



NSW Outlaw Karts Incorporated Constitution
Updated 2021

PART 1 – THE NAME, OBJECTIVES AND TERMS

1. The name of the Association

1.1 The name of the Association is NSW Outlaw Karts Incorporated, hereafter referred to as the “Association”.

2. The objectives of the Association

2.1 The objectives of the Association are:

- (a) To encourage and promote the sport of speedway related Outlaw Kart racing in Australia.
- (b) To provide an unwavering and professional association for drivers, crews and ordinary members to be a part of and compete within.
- (c) To issue licenses to speedway related Outlaw Kart Drivers, Crews and Associates.
- (d) To register Outlaw Kart machinery conforming to the association’s rules and regulations.
- (e) To encourage the growth and development of members by promoting social engagement with other members and key industry figures not normally accessible to all.
- (f) To promote safe and responsible youth engagement in motorsport aiding in young driver, and professional development from ages 6 and above.
 - (g) To encourage and promote the sport of speedway related Outlaw Kart racing in the spirit of good sportsmanship, honesty, integrity, and moral comradeship amongst all members.

PART 2 — ASSOCIATION TO BE NOT FOR PROFIT BODY

3. Not-for-profit body

- (a) The property and income of the Association must be applied solely towards the promotion of the objects or purposes of the Association and no part of that property or income may be paid or otherwise distributed, directly or indirectly, to any member, except in good faith in the promotion of those objects or purposes.
- (b) A payment may be made to a member out of the funds of the Association only if it is authorised under subrule (3).
- (c) A payment to a member out of the funds of the Association is authorised if it is —
 - (i) the payment in good faith to the member as reasonable remuneration for any services provided to the Association, or for goods supplied to the Association, in the ordinary course of business; or
 - (ii) the payment of interest, on money borrowed by the Association from the member, at a rate not greater than the cash rate published from time to time by the Reserve Bank of Australia; or
 - (iii) the payment of reasonable rent to the member for premises leased by the member to the Association; or
 - (iv) the reimbursement of reasonable expenses properly incurred by the member on behalf of the Association.

4. Terms used

In these rules, unless the contrary intention appears —

Act means the *Associations Incorporation Act 2009*;

Definitions

(1) In this Act—

approved, in relation to a form, means approved by the Secretary.

ASIC means the Australian Securities and Investments Commission.

Assets means any legal or equitable estate or interest (whether present or future, whether vested or contingent and whether personal or assignable) in real or personal property of any description (including money), and includes securities, choses in action and documents.

associate member means a member with the rights referred to in rule 8.6

association means an association registered under this Act.

Australian Accounting Standards means the standards issued by the Australian Accounting Standards Board, as in force for the time being, and including any modifications prescribed by the regulations.

Australian Auditing Standards means the standards issued by the Auditing and Assurance Standards Board, as in force for the time being, and including any modifications prescribed by the regulations.

authorised officer means—

- (a) a person who is appointed as an authorised officer under section 102, or
- (b) an investigator within the meaning of the [Fair Trading Act 1987](#).

authorised signatory, in relation to an association, means a person who is appointed under section 36 as an authorised signatory for the association, and includes the association's public officer.

committee, in relation to an association, means the governing body of the association, however described.

committee member, in relation to an association, means a person who is elected or appointed under the association's constitution as a committee member of the association.

constitution, in relation to an association, means the constitution that is recorded in the Register of Incorporated Associations in relation to the association.

corresponding law means—

- (a) the *Co-operatives National Law (NSW)*, or

(b) the [Corporations Act 2001](#) of the Commonwealth, and includes any law of this or another State or Territory, or any law of the Commonwealth, that is declared by the regulations to be a corresponding law for the purposes of this Act.

court includes tribunal.

Department means the Department of Finance, Services and Innovation.

exercise a function includes perform a duty.

financial year, in relation to an association, means—

(a) a period of 12 months, or such other period (whether longer or shorter than 12 months) not exceeding 18 months as the association resolves, commencing on the date of incorporation of the association, and

(b) each period of 12 months, or such other period (whether longer or shorter than 12 months) not exceeding 18 months as the association resolves, commencing at the expiration of the previous financial year of the association.

function includes a power, authority or duty.

liabilities means any liabilities, debts or obligations (whether present or future, whether vested or contingent and whether personal or assignable).

model constitution means the model constitution prescribed by the regulations.

objects, in relation to an association, means the objects that are recorded in the Register of Incorporated Associations in relation to the association.

official address, in relation to an association, means the address that is recorded in the Register of Incorporated Associations as the association's official address.

pecuniary gain—see section 5 in Associations Incorporation Act 2009 No 7

public officer, in relation to an association, means the person who is appointed as the association's public officer, and, until he or she is replaced by a person so appointed, includes the person who is nominated as the association's public officer in the association's application for registration.

register of committee members, in relation to an association, means the register of committee members kept by the association for the purposes of section 29.

