

Australasian Association of Private International Law

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Proposed Constitution

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Preliminary

1. Name of the association

The name of the **association** is Australasian Association of Private International Law (the **association**).

2. Type of association

The **association** is an unincorporated not-for-profit association.

3. Limited liability of members

3.1 The liability of any member is limited to an amount, if any, which is unpaid by the member in respect of the **annual subscription** which the member must contribute to the property of the **association** if the **association** is wound up while the member is a member.

3.2 The amount, if any, which is unpaid by the member in respect of the **annual subscription** is required to pay for the:

- (a) debts and liabilities of the **association** incurred before the member stopped being a member; or
- (b) costs associated with the winding up.

4. This constitution and the Corporations Act

The **association** is an unincorporated not-for-profit association and the **Corporations Act** and any law relating to the incorporation of associations do not apply to the **association** except to the extent that they may be adopted by this constitution.

5. Definitions

In this constitution, words and phrases have the meaning set out in clauses 76 and 77.

Object, purposes and powers

6. Object, purposes and powers

6.1 The **association's** object is to pursue the following purposes:

- (a) To promote knowledge of and interest in **private international law** in **Australasia**.

- (b) To provide a forum for the exchange of information and opinions on **private international law** practice and scholarship in **Australasia** among persons involved in, affected by, or interested in, **private international law**.
 - (c) To disseminate information about **private international law** in **Australasia** and, in particular, current developments in **private international law** in **Australasia**.
 - (d) To promote the study of **private international law** in universities in **Australasia**.
 - (e) To publish or encourage the publication of papers, articles and books about **private international law** in **Australasia**.
 - (f) To promote and support lectures, seminars, colloquia and conferences about **private international law**.
 - (g) To make and disseminate reports, commentaries and submissions on the reform and development of **private international law** in **Australasia** and through international agencies.
 - (h) To cooperate with universities, and with other persons and associations having an interest in **private international law** within and outside **Australasia**.
- 6.2 The **association** has all of the powers of an individual to undertake the activities of the **association** to achieve the object and purposes set out in clause 6.1.

7. Not-for-profit

- 7.1 The **association** must not distribute any income or assets directly or indirectly to its members, except as provided in clauses 74 and 75.
- 7.2 The income and assets of the **association** shall be applied solely to further any of the **association's** purposes in clause 6.1.
- 7.3 Clause 7.1 does not stop the **association** from doing the following things, provided they are done in good faith:
- (a) paying a member for goods or services they have provided or expenses they have properly incurred at fair and reasonable rates or rates more favourable to the **association**; or
 - (b) making a payment to a member in carrying out any of the **association's** purposes in clause 6.1.

8. Amending the constitution

- 8.1 The members may amend this constitution by passing a **special resolution**.
- 8.2 Any amendment to this constitution will take effect from the date of the **special resolution**, or from any later date specified in the resolution passing the amendment.

Members

9. Membership

9.1 The classes of members of the **association** are:

- (a) ordinary members;
- (b) corporate members;
- (c) student members; and
- (d) honorary life members.

9.2 Any corporation, firm or other association is eligible to be a corporate member of the **association**. A corporate member may nominate one individual to exercise its rights of membership and participate in the activities of the **association** and, if that individual is not available to exercise those rights, a second individual who may exercise those rights and participate in those activities.

9.3 An individual who is currently enrolled as a student at a university is eligible to be a student member of the **association**.

9.4 The **association** may by resolution at a **general meeting** elect an individual to be an honorary life member of the **association**. An honorary life member cannot be required to pay an **annual subscription** for membership of the **association**, but may exercise all of the rights of a member of the **association**.

10. Register of members

10.1 The **secretary** must establish and maintain a register of members.

10.2 The register of members must contain:

- (a) for each current member:
 - i. name;
 - ii. class of membership;
 - iii. address;
 - iv. a current email address; and
 - v. date the member was entered on to the register.

- (b) for each person who stopped being a member in the past seven (7) years:
 - i. name;
 - ii. class of membership;
 - iii. address;
 - iv. an email address; and
 - v. dates the membership started and ended.

10.3 The **secretary** must, on request, give any current member access to the register of members.

10.4 Information that is accessed from the register of members must only be used by a member in a manner relevant to the interests or rights of members.

11. Who can be a member

11.1 A person who supports the object and purposes of the **association** is eligible to apply to be a member of the **association** under clause 12.

11.2 In this clause, 'person' means an individual, corporation, firm or other association.

12. How to apply to become a member

A person (as defined in clause 11.2) may apply to become a member of the **association** by writing to the **secretary** stating that they:

- (a) want to become a member, and which class of membership (as defined in clause 9.1) they want;
- (b) support the object and purposes of the **association**; and
- (c) agree to comply with the **association's** constitution, including paying the **annual subscription**.

13. Executive decides whether to approve membership

13.1 The **secretary** must, as soon as practicable after receiving an application to become a member, refer the application to the **executive**.

13.2 The **executive** must consider an application to become a member within a reasonable time after the **secretary** refers the application to the **executive**.

13.3 If the **executive** approves an application, the **secretary** must as soon as possible:

- (a) enter the new member on the register of members;
- (b) record the person's class of membership; and
- (c) write to the applicant to tell them that their application was approved, and the date that their membership started (see clause 14).

13.4 If the **executive** rejects an application, the **secretary** must write to the applicant as soon as possible to tell them that their application has been rejected.

13.5 The **executive** is not required to give reasons for approving or rejecting an application to become a member.

13.6 For the avoidance of doubt, the **executive** may approve an application to become a member even if the application does not state the matters listed in clauses 12(a), 12(b) or 12(c). In that case, by applying to be a member, the applicant agrees to those three matters.

