, the Secretary will convene Board meetings in accordance with the determinations of the Board.
- (b) A Director may at any time convene a Board meeting by notice to the other Directors.

23.3 Notice of meetings

- (a) Reasonable notice of each Board meeting must be given to the Directors and each alternate entitled to receive notice (if any).
- (b) Each notice must state:
 - (i) the date, time and place (or places) of the Board meeting;
 - (ii) the general nature of the business to be conducted at the Board meeting; and
 - (iii) any proposed resolutions.

23.4 Omission to give notice

No resolution passed at or proceedings at any Board meeting will be invalid because of any unintentional omission or error in giving or not giving notice of:

- (a) that Board meeting;
- (b) any change of place (or places) of that Board meeting;
- (c) postponement of that Board meeting; or
- (d) resumption of that adjourned Board meeting.

23.5 Use of technology

- (a) A Board meeting may be convened or held using any technology consented to by all Directors. The consent may be a standing one. A Director may withdraw consent to the use of a particular technology within a reasonable time period before a Board meeting.
- (b) If a number of Directors equal to the quorum is able to hear or to see and to hear each other Director contemporaneously using any technology consented to by all Directors, there is a meeting and that meeting is quorate. The rules relating to meetings of Directors apply to each such meeting to the extent appropriate.
- (c) A Director participating at a meeting using technology consented to by all Directors is treated as being present in person at the meeting.
- (d) A meeting using technology consented to by all Directors is to be taken to be held at the place determined by the chairman of the meeting.

- (e) A Director may not leave a meeting using technology consented to by all Directors unless the chairman consents to that Director leaving.
- (f) A Director is presumed conclusively to have been present and to have formed part of a quorum at all times during a meeting using technology consented to by all Directors, unless the chairman consents to that Director leaving in which case that Director will be treated as having been present until that Director leaves.

23.6 Quorum at meetings

- (a) Unless the Board otherwise determines by resolution prior to the meeting, a quorum at a Board meeting is five Directors (whether present in person or by alternate) subject to there being at least three Directors physically present in person.
- (b) For the purposes of establishing a quorum under **clause 23.6(a)**, a Director who has been appointed an alternate in accordance with **clause 18.1(a)** is to be counted, in addition to being present in person, according to the number of Directors for whom that Director has been appointed to act as an alternate for.
- (c) The quorum must be present at all times during the Board meeting.

23.7 Chairman of meetings

- (a) At the first Board meeting a chairman and deputy chairman will be elected from the Directors present in person (not by alternate). The person that has been elected as chairman may chair each subsequent Board meeting. At any subsequent Board meeting, a new chairman or deputy chairman may be elected. On the election of the new chairman, the new chairman will chair subsequent Board meetings. The Directors may elect a Director to chair a Board meeting by a majority vote. The chairman may also be known or referred to as the president.
- (b) If the chairman is not present within fifteen minutes after the time appointed for a Board meeting or if the chairman is unwilling or unable to act as chair for the whole or any part of that Board meeting, the deputy chairman will chair the Board meeting. If the deputy chairman is not present within fifteen minutes after the time appointed for the Board meeting or if the deputy chairman is unwilling or unable to act as chairman for the whole or any part of that Board meeting, the Directors present may elect a Director present to chair that Board meeting.

23.8 Passing resolutions at meetings

- (a) A resolution of the Board must be passed by a majority of the votes cast by the Directors entitled to vote on the resolution.
- (b) Each Director present in person is entitled to vote and has one vote.
- (c) Each Director present by an alternate is entitled to vote and has one vote which may be exercised by the alternate on the appointor's behalf subject to any terms of appointment notified to the Company in accordance with **clause 18.1(d)**.

23.9 Casting vote

If on any resolution an equal number of votes is cast for and against a resolution, the chairman has a casting vote in addition to any vote cast by the chairman as a Director.

23.10 Conduct of meetings

The chairman of each Board meeting has charge of conduct of that meeting, of the procedures to be adopted and the application of those procedures at that meeting.

