

# MODEL RULES

## INSTRUCTION SHEET

### RULES FOR INCORPORATED ASSOCIATIONS

Members decide the rules (sometimes called the constitution) which will apply to their incorporated association, its committee of management and to themselves. The rules of an incorporated association must be lodged with the Department Commerce to take effect.

- The *Associations Incorporation Act (1987)* sets out some basic requirements with which **all** associations incorporated in WA, regardless of when they were incorporated, must comply. Details are provided in Checklist II and are also included in the model rules. The rules of incorporated associations must not be inconsistent with those requirements.
- In addition, any association applying for incorporation after July 1988 **must** provide for certain matters in its rules, although the members can decide the exact details. Those matters which must be provided for are set out in Schedule 1 of the *Associations Incorporation Act*, and details also are included in Checklist II.

The *Associations Incorporation Act* can be purchased from the State Law Publisher (telephone 9321 7688) or downloaded from their website at [www.slp.wa.gov.au](http://www.slp.wa.gov.au); follow the links to “Online publications” and “Statutes”.

#### The model rules are only a guide.

The department’s current model rules are attached to these instructions. Please read through them carefully and decide if these rules suit your association as is, whether you need to change them, or whether your association wants to develop its own set of rules. You might also want to read through Checklist II as it provides some additional information about key model rules.

#### Want to use the model rules as is?

If your association is applying for incorporation or wants to overhaul its rules, you can simply complete the blank spaces in the model rules provided and submit them with the applicable fee and your application for incorporation (Form 1), or as an alteration to the existing rules (Form 5). The model rules include all the required provisions.

→ → GO TO CHECKLIST 1 (next page)

#### Want to change the model rules or develop your own rules?

Associations also have the option to change some of the model rules or to develop their own complete set of rules. Because the *Associations Incorporation Act* sets out some basic requirements, any new or amended rules developed by your association **must** still comply with those requirements. If your association wants to change the model rules or develop its own rules:

→ → GO TO CHECKLIST 2 (pages 3 to 6)

#### Want more information?

The Department Commerce produces a number of *Info sheets* on incorporated associations, for example *Associations Info Sheet 2* “Applying for Incorporation of an Association”. You can contact the Associations section of the department on 9282 0764, or on 1300 30 40 74 (country callers, for the cost of a local call). You also can check out the website at [www.commerce.wa.gov.au/associations](http://www.commerce.wa.gov.au/associations) - or follow the links from “Consumer Protection”, to “Not for profit” and then “Associations”.

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### CHECKLIST I

(for Associations using the model rules as is)

1. Have you completed **rule 1**, stating the association's name?  
*The Act requires that the name of your association ends with either "Incorporated" or "Inc.". Also make sure that you use exactly the same name in your rules and the other forms to be lodged with the department.*
2. Have you completed **rule 3(1)**, stating the objects of your association?  
*An association for the purpose of trading or securing pecuniary profit to the members from the transactions of the association is not eligible to be incorporated.*
3. Does your association want to change the standard powers given to incorporated associations under the Act and set out in **rule 4**?  
*By stating any additions or modifications at rule 4 you can vary all or any of these powers, or provide your association with additional powers, so long as these do not conflict with the Act.*
4. Have you completed **rule 5(1)**, stating the qualifications for, or restrictions on, who can become a member of your association?
5. Have you completed **rule 10(1)(e)**, stating how many people must be on the committee in addition to the office bearers?  
*Model rule 10 provides for four office bearers and your association can state how many other members it wants to have on its committee of management, if any. Note that this rule also means that committee members' terms are for one year. If your association would prefer "staggered" two-year terms for committee members refer to item 7 in Checklist II.*
6. Have you completed **rule 15(1)** and **15(4)**, stating the number of times the association's committee of management must meet every year AND stating the number of committee members who need to attend a meeting for there to be a quorum?  
*A "quorum" is the minimum number of members who must be present for a meeting to be legally effective. If you make the number of committee members for a quorum too high it may be difficult for the committee to be effective. At the same time, if the quorum is too low, you may leave the management of the association without an adequate spread of responsibility, experience and representation.*
7. Have you completed **rule 16(1)(c)**, stating the number of members who have to request a special general meeting before the committee is required to convene one?
8. Have you completed **rule 17(1)**, stating the quorum of members who must be present for a general meeting?  
*As stated at 6. above, a "quorum" is the minimum number of members who must be present for a meeting to be legally effective. Make sure that the number for the quorum for a general meeting is achievable, but without being so small that the meeting might not be representative of the general membership.*
9. Are you going to apply for income tax exemption, Public Benevolent Institution (PBI) or Deductible Gift Recipient (DGR) status with the Australian Taxation Office (ATO)?  
*Model rule 25 meets current ATO requirements if your association is one which is eligible for income tax exemption. You should check the information in item 18 in Checklist II if you are seeking additional tax exemptions and benefits such as PBI or DGR status.*
10. Have you made a copy of the completed rules to keep for your association's records?  
*Before attaching the completed rules for your association to Form 1 or Form 5 and mailing these with the applicable fee to the Department Commerce **make sure you remove the "Instruction Sheet Only" pages.***

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### CHECKLIST II\*

(for Associations wanting to change the model rules or to develop their own rules)

1. Do you have access to a computer and the internet?  
*If you have access to the internet you can download the model rules in "Word" from the Department of Commerce website [www.commerce.wa.gov.au/associations](http://www.commerce.wa.gov.au/associations) - click on "Model rules for incorporated associations ... Microsoft Word format". You can then make changes to the document in electronic format, before printing it out.*

*If you do not have access to a computer and the internet, you can alter the printed model rules by clearly deleting or amending those rules your association wants to vary in writing. Alternatively your association can prepare its own set of rules.*

2. Schedule 1 clause 1: Do the rules of your association provide for the name of the association? **(Model rule 1.)**

*Note that section 10(b) of the Act also requires that the name of your association ends with either "Incorporated" or "Inc.". Make sure that you use exactly the same name in your rules and the other forms to be lodged with the department.*

3. Schedule 1 clause 2: Do the rules of your association provide for the objects and purposes of the association, including a provision either in, or substantially in, the terms required? **(Model rule 3.)**