14. When a person becomes a member

Other than **initial members**, an applicant will become a member when they are entered on the register of members.

15. When a person stops being a member

A person immediately stops being a member if:

- (a) they die;
- (b) for a member which is a corporation, firm or association, they are wound up or otherwise dissolved or deregistered;
- (c) they resign, by giving written notice to the secretary;
- (d) they are expelled under clause 17; or
- (e) they fail to pay the **annual subscription** within three months after the **annual subscription** is due.

Dispute resolution and disciplinary procedures

16. Dispute resolution

16.1 The dispute resolution procedure in this clause applies to disputes (disagreements) under this constitution between a member or an **officer** and:

- (a) one or more members;
- (b) one or more **officers**; or
- (c) the **association**.

16.2 A member must not start a dispute resolution procedure in relation to a matter which is the subject of a disciplinary procedure under clause 17 until the disciplinary procedure is completed.

16.3 Those involved in the dispute must try to resolve it between themselves within 14 days of knowing about it.

16.4 If those involved in the dispute do not resolve it under clause 16.3, they must within 10 days:

- (a) tell the **executive** about the dispute in writing;
- (b) agree or request that a mediator be appointed; and
- (c) attempt in good faith to settle the dispute by mediation.

16.5 The mediator must:

- (a) be chosen by agreement of those involved; or
- (b) where those involved do not agree:

- i. for disputes between members, an individual chosen by the **executive**;
or
- ii. for other disputes, an individual chosen by the president of the law society or institute in the place in which the **president** is habitually resident.

16.6 A mediator chosen by the **executive** under clause 16.5(b)(i):

- (a) may be a member or former member of the **association**;
- (b) must not have a personal interest in the dispute; and
- (c) must not be biased, or have the appearance of bias, towards or against anyone involved in the dispute.

16.7 When conducting the mediation, the mediator must:

- (a) allow those involved a reasonable chance to be heard;
- (b) allow those involved a reasonable chance to review any written statements;
- (c) ensure that those involved are given natural justice; and
- (d) not make a decision on the dispute.

17. Disciplining members

17.1 In accordance with this clause, the **executive** may resolve to warn, suspend or expel a member from the **association** if the **executive** considers that:

- (a) the member has breached this constitution; or
- (b) the member's behaviour is causing, has caused, or is likely to cause harm to the **association**.

17.2 At least 14 days before the **executive meeting** at which a resolution under clause 17.1 will be considered, the **secretary** must notify the member in writing:

- (a) that the **executive** is considering a resolution to warn, suspend or expel the member;
- (b) that this resolution will be considered at an **executive meeting** and the date of that meeting;
- (c) what the member is said to have done or not done;
- (d) the nature of the resolution that has been proposed; and
- (e) that the member may provide an explanation to the **executive**, and details of how to do so.

17.3 Before the **executive** passes any resolution under clause 17.4, the member must be given a chance to explain or defend themselves by:

- (a) sending the **executive** a written explanation before that **executive meeting**;
or
- (b) speaking at the **executive meeting**.

- 17.4 After considering any explanation under clause 17.3, the **executive** may:
- (a) take no further action;
 - (b) warn the member;
 - (c) suspend the member's rights as a member for a period of no more than 12 months;
 - (d) expel the member;
 - (e) refer the decision to an unbiased, independent individual on conditions that the **executive** considers appropriate (however, the individual can only make a decision that the **executive** could have made under this clause); or
 - (f) require the matter to be determined at a **general meeting**.
- 17.5 The **executive** cannot fine a member.
- 17.6 The **secretary** must give written notice to the member of the decision under clause 17.4 as soon as possible.
- 17.7 Disciplinary procedures must be completed as soon as is reasonably practicable.
- 17.8 There will be no liability for any loss or injury suffered by the member as a result of any decision made in good faith under this clause.

General meetings of members

18. General meetings called by the executive

- 18.1 The executive may call a **general meeting**.
- 18.2 If members with at least five per cent of the votes that may be cast at a **general meeting** make a written request to the **secretary** for a **general meeting** to be held, the **executive** must:
- (a) within 21 days of the members' request, give all members notice of a **general meeting**; and
 - (b) hold the **general meeting** within two months of the members' request.
- 18.3 The percentage of votes that members have (in clause 18.2) is to be worked out as at midnight before the members request the meeting.
- 18.4 The members who make the request for a **general meeting** must:
- (a) state in the request any resolution to be proposed at the meeting;
 - (b) sign the request; and
 - (c) give the request to the **secretary**.
- 18.5 Separate copies of a document setting out the request may be **signed** by members if the wording of the request is the same in each copy.

19. General meetings called by members

- 19.1 If the **executive** does not call the meeting within 21 days of being requested under clause 18.2, 50 per cent or more of the members who made the request may call and arrange to hold a **general meeting**.
- 19.2 To call and hold a meeting under clause 19.1 the members must:
- (a) as far as possible, follow the procedures for **general meetings** set out in this constitution;
 - (b) call the meeting using the list of members on the **association's** register of members, which the **secretary** must provide to the members making the request at no cost; and
 - (c) hold the **general meeting** within three months after the request was given to the **secretary**.
- 19.3 The **association** must pay the members who request the **general meeting** any reasonable expenses they incur because the **executive** did not call and hold the meeting.

20. Annual general meeting

- 20.1 A **general meeting**, called the annual **general meeting**, must be held:
- (a) within 18 months after the formation of the **association**; and
 - (b) after the first annual **general meeting**, at least once in every calendar year.
- 20.2 The annual **general meeting** must, by resolution, set:
- (a) the amount of the **annual subscription** for each class of membership of the **association**; and
 - (b) the period over which the amount of the **annual subscription** will be the **annual subscription**.
- 20.3 Even if these items are not set out in the notice of meeting, the business of an annual **general meeting** may include:
- (a) a review of the **association's** activities;
 - (b) a review of the **association's** finances;
 - (c) any auditor's report;
 - (d) the election of **officers**; and
 - (e) the appointment and payment of auditors, if any.
- 20.4 Before or at the annual **general meeting**, the **executive** must give information to the members on the **association's** activities and finances during the period since the last annual **general meeting**.

