



ASSOCIATION OF  
ACCOUNTING TECHNICIANS

# **ASSOCIATION OF ACCOUNTING TECHNICIANS**

## **CONSTITUTION**

**June 2007**

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**CONSTITUTION OF THE  
ASSOCIATION OF ACCOUNTING TECHNICIANS (AUSTRALIA) LTD  
A COMPANY LIMITED BY GUARANTEE  
ACN 085 441 934**

## **CHAPTER 1: DEFINITIONS**

The following words and expressions in this Constitution have the several meanings hereby assigned to them unless such meanings are excluded by or are repugnant to the context or subject matter (that is to say):

<b><u>WORDS</u></b>	<b><u>MEANINGS</u></b>
<b>“the Law”</b>	means the <i>Corporations Act 2001</i> as amended from time to time
<b>“the Association”</b>	Association of Accounting Technicians (Australia) Ltd
<b>“Affiliate”</b>	a person admitted as an Affiliate with the Association but who has not been admitted as a Member
<b>“Board of Directors”</b>	means the Board of Directors of the Association constituted under this Constitution for the management and control of the Association
<b>“By-laws”</b>	means the By-laws for the time being of the Association created in accordance with this Constitution
<b>“Chief Executive Officer”</b>	means the Chief Executive Officer appointed in accordance with this Constitution
<b>“Committee Member”</b>	means a member of a committee established under this Constitution
<b>“the Constitution”</b>	the constituent document of the Association as amended from time to time, as set out in this document
<b>“Director”</b>	means a natural person elected or nominated to the Board of Directors in accordance with the Constitution
<b>“Member”</b>	means a natural person who has complied with the Constitution and By-Laws in relation to membership and who has paid all fees and subscriptions due
<b>“CPA Australia”</b>	CPA Australia Ltd

<b>“ICAA”</b>	Institute of Chartered Accountants in Australia
<b>“Honorary Member”</b>	a person admitted to membership of the Association in accordance with clause 121(3)
<b>“Month”</b>	calendar month
<b>“NIA”</b>	the National Institute of Accountants
<b>“Sponsoring Body”</b>	the National Institute of Accountants, CPA Australia or the Institute of Chartered Accountants in Australia
<b>“Sponsoring Body Appointed Director”</b>	a Director who has been nominated and appointed by a Sponsoring Body
<b>“Officer”</b>	has the same meaning as defined in the Law and includes the Investigator and the Investigations Review Officer
<b>“Prescribed Examinations”</b>	means the examinations prescribed by the Board of Directors for the admission of candidates as Members of the Association or for a change in status in accordance with this Constitution
<b>“Public Practice”</b>	means the provision of accounting services to the public, including services relating to: <ul style="list-style-type: none"> <li>(a) BAS preparation and lodgement</li> <li>(b) Record keeping</li> <li>(c) Information technology</li> </ul>
<b>“General Meeting”</b>	means a General Meeting of the Members of the Association lawfully convened and held in accordance with this Constitution
<b>“The Office”</b>	the registered office of the Association
<b>“Post”</b>	means any form of postage but not limited to Prepaid Post, Parcel Post, Registered Mail, Courier, Business Post, Next Day Delivery
<b>“President”</b>	means the President for the time being of the Association
<b>“Pronouncement”</b>	means the Pronouncements for the time being of the Association created in accordance with this Constitution
<b>“The Seal”</b>	the Common Seal of the Association
<b>“The Secretary”</b>	the Secretary of the Association appointed by the Board of

Directors whether or not in conjunction with the office of Chief Executive or some other office

**“Student”** a person registered as a student with the Association but who has not been admitted as a Member

**“Register”** means the register of Members of the Association to be kept pursuant to the Law

**“Regulations”** mean the Regulations for the time being of the Association created in accordance with this Constitution

“Written” and “In Writing” includes all modes of representing or reproducing words in a visible form.

Words importing the singular number include the plural number and words importing the plural number include the singular number.

Words importing the masculine gender include the feminine gender.

Headings are for ease of reference and shall not affect in any way the interpretation or construction of the Clause or Clauses to which they refer.

An expression in a provision in this Constitution has the same meaning as in a provision in the *Corporations Act 2001* that deal with the same matters as the provision, unless the contrary intention appears in this Constitution.

This Constitution displaces each of the replaceable rules in the *Corporations Act 2001*.