*You must include the objects and purposes in addition to a statement that is the same or similar to that set out at **model rule 3(2)**. Under section 4 of the Act, an association for the purpose of trading or securing pecuniary profit to the members from the transactions of the association is not eligible to be incorporated.*

4. Schedule 1 clause 3: Do the rules of your association provide for the qualifications (if any) for membership of the association? **(Model rule 5.)**

5. Schedule 1 clause 4: Do the rules of your association provide for the register of members? **(Model rule 6.)**

*Section 27 of the Act sets out what the members' register is required to contain and also that all members can have access, and is included in model rule 6. If you have concerns generally about members' privacy you can contact the Federal Office of the Privacy Commissioner on 1300 363 992.*

6. Schedule 1 clause 5: Do the rules of your association provide for members' entrance fees, subscriptions and other amounts (if any) to be paid by members? **(Model rule 7.)**

7. Schedule 1 clause 6: Do the rules of your association provide for the committee or body of management? **(Model rules 10 to 15.)**

*The Schedule requires that the rules provide for the name, structure, membership and powers of the committee or other body having the management of the association and also provide for --*

*(a) the election or appointment of members of the committee;*

*(b) the terms of office of members of the committee;*

*(c) the grounds on which, or reasons for which, the office of a member of the committee shall become vacant;*

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\* This checklist is structured around the requirements for association rules set out in Schedule 1 of the *Associations Incorporation Act*. The Schedule also is included in full at Note 3 in *Associations info sheet 2, "Applying for the Incorporation of an Association"*.

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- (d) the filling of casual vacancies occurring on the committee;
- (e) the quorum and procedure at meetings of the committee.

A “quorum” is the minimum number of members who must be present for a meeting to be legally effective. If you make the number of committee members for a quorum too high it may be difficult for the committee to be effective. At the same time, if the quorum is too low, you may leave the management of the association without an adequate spread of responsibility, experience and representation.

Note that model rule 10 allows for committee members’ terms to be for one year. If you want to have two-year terms for committee members with “staggered” elections for half the committee on alternate years, you will need to alter the rules by substituting the following sub-rule for 10(3):

- (3) Subject to sub-rules (2A) and (8), a Committee member’s term will be from his or her election at an annual general meeting until the election of Committee members at the second annual general meeting after his or her election, but he or she is eligible for re-election to membership of the Committee.

If your association wants to have two-year terms for committee members, you also will need to add the following sub-rule after rule 10(2), in order to deal with elections at the first annual general meeting:

- (2A) Prior to the election of Committee members at the first annual general meeting to be held after the incorporation of the Association under the Act, a ballot will be held to choose -

- (a) if the Committee consists of an even number of members, half of that number; or
- (b) if the Committee consists of an odd number of members, the number of members nearest to, and exceeding, half of that odd number,

who will cease to be Committee members, but will be eligible for re-election to membership of the Committee.

Note that however you allocate responsibility for managing the association under the rules, section 20 of the Act states that those persons who, under the rules, have powers to manage the affairs of the association constitute “the committee”. Sections 21 and 22 of the Act impose specific obligations on committee members to declare their financial interest in any contracts being considered by the committee and to not deliberate or vote on those contracts (**model rule 15(6), 15(7)**). Under section 42, committee members also may be individually liable to prosecution if they fail to take all reasonable steps to ensure that the association complies with the Act.

- 8.** Schedule 1 clause 7: Do the rules of your association provide for the quorum and procedure at general meetings of members? (**Model rule 17.**)  
*Again the quorum you set is very important. Make sure that the number for the quorum for a general meeting is achievable, without being so small that the meeting might not be representative of the general membership.*

- 9.** Schedule 1 clauses 8 and 10: Do the rules of your association provide for the time and manner for giving notices of general meetings, the intervals between general meetings and the manner of calling general meetings? (**Model rule 16.**)  
*Note that section 23 of the Act requires that incorporated associations hold annual general meetings, as outlined in model rule 16(1)(b).*

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- 10.** Schedule 1 clause 9: Do the rules of your association provide for the manner of control over association funds? **(Model rule 13.)**  
*Sections 25 and 26 of the Act set out minimum standards for keeping the books of an association and for reporting the financial position of the association to members, and these sections are included in model rule 13(d). Financial reports are NOT REQUIRED by the Act to be audited.*
- 11.** Schedule 1 clause 11: Do the rules of your association provide for the manner of altering and rescinding the rules and making additional rules for the association? **(Model rules 16(7) and 21.)**  
*Section 17 of the Act requires that changes to the rules only be by special resolution as defined by section 24 and that changes be lodged with the department before these are effective. Sections 18 and 19 require that the Commissioner also specifically approve any change to an association's name or objects or purposes before these are effective. These requirements are set out in the definition of "special resolution" in **model rule 2**, and in 21. Model rule 16(7) is an example of a notice provision.*
- 12.** Schedule 1 clause 12: Do the rules of your association provide for the custody and use of the common seal? **(Model rule 22.)**  
*Under section 10(a) of the Act, incorporated associations are required to have a "common seal", which is simply a stamp displaying the name of an incorporated body. It is effectively a "signature" for the association and is used on documents such as transfer of land forms or a request for a duplicate copy of the association's certificate of incorporation. You will need to contact a stamp maker to have a common seal made.*
- 13.** Schedule 1 clause 13: Do the rules of your association provide for the custody of the association's records, books, documents and securities? **(Model rules 6(2), 12(d) and 13(f).)**  
*In addition to the register of members required under section 27 of the Act, sections 28 and 29 also require associations to keep an up-to-date copy of the rules and a record of office holders and any trustees (all of which must be available to members to inspect and copy). Provision for the custody of these records and others association materials are included in model rules 6(2), 12(d) and 13(f).*
- 14.** Schedule 1 clause 14: Do the rules of your association provide for the inspection by members of records and documents? **(Model rule 23.)**  
*Under the Act members have the right to access and copy the register of members, the association rules and the record of office holders and these rights are included in **model rules 6** and **12**. Model rule 23 provides for access to other association records and documents, although if your association employs staff or has clients you should ensure that members' access to confidential staff and client records is excluded in the association's rules.*
- 15.** Does your association want to add, exclude or modify the powers given to all incorporated associations under section 13 of the Act? **(Model rule 4.)**  
*Section 13 of the Act gives incorporated associations certain powers, as set out in model rule 4. You can vary all or any of these powers if you want to, or provide your association with additional powers, so long as these do not conflict with the Act and any variations are set out in the association's rules.*
- 16.** Does your association want to define its "financial year"? **(Model rule 2.)**  
*Model rule 2 defines the association's financial year as the period from 1 July to 30 June the next year (except for its first year after incorporation). This is the same period as most other incorporated bodies, which may or may not suit the needs of your association. Although section 3 of the Act allows a committee to define the financial year for the association, note that section 23 requires an association's annual general meeting (AGM) to be held in every calendar year and within four months after the end of an association's financial year. If you are planning to submit audited financial statements to the members at the AGM, you may wish to consider a different financial year, for example 1 January to 31 December, to avoid delays with auditors at their traditionally busiest time.*