20.5 The chairperson of the annual **general meeting** must give members as a whole a reasonable opportunity at the meeting to ask questions or make comments about the management of the **association**.

21. Notice of general meetings

21.1 Notice of a **general meeting** must be given to:

- (a) each member entitled to vote at the meeting;
- (b) the **patron**;
- (c) each **officer**; and
- (d) the auditor (if any).

21.2 Notice of a **general meeting** must be provided in writing at least 21 days before the meeting.

21.3 The **secretary** must provide notice to each member by sending it to their current email address as recorded in the register of members, and a member is taken to have received notice if it had been sent to that current email address.

21.4 Subject to clause 21.5, notice of a meeting may be provided fewer than 21 days before the meeting if:

- (a) for an annual **general meeting**, all the members entitled to attend and vote at the annual **general meeting** agree beforehand; or
- (b) for any other **general meeting**, members with at least 95 per cent of the votes that may be cast at the meeting agree beforehand.

21.5 Notice of a meeting cannot be provided fewer than 21 days before the meeting if a resolution will be moved to:

- (a) remove an **officer**;
- (b) appoint an **officer** in order to replace an **officer** who was removed; or
- (c) remove any auditor.

21.6 Notice of a **general meeting** must include:

- (a) the place, date and time for the meeting;
- (b) if the meeting is to be held using virtual technology, whether alone or with a physical venue, the technology that will be used to facilitate the meeting;
- (c) if the meeting is to be held in a physical venue, the location of the physical venue;
- (d) the general nature of the meeting's business;
- (e) if applicable, that a **special resolution** is to be proposed and the words of the proposed resolution;
- (f) a statement that members have the right to appoint proxies and that, if a member appoints a proxy:

- i. the proxy does not need to be a member of the **association**;
- ii. the proxy form must be delivered to the **association** at its registered email address , or another email address specified in the notice of the meeting; and
- iii. the proxy form must be delivered to the **association** at least 48 hours before the meeting.

21.7 If a **general meeting** is adjourned for one month or more, the members must be given new notice of the resumed meeting.

22. Quorum at general meetings

22.1 For a **general meeting** to be held, at least two members (a quorum) must be present (in person, by proxy or by representative) for the whole meeting. When determining whether a quorum is present, a person may only be counted once (even if that person is a representative or proxy of more than one member).

22.2 No business may be conducted at a **general meeting** if a quorum is not present.

22.3 If there is no quorum present within 30 minutes after the starting time stated in the notice of **general meeting**, the **general meeting** is adjourned to the date, time and place that the chairperson specifies. If the chairperson does not specify one or more of those things, the meeting is adjourned to:

- (a) if the date is not specified – the same day in the next week;
- (b) if the time is not specified – the same time; and
- (c) if the place is not specified – the same place.

22.4 If no quorum is present at the resumed meeting within 30 minutes after the starting time set for that meeting, the meeting is cancelled.

23. Auditor's right to attend meetings

23.1 The auditor (if any) is entitled to attend any **general meeting** and to be heard by the members on any part of the business of the meeting that concerns the auditor in the capacity of auditor.

23.2 The **secretary** must give the auditor (if any) any communications relating to the **general meeting** that a member of the **association** is entitled to receive.

24. Representatives of corporate members

24.1 A corporate member may appoint as a representative:

- (a) one individual to represent the member at meetings and to sign circular resolutions under clause 31; and
- (b) the same individual or another individual for the purpose of being appointed or elected as an **officer**.

24.2 The appointment of a representative by a corporate member must:

- (a) be in writing;
- (b) include the name of the representative;
- (c) include a current email address of the representative;
- (d) be **signed** on behalf of the member; and
- (e) be given to the **secretary** or, for representation at a meeting, be given to the chairperson before the meeting starts.

24.3 A representative has all the rights of a corporate member relevant to the purposes of the appointment as a representative.

24.4 The appointment may be standing (ongoing).

25. How meetings of members may be held

25.1 The **association** may hold a **general meeting**:

- (a) using only virtual technology;
- (b) at one or more physical venues; or
- (c) using virtual technology and at one or more physical venues.

25.2 The members as a whole must be given a reasonable opportunity to participate in the meeting.

25.3 Anyone using any virtual technology that is arranged by the **secretary** or chairperson for a meeting is taken to be present in person at the meeting.

26. Chairperson for general meetings

26.1 Subject to clause 26.2, the **president** is entitled to be the chairperson of any **general meeting**.

26.2 The members present and entitled to vote at a **general meeting** may choose an **officer** or member to be the chairperson for that meeting if:

- (a) the **president** is present but says they do not wish to act as chairperson of the meeting;
- (b) the president has advised that they will not be present at the meeting;
- (c) the **president** is not present within 30 minutes after the starting time set for the meeting; or
- (d) in accordance with clause 29, there is written notice to the **secretary** of a proposed resolution to remove the **president**.

27. Role of the chairperson

27.1 The chairperson is responsible for the conduct of the **general meeting**, and for this purpose must give members a reasonable opportunity to make comments and ask questions (including to the auditor (if any)).

27.2 The chairperson does not have a casting vote.

28. Adjournment of meetings

28.1 If a quorum is present, a **general meeting** must be adjourned if a majority of **members present** direct the chairperson to adjourn it.