Register of Incorporated Associations means the Register of Incorporated Associations kept by the Secretary for the purposes of section 98.

registrable corporation means—

(a) a co-operative (within the meaning of the *Co-operatives National Law (NSW)*), or

(b) a company registered under the [Corporations Act 2001](#) of the Commonwealth, and includes any other entity that is constituted as a body corporate pursuant to registration under a corresponding law.

rights means any rights, powers, privileges or immunities (whether present or future, whether vested or contingent and whether personal or assignable).

Secretary means—

- (a) the Commissioner for Fair Trading, Department of Finance, Services and Innovation, or
- (b) if there is no such position in the Department, the Secretary of the Department.

special resolution—see section 39 in Associations Incorporation Act 2009 No 7.

unacceptable name—see section 18 in Associations Incorporation Act 2009 No 7.

5. Financial year

5.1 The first financial year of the Association will be the period of 12 months commencing on July 1st and ending on June 30th of each year.

5.2 Each subsequent financial year of the Association is the period of 12 months commencing at the termination of the first financial year or the anniversary of that termination.

PART 3 — MEMBERS

Division 1 — Membership

6. Eligibility for membership

6.1 Any person who supports the objects or purposes of the Association is eligible to apply to become a member.

6.2 An individual who has not reached the age of 16 years is not eligible to apply for a class of membership that confers full voting rights.

7. Applying for membership

7.1 A person who wants to become a member must apply in writing to the Association utilising the appropriate documentation.

7.2 The application must include a member's nomination of the applicant for membership.

7.3 The application must be signed by the applicant and the member nominating the applicant.

7.4 The applicant must specify in the application the class of membership, to which the application relates.

8. Dealing with membership applications

8.1 The committee must consider each application for membership of the Association and decide whether to accept or reject the application.

8.2 The committee must consider applications in the order in which they are received by the Association.

8.3 The committee may delay its consideration of an application if the committee considers that any matter relating to the application needs to be clarified by the applicant or that the applicant needs to provide further information in support of the application.

8.4 The committee must not accept an application unless the applicant —
(a) is eligible under rule 6,
(b) and has correctly applied under rule 7.

8.5 The committee may reject an application even if the applicant —
(a) is eligible under rule 6; and
(b) has correctly applied under rule 7.

8.6 The committee must notify the applicant of the committee's decision to accept or reject the application as soon as practicable after making the decision.

8.7 If the committee rejects the application, the committee is not required to give the applicant its reasons for doing so.

9. Becoming a member

9.1 An applicant for membership of the Association becomes a member when —

- (a) the committee accepts the application; and
- (b) the applicant pays any membership fees payable to the Association under rule 14.

10. Classes of membership

10.1 The Association offers the following membership categories:

- a) **Senior Driver Membership** will be open to all drivers over the age of sixteen (16) years for all senior classes of competition.
- b) **Junior Driver Membership** will be open to driver/riders between the ages of six (6) to sixteen (16) years depending on class of the vehicle being driven.
- c) **Crew and Officials Membership** will be open to persons taking an active role in racing events. A Crew / Official holds voting rights.
- d) **Associate Membership** will be available to other persons interested in the association in accordance with this constitution. An Associate Member does not have voting rights.
- e) **Honorary Membership** will be given to any person/s who the Association considers eligible through services rendered. This would be decided at a General Meeting by a three fourths majority. Such membership could be cancelled at any time. An Honorary Member does not have voting rights.
- f) **Life Membership** may be granted on the recommendation of the Committee. Any financial member in good standing, and who has rendered the Association meritorious service, may, on the recommendation of the Committee, be elected a Life Member at the Annual General Meeting by a majority of members present and voting at such meeting. The qualifying period for Life Membership shall be five (5) years.

10.2 The Association may have any class of membership approved by resolution at a general meeting, including senior driver membership, junior driver membership, pit crew / official's membership, associate membership, honorary membership, and life membership.