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**17.** Is your association including a dispute resolution clause in its rules? **(Model rule 24.)** While there is no requirement to include a dispute resolution clause it can be a good idea. A number of not for profit agencies such as Citizens Advice Bureau and Relationships Australia provide inexpensive mediation services. However, if your association is in a rural or remote area, you may want to check if these services are available first.

**18.** Is your association including a dissolution clause in its rules? **(Model rule 25.)** Your association does not have to have a dissolution clause but can include one if it wants. Dissolution clauses come into effect if an incorporated association is able to pay all its debts and liabilities, and its members resolve to wind up the association by special resolution. Any property left after all the debts and liabilities are paid is called "surplus property". The rule relating to how the association intends to distribute any surplus property is known as a "dissolution clause" (although this department also will need to approve any distribution of surplus property). Note too that subsection 33 (2) of the Act states:

Notwithstanding any Act or law to the contrary, it shall not be lawful for any part of the surplus property of an incorporated association to be distributed on the winding up of the association -- (a) among the members or former members of the association; or  
(b) otherwise than to an incorporated association or for charitable purposes.

The Act also defines "incorporated associations" to mean only those associations incorporated under the WA Act.

To obtain an exemption from income tax as a not for profit organisation you must, amongst other things, include a dissolution clause in a form acceptable to the Australian Taxation Office (ATO). If your association is the kind of association which is eligible for income tax exempt status, model rule 25 meets the current ATO requirements for the dissolution clause as well as the requirements under the Associations Incorporation Act. Further information is available from the ATO by calling 132866 and taking the "Business Income Tax" option and it is worth checking to make sure the ATO requirements have not changed.

If your association seeks to set up as a Public Benevolent Institution (PBI) or a Deductible Gift Recipient (DGR), it must satisfy additional ATO requirements about the dissolution clause. The model clauses which follow are intended to incorporate the requirements of both the ATO and the Associations Incorporation Act. You are advised however to contact the ATO for confirmation that the clause you select remains acceptable.

### **Example of a Dissolution Clause for a DGR which is NOT also a PBI**

If upon the winding up of the association, there remains after satisfaction of all its debts and liabilities any property whatsoever, the same shall not be paid or distributed amongst the members or former members, but shall be given or transferred to another association incorporated under the Act which has similar objects and to which income tax deductible gifts can be made as approved by the Commissioner of Taxation and which association shall be determined by resolution of the members.

### **Example of a Dissolution Clause for a DGR which is also a PBI**

If upon the winding up of the association, there remains after satisfaction of all its debts and liabilities any property whatsoever, the same shall not be paid or distributed amongst the members or former members, but shall be given or transferred to another association incorporated under the Act which has similar objects and which is approved by the Commissioner of Taxation as a public benevolent institution to which income tax deductible gifts can be made and which association shall be determined by resolution of the members.

**19.** Are your association's rules ready to be lodged with the Department Commerce? Before attaching the completed rules for your association to Form 1 or Form 5 and mailing these with the applicable fee to the department, make sure you remove/delete the "Instruction Sheet Only" pages from the rules. Whether you make changes electronically or in writing, if you have used all or any of the model rules go through and check that any references to rule numbers are correct.

**Please complete:**

This is the annexure of [.....] pages marked "A" referred to in the Form No [ . .... ] signed by me and dated

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

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## RULES OF ASSOCIATION

### Name of Association

1 The name of the Association is

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### Definitions

2 In these rules, unless the contrary intention appears-

"annual general meeting" is the meeting convened under paragraph (b) of rule 16 (1);

"Committee meeting" means a meeting referred to in rule 15;

"Committee member" means person referred to in paragraph (a), (b), (c), (d) or (e) of rule 10 (1);

"convene" means to call together for a formal meeting;

"department" means the government department with responsibility for administering the *Associations Incorporation Act (1987)*;

"financial year" means a period not exceeding 15 months fixed by the Committee, being a period commencing on the date of incorporation of the Association and ending on 30 June; and thereafter each period commencing 1 July and ending on 30 June in the following year;

"general meeting" means a meeting to which all members are invited;

"member" means member of the Association;

"ordinary resolution" means resolution other than a special resolution;

"poll" means voting conducted in written form (as opposed to a show of hands);

"special general meeting" means a general meeting other than the annual general meeting;

"special resolution" has the meaning given by section 24 of the Act, that is-

A resolution is a special resolution if it is passed by a majority of not less than three-fourths of the members of the association who are entitled under the rules of the association to vote and vote in person or, where proxies or postal votes are allowed by the rules of the association by proxy or postal vote, at a general meeting of which notice specifying the intention to propose the resolution as a special resolution was given in accordance with those rules.

At a meeting at which a resolution proposed as a special resolution is submitted, a declaration by the person presiding that the resolution has been passed as a special resolution shall be evidence of the fact unless, during the meeting at which the resolution is submitted, a poll is demanded in accordance with the rules of the Association or, if the

rules do not make provision as to the manner in which a poll may be demanded, by at least 3 members of the association present in person or, where proxies are allowed, by proxy.

If a poll is held, a declaration by the person presiding as to the result of a poll is evidence of the matter so declared.