23.11 Written resolutions

- (a) The Board may pass a resolution without a Board meeting being held if, subject to **clause 23.11(b)**, all the Directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. For this purpose, signatures can be contained in more than one document, with each document to be identical to each other document.
- (b) If a Director is outside of Australia and as a consequence is not readily able to sign a document containing a statement that they are in favour of the resolution set out in the document, then for the purposes of **clause 23.11(a)**, the resolution may still be passed by the Board notwithstanding that the Director has not signed the document.

23.12 Minutes of meetings

- (a) Within one month after each Board meeting, the Directors must record or cause to be recorded in the minute books:
 - (i) the proceedings and resolutions of each Board meeting; and
 - (ii) all resolutions passed without a Board meeting.
- (b) The chairman, or the chairman of the next Board meeting, must sign the minutes within a reasonable time after the meeting.
- (c) The minute books must be kept at the registered office.
- (d) The Directors may inspect the minute books between the hours of 9.00 am and 5.00 pm on any Business Day. The registered office will be open for at least three hours on any Business Day as determined by the Company. No amount may be charged to Directors for inspection.

23.13 Committee meetings

- (a) Subject to **clause 23.13(b)** the Board will determine how meetings of any committee of the Board are to be conducted, including committee membership, the procedures to be adopted and the application of those procedures;
- (b) The following rules apply to all committees:
 - (i) committees must be chaired by a Director;
 - (ii) the Board chairman, deputy chairman, and CEO are ex officio members of all committees except the audit committee (if one exists); and
 - (iii) all committee members must be Voting Members.

24 Director's interests

24.1 Declaration of interest

- (a) Any Director who has a material personal interest in a contract or proposed contract of the Company, holds any office or owns any property such that the Director might have duties or interests which conflict or may conflict either directly or indirectly with the Director's duties or interests as a Director, must give the Board notice of the interest at a Board meeting.
- (b) A notice of a material personal interest must set out:
 - (i) the nature and extent of the interest; and
 - (ii) the relation of the interest to the affairs of the Company.
- (c) The notice must be provided to the Board at a Board meeting as soon as practicable.

24.2 Voting by interested Directors

A Director who has a material personal interest in a matter that is being considered at a Board meeting:

- (a) must not vote on the matter at a meeting; and
- (b) must not be present while the matter is being considered at the meeting, and accordingly will not count for the purposes of determining whether there is a quorum.

25 Appointment of Secretary

- (a) The Company must have at least one Secretary. The Board has the power to appoint a natural person to act as secretary on the terms and for such period as the Board may determine.
- (b) Any Secretary appointed may be removed at any time by the Board.

26 Removal and remuneration of Auditor

26.1 Remuneration of Auditor

The remuneration of the Auditor may be determined by the Company at a general meeting. If the remuneration is not determined at a general meeting, it may be determined by the Directors at a Board meeting.

26.2 Removal of Auditor

- (a) The Company may remove an Auditor by resolution at a general meeting.
- (b) At least two months' notice must be given to the Company of the intention to move a resolution to remove an Auditor at a general meeting.
- (c) If notice of an intention to move a resolution to remove the Auditor at a general meeting is received by the Company, the Auditor must be given a copy of the notice as soon as practicable.

- (d) The notice of an intention must also inform the Auditor that the Auditor:
 - (i) may submit written representations to the Company within seven days after receiving the notice and that the Auditor may request the Company to send a copy of the written representations to the Members before the resolution is put to a vote; and
 - (ii) may speak at the general meeting or request that the written representations be read at the general meeting at which the resolution is voted upon.

26.3 Auditor's attendance at general meetings

The Auditor must be notified of, and may attend, any general meeting. The Auditor is entitled to be heard at any general meeting it attends on any part of the business of the general meeting which concerns the Auditor.