10.3 An individual who has not reached the age of 16 years is eligible for driver or associate membership with written consent from a parent or guardian.

10.4 An individual who has not reached the age of 16 years holding a drivers membership must also have at minimum one (1) Crew / Officials Membership member who is also the registered owner of the underage drivers Kart.

10.5 A member can only belong to one class of membership.

10.6 Only Senior Driver and Pit Crew / Officials Membership have full voting rights and any other rights conferred on members by these rules or approved by resolution at a general meeting or determined by the committee.

10.7 An associate member has the rights referred to in rule was 10.5, other than full voting rights.

10.8 The number of members of any class is not limited unless otherwise approved by resolution at a general meeting.

10.9 The committee may choose to create new membership classes as it feels necessary including the rights and obligations of the class.

11. When membership ceases

11.1 A person ceases to be a member when any of the following takes place —

- (a) for a member who is an individual, the individual dies.
- (b) for a member who is a body corporate, the body corporate is wound up.
- (c) the person resigns from the Association under section 12.
- (d) the person is expelled from the Association under section 17.
- (e) the person ceases to be a member under section 14.4.

11.2 The Secretary must keep a record, for at least one year after a person ceases to be a member
Of--

- (a) the date on which the person ceased to be a member; and
- (b) the reason why the person ceased to be a member.

12. Resignation

12.1 A member may resign from membership of the Association by giving written notice of the resignation to the Secretary.

12.2 The resignation takes effect —

- a. when the Secretary receives the notice; or
- b. if a later time is stated in the notice, at that later time.

12.3 A person who has resigned from membership of the Association remains liable for any fees that are owed to the Association (the **owed amount**) at the time of resignation.

12.4 The owed amount may be recovered by the Association in a court of competent jurisdiction as a debt due to the Association.

13. Rights not transferable

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

Division 2 — Membership fees

14. Membership fees

14.1 The committee must determine the annual membership fee to be paid for membership of the Association. Any changes made to the annual membership fees will be advised to members within twenty-one (21) days of the next scheduled annual general meeting.

14.2 The fees determined under subrule 14.1 may be different for different classes of membership.

14.3 A member must pay the annual membership fee to the Treasurer, or another person authorised by the committee to accept payments, by the date (the **due date**) determined by the committee.

14.4 If a member has not paid the annual membership fee within the period of 3 months after the due date, the member ceases to be a member on the expiry of that period.

14.5 If a person who has ceased to be a member under subrule 14.4 offers to pay the annual membership fee after the period referred to in that subrule has expired —

- a. the committee may, at its discretion, accept that payment; and
- b. if the payment is accepted, the person's membership is reinstated from the date the payment is accepted.

Division 3 — Register of members

15. Register of members

15.1 The Secretary, or another person authorised by the committee, is responsible for the requirements imposed on the Association under rule 53 of the Act to maintain the register of members and record in that register any change in the membership of the Association.

15.2 In addition to the matters referred to in rule 53 of the Act, the register of members must include the class of membership (if applicable) to which each member belongs and the date on which each member becomes a member.

15.3 The register of members must be kept at the Secretary's place of residence, or at another place determined by the committee.

15.4 A member who wishes to inspect the register of members must contact the Secretary to make the necessary arrangements.

- a. If —
 - (a) a member inspecting the register of members wishes to make a copy of, or take an extract from, the register under rule 56.2 of the Act; or
 - (b) a member makes a written request under rule 58.1 of the Act to be provided with a copy of the register of members,

15.5 The committee may require the member to provide a statutory declaration setting out the purpose for which the copy or extract is required and declaring that the purpose is connected with the affairs of the Association.

PART 4 — DISCIPLINARY ACTION, DISPUTES AND MEDIATION

Division 1 — Suspension or expulsion

16. Term used: member

16.1 In this Part —

member, in relation to a member who is expelled from the Association, includes former member.

Division 2 — Disciplinary action

17. Suspension or expulsion

17.1 The committee may decide to suspend a member's membership or to expel a member from the Association if —

- (a) the member contravenes any of these rules; or
- (b) the member acts detrimentally to the interests of the Association.

17.2 The Secretary must give the member written notice of the proposed suspension or expulsion at least seven (7) days before the committee meeting at which the proposal is to be considered by the committee.

17.3 The notice given to the member must state —

- (a) when and where the committee meeting is to be held; and
- (b) the grounds on which the proposed suspension or expulsion is based; and
- (c) that the member, or the member's representative, may attend the meeting and will be given a reasonable opportunity to make written or oral (or both written and oral) submissions to the committee about the proposed suspension or expulsion.