"the Act" means the *Associations Incorporation Act 1987*;

"the Association" means the Association referred to in rule 1;

"the Chairperson" means-

(a) in relation to the proceedings at a Committee meeting or general meeting, the person presiding at the Committee meeting or general meeting in accordance with rule 11; or

(b) otherwise than in relation to the proceedings referred to in paragraph (a), the person referred to in paragraph (a) of rule 10 (1) or, if that person is unable to perform his or her functions, the Vice Chairperson;

"the Commissioner" means the Commissioner for Consumer Protection exercising powers under the Act;

"the Committee" means the Committee of Management of the Association referred to in rule 10 (1);

"the Secretary" means the Secretary referred to in paragraph (c) of rule 10 (1);

"the Treasurer" means the Treasurer referred to in paragraph (d) of rule 10 (1);

"the Vice-Chairperson" means the Vice-Chairperson referred to in paragraph (b) of rule 10 (1).

## **Objects of Association**

**3** (1) The objects of the Association are-

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(2) The property and income of the Association shall be applied solely towards the promotion of the objects of the Association and no part of that property or income may be paid or otherwise distributed, directly or indirectly, to members, except in good faith in the promotion of those objects.

## **Powers of Association**

**4** The powers conferred on the Association are the same as those conferred by section 13 of the Act, so that subject to the Act and any additions, exclusions or modifications inserted below, the Association-

may do all things necessary or convenient for carrying out its objects and purposes, and in particular, may -

- (a) acquire, hold, deal with, and dispose of any real or personal property;
  - (b) open and operate bank accounts;
  - (c) invest its money -
    - (i) in any security in which trust monies may lawfully be invested; or
    - (ii) in any other manner authorised by the rules of the Association;
  - (d) borrow money upon such terms and conditions as the Association thinks fit;
  - (e) give such security for the discharge of liabilities incurred by the Association as the Association thinks fit;
  - (f) appoint agents to transact any business of the Association on its behalf;
  - (g) enter into any other contract it considers necessary or desirable; and
  - (h) may act as trustee and accept and hold real and personal property upon trust, but does not have power to do any act or thing as a trustee that, if done otherwise than as a trustee, would contravene this Act or the rules of the Association.
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### **Qualifications for membership of Association**

**5** (1) Membership of the Association is open to-

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(2) A person who wishes to become a member must-

- (a) apply for membership to the Committee in writing-
  - (i) signed by that person and by both of the members referred to in paragraph (b); and
  - (ii) in such form as the Committee from time to time directs; and
- (b) be proposed by one member and seconded by another member.

(3) The Committee members must consider each application made under sub-rule (2) at a Committee meeting and must at the Committee meeting or the next Committee meeting accept or reject that application.

(4) An applicant whose application for membership of the Association is rejected under sub-rule (3) must, if he or she wishes to appeal against that decision, give notice to the Secretary of his or her intention to do so within a period of 14 days from the date he or she is advised of the rejection.

(5) When notice is given under sub-rule (4), the Association in a general meeting no later than the next annual general meeting, must either confirm or set aside the decision of the Committee to reject the application, after having afforded the applicant who gave that notice a reasonable opportunity to be heard by, or to make representations in writing to, the Association in the general meeting.

## **Register of members of Association**

**6** (1) The Secretary, on behalf of the Association, must comply with section 27 of the Act by keeping and maintaining-

in an up to date condition a register of the members of the Association and their postal or residential addresses and, upon the request of a member of the Association, shall make the register available for the inspection of the member and the member may make a copy of or take an extract from the register but shall have no right to remove the register for that purpose.

(2) The register must be so kept and maintained at the Secretary's place of residence, or at such other place as the members at a general meeting decide.

(3) The Secretary must cause the name of a person who dies or who ceases to be a member under rule 8 to be deleted from the register of members referred to in sub-rule (1).

## **Subscriptions of members of Association**

**7** (1) The members may from time to time at a general meeting determine the amount of the subscription to be paid by each member.

(2) Each member must pay to the Treasurer, annually on or before 1 July or such other date as the Committee from time to time determines, the amount of the subscription determined under sub-rule (1).

(3) Subject to sub-rule (4), a member whose subscription is not paid within 3 months after the relevant date fixed by or under sub-rule (2) ceases on the expiry of that period to be a member, unless the Committee decides otherwise.

(4) A person exercises all the rights and obligations of a member for the purposes of these rules if his or her subscription is paid on or before the relevant date fixed by or under sub-rule (2) or within 3 months thereafter, or such other time as the Committee allows.

## **Termination of membership of the Association**

**8** Membership of the Association may be terminated upon-

(a) receipt by the Secretary or another Committee member of a notice in writing from a member of his or her resignation from the Association. Such person remains liable to pay to the Association the amount of any subscription due and payable by that person to the Association but unpaid at the date of termination; or

(b) non-payment by a member of his or her subscription within three months of the date fixed by the Committee for subscriptions to be paid, unless the Committee decides otherwise in accordance with rule 7 (3); or

(c) expulsion of a member in accordance with rule 9.

## **Suspension or expulsion of members of Association**

**9** (1) If the Committee considers that a member should be suspended or expelled from membership of the Association because his or her conduct is detrimental to the interests of the Association, the Committee must communicate, either orally or in writing, to the member-

- (a) notice of the proposed suspension or expulsion and of the time, date and place of the Committee meeting at which the question of that suspension or expulsion will be decided; and
- (b) particulars of that conduct,

not less than 30 days before the date of the Committee meeting referred to in paragraph (a).

(2) At the Committee meeting referred to in a notice communicated under sub-rule (1), the Committee may, having afforded the member concerned a reasonable opportunity to be heard by, or to make representations in writing to, the Committee, suspend or expel or decline to suspend or expel that member from membership of the Association and must, forthwith after deciding whether or not to suspend or expel that member, communicate that decision in writing to that member.

(3) Subject to sub-rule (5), a member has his or her membership suspended or ceases to be a member 14 days after the day on which the decision to suspend or expel a member is communicated to him or her under sub-rule (2).

(4) A member who is suspended or expelled under sub-rule (2) must, if he or she wishes to appeal against that suspension or expulsion, give notice to the Secretary of his or her intention to do so within the period of 14 days referred to in sub-rule (3).

(5) When notice is given under sub-rule (4)-

- (a) the Association in a general meeting, must either confirm or set aside the decision of the Committee to suspend or expel the member, after having afforded the member who gave that notice a reasonable opportunity to be heard by, or to make representations in writing to, the Association in the general meeting; and
- (b) the member who gave that notice is not suspended or does not cease to be a member unless and until the decision of the Committee to suspend or expel him or her is confirmed under this sub-rule.