28.2 Only unfinished business may be dealt with at a meeting resumed after an adjournment.

Members' resolutions and statements

29. Members' resolutions and statements

29.1 Members with at least five per cent of the votes that may be cast on a resolution may give:

- (a) written notice to the **secretary** of a resolution they propose to move at a **general meeting** (members' resolution); or
- (b) a written request to the **secretary** that the **association** give all of its members a statement about a proposed resolution or any other matter that may properly be considered at a **general meeting** (members' statement).

29.2 A notice of a members' resolution must set out the wording of the proposed resolution and be **signed** by the members proposing the resolution.

29.3 A request to distribute a members' statement must set out the statement to be distributed and be **signed** by the members making the request.

29.4 Separate copies of a document setting out the notice or request may be **signed** by members if the wording is the same in each copy.

29.5 The percentage of votes that members have (as described in clause 29.1) is to be worked out as at midnight before the request or notice is given to the **association**.

29.6 If the **secretary** has been given notice of a members' resolution under clause 29.1(a), the resolution must be considered at the next **general meeting** that occurs more than two months after the notice is given.

29.7 This clause does not limit any other right that a member has to propose a resolution at a **general meeting**.

30. Association must give notice of proposed resolution

- 30.1 If the **secretary** has been given written notice of a members' resolution or a written request under clause 29(1):
- (a) in time to send the notice of the proposed members' resolution or a copy of the members' statement to members with a notice of meeting, the **secretary** must do so at the **association's** cost; or
 - (b) too late to send the notice of the proposed members' resolution or a copy of the members' statement to members with a notice of meeting, then the members who proposed the resolution or made the request must pay the expenses reasonably incurred by the **association** in giving members notice of the proposed members' resolution or a copy of the members' statement. However, at a **general meeting**, the members may pass a resolution that the **association** will pay these expenses.
- 30.2 The **association** does not need to send the notice of proposed members' resolution or a copy of the members' statement to members if:
- (a) it is more than 1,000 words long;
 - (b) the **executive** considers it may be defamatory or otherwise unlawful;
 - (c) clause 30.1(b) applies, and the members who proposed the resolution or made the request have not paid the **association** enough money to cover the cost of sending the notice of the proposed members' resolution or a copy of the members' statement to members; or
 - (d) in the case of a proposed members' resolution, the resolution does not relate to a matter that may be properly considered at a **general meeting** or is otherwise not a valid resolution able to be put to the members.

31. Circular resolutions of members

- 31.1 Subject to clause 31.3, the **executive** may put a resolution to the members to pass a resolution without a **general meeting** being held (a circular resolution).
- 31.2 The **executive** must notify the auditor (if any) as soon as possible that a circular resolution has or will be put to members, and set out the wording of the resolution.
- 31.3 Circular resolutions cannot be used:
- (a) for a resolution to remove an auditor, appoint an **officer** or remove an **officer**;
 - (b) for passing a **special resolution**; or
 - (c) where the law or this constitution requires a meeting to be held.
- 31.4 A circular resolution is passed if all of the members entitled to vote on the resolution **sign** or agree to the circular resolution, in the manner set out in clause 31.5.
- 31.5 Members may sign:

- (a) if the **secretary** has put the circular resolution to the members by email, by sending a reply email agreeing to the circular resolution:
 - i. including the text of the circular resolution in their reply; and
 - ii. from their current email address as recorded in the register of members;
- (b) a single document setting out the circular resolution and containing a statement that they agree to the resolution; or
- (c) separate copies of that document, as long as the wording is the same in each copy.

Voting at general meetings

32. How many votes a member has

Each member who is entitled to vote has:

- (a) on a **show of hands**, one vote; and
- (b) on a poll, one vote.

33. Challenge to member's right to vote

33.1 A member or the chairperson may only challenge a person's right to vote at a **general meeting** at that meeting.

33.2 If a challenge is made under clause 33.1, the chairperson must decide whether or not the person may vote. The chairperson's decision is final.

34. Method of voting

34.1. Voting must be decided on a poll if:

- (a) the notice of the meeting set out an intention to propose the resolution and stated the resolution;
- (b) the **secretary** has given notice of the resolution under clause 29; or
- (c) a poll is demanded.

34.2 If a poll is not required or has not been demanded, voting may be conducted by:

- (a) a **show of hands**;
- (b) a vote in writing; or
- (c) another method chosen by the chairperson that is fair and reasonable in the circumstances.

34.3 Before a vote is taken, the chairperson must state whether any proxy votes have been received and, if so, how the proxy votes will be cast.

35. Demand for a poll

35.1 A demand for a poll may be made by:

- (a) the chairperson of the meeting;
- (b) at least five members entitled to vote on the resolution; or
- (c) at least five per cent of members present having the right to vote at the meeting.

35.2 The poll may be demanded:

- (a) before a vote is taken;
- (b) before the voting results on a **show of hands** are declared; or
- (c) immediately after the voting results on a **show of hands** are declared.

36. Conduct of a poll

36.1 The demand for a poll may be withdrawn.

36.2 If a poll is duly demanded (and the demand not withdrawn), it must be taken in such manner and at such time as the chairperson of the meeting directs.

36.3 A poll demanded on the election of a chairperson or on any question of adjournment must be taken at the meeting and without an adjournment.

36.4 The result of the poll is the resolution of the meeting at which the poll was demanded.

37. Declaring the result of a vote on show of hands

37.1 On a **show of hands**, the chairperson's decision is conclusive evidence of the result of the vote.

37.2 The chairperson and the meeting minutes do not need to state the number or proportion of the votes recorded in favour or against on a **show of hands**.