17.4 At the committee meeting, the committee must —

- (a) give the member, or the member's representative, a reasonable opportunity to make written or oral (or both written and oral) submissions to the committee about the proposed suspension or expulsion; and
- (b) give due consideration to any submissions so made; and
- (c) decide —
 - (i) whether or not to suspend the member's membership and, if the decision is to suspend the membership, the period of suspension; or
 - (ii) whether or not to expel the member from the Association.

17.5 A decision of the committee to suspend the member's membership or to expel the member from the Association takes immediate effect.

17.6 The committee must give the member written notice of the committee's decision, and the reasons for the decision, within seven (7) days after the committee meeting at which the decision is made.

17.7 A member whose membership is suspended or who is expelled from the Association may, within seven (7) days after receiving notice of the Committee's decision under sub rule 17.6, give written notice to the Secretary requesting the appointment of a mediator under rule 25.

17.8 If notice is given under sub rule 17.7, the member who gives the notice and the committee are the parties to the mediation.

18. Consequences of suspension

18.1 During the period a member's membership is suspended, the member —

- (a) loses any rights (including voting rights) arising as a result of membership; and is not entitled to a refund, rebate, relief or credit for membership fees paid, or payable, to the Association.

18.2 When a member's membership is suspended, the Secretary must record in the register of members —

- (a) that the member's membership is suspended; and
- (b) the date on which the suspension takes effect; and
- (c) the period of the suspension.

18.3 When the period of the suspension ends, the Secretary must record in the register of members that the member's membership is no longer suspended.

Division 3 — Resolving disputes

19. Terms used

In this Division —

grievance procedure means the procedures set out in this Division;

party to a dispute includes a person —

- (a) who is a party to the dispute; and
- (b) who ceases to be a member within 6 months before the dispute has come to the attention of each party to the dispute

20. Application of Division

20.1 The procedure set out in this Division (the grievance procedure) applies to disputes —

- (a) between members; or
- (b) between one or more members and the Association.

21. Parties to attempt to resolve dispute

21.1 The parties to a dispute must attempt to resolve the dispute between themselves within twenty-one (21) days after the dispute has come to the attention of each party.

22. How grievance procedure is started

22.1 If the parties to a dispute are unable to resolve the dispute between themselves within the time required by rule 21, any party to the dispute may start the grievance procedure by giving written notice to the Secretary of —

- (a) the parties to the dispute; and
- (b) the matters that are the subject of the dispute.

22.2 Within twenty-one (21) days after the Secretary is given the notice, a committee meeting must be convened to consider and determine the dispute.

22.3 The Secretary must give each party to the dispute written notice of the committee meeting at which the dispute is to be considered and determined at least seven (7) days before the meeting is held.

22.4 The notice given to each party to the dispute must state —

- (a) when and where the committee meeting is to be held; and
- (b) that the party, or the party's representative, may attend the meeting and will be given a reasonable opportunity to make written or oral (or both written and oral) submissions to the committee about the dispute.

22.5 If —

- (a) the dispute is between one or more members and the Association; and any party to the dispute gives written notice to the Secretary stating that the party—
 - (i) does not agree to the dispute being determined by the committee; and
 - (ii) requests the appointment of a mediator under rule 25, the committee must not determine the dispute.

23. Determination of dispute by committee

23.1 At the committee meeting at which a dispute is to be considered and determined, the committee must —

- (a) give each party to the dispute, or the party's representative, a reasonable opportunity to make written or oral (or both written and oral) submissions to the committee about the dispute; and
- (b) give due consideration to any submissions so made; and
- (c) determine the dispute.

23.2 The committee must give each party to the dispute written notice of the committee's determination, and the reasons for the determination, within seven (7) days after the committee meeting at which the determination is made.

23.3 A party to the dispute may, within seven (7) days after receiving notice of the committee's determination under sub rule 23.1(c), give written notice to the Secretary requesting the appointment of a mediator under rule 25.

23.4 If notice is given under sub rule 23.3, each party to the dispute is a party to the mediation.

Division 4 — Mediation

24. Application of Division

24.1 This Division applies if written notice has been given to the Secretary requesting the appointment of a mediator —

- (a) by a member under rule 17.7; or
- (b) by a party to a dispute under rule 22.5(b)(ii) or 23.3.