## **Committee of Management**

**10** (1) Subject to sub-rule (9), the affairs of the Association will be managed exclusively by a Committee of Management consisting of-

- (a) a Chairperson;
- (b) a Vice-Chairperson;
- (c) a Secretary;
- (d) a Treasurer; and
- (e) not less than \_\_\_\_\_ other persons, all of whom must be members of the Association.

(2) Committee members must be elected to membership of the Committee at an annual general meeting or appointed under sub-rule (8).

(3) Subject to sub-rule (8), a Committee member's term will be from his or her election at an annual general meeting until the election referred to in sub-rule (2) at the next annual general meeting after his or her election, but he or she is eligible for re-election to membership of the Committee.

(4) Except for nominees under sub-rule (7), a person is not eligible for election to membership of the Committee unless a member has nominated him or her for election by delivering notice in writing of that nomination, signed by-

- (a) the nominator; and
- (b) the nominee to signify his or her willingness to stand for election,

to the Secretary not less than 7 days before the day on which the annual general meeting concerned is to be held.

(5) A person who is eligible for election or re-election under this rule may -

- (a) propose or second himself or herself for election or re-election; and
- (b) vote for himself or herself.

(6) If the number of persons nominated in accordance with sub-rule (4) for election to membership of the Committee does not exceed the number of vacancies in that membership to be filled-

- (a) the Secretary must report accordingly to; and
- (b) the Chairperson must declare those persons to be duly elected as members of the Committee at,

the annual general meeting concerned.

(7) If vacancies remain on the Committee after the declaration under sub-rule (6), additional nominations of Committee members may be accepted from the floor of the annual general meeting. If such nominations from the floor do not exceed the number of vacancies the Chairperson must declare those persons to be duly elected as members of Committee. Where the number of nominations from the floor exceeds the remaining number of vacancies on the Committee, elections for those positions must be conducted.

(8) If a vacancy remains on the Committee after the application of sub-rule (7), or when a casual vacancy within the meaning of rule 14 occurs in the membership of the Committee-

- (a) the Committee may appoint a member to fill that vacancy; and
- (b) a member appointed under this sub-rule will -
  - (i) hold office until the election referred to in sub-rule (2); and
  - (ii) be eligible for election to membership of the Committee,

at the next following annual general meeting.

(9) The Committee may delegate, in writing, to one to more sub-committees (consisting of such member or members of the association as the Committee thinks fit) the exercise of such functions of the Committee as are specified in the delegation other than-

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

(10) Any delegation under sub-rule (9) may be subject to such conditions and limitations as to the exercise of that function or as to time and circumstances as are specified in the written delegation and the Committee may continue to exercise any function delegated.

(11) The Committee may, in writing, revoke wholly or in part any delegation under sub-rule (9).

## **Chairperson and Vice-Chairperson**

**11** (1) Subject to this rule, the Chairperson must preside at all general meetings and Committee meetings.

(2) In the event of the absence from a general meeting of-

(a) the Chairperson, the Vice-Chairperson; or

(b) both the Chairperson and the Vice-Chairperson, a member elected by the other members present at the general meeting,

must preside at the general meeting.

(3) In the event of the absence from a Committee meeting of-

(a) the Chairperson, the Vice-Chairperson; or

(b) both the Chairperson and the Vice-Chairperson, a Committee member elected by the other Committee members present at the Committee meeting,

must preside at the Committee meeting.

## **Secretary**

**12** The Secretary must-

(a) co-ordinate the correspondence of the Association;

(b) keep full and correct minutes of the proceedings of the Committee and of the Association;

(c) comply on behalf of the Association with-

(i) section 27 of the Act with respect to the register of members of the Association, as referred to in rule 6;

(ii) section 28 of the Act by keeping and maintaining in an up to date condition the rules of the Association and, upon the request of a member of the Association, must make available those rules for the inspection of the member and the member may make a copy of or take an extract from the rules but will have no right to remove the rules for that purpose; and

(iii) section 29 of the Act by maintaining a record of -

(A) the names and residential or postal addresses of the persons who hold the offices of the Association provided for by these rules, including all offices held by the persons who constitute the Committee and persons who are authorised to use the common seal of the Association under rule 22; and

(B) the names and residential or postal addresses of any persons who are appointed or act as trustees on behalf of the Association,

and the Secretary must, upon the request of a member of the Association, make available the record for the inspection of the member and the member may make a copy of or take an extract from the record but will have no right to remove the record for that purpose;

(d) unless the members resolve otherwise at a general meeting, have custody of all books, documents, records and registers of the Association, including those referred to in paragraph (c) but other than those required by rule 13 to be kept and maintained by, or in the custody of, the Treasurer; and

(e) perform such other duties as are imposed by these rules on the Secretary.

## **Treasurer**

**13** The Treasurer must-

- (a) be responsible for the receipt of all moneys paid to or received by, or by him or her on behalf of, the Association and must issue receipts for those moneys in the name of the Association;
- (b) pay all moneys referred to in paragraph (a) into such account or accounts of the Association as the Committee may from time to time direct;
- (c) make payments from the funds of the Association with the authority of a general meeting or of the Committee and in so doing ensure that all cheques are signed by himself or herself and at least one other authorised Committee member, or by any two others as are authorised by the Committee;
- (d) comply on behalf of the Association with sections 25 and 26 of the Act with respect to the accounting records of the Association by-
  - (i) keeping such accounting records as correctly record and explain the financial transactions and financial position of the Association;
  - (ii) keeping its accounting records in such manner as will enable true and fair accounts of the Association to be prepared from time to time;
  - (iii) keeping its accounting records in such manner as will enable true and fair accounts of the Association to be conveniently and properly audited; and
  - (iv) submitting to members at each annual general meeting of the Association accounts of the Association showing the financial position of the Association at the end of the immediately preceding financial year.
- (e) whenever directed to do so by the Chairperson, submit to the Committee a report, balance sheet or financial statement in accordance with that direction;
- (f) unless the members resolve otherwise at a general meeting, have custody of all securities, books and documents of a financial nature and accounting records of the Association, including those referred to in paragraphs (d) and (e); and
- (g) perform such other duties as are imposed by these rules on the Treasurer.