38. When and how a vote in writing must be held

38.1 A vote in writing may be demanded on any resolution instead of or after a vote by a **show of hands** by:

- (a) at least five **members present**;
- (b) **members present** with at least five per cent of the votes that may be passed on the resolution on the vote in writing (worked out as at the midnight before the vote in writing is demanded); or
- (c) the chairperson.

38.2 A vote in writing must be taken when and how the chairperson directs, unless clause 38.3 applies.

38.3 A vote in writing must be held immediately if it is demanded under clause 0:

- (a) for the election of a chairperson under clause 26.2; or
- (b) to decide whether to adjourn the meeting.

38.4 A demand for a vote in writing may be withdrawn.

39. Appointment of proxy

39.1 A member may appoint a proxy to attend and vote at a **general meeting** on their behalf.

39.2 A proxy does not need to be a member.

39.3 A proxy appointed to attend and vote for a member has the same rights as the member to:

- (a) speak at the meeting;
- (b) vote in a vote in writing (but only to the extent allowed by the appointment);
- (c) join in the demand for a poll under clause 35.1; and
- (d) join in to demand a vote in writing under clause 38.1.

39.4 An appointment of proxy (proxy form) must be **signed** by the member appointing the proxy and must contain:

- (a) the **association's** name;
- (b) the member's name and address;
- (c) the member's current email address as recorded in the register of members;
- (d) the proxy's name or the name of the office held by the proxy;
- (e) the proxy's current email address; and
- (f) the meeting(s) at which the appointment may be used.

39.5 A proxy appointment may be standing (ongoing).

39.6 Proxy forms must be received by the **secretary** at the address stated in the notice under clause 21.6(f) or at the **association's** registered address at least 48 hours before a meeting.

39.7 A proxy appointment form may be delivered by email, by other electronic means, in person or by post.

39.8 A proxy does not have the authority to speak and vote for a member at a meeting while the member is at the meeting.

39.9 Unless the **secretary** receives written notice before the start or resumption of a **general meeting** at which a proxy votes, a vote cast by the proxy is valid even if, before the proxy votes, the appointing member:

- (a) Dies;
- (b) is mentally incapacitated;
- (c) revokes the proxy's appointment; or
- (d) revokes the authority of a representative or agent who appointed the proxy.

39.10 A proxy appointment may specify the way the proxy must vote on a particular resolution.

40. Voting by proxy

40.1 A proxy is not entitled to vote on a **show of hands** (but this does not prevent a member appointed as a proxy from voting as a member on a **show of hands**).

40.2 When a vote in writing is held, a proxy:

- (a) does not need to vote, unless the proxy appointment specifies the way they must vote;
- (b) if the way they must vote is specified on the proxy form, must vote that way; and
- (c) if the proxy is also a member or holds more than one proxy, may cast the votes held in different ways.

The executive, officers and patron

41. Executive

41.1 The **executive** comprises all **officers** and **executive directors**.

41.2 Subject to clause 44, there must be at least three and no more than six **officers**.

41.3 The number of **officers** must exceed the number of **executive directors**.

42. Officers

42.1 The **association** must have the following **officers**:

- (a) a **president**;
- (b) a **secretary**; and
- (c) a **treasurer**.

42.2 The **association** may have the following **officers**:

- (a) an Australian vice-president;

- (b) a New Zealand vice-president; and
- (c) a **Pacific Islands** vice-president.

42.3 An individual may hold only one position as an **officer**.

42.4 An **officer** must be an ordinary member or a representative of a corporate member of the **association**.

43. Patron

43.1 The **executive** may appoint one patron.

43.2 The patron is not an **officer** of the **association**.

43.3 The patron must be an ordinary member, a representative of a corporate member or an honorary life member of the **association**.

44. Initial executive

44.1 The **initial executive** comprises the individuals who have agreed to act as the **executive** to establish the **association**.

44.2 The **initial executive** has all of the powers of the **executive** until the **executive** is appointed at the first **general meeting** of the **association**.

44.3 The **initial executive** will no longer exist after the first **general meeting** of the **association**.

45. Appointment of executive

45.1 Apart from the **initial executive** and an **officer** appointed under clause 45.5, the members may elect an **officer** by a resolution passed in a **general meeting**.

45.2 Each **officer** must be appointed by a separate resolution, unless:

- (a) the members present have first passed a resolution that the appointments may be voted on together; and
- (b) no votes were cast against that resolution.
- (c) are not ineligible to be a director under the **Corporations Act**.

45.3 An individual is eligible for election as a vice-president only if they are habitually resident in that part of **Australasia** which they are to represent as vice-president.

- 45.4 The **executive** may appoint an individual as an **officer** to fill a casual vacancy or as an additional **officer** if that individual:
- (a) is an ordinary member of the **association**, or a representative of a corporate member of the **association** (appointed under clause 24);
 - (b) gives the **association** their **signed** consent to act as an **officer** of the **association**; and
 - (c) is not ineligible to be a director under the **Corporations Act**.
- 45.5 If the number of **officers** is reduced to fewer than three or the number required for a quorum, the continuing **executive** may act for the purpose of increasing the number of **executive** to three (or higher if required for a quorum) for calling a **general meeting**, but for no other purpose.
- 45.6 The **executive** may appoint an individual as an **executive director**:
- (a) to exercise powers and responsibilities necessary to undertake the activities of the **association** to achieve the object and purposes set out in clause 6.1;
 - (b) to serve as a member of the executive,
- until the next annual **general meeting**.
- 45.7 The **executive** shall indicate in writing the particular powers and responsibilities of an **executive director**.
- 45.8 After a **general meeting**, an individual shall be eligible to be re-appointed by the **executive** as an **executive director**.
- 45.9 An individual is eligible for election as an **officer** of the **association** if they:
- (a) are an ordinary member of the **association**, or a representative of a corporate member of the **association** (appointed under clause 24);
 - (b) are habitually resident in **Australasia**;
 - (c) are nominated by two members or representatives of corporate members entitled to vote (unless the individual was previously elected as an **officer** at a **general meeting** and has been an **officer** since that meeting);
 - (d) give the **association** their **signed** consent to act as an **officer** of the **association**; and
- 45.10 An individual is eligible for appointment as an **executive director** of the **association** if they:
- (a) are an ordinary member of the **association**, or a representative of a corporate member of the **association** (appointed under clause 24);
 - (b) are habitually resident in **Australasia**;
 - (c) give the **association** their **signed** consent to act as an **executive director** of the **association**; and