## **CHAPTER 2: NAME, REGISTERED OFFICE, OBJECTS OF THE ASSOCIATION AND LIABILITY OF MEMBERS**

### ***Name***

2. The name of the Company (hereinafter called “the Association”) is “THE ASSOCIATION OF ACCOUNTING TECHNICIANS (AUSTRALIA) LTD”.

### ***Registered Office***

3. The Registered Office of the Association shall be in the City of Melbourne, or in such place as the Board of Directors may from time to time appoint.

### ***Objects***

4. The objects for which the Association is established are:
  - (1) To advance public education and promote the study of the practice, theory and techniques of accountancy at a technical level.
  - (2) To provide a qualification, known as Accounting Technician.
  - (3) To provide an organisation for such persons who are granted such qualification and to promote and regulate in the public interest the technical competence and professional standards of those persons.
  - (4) To promote and provide opportunities for the exchange of views both professional and otherwise amongst Members of the Association and others, through conferences, lectures, seminars and meetings relating to accountancy work and to other interests of Members of the Association.
  - (5) To promote the interests of the accounting profession and of accounting technicians.
  - (6) To issue a journal and other forms of communication to Members and others for the advancement of the Association, to create and maintain websites and electronic mail services and to print, publish or distribute textbooks, statistics, lectures, manuals, Constitution and other forms of communication and literature connected with or explanatory of the theory and/or practice of accountancy and the work performed by Members of the Association and to buy, sell, lend or exchange such works in any form whatsoever.
  - (7) To promote the study of the theory and practice of the work performed by Members of the Association and to establish and/or provide facilities for the holding of classes, assessments and appraisals and examinations (under either the jurisdiction of the Association or that of any accredited education institution or other suitable body), and for the award of scholarships and such other rewards in connection with the study of such theory and practice as the Association shall deem necessary.



- (8) To award certificates and diplomas on completion of a course or courses of study of the theory of practice of the work performed by Members of the Association. Unless otherwise accredited under the law as a recognised qualification, the Association shall not issue any certificates or diplomas containing any statement expressing or implying that the certificate or diploma is a recognised qualification under the law.
- (9) To encourage and/or secure the training, professional education and practical experience of anyone who is contemplating becoming a Member of the Association.
- (10) To co-ordinate and co-operate with the accounting and related professions, commerce, industry and the public service to support, promote and maintain a body of qualifying accounting technicians.
- (11) To affiliate, amalgamate or enter into partnership or into any arrangement for union of interests, co-operation, joint venture arrangements, reciprocal concession or otherwise with any body of a like nature to those of the Association.
- (12) To communicate, affiliate or enter into other relations whether formal or informal with other associations, societies and institutes having similar objects and purposes and to subscribe to become a Member of and co-operate with any such bodies and to procure from and communicate to any such bodies such information as may be likely to forward the objects of the Association and accounting technicians.
- (13) To apply for, promote, petition for or otherwise support any Act of Parliament or other measure for the purpose of attaining the above objects or any of them.
- (14) To purchase, enter into a lease agreement or on exchange, hire or otherwise acquire any real or personal property and any rights or privileges which the Association may think necessary or convenient for the promotion of its objects, and to construct, equip, maintain and alter any buildings or erections necessary or convenient for the work of the Association.
- (15) To sell, let, mortgage, dispose of or turn to account, all or any of the property or assets of the Association as may be thought expedient.
- (16) To undertake and execute any trust deed which may lawfully be undertaken by the Association and may be conducive to its objects.
- (17) To borrow or raise money for the purposes of the Association on such terms and on such security as may be thought fit.
- (18) To invest the monies of the Association not immediately required for its purposes in or upon such investments, securities or property as may be thought fit, subject nevertheless to such conditions (if any) and such consents (if any) as may for the time being be imposed or required by Law.

- (19) To accept grants of money and/or land, donations and gifts, subscriptions and other assistance in the furtherance of the objects of the Association and to confirm to any conditions upon which such grants and other payments may be made.
- (20) To carry out such other things that the Association may think is necessary for the attainment of the above objects or any of them.