24.2 If this Division applies, a mediator must be chosen or appointed under rule 24.

25. Appointment of mediator

25.1 The mediator must be a person chosen —

- (a) if the appointment of a mediator was requested by a member under rule 17.7 — by agreement between the Member and the committee; or
- (b) if the appointment of a mediator was requested by a party to a dispute under rule 22.5(b)(ii) or 23.3— by agreement between the parties to the dispute.

25.2 If there is no agreement for the purposes of sub rule 25.1(a) or (b), then, subject to subrules 25.3 and 25.4, the committee must appoint the mediator.

25.3 The person appointed as mediator by the committee must be a person who acts as a mediator for another not-for-profit body, such as a community legal centre, if the appointment of a mediator was requested by —

- (a) a member under rule 17.7; or
- (b) a party to a dispute under rule 22.5(b)(ii); or
- (c) a party to a dispute under rule 23.3 and the dispute is between one or more members and the Association.

25.4 The person appointed as mediator by the committee may be a member or former member of the Association but must not —

- (a) have a personal interest in the matter that is the subject of the mediation; or
- (b) be biased in favour of or against any party to the mediation.

26. Mediation process

26.1 The parties to the mediation must attempt in good faith to settle the matter that is the subject of the mediation.

26.2 Each party to the mediation must give the mediator a written statement of the issues that need to be considered at the mediation at least seven (7) days before the mediation takes place.

26.3 In conducting the mediation, the mediator must —

- (a) give each party to the mediation every opportunity to be heard; and
- (b) allow each party to the mediation to give due consideration to any written statement given by another party; and
- (c) ensure that natural justice is given to the parties to the mediation throughout the mediation process.

26.4 The mediator cannot determine the matter that is the subject of the mediation.

26.5 The mediation must be confidential, and any information given at the mediation cannot be used in any other proceedings that take place in relation to the matter that is the subject of the mediation.

26.6 The costs of the mediation are to be paid by the party or parties to the mediation that requested the appointment of the mediator.

27. If mediation results in decision to suspend or expel being revoked

27.1 If —

- (a) mediation takes place because a member whose membership is suspended or who is expelled from the Association gives notice under rule 17.7; and
- (b) as the result of the mediation, the decision to suspend the member's membership or expel the member is revoked, that revocation does not affect the validity of any decision made at a committee meeting or general meeting during the period of suspension or expulsion.

PART 5 — COMMITTEE

Division 1 — Powers of Committee

28. Committee

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

- (a) is to control and manage the affairs of the association, and
- (b) may exercise all the functions that 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 the acts and do all things that appear to the committee to be necessary or desirable for the proper management of the affairs of the association

Division 2 — Composition of the Committee and duties of members

29. Committee members

29.1 The committee must consist of —

- (a) the office holders of the Association; and
- (b) at least three (3) ordinary committee members.

29.2 Ordinary committee members must be a minimum of 3, maximum of 4 members.

29.3 The following are the office holders of the Association —

- (a) the Chairman.
- (b) the Vice Chairman.
- (c) the Secretary.
- (d) the Treasurer.

29.4 A person may be a committee member if the person is —

- (a) an individual who has reached 18 years of age; and
- (b) an ordinary member.

29.5 At minimum, ordinary committee members shall be representatives from the following membership classes -

- (c) one (1) representative(s) of the Senior Driver Membership Classes
- (d) one (1) representative(s) of the Junior Driver Membership Classes

29.6 A person must not hold 2 or more of the offices mentioned in subrule 29.3 at the same time.

30. Chairman and Vice Chairman

30.1 It is the duty of the Chairman and Vice Chairman to consult with the Secretary regarding the business to be conducted at each committee meeting and general meeting.

30.2 The Chairman has the powers and duties relating to convening and presiding at committee meetings and presiding at general meetings provided for in these rules.

30.3 The Vice Chairman is to assist the Chairman with items of business, including any roles or items of business solely assigned to him or herself by the Chairman.

30.4 In the event of the absence from a general meeting of:

- (a) The Chairman, the Vice Chairman; or
- (b) Both the Chairman and the Vice Chairman, a member elected by the other ordinary members present at the general meeting, must preside at the general meeting.

30.5 In the event of the absence from a committee meeting of:

- (a) The Chairman, the Vice Chairman; or
- (b) Both the Chairman and the Vice Chairman, a committee member elected by the other committee members present at the committee meeting, must preside at the committee meeting.