46. Term of office

46.1 At each annual **general meeting**:

- (a) any **officer** appointed by the **executive** to fill a casual vacancy or as an additional **officer** must retire; and
- (b) at least one-third of the remaining **officers** must retire.

46.2 The **officer** who must retire at each annual **general meeting** under clause 46.1(b) will be the **officer** who has been longest in office since last being elected. Where **officers** were elected on the same day, the **officer(s)** to retire will be decided by lot unless they agree otherwise.

46.3 Other than an **officer** appointed under clause 45.5, an **officer's** term of office starts at the end of the annual **general meeting** at which they are elected and ends at the end of the annual **general meeting** at which they retire.

46.4 Each **officer** must retire at least once every three years.

46.5 An **officer** who retires under clause 46.1 may nominate for election or re-election, subject to clause 46.6.

46.6 An **officer** who has held office for a continuous period of nine years or more may only be re-appointed or re-elected by a **special resolution**.

47. When an officer stops being an officer or exec

An **officer** stops being an **officer** if they:

- (a) give written notice of resignation as an **officer** to the **association**;
- (b) die;
- (c) are removed as an **officer** by a resolution of the members;
- (d) stop being a member of the **association**;
- (e) are a representative of a corporate member, and that corporate member stops being a corporate member;
- (f) are a representative of a corporate member, and the corporate member notifies the **association** that the representative is no longer its representative;
- (g) are absent for three consecutive **executive** meetings without approval from the **executive**; or
- (h) become ineligible to be a director under the **Corporations Act**.

Powers of executive

48. Powers of executive

48.1 The **executive** is responsible for managing and directing the activities of the **association** to achieve the object and purposes set out in clause 6.1.

48.2 The **executive** may use all of the powers of the **association** set out in clause 6.2 except for powers that, under this constitution, may only be used by members.

48.3 The **executive** must decide on the responsible financial management of the **association** including:

- (a) any suitable written delegations of power under clause 49; and
- (b) how money will be managed, such as how electronic transfers, negotiable instruments or cheques must be authorised and signed or otherwise approved.

48.4 The **executive** cannot remove an **officer** or auditor. An **officer** and auditors may only be removed by a members' resolution at a **general meeting**.

49. Delegation of executive powers

49.1 The **executive** may delegate any of their powers and functions to a committee, an **officer**, an **executive director**, an employee of the **association** or any other person, as they consider appropriate.

49.2 The **secretary** must record the delegation in the **association's** minute book.

49.3 The exercise of the power by the delegate is as effective as if the **executive** had exercised it.

50. Payments to executive

50.1 The **association** must not pay fees to an **officer** for acting as an **officer**.

50.2 The **association** may:

- (a) pay an **officer** for work they do for the **association**, other than as an **officer**, if the amount is no more than a reasonable fee for the work done, or
- (b) reimburse an **officer** for expenses properly incurred by the **officer** in connection with the affairs of the **association**.

50.3 Any payment made under clause 50.2 must be approved by the **executive**.

50.4 The **association** may pay premiums for insurance indemnifying the **executive**, as allowed for by law and this constitution.

51. Execution of documents

51.1 The **association** may execute a document if the document is signed by two **officers** of the **association**.

51.2 An individual may sign a document:

- (a) by signing a physical form of the document by hand; or
- (b) by signing an electronic form of the document using electronic means.

Duties of executive

52. Duties of executive

The **executive** must comply with their duties as the **executive** under legislation and judge-made law, including:

- (a) to exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were an officer of the **association**;
- (b) to act in good faith in the best interests of the **association** and to further the object and purposes of the **association** set out in clause 6.1;
- (c) not to misuse their position as an **officer**;
- (d) not to misuse information they gain in their role as an **officer**;
- (e) to disclose any perceived or actual material conflicts of interest in the manner set out in clause 53;
- (f) to ensure that the financial affairs of the **association** are managed responsibly; and
- (g) not to allow the **association** to operate while it is insolvent.

53. Conflicts of interest

53.1 An **officer** must disclose the nature and extent of any actual or perceived material conflict of interest in a matter that is being considered at a meeting of the **executive** (or that is proposed in a circular resolution), except as provided under clause 53.2:

- (a) to the other **officers**; or
- (b) if all of the **officers** have the same conflict of interest, to the members at the next **general meeting**, or at an earlier time if reasonable to do so.

53.2 An **officer** does not need to disclose an actual or perceived material conflict of interest to the other **officers** under clause 53.1 if:

- (a) their interest arises because they are a member of the **association**, and the other members have the same interest;
- (b) their interest relates to an insurance contract that insures, or would insure, the **officer** against liabilities that the **officer** incurs as an officer of the **association** (see clause 71); or
- (c) their interest relates to a payment by the **association** under clause 71 (indemnity), or any contract relating to an indemnity that is allowed by law.