PROVIDED THAT:

- (i) In case the Association shall take or hold any property which may be subject to any trusts, the Association shall only deal with or invest the same in such manner as is allowed by law;
  - (ii) The objects of the Association shall not extend to the regulation of relations between workers and employers or organisations of workers and organisations of employers.
5. All the income and property of the Association shall be applied solely towards the promotion of the objects of the Association as set out in this Constitution, and no income shall be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise by way of profit, to the members of the Association.
  6. Nothing in this Constitution shall prevent the payment in good faith of reasonable and proper remuneration to any Member, officer or servant of the Association in return for any services rendered to the Association.

### ***Liability of Members and Winding Up***

7. The liability of Members is limited.
8. If the Association acts in contravention of any conditions of this Constitution, the liability of every Director of the Association shall be unlimited, and the liability of every Member of the Association who has received any such dividend, bonus or other profit as aforesaid, shall likewise be unlimited.
9. Every Member of the Association undertakes to contribute to the assets of the Association in the event of the same being wound up during the time that the Member is a Member, or within one year of payment of the debts and liabilities of the Association contracted before the time at which the Member ceases to be a Member, and of the costs, charges and expenses of winding up the same, and for the adjustment of the rights of the contributory among themselves such amount as may be required not exceeding six Australian dollars, or in the case of the Member's liability becoming unlimited such other amount as may be required in pursuance of Clause 8 of this Constitution.
10. If upon the winding up or dissolution of the Association any property remains after the satisfaction of all its debts and liabilities, it shall not be paid or distributed amongst the members, but shall be given or transferred to some other institution or institutions having objects similar to the objects of the Association; and shall prohibit the distribution of its or their income and property among its or their Members to an extent at least as great as is imposed on the Association under or by virtue of Clause 5 hereof. Such institution or institutions will be determined by the Members of the Association

at or before the time of dissolution and in default thereof by the Chief Justice of the Supreme Court of Victoria or such other Judge of the Court as may have or acquire jurisdiction in the matter and if and so far as effect cannot be given to the aforesaid provision then to some charitable object.

## **CHAPTER 3: MEMBERSHIP**

### ***Admission***

11. (1) In addition to existing Members, such persons as may be hereafter admitted to membership in accordance with the Constitution shall be entered in the Register and shall be Members of the Association.
- (2) For admission as a Member of the Association every applicant shall pass the prescribed examinations or successfully complete a course of study prescribed by the Board of Directors (unless exempted there from as hereinafter provided), comply with the requisites of this Constitution and By-laws for membership and also comply with such other requirements as the Board of Directors may prescribe either generally or in any particular case.
- (3) Every applicant shall apply in the form and manner and pay the fees to such person as the Board of Directors may from time to time prescribe and shall agree that if admitted, the Member will be bound by the provisions of the Constitution of the Association and of the By-laws, Regulations and Pronouncements of the Board of Directors then in force or which may thereafter from time to time be in force.
- (4) The Board of Directors may in its discretion and without being required to assign any reason therefore refuse to accept any application for admission to membership of the Association and may in like manner refuse to admit any applicant to membership.

### ***Special Cases***

12. The Board of Directors may by resolution passed by a majority of not less than two-thirds of the votes of Directors present and voting dispense with all or any of the requirements of this Constitution and the By-laws regarding admission and admit any person to membership of the Association in such status as it thinks fit or grant a change in status to any Member:
  - (1) if that person or Member has extensive experience in accountancy; or
  - (2) if that person or Member has rendered valuable service in advancing the interests of the profession; or
  - (3) for any special reason the Board of Directors deems sufficient.
13. A member of any body of accountants or paraprofessional accountants which the Board of Directors thinks fit to recognise may be admitted for membership of the Association on such terms and conditions as may from time to time be prescribed by the Board of Directors.
14. The Board of Directors may by resolution passed by not less than two-thirds of Directors present and voting admit all or any of the members of any other body of accountants or paraprofessional accountants to membership in the Association in the status which the Board of Directors deems appropriate.

15. Directors of the Board of Directors shall, during their continuance in office, be Members. On acceptance of office, Directors shall be deemed to have signed an application in the form specified in sub-Clause 11(3) and be admitted as a Member irrespective of any of the requirements of this Constitution and the By-laws regarding admission of Members.