### **Casual vacancies in membership of Committee**

**14** A casual vacancy occurs in the office of a Committee member and that office becomes vacant if the Committee member-

- (a) dies;
- (b) resigns by notice in writing delivered to the Chairperson or, if the Committee member is the Chairperson, to the Vice-Chairperson and that resignation is accepted by resolution of the Committee;
- (c) is convicted of an offence under the Act;
- (d) is permanently incapacitated by mental or physical ill-health;
- (e) is absent from more than-
  - (i) 3 consecutive Committee meetings; or
  - (ii) 3 Committee meetings in the same financial year without tendering an apology to the person presiding at each of those Committee meetings;
 of which meetings the member received notice, and the Committee has resolved to declare the office vacant;
- (f) ceases to be a member of the Association; or
- (g) is the subject of a resolution passed by a general meeting of members terminating his or her appointment as a Committee member.

## Proceedings of Committee

- 15 (1) The Committee must meet together for the dispatch of business not less than \_\_\_\_\_ in each year and the Chairperson, or at least half the members of the Committee, may at any time convene a meeting of the Committee.
- (2) Each Committee member has a deliberative vote.
- (3) A question arising at a Committee meeting must be decided by a majority of votes, but, if there no majority, the person presiding at the Committee meeting will have a casting vote in addition to his or her deliberative vote.
- (4) At a Committee meeting \_\_\_\_\_ Committee members constitute a quorum.
- (5) Subject to these rules, the procedure and order of business to be followed at a Committee meeting must be determined by the Committee members present at the Committee meeting.
- (6) As required under sections 21 and 22 of the Act, a Committee member having any direct or indirect pecuniary interest in a contract, or proposed contract, made by, or in the contemplation of, the Committee (except if that pecuniary interest exists only by virtue of the fact that the member of the Committee is a member of a class of persons for whose benefit the Association is established), must-
- (a) as soon as he or she becomes aware of that interest, disclose the nature and extent of his or her interest to the Committee; and
  - (b) not take part in any deliberations or decision of the Committee with respect to that contract.
- (7) Sub-rule (6) (a) does not apply with respect to a pecuniary interest that exists only by virtue of the fact that the member of the Committee is an employee of the Association.
- (8) The Secretary must cause every disclosure made under sub-rule (6) (a) by a member of the Committee to be recorded in the minutes of the meeting of the Committee at which it is made.

## General meetings

- 16 (1) The Committee-
- (a) may at any time convene a special general meeting;
  - (b) must convene annual general meetings within the time limits provided for the holding of such meetings by section 23 of the Act, that is, in every calendar year within 4 months after the end of the Association's financial year or such longer period as may in a particular case be allowed by the Commissioner, except for the first annual general meeting which may be held at any time within 18 months after incorporation; and
  - (c) must, within 30 days of-
    - (i) receiving a request in writing to do so from not less than \_\_\_\_\_ members, convene a special general meeting for the purpose specified in that request; or
    - (ii) the Secretary receiving a notice under rule 9 (4), convene a general meeting to deal with the appeal to which that notice relates.
  - (d) must, after receiving a notice under rule 5 (4), convene a general meeting, no later than the next annual general meeting, at which the appeal referred to in the notice will be dealt with. Failing that, the applicant is entitled to address the Association at that next annual general meeting in relation to the Committee's rejection of his or her application and the Association at that meeting must confirm or set aside the decision of the Committee.
- (2) The members making a request referred to in sub-rule (1) (c) (i) must-
- (a) state in that request the purpose for which the special general meeting concerned is required; and

(b) sign that request.

(3) If a special general meeting is not convened within the relevant period of 30 days referred to-

(a) in sub-rule (1) (c) (i), the members who made the request concerned may themselves convene a special general meeting as if they were the Committee; or

(b) in sub-rule (1) (c) (ii), the member who gave the notice concerned may him or herself convene a special general meeting as if he or she were the Committee.

(4) When a special general meeting is convened under sub-rule (3) (a) or (b) the Association must pay the reasonable expenses of convening and holding the special general meeting.

(5) Subject to sub-rule (7), the Secretary must give to all members not less than 14 days notice of a special general meeting and that notice must specify-

(a) when and where the general meeting concerned is to be held; and

(b) particulars of the business to be transacted at the general meeting concerned and of the order in which that business is to be transacted.

(6) Subject to sub-rule (7), the Secretary must give to all members not less than 21 days notice of an annual general meeting and that notice must specify-

(a) when and where the annual general meeting is to be held;

(b) the particulars and order in which business is to be transacted, as follows-

(i) first, the consideration of the accounts and reports of the Committee;

(ii) second, the election of Committee members to replace outgoing Committee members; and

(iii) third, any other business requiring consideration by the Association at the general meeting.

(7) A special resolution may be moved either at a special general meeting or at an annual general meeting, however the Secretary must give to all members not less than 21 days notice of the meeting at which a special resolution is to be proposed. In addition to those matters specified in sub-rule (5) or (6), as relevant, the notice must also include the resolution to be proposed and the intention to propose the resolution as a special resolution.

(8) The Secretary must give a notice under sub-rule (5), (6) or (7) by-

(a) serving it on a member personally; or

(b) sending it by post to a member at the address of the member appearing in the register of members kept and maintained under rule 6.

(9) When a notice is sent by post under sub-rule (8) (b), sending of the notice will be deemed to be properly effected if the notice is sufficiently addressed and posted to the member concerned by ordinary prepaid mail.

## **Quorum and proceedings at general meetings**

**17** (1) At a general meeting \_\_\_\_\_ members present in person constitute a quorum.

(2) If within 30 minutes after the time specified for the holding of a general meeting in a notice given under rule 16 (5) or (6)-

(a) as a result of a request or notice referred to in rule 16 (1) (c) or as a result of action taken under rule 16 (3) a quorum is not present, the general meeting lapses; or

(b) otherwise than as a result of a request, notice or action referred to in paragraph (a), the general meeting stands adjourned to the same time on the same day in the following week and to the same venue.