31. Secretary

31.1 The Secretary has the following duties —

- (a) 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.
- (b)
- (c) It is the duty of the secretary to keep minutes (whether in written or electronic form) of:
- (d) all appointments of office-bearers and members of the committee, and
- (e) the names of members of the committee present at a committee meeting or a general meeting, and
- (f) all proceedings at committee meetings and general meetings.
- (g) Minutes of proceedings at a meeting must be signed by the chairperson of the meeting or by the chairperson of the next succeeding meeting.
- (h) The signature of the chairperson may be transmitted by electronic means for the purposes of subclause (3).

32. Treasurer

32.1 The Treasurer has the following duties —

- (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.

Division 3 — Election of committee members and tenure of office

33. Powers of the committee

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

- (a) is to control and manage the affairs of the association, and
- (b) may exercise all the functions that 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 the acts and do all things that appear to the committee to be necessary or desirable for the proper management of the affairs of the association.

34. Composition and membership of committee

- 34.1 The committee is to consist of:
- (a) the office-bearers of the association, and
 - (b) at least 3 ordinary committee members, and
 - (c) speedway Australia delegate, and
 - (d) state scrutineer each of whom is to be elected at the annual general meeting of the association under clause 15.

34.2 Intentionally blank

- 34.3 The office-bearers of the association are as follows:
- (e) the president,
 - (f) the vice-president,
 - (g) the treasurer,
 - (h) the secretary,
 - (i) the public officer.
- 34.3 A committee member may hold up to 2 offices (other than both the offices of president and vice-president).
- 34.4 There is no maximum number of consecutive terms for which a committee member may hold office.
- 34.5 Each member of the committee is, subject to this constitution, to hold office until immediately before the election of committee members at the annual general meeting next following the date of the member's election, and is eligible for re-election.

35. Election of committee members

- 35.1 Nominations of candidates for election as office-bearers of the association or as ordinary committee members:
- (a) A member that wishes to be considered for election to the committee at the Annual General meeting must nominate in writing, and
 - (b) must be delivered to the secretary of the association at least 7 days before the date fixed for the holding of the annual general meeting at which the election is to take place.
- 35.2 If insufficient nominations are received to fill all vacancies on the committee, the candidates nominated are taken to be elected and further nominations are to be received at the annual general meeting.
- 35.3 If insufficient further nominations are received, any vacant positions remaining on the committee are taken to be casual vacancies.
- 35.4 If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated are taken to be elected.

- 35.5 If the number of nominations received exceeds the number of vacancies to be filled, a ballot is to be held.
- 35.6 The ballot for the election of office-bearers and ordinary committee members of the committee is to be conducted at the annual general meeting in any usual and proper manner that the committee directs.
- 35.7 A person nominated as a candidate for election as an office-bearer or as an ordinary committee member of the association must be a member of the association.

35 Secretary

- 36.1 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.
- 36.2 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 committee, and
 - (b) the names of members of the committee present at a committee meeting or a general meeting, and
 - (c) all proceedings at committee meetings and general meetings.
- 36.3 Minutes of proceedings at a meeting must be signed by the chairperson of the meeting or by the chairperson of the next succeeding meeting.
- 36.4 The signature of the chairperson may be transmitted by electronic means for the purposes of subclause (3).

37 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.

37 Casual vacancies

- 38.1 In the event of a casual vacancy occurring in the membership of the committee, the committee may appoint a member of the association to fill the vacancy and the member so appointed is to hold office, subject to this constitution, until the annual general meeting next following the date of the appointment.
- 38.2 A casual vacancy in the office of a member of the committee occurs if the member:
- (a) dies, or
 - (b) ceases to be a member of the association, or
 - (c) is or 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 19, or
- (f) becomes a mentally incapacitated person, or
- (g) is absent without the consent of the committee from 3 consecutive meetings of the committee, 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.

39 Removal of committee members

40.1 The association in general meeting may by resolution remove any member of the committee from the office of member before the expiration of the member's term of office and may by resolution appoint another person to hold office until the expiration of the term of office of the member so removed.

40.2 If a member of the committee to whom a proposed resolution referred to in subclause (1) relates makes representations in writing to the secretary or president (not exceeding a reasonable length) and requests that the representations be notified to the members of the association, the secretary or the president may send a copy of the representations to each member of the association or, if the representations are not so sent, the member is entitled to require that the representations be read out at the meeting at which the resolution is considered.