### ***Register of Members***

16. The name and address as provided for in Clause 18 of every Member for the time being shall be entered in the Register of Members according to their category of membership.
17.
  - (1) A Register of Members is to be kept in accordance with the Law.
  - (2) The Register shall set out the status of each Member and shall contain such further particulars as may from time to time be prescribed by the Board of Directors.
  - (3) Every Member shall from time to time furnish the Board of Directors with all required information to enable it to compile a record of Member qualifications and experience in accordance with this Constitution.
  - (4) The name of any person who ceases to be a Member shall be removed from the Register.
18. Each Member shall from time to time or upon demand notify the Secretary his or her place of employment or residence, and such place shall be registered as the address to be entered in the Register of Members compiled in accordance with Clause 16 and the place so from time to time registered shall, for the purpose of the Law and these Clauses, be deemed their registered address.

### ***Category of Members***

19. The categories of membership of the Association shall consist of Members and Fellow Members. The Board of Directors may determine the requirements and qualifications for membership, except where they are stated in this Constitution and may create additional categories of membership from time to time. Affiliates and Students shall not be registered as Members until they fulfil the requirements of membership referred to in Clause 11.

### ***Certificate of Membership***

20. All Members shall be entitled to receive a Certificate of Membership. Every such Certificate shall remain the property of the Association and all Members shall upon elevation to membership be deemed to have entered into an enforceable undertaking with the Association to return any such Certificate to the Association upon cessation of their membership or upon the demand, for whatever reason, of the Association.

### ***Member Rights and Privileges Not Transferable***

21. The name of any person who ceases to be a Member shall be removed from the Register of Members.

## ***Effect of Cessation of Membership***

22. Notwithstanding anything in Clause 25;
- (1) Any person who ceases, whether by resignation or otherwise, to be a Member, Affiliate or Student of the Association shall nevertheless remain liable, in relation to their conduct prior to such cessation, to the investigatory and disciplinary procedures referred to in Chapter 7 and to any order made under such process and, without prejudice to the generality of the foregoing, shall pay any fine or costs exacted under such order and all sums due to the Association under such process.
  - (2) Any person who ceases to be a Member of the Association shall cease to use the Association's distinguishing letters and any designation to which he or she may have been entitled by virtue of membership either personally or on letter headings or elsewhere.
23. Neither membership nor any of the rights and privileges of membership shall be in any way either transferable or transmissible.

## ***Post Nominals***

24. (1) The distinguishing letters to be used by a Member shall be AAT (Accredited Accounting Technician) except for a Fellow Member when they shall be AATF (Accredited Accounting Technician Fellow).
- (2) A Member of the Association may use whichever of the distinguishing letters is appropriate to their membership status.
  - (3) The distinguishing letters shall be personal and shall not be used after, or in conjunction with, the name of a firm, business or company.
  - (4) The Board of Directors may introduce new and/or additional distinguishing letters and designations from time to time.

## ***Resignation of Members***

25. (1) A Member wishing to resign his or her membership shall forward a written resignation to the Association. The member shall return the Certificate or Certificates of membership and shall pay all monies owing to the Association whereupon the member's resignation may be accepted by the Association.
- (2) Provided that no resignation shall be accepted from a Member against whom a complaint has been lodged in terms of Chapter 7 in this Constitution until any investigation or disciplinary procedure has been completed in accordance with that Chapter.
  - (3) Notwithstanding non-compliance with sub-Clause 25(1) the Association may accept the resignation of a Member.

## ***Reinstatement of Membership***

26. The Board of Directors may reinstate any person who has for any reason ceased to be a Member of the Association on such terms and conditions as the Board of Directors in its absolute discretion may decide.

## **CHAPTER 4: REGISTRATION, ADMISSION FEES AND ANNUAL SUBSCRIPTIONS**

### ***Admission Fee and Annual Subscription***

27. Except as otherwise provided by this Constitution or by Regulations or By-laws every person shall, as a prerequisite to being admitted to membership of the Association, pay an admission fee as may be prescribed from time to time by the Board of Directors and shall further pay an annual subscription for each year following the year of admission and any other fees prescribed by the Board of Directors from time to time. A registration, admission and subscription fee may also be prescribed from time to time by the Board of Directors for registration of Affiliates and Students.
28. Unless otherwise determined by the Board of Directors, the annual subscription shall be due and payable on the first day of July and shall be such amount as may be prescribed.
29. The Board of Directors may determine different classes of membership and the amount of subscription payable by such classes respectively.

### ***Advancement Fee***

30. Except as otherwise provided by this Constitution or by Regulations or By-laws as a prerequisite for advancement in membership, a Student, Affiliate or Member shall pay such advancement fee as may be prescribed from time to time by the Board of Directors.