- 53.3 The disclosure of a conflict of interest by an **officer** must be recorded in the minutes of the meeting.
- 53.4 Each **officer** who has a material personal interest in a matter that is being considered at a meeting of the **executive** (or that is proposed in a circular resolution) must not, except as provided under clauses 53.5:
- (a) be present at the meeting while the matter is being discussed; or
 - (b) vote on the matter.
- 53.5 An **officer** may still be present and vote if the **officers** who do not have a material personal interest in the matter pass a resolution of the **executive** that:
- (a) identifies the **officer**, the nature and extent of the **officer's** interest in the matter and how it relates to the affairs of the **association**; and
 - (b) says that those **officers** are satisfied that the interest should not stop the **officer** from voting or being present.

Executive meetings

54. When the executive meet

The **executive** may decide how often, where and when they meet.

55. Calling executive meetings

55.1 An **officer** may call an **executive** meeting by giving reasonable notice to all of the other **officers**.

55.2 An **officer** may give notice in writing or by any other means of communication that has previously been agreed to by all of the **officers**.

56. Chairperson for executive meetings

56.1 Subject to clause 56.2, the **president** is entitled to be the chairperson of any **executive** meeting.

56.2 The **officers** present to vote at an **executive** meeting may choose an **officer** or member to be the chairperson for that meeting if:

- (a) the **president** is present but says they do not wish to act as chairperson of the meeting;
- (b) the **president** has advised that they will not be present at the meeting; or
- (c) the **president** is not present within 30 minutes after the starting time set for the meeting.

57. Quorum at executive meetings

57.1 Unless the **executive** determines otherwise, the quorum for an **executive** meeting is a majority (greater than 50 per cent) of **officers**.

57.2 A quorum must be present for the whole **executive** meeting.

58. Using technology to hold executive meetings

58.1 The **executive** may hold their meetings by using any technology (such as video or teleconferencing) that is agreed to by all of the **officers**.

58.2 The **executive**'s agreement under clause 58.1 may be a standing (ongoing) one.

58.3 An **officer** may only withdraw their consent to the **executive**'s agreement within a reasonable period before the meeting.

59. Passing executive resolutions

An **executive** resolution must be passed by a majority of the votes cast by the **officers** present and entitled to vote on the resolution.

60. Circular resolutions of executive

60.1 The **executive** may pass a circular resolution without an **executive** meeting being held.

60.2 A circular resolution is passed if all of the **officers** sign or otherwise agree to the resolution in the manner set out in clause 60.3 or clause 60.4.

60.3 Each **officer** may sign:

- (a) a single document setting out the resolution and containing a statement that they agree to the resolution; or
- (b) separate copies of that document, as long as the wording of the resolution is the same in each copy.

60.4 The **secretary** may send a circular resolution by email to the **executive** and the **executive** may agree to the resolution by sending a reply email to that effect, including the text of the resolution in their reply.

60.5 A circular resolution is passed when the last **officer** signs or otherwise agrees to the resolution in the manner set out in clause 60.3 or clause 60.4.

Secretary

61. Appointment and role of secretary

61.1 The **association** must have one **secretary**.

- 61.2 The **secretary** must be appointed by the **association** in accordance with clause 45 and may be removed by the **association** in accordance with clause 47(c).
- 61.3 The role of the **secretary** includes:
- (a) maintaining a register of the **association's** members; and
 - (b) maintaining the minutes and other records of **general meetings** (including notices of meetings), **executive** meetings and circular resolutions.

Minutes and records

62. Minutes and records

- 62.1 The **secretary** must, within one month, make and keep the following records:
- (a) minutes of proceedings and resolutions of **general meetings**;
 - (b) minutes of circular resolutions of members;
 - (c) a copy of a notice of each **general meeting**; and
 - (d) a copy of a members' statement distributed to members under clause 30.
- 62.2 The **secretary** must, within one month, make and keep the following records:
- (a) minutes of proceedings and resolutions of **executive** meetings (including meetings of any committees); and
 - (b) minutes of circular resolutions of the **executive**.
- 62.3 To allow members to inspect the **association's** records:
- (a) the **secretary** must give a member access to the records set out in clause 62.1; and
 - (b) the **executive** may authorise a member to inspect other records of the **association**, including records referred to in clause 62.2.
- 62.4 The **executive** must ensure that minutes of a **general meeting** or an **executive** meeting are signed within a reasonable time after the meeting by:
- (a) the chairperson of the meeting; or
 - (b) the chairperson of the next meeting.
- 62.5 The **executive** must ensure that minutes of the passing of a circular resolution (of members or the **executive**) are signed by an **officer** within a reasonable time after the resolution is passed.

Treasurer

63. Appointment and role of treasurer

- 63.1 The **association** must have one **treasurer**.
- 63.2 The **treasurer** must be appointed by the **association** in accordance with clause 45 and may be removed by the **association** in accordance with clause 47(c).
- 63.3 The role of the **treasurer** includes maintaining the written financial records of the **association**.

64. Financial and related records

- 64.1 The **treasurer** must make and keep written financial records that:
- (a) correctly record and explain the **association's** transactions and financial position and performance; and
 - (b) if the **association** has appointed an auditor, enable true and fair financial statements to be prepared and to be audited.
- 64.2 The **treasurer** must also keep written records that correctly record the operations of the **association**.
- 64.3 The **association** must retain its records for at least seven years.
- 64.4 The **treasurer** must take reasonable steps to ensure that the **association's** records are kept safe.

By-laws

65. By-laws

- 65.1 The **executive** may pass a resolution to make by-laws to give effect to this constitution.
- 65.2 Members (including **officers**) must comply with by-laws as if they were part of this constitution.

Notice

66. What is notice?

- 66.1 Anything written to or from the **association** under any clause in this constitution is written notice and is subject to clauses 67 to 70, unless specified otherwise.
- 66.2 Clauses 67 to 70 do not apply to a notice of proxy under clause 39.6.