(3) If within 30 minutes of the time appointed by sub-rule (2) (b) for the resumption of an adjourned general meeting a quorum is not present, the members who are present in person or by proxy may nevertheless proceed with the business of that general meeting as if a quorum were present.

(4) The Chairperson may, with the consent of a general meeting at which a quorum is present, and must, if so directed by such a general meeting, adjourn that general meeting from time to time and from place to place.

(5) There must not be transacted at an adjourned general meeting any business other than business left unfinished or on the agenda at the time when the general meeting was adjourned.

(6) When a general meeting is adjourned for a period of 30 days or more, the Secretary must give notice under rule 16 of the adjourned general meeting as if that general meeting were a fresh general meeting.

(7) At a general meeting-

(a) an ordinary resolution put to the vote will be decided by a majority of votes cast on a show of hands, subject to sub-rule (9); and

(b) a special resolution put to the vote will be decided in accordance with section 24 of the Act as defined in rule 2, and, if a poll is demanded, in accordance with sub-rules (9) and (11).

(8) A declaration by the Chairperson of a general meeting that a resolution has been passed as an ordinary resolution at the meeting will be evidence of that fact unless, during the general meeting at which the resolution is submitted, a poll is demanded in accordance with sub-rule (9).

(9) At a general meeting, a poll may be demanded by the Chairperson or by three or more members present in person or by proxy and, if so demanded, must be taken in such manner as the Chairperson directs.

(10) If a poll is demanded and taken under sub-rule (9) in respect of an ordinary resolution, a declaration by the Chairperson of the result of the poll is evidence of the matter so declared.

(11) A poll demanded under sub-rule (9) must be taken immediately on that demand being made.

## **Minutes of meetings of Association**

**18** (1) The Secretary must cause proper minutes of all proceedings of all general meetings and Committee meetings to be taken and then to be entered within 30 days after the holding of each general meeting or Committee meeting, as the case requires, in a minute book kept for that purpose.

(2) The Chairperson must ensure that the minutes taken of a general meeting or Committee meeting under sub-rule (1) are checked and signed as correct by the Chairperson of the general meeting or Committee meeting to which those minutes relate or by the Chairperson of the next succeeding general meeting or Committee meeting, as the case requires.

(3) When minutes have been entered and signed as correct under this rule, they are, until the contrary is proved, evidence that-

(a) the general meeting or Committee meeting to which they relate (in this sub-rule called "the meeting") was duly convened and held;

(b) all proceedings recorded as having taken place at the meeting did in fact take place at the meeting; and

(c) all appointments or elections purporting to have been made at the meeting have been validly made.

## **Voting rights of members of Association**

**19** (1) Subject to these rules, each member present in person or by proxy at a general meeting is entitled to a deliberative vote.

(2) A member which is a body corporate may appoint in writing a natural person, whether or not he or she is a member, to represent it at a particular general meeting or at all general meetings.

(3) An appointment made under sub-rule (2) must be made by a resolution of the board or other governing body of the body corporate concerned-

(a) which resolution is authenticated under the common seal of that body corporate; and

(b) a copy of which resolution is lodged with the Secretary.

(4) A person appointed under sub-rule (2) to represent a member which is a body corporate is deemed for all purposes to be a member until that appointment is revoked by the body corporate or, in the case of an appointment in respect of a particular general meeting, which appointment is not so revoked, the conclusion of that general meeting.

## **Proxies of members of Association**

**20** A member (in this rule called "the appointing member") may appoint in writing another member who is a natural person to be the proxy of the appointing member and to attend, and vote on behalf of the appointing member at, any general meeting.

## **Rules of Association**

**21** (1) The Association may alter or rescind these rules, or make rules additional to these rules, in accordance with the procedure set out in sections 17, 18 and 19 of the Act, which is as follows-

(a) Subject to sub-rule (1) (d) and (1) (e), the Association may alter its rules by special resolution but not otherwise;

(b) Within one month of the passing of a special resolution altering its rules, or such further time as the Commissioner may in a particular case allow (on written application by the Association), the Association must lodge with the Commissioner notice of the special resolution setting out particulars of the alteration together with a certificate given by a member of the Committee certifying that the resolution was duly passed as a special resolution and that the rules of the Association as so altered conform to the requirements of this Act;

(c) An alteration of the rules of the Association does not take effect until sub-rule (1) (b) is complied with;

(d) An alteration of the rules of the Association having effect to change the name of the association does not take effect until sub-rules (1) (a) to (1) (c) are complied with and the approval of the Commissioner is given to the change of name;

(e) An alteration of the rules of the Association having effect to alter the objects or purposes of the association does not take effect until sub-rules (1) (a) to (1) (c) are complied with and the approval of the Commissioner is given to the alteration of the objects or purposes.

(2) These rules bind every member and the Association to the same extent as if every member and the Association had signed and sealed these rules and agreed to be bound by all their provisions.

## **Common seal of Association**

**22** (1) The Association must have a common seal on which its corporate name appears in legible characters.

(2) The common seal of the Association must not be used without the express authority of the Committee and every use of that common seal must be recorded in the minute book referred to in rule 18.

(3) The affixing of the common seal of the Association must be witnessed by any two of the Chairperson, the Secretary and the Treasurer.

(4) The common seal of the Association must be kept in the custody of the Secretary or of such other person as the Committee from time to time decides.

### **Inspection of records, etc. of Association**

**23** A member may at any reasonable time inspect without charge the books, documents, records and securities of the Association.

### **Disputes and mediation**

**24** (1) The grievance procedure set out in this rule applies to disputes under these rules between-

(a) a member and another member; or

(b) a member and the Association; or

(c) if the Association provides services to non-members, those non-members who receive services from the Association, and the Association.

(2) The parties to the dispute must meet and discuss the matter in dispute, and, if possible, resolve the dispute within 14 days after the dispute comes to the attention of all of the parties.

(3) If the parties are unable to resolve the dispute at the meeting, or if a party fails to attend that meeting, then the parties must, within 10 days, hold a meeting in the presence of a mediator.

(4) The mediator must be-

(a) a person chosen by agreement between the parties; or

(b) in the absence of agreement-

(i) in the case of a dispute between a member and another member, a person appointed by the Committee of the Association;

(ii) in the case of a dispute between a member or relevant non-member (as defined by sub-rule (1) (c)) and the Association, a person who is a mediator appointed to, or employed with, a not for profit organisation.