41 Committee meetings and quorum

41.1 The committee must meet at least 3 times in each period of 12 months at the place and time that the committee may determine. \

41.2 Additional meetings of the committee may be convened by the president or by any member of the committee.

41.3 Oral or written notice of a meeting of the committee must be given by the secretary to each member of the committee at least 48 hours (or any other period that may be unanimously agreed on by the members of the committee) before the time appointed for the holding of the meeting.

41.4 Notice of a meeting given under subclause (3) must specify the general nature of the business to be transacted at the meeting and no business other than that business is to be transacted at the meeting, except business which the committee members present at the meeting unanimously agree to treat as urgent business.

41.5 Any 4 members of the committee constitute a quorum for the transaction of the business of a meeting of the committee.

41.6 No business is to be transacted by the committee unless a quorum is present and if, within half an hour of the time appointed for the meeting, a quorum is not present, the meeting is to stand adjourned to the same place and at the same hour of the same day in the following week.

41.7 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.

41.8 At a meeting of the committee:

- (a) the president or, in the president's absence, the vice-president is to preside, or
- (b) if the president and the vice-president are absent or unwilling to act, one of the remaining members of the committee chosen by the members present at the meeting is to preside.

42 Appointment of association members as committee members to constitute quorum

42.1 If at any time the number of committee members is less than the number required to constitute a quorum for a committee meeting, the existing committee members may appoint a sufficient number of members of the association as committee members to enable the quorum to be constituted.

42.2 A member of the committee so appointed is to hold office, subject to this constitution, until the annual general meeting next following the date of the appointment.

42.3 This clause does not apply to the filling of a casual vacancy to which clause 18 applies.

43 Use of technology at committee meetings

43.1 A committee meeting may be held at 2 or more venues using any technology approved by the committee that gives each of the committee's members a reasonable opportunity to participate.

43.2 A committee member who participates in a committee meeting using that technology is taken to be present at the meeting and, if the member votes at the meeting, is taken to have voted in person.

43 Delegation by committee to sub-committee

43.1 The committee may, by instrument in writing, delegate to one or more subcommittees (consisting of the member or members of the association that the committee thinks fit) the exercise of any of the functions of the committee that are specified in the instrument, other than:

- (a) this power of delegation,
- (b) and a function which is a duty imposed on the committee by the Act or by any other law.

43.2 A function the exercise of which has been delegated to a sub-committee under this clause may, while the delegation remains unrevoked, be exercised from time to time by the sub-committee in accordance with the terms of the delegation.

43.3 A delegation under this clause may be made subject to any conditions or limitations as to the exercise of any function, or as to time or circumstances, that may be specified in the instrument of delegation.

43.4 Despite any delegation under this clause, the committee may continue to exercise any function delegated.

43.5 Any act or thing done or suffered by a sub-committee acting in the exercise of a

delegation under this clause has the same force and effect as it would have if it had been done or suffered by the committee.

43.6 The committee may, by instrument in writing, revoke wholly or in part any delegation under this clause.

43.7 A sub-committee may meet and adjourn as it thinks proper.

44 Voting and decisions

44.1 Questions arising at a meeting of the committee or of any sub-committee appointed by the committee are to be determined by a majority of the votes of members of the committee or sub-committee present at the meeting.

44.2 Each member present at a meeting of the committee or of any subcommittee appointed by the committee (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.

44.3 Subject to clause 20 (5), the committee may act despite any vacancy on the committee.

44.4 Any act or thing done or suffered, or purporting to have been done or suffered, by the committee or by a sub-committee appointed by the committee, is valid and effectual despite any defect that may afterwards be discovered in the appointment or qualification of any member of the committee or sub-committee.

Part 4 GENERAL MEETINGS

45 Annual general meetings - holding of

45.1 The association must hold its first annual general meeting within 18 months after its registration under the Act.

45.2 The association must hold its annual general meetings:
(a) within 6 months after the close of the association's financial year, or
(b) within any later time that may be allowed or prescribed under section 37 of the Act.

46 Annual general meetings - calling of and business at

46.1 The annual general meeting of the association is, subject to the Act and to clause 25, to be convened on the date and at the place and time that the committee thinks fit.

46.2 In addition to any other business which may be transacted at an annual general meeting, the business of an annual general meeting is to include the following:

- (a) to confirm the minutes of the last preceding annual general meeting and of any special general meeting held since that meeting,
- (b) to receive from the committee reports on the activities of the association during the last preceding financial year,
- (c) to elect office-bearers of the association and ordinary committee members,
- (d) to receive and consider any financial statement or report required to be submitted to members under the Act.