67. Notice to the association or secretary

Written notice or any communication under this constitution may be given to the **association** or the **secretary** by:

- (a) delivering it to the **secretary**;
- (b) posting it to the **secretary** at the address of the **secretary** in the register of members; or
- (c) sending it by email to the current email address of the **secretary** in the register of members.

68. Notice to members

68.1 Written notice or any communication under this constitution may be given to a member:

- (a) in person;
- (b) by posting it to the member at the address of the members in the register of members or an alternative address (if any) nominated by the member for service of notices; or
- (c) sending it by email to the current email address of the member in the register of members.

68.2 If the **association** does not have an address for the member, the **association** is not required to give notice in person.

69. When notice is taken to be given

A notice:

- (a) delivered in person, or left at the recipient's address, is taken to be given on the day it is delivered;
- (b) sent by post, is taken to be given on the seventh day after it is posted with the correct payment of postage costs; and
- (c) sent by email or other electronic method, is taken to be given on the business day after it is sent.

Financial year

70. Association's financial year

The **association's** financial year is from 1 July to 30 June, unless the **executive** passes a resolution to change the financial year.

Indemnity, insurance and access

71. Indemnity

71.1 The **association** indemnifies each **officer** or **executive director** of the **association** out of the assets of the **association**, to the relevant extent, against

all losses and liabilities (including costs, expenses and charges) incurred by that individual as an **officer** of the **association**.

- 71.2 In this clause, ‘**officer**’ includes an **officer** after they have ceased to hold that office.
- 71.3 In this clause, ‘executive director’ includes an **executive director** after they have ceased to hold that office.
- 71.4 In this clause, ‘to the relevant extent’ means:
- (a) to the extent that the **association** is not precluded by law from doing so; and
 - (b) for the amount that the **officer** or **executive director** is not otherwise entitled to be indemnified and is not actually indemnified by another person (including an insurer under an insurance policy).
- 71.5 The indemnity is a continuing obligation and is enforceable by an **officer** or **executive director** even though that individual is no longer an **officer** or **executive director** of the **association**.

72. Insurance

To the extent permitted by law, and if the **executive** considers it appropriate, the **association** may pay or agree to pay a premium for a contract insuring an individual who is or has been an **officer** or **executive director** of the **association** against any liability incurred by the individual as an **officer** or **executive director** of the **association**.

73. Officers’ access to documents

- 73.1 An **officer** has a right of access to the financial records of the **association** at all reasonable times.
- 73.2 If the **executive** agrees, the **association** must give an **officer** or former **officer** access to:
- (a) certain documents, including documents provided for or available to the **executive**; and
 - (b) any other documents referred to in those documents.

Winding up

74. Surplus assets not to be distributed to members

If the **association** is wound up, any **surplus assets** must not be distributed to a member or a former member of the **association**, unless that member or former member is an association described in clause 75.

75. Distribution of surplus assets

- 75.1 Subject to any applicable law, and any court order, any **surplus assets** that remain after the **association** is wound up must be distributed to one or more not-for-profit associations, whether unincorporated or incorporated:
- (a) with an object and purposes similar to, or inclusive of, the purposes in clause 6.1; and
 - (b) which also prohibit the distribution of any **surplus assets** to their members to at least the same extent as the **association**.
- 75.2 The decision as to the association or associations to be given the **surplus assets** must be made by a **special resolution** of members at or before the time of winding up. If the members do not make this decision, the **association** may apply to the Supreme Court to make this decision.

Definitions and interpretation

76. Definitions

In this constitution:

annual subscription means the annual subscription set by an annual **general meeting** under clause 20.2.

association means the **association** referred to in clause 1.

Australasia means Australia, New Zealand and the **Pacific Islands**.

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

elected chairperson means an individual elected by the **executive** to be the **association's** chairperson under clause 43.

executive means the **officers** of the **association**.

executive director:

- (a) means an individual who at the given time holds a position as an **executive director** under clause 45.6; and
- (b) does not have the meaning given to the term 'director' under the **Corporations Act**.

executive meeting means a meeting held in accordance with clauses 56 to 60.

general meeting means a meeting of members, and includes the annual **general meeting** held under clause 20.1.

initial executive has the meaning set out in clause 44.

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

officer means an individual who at the given time holds any one of the positions set out in clauses 42.1 and 42.2.

Pacific Islands means Cook Islands, Fiji, Kiribati, Nauru, Norfolk Island, Papua New Guinea, Niue, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu.

patron means the patron of the **association** appointed under clause 43.

private international law means the field of law that deals with cross-border elements in legal disputes and legal relationships, whether those cross-border elements arise internationally or intra-nationally. It includes the questions of jurisdiction, the recognition and enforcement of judgments and applicable law that arise with these cross-border elements. It is also referred to as the field of conflict of laws.

secretary means the secretary of the **association** appointed under clause 61.

show of hands means a vote:

- (a) if the meeting is held using virtual technology, by which individuals use the means provided by the virtual technology to show support for a proposal; and
- (b) if the meeting is held in a physical venue, by which individuals raise one of their hands to show support for a proposal.

signed, other than for clauses 48.3, 51.1, 62.4 and 62.5, means:

- (a) signed by hand;
- (b) signed by electronic signature;
- (c) sent by email from the person's current email address as recorded in the register of members; or
- (d) entered by a person into any application on any website maintained by the **association**.

special resolution means a resolution:

- (a) of which notice has been given under clause 21.6(e); and

- (b) that has been passed by at least 75 per cent of the votes cast by **members present** and entitled to vote on the resolution.

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

treasurer means the treasurer of the **association** appointed under clause 63.

77. Interpretation

In this constitution:

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

Applicable law

78. Applicable law

This constitution is governed by, and is to be interpreted in accordance with, the law of the Australian Capital Territory.