(5) A member of the Association can be a mediator.

(6) The mediator cannot be a member who is a party to the dispute.

(7) The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.

(8) The mediator, in conducting the mediation, must-

(a) give the parties to the mediation process every opportunity to be heard;

(b) allow due consideration by all parties of any written statement submitted by any party; and

(c) ensure that natural justice is accorded to the parties to the dispute throughout the mediation process.

(9) The mediator must not determine the dispute.

(10) The mediation must be confidential and without prejudice.

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

## **Distribution of surplus property on winding up of Association**

**25** If upon the winding up or dissolution of the Association there remains after satisfaction of all its debts and liabilities any property whatsoever, the same must not be paid to or distributed among the members, or former members. The surplus property must be given or transferred to another association incorporated under the Act which has similar objects and which is not carried out for the purposes of profit or gain to its individual members, and which association shall be determined by resolution of the members.

# APPLICATION FOR MEMBERSHIP OF AN INCORPORATED ASSOCIATION – model rule 5

\_\_\_\_\_  
(Insert name of INCORPORATED ASSOCIATION)

I,

\_\_\_\_\_  
(Insert APPLICANT'S name)

of

\_\_\_\_\_  
(insert APPLICANT'S residential or postal address -  
required under section 27 of the *Associations Incorporation Act (1987)*)

apply to become a member of the above Association.  
If my application is accepted, I agree to be bound by the rules of the Association.

**Signature:**..... **Date:**.....

Rule 5(2) "A person who wishes to become a member must be ... proposed by one **member** and seconded by another **member**."

## PROPOSED:

## SECONDED:

Name:.....

Name:.....

Signature:.....

Signature:.....

Date:.....

Date:.....

----- *Applicants to detach and keep* -----

## INFORMATION for APPLICANTS

- If your application is accepted, your name and address, as provided above, **must** be recorded in a register of members and be made available to other members, upon request, under section 27 of the *Associations Incorporation Act*.
- If the obligations under the *Associations Incorporation Act* are not complied with the Association can be wound up.
- You can contact the Association at.....
- You can access or correct personal information (your name and address) by contacting the Association as indicated above.

## OTHER INFORMATION

- If your application is accepted you are entitled to inspect and make a copy of the register of members under section 27 of the *Associations Incorporation Act*.
- If your application is accepted you are entitled to inspect and make a copy of the rules (constitution) of the association under section 28 of the *Associations Incorporation Act*.

**If your application for membership is rejected by the Committee:** You may give notice of your intention to appeal within 14 days of being advised of the rejection (rule 5(4)). The Association in a general meeting, no later than the next annual general meeting, must confirm or set aside the decision of the Committee rejecting your application, after giving you a reasonable opportunity to be heard or to make written representations to the general meeting (rule 5(5)).

**APPOINTMENT OF CORPORATE MEMBER  
REPRESENTATIVE – model rule 19**

---

*(Insert name of CORPORATE MEMBER of incorporated association)*

advises that, on \_\_\_\_\_, it **RESOLVED** that  
*(Insert date of meeting)*

---

*(Insert name of REPRESENTATIVE of the above corporate member)*

represent it at:

*(Tick  only **ONE** of the following)*

the general meeting/s on \_\_\_\_\_  
*(Insert relevant date/s)*

**OR**

all general meetings

of \_\_\_\_\_  
*(Insert name of INCORPORATED ASSOCIATION)*

WITNESSED/AUTHORISED BY:  
*(if required under the CORPORATE MEMBER'S rules)*

SIGNATURE:

NAME:

POSITION:

DATE:

SIGNATURE:

NAME:

POSITION:

DATE:

*(Insert CORPORATE MEMBER'S common seal)*

---

The corporate member acknowledges that according to rule 19(4) of the Association a person appointed to represent a member which is a body corporate is deemed for all purposes to be a member until that appointment is revoked by the body corporate or, in the case of an appointment in respect of a particular general meeting, which appointment is not so revoked, the conclusion of that general meeting.

---

**APPOINTMENT OF PROXY**  
Model rule 20

I, \_\_\_\_\_  
(Insert MEMBER'S name)

of \_\_\_\_\_  
(Insert MEMBER'S address)

being a member of \_\_\_\_\_  
(Insert name of INCORPORATED ASSOCIATION)

**APPOINT**

\_\_\_\_\_  
(Insert PROXY'S name)

who also is a member of the Association, as my proxy.

My proxy is authorised to vote on my behalf: (Tick  only **ONE** of the following)

at the general meeting/s (and any adjournments of the meeting/s) on:

\_\_\_\_\_  
(Insert relevant date/s)

**OR**

in relation to the following resolutions and/or nominations

**In favour:**

**Against:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Insert resolution Nos, brief description or nominees' name/s)

(Insert resolution Nos. brief description or nominees' name/s)

**Signature:** \_\_\_\_\_  
(of Member appointing Proxy)

**Date:** \_\_\_\_\_

# NOTICE OF GENERAL MEETING TO ALTER THE RULES (CONSTITUTION) – model rule 21

(Insert name of INCORPORATED ASSOCIATION)

is convening a general meeting at which the following resolution/s will be proposed as special resolutions to alter the rules of the association.

The meeting will be held at \_\_\_\_\_ a.m./p.m. on \_\_\_\_\_ the \_\_\_\_\_ 200 \_\_\_\_\_

The meeting will take place at \_\_\_\_\_

## SPECIAL RESOLUTION/S:

Currently rule.....states:

.....  
.....  
.....

It is proposed to alter this rule so that it states as follows:

.....  
.....  
.....

Currently rule.....states:

.....  
.....  
.....

It is proposed to alter this rule so that it states as follows:

.....  
.....  
.....

## OR

A list of alterations to the rules which will be proposed as special resolutions at the meeting is attached.

## INFORMATION for MEMBERS

- Rule 20 allows for proxy votes. A proxy form is enclosed for you to nominate another member to vote on your behalf if you cannot attend the meeting.
- Alterations to the rules can only be made if supported by 75% of members voting at the meeting or by proxy.
- Alterations to the rules only take effect when lodged with the Department of Consumer & Employment Protection.