46.3 An annual general meeting must be specified as that type of meeting in the notice convening it.

47 Special general meetings - calling of

- 47.1 The committee may, whenever it thinks fit, convene a special general meeting of the association.
- 47.2 The committee must, on the requisition of at least 5% of the total number of members, convene a special general meeting of the association.
- 47.3 A requisition of members for a special general meeting:
- (a) must be in writing, and
 - (b) must state the purpose or purposes of the meeting, and
 - (c) must be signed by the members making the requisition, and
 - (d) must be lodged with the secretary, and
 - (e) may consist of several documents in a similar form, each signed by one or more of the members making the requisition.
- 47.4 If the committee fails to convene a special general meeting to be held within 1 month after the 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.
- 47.5 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 committee.
- 47.6 For the purposes of subclause (3):
- (a) a requisition may be in electronic form, and
 - (b) a signature may be transmitted, and a requisition may be lodged, by electronic means.

48 Notice

- 48.1 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.
- 48.2 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.
- Note.** A special resolution must be passed in accordance with section 39 of the Act.
- 48.3 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 26 (2).
- 48.4 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.

49 Quorum for general meetings

- 49.1 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.
- 49.2 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.
- 49.3 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.
- 49.4 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.

50 Presiding member

- 50.1 The president or, in the president's absence, the vice-president, is to preside as chairperson at each general meeting of the association.
- 50.2 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.

51 Adjournment

- 51.1 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.
- 51.2 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.
- 51.3 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.

52 Making of decisions

- 52.1 A question arising at a general meeting of the association is to be determined by:
- (a) a show of hands or, if the meeting is one to which clause 37 applies, any appropriate corresponding method that the committee may determine, 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.

52.2 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.

52.3 Subclause (2) applies to a method determined by the committee under subclause (1) (a) in the same way as it applies to a show of hands.

52.4 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.

53 Special resolutions

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

54 Voting

54.1 On any question arising at a general meeting of the association a full member has one vote only.

54.2 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.

54.3 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.

54.4 A member is not entitled to vote at any general meeting of the association if the member is under 16 years of age.

55 Proxy votes

55.1 Each member is to be entitled to appoint another member as proxy by giving notice to the secretary no later than 24 hours before the time of the meeting in respect of which the proxy is to be appointed. Notice to be in writing.

55.2 A member is only entitled to hold 2 proxy votes as well as their own.

56 Postal or electronic ballots

56.1 The association may hold a postal or electronic ballot (as the committee determines) to determine any issue or proposal (other than an appeal under clause 12).

56.2 A postal or electronic ballot is to be conducted in accordance with Schedule 3 to the Regulation.

57 Use of technology at general meetings

57.1 A general meeting may be held at 2 or more venues using any technology approved by the committee that gives each of the association's members a reasonable opportunity to participate.

57.2 A member of an association who participates in a general meeting using that technology is taken to be present at the meeting and, if the member votes at the meeting, is taken to have voted in person.

Part 5 Miscellaneous

58 Insurance

The association may effect and maintain insurance.

58 Funds - source

- 58.1 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, any other sources that the committee determines.
- 58.2 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.
- 58.3 The association must, as soon as practicable after receiving any money, issue an appropriate receipt.

59 Funds - management

- 59.1 Subject to any resolution passed by the association in general meeting, the funds of the association are to be used solely in pursuance of the objects of the association in the manner that the committee determines.
- 59.2 All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by 2 authorised signatories.

60 Association is non-profit

60.1 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.

Note. Section 5 of the Act defines **pecuniary gain** for the purpose of this clause.

60 Distribution of property on winding up of association

61.1 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.

61.2 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.

Note. Section 65 of the Act provides for distribution of surplus property on the winding up of an association.

62 Change of name, objects and constitution

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

63 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.

64 Inspection of books etc

64.1 The following documents must be open to inspection, free of charge, by a member of the association at any reasonable hour:

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

64.2 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.

64.3 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.

65 Service of notices

65.1 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.

65.2 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.

66 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.

Notes.

1. Schedule 1 to the Act provides that an association's constitution is to address the association's financial year.
2. Clause 19 of the Regulation contains a substitute clause 47 for certain associations incorporated under the *Associations Incorporation Act 1984*.
3. References to "*the Act*" refer to New South Wales Associations Incorporated Act 2009 No7.