27 Seal

- (a) If the Company has a Seal the Directors must provide for the safe custody of the Seal (and any duplicate of it).
- (b) The Seal (and any duplicate of it) must not be used without the prior authority of the Board, and when used, the Seal must be used in accordance with any direction of the Board.
- (c) If a document is to be executed by the use of the Seal, the fixing of the Seal must be witnessed by two Directors or a Director and Secretary.
- (d) Each application of the Seal must be entered in a register kept for this purpose. The register must be produced to the Board at each of its meetings.

28 Financial records

28.1 Member's access to financial records

Other than as required by law, ordered by a court with jurisdiction or determined to be appropriate by the Board, no Member or any other person may inspect any financial or any other record of the Company.

28.2 Directors' access to financial records

Any Director may at any time access and inspect any financial and any other record of the Company.

28.3 Access to financial records after ceasing to be a Director

The Board may determine that any person who is to cease or has ceased to be a Director may continue to have access to and inspect any financial record and any other record of the Company relating to the time during which the person was a Director.

29 Notices

29.1 General

Any notice, statement or other communication under this Constitution must be in writing, except that any notice convening a Board meeting does not need to be in writing.

29.2 How to give a communication

In addition to any other way allowed by the Corporations Act, a notice or other communication may be given by being:

- (a) personally delivered;
- (b) left at the person's current address as recorded in the Register of Members;
- (c) sent to the person's address as recorded in the Register of Members by pre-paid ordinary mail or, if the address is outside Australia, by pre-paid airmail;
- (d) sent by fax to the person's current fax number for notices; or
- (e) sent by email to the person's current email address for notices.

29.3 Communications by post

A communication is given if posted:

- (a) within Australia to an Australian address, three Business Days after posting;
- (b) outside Australia to an address outside Australia, ten Business Days after posting.

29.4 Communications by fax

A communication is given if sent by fax, when the sender's fax machine produces a report that the fax was sent in full to the addressee. That report is conclusive evidence that the addressee received the fax in full at the time indicated on that report.

29.5 Communications by email

A communication is given if sent by email, when the information system from which the email was sent produces a confirmation of delivery report which indicates that the email has entered the information system of the recipient, unless the sender receives a delivery failure notification, indicating that the email has not been delivered to the information system of the recipient.

29.6 After hours communications

If a communication is given:

- (a) after 5.00 pm in the place of receipt; or
- (b) on a day which is a Saturday, Sunday or bank or public holiday in the place of receipt,

it is taken as having been given at 9.00 am on the next day which is not a Saturday, Sunday or bank or public holiday in that place.

30 Indemnity and insurance

30.1 Indemnity

To the extent permitted by the Corporations Act and subject to the Corporations Act, the Company must indemnify each officer, Director and Secretary of the Company in respect of any liability, loss, damage, cost or expense incurred or suffered or to be incurred or suffered by the officer, Director or Secretary in or arising out of the conduct of any activity of the Company or the proper performance of any duty of that officer, Director or Secretary.

30.2 Documenting indemnity

The Company may enter into an agreement containing an indemnity in favour of any officer, Director or Secretary. The Board will determine the terms of the indemnity contained in the agreement.

30.3 Insurance

- (a) To the extent permitted by the Corporations Act and subject to the Corporations Act, the Company may pay any premium in respect of a contract of insurance between an insurer and an officer, Director or Secretary or any person who has been an officer, Director or Secretary of the Company in respect of the liability suffered or incurred in or arising out of the conduct of any activity of the Company and the proper performance by the officer, Director or Secretary of any duty.
- (b) If the Board determines, the Company may execute a document containing rules under which the Company agrees to pay any premium in relation to such a contract of insurance.

31 Winding up

If the Company is wound up any property that remains after satisfaction of all debts and liabilities of the Company, the payment of the costs, charges and expenses of winding up and any adjustment of the rights of the contributories among Members must not be paid or distributed to Members but must be given or transferred to some other institution or institutions having objects similar to the objects of the Company and whose constitution prohibits the distribution of its income and property among members.