### ***Waiver of Fees***

31. The Board of Directors may in exceptional circumstances (as to which its decision shall be conclusive) waive or defer payment of the subscription or advancement fee payable by any Member or prospective Member on such terms for such period as it may determine.

### ***Late Payment Penalty***

32. If any Member subscription is overdue by two months from the due date, a reminder notice of such fact will be issued to the member. A late fee may apply to subscriptions that are overdue for a period of three months. A final notice will be issued to any Member whose subscription is overdue for a period of three months, informing the Member of the amount due and that if the subscription and late fee are not paid in full within a period of a further two months the Member's name may with the authority of the Board of Directors be removed from the Register and from the date of such removal the Member shall forfeit their membership but without prejudice to the right of the Board of Directors to recover all arrears including the subscription for the year then current and the Certificate or Certificates of Membership of the Association.

## **CHAPTER 5: GENERAL MEETINGS**

### ***Annual General Meetings***

33. The Association shall hold an Annual General Meeting at such time and place as may be determined by the Board of Directors, and shall specify the meeting as such in the notices calling it, provided that every Annual General Meeting shall be held not later than the last day of the fifth month following the close of the preceding financial year.

### ***Business of Annual General Meetings***

34. Subject to the Law a Member wishing to bring before an Annual General Meeting any motion or business not being the ordinary annual business of the Association shall give notice thereof in writing to the Board of Directors not later than one month after the close of the financial year immediately preceding that Annual General Meeting. No motion or business (other than business brought forward by the Board of Directors) shall come before the meeting unless notice thereof has been given in accordance with this Clause.

### ***General Meetings***

35. The Board of Directors may whenever it thinks fit convene a General Meeting. The Board of Directors shall convene a General Meeting on the requisition in writing of not less than fifty (50) Members having at the date of the requisition the right to vote at General Meetings or at least 2% of the Members of the Association, whichever is the greater, having at the date of the requisition the right to vote at General Meetings.

Every such meeting shall be held at such time and place as the Board of Directors shall determine, provided that a General Meeting on the requisition of the Members shall be held within two calendar months of the receipt of the requisition by the Secretary.

36. Subject to the Law the business of a General Meeting that is not an Annual General Meeting shall be the business advised in the notice of the General Meeting.
37. No Honorary Member shall be entitled to receive notice of or to attend and vote at any General Meeting of the Association.

### ***Notice of Meetings***

38. (1) Not less than twenty-one (21) days' notice of every General Meeting specifying the place, day and hour of the meeting and the general nature of the business to be dealt with shall be given to the Members in the manner hereinafter provided.
- (2) Not less than twenty-one (21) days' notice of every General Meeting at which it is proposed by the Association to pass a special resolution as defined by the Law specifying the place, day and hour of the meeting and the intention to propose the resolution as a special resolution shall be given to the Members in the manner hereinafter provided or in such manner (if any) as may be prescribed by the Association at the General Meeting.



## ***Service of Notices***

39. (1) All notices may be served upon any Member either personally or by sending the same through the post addressed to such Member at the Member's address as entered in the Register, or may be given electronically if a member nominates an electronic address or in exceptional circumstance may be served by advertisement in at least one daily national newspaper if such notice be intended for all Members of the Association. Notices of meeting served by advertisement in newspapers shall contain details of the nature and purpose of the meeting.
- (2) The accidental omission to give notice of a meeting to, or the non-receipt of such notice by any Member shall not invalidate the proceedings of a meeting held in pursuance of such notice.
40. Notice of an Annual General Meeting of the Association shall be deemed to be sufficiently given if notice thereof be published in the annual report of the Association.
41. Any notice sent by post shall be deemed to have been served on the third working day following posting. Any notice sent electronically shall be deemed to have been received on the day of electronic transmission. Any notice given by advertisement shall be deemed to have been served on the day of issue of the newspaper in which the advertisement appears.

## ***Place of Meeting***

42. For the purposes of this Constitution, a General Meeting may be held at two or more venues using any technology that gives members as a whole a reasonable opportunity to participate.

## ***Proceedings at General Meetings***

### **Quorum**

43. (1) Eight persons personally present and entitled to vote that includes the Sponsoring Body Appointed Directors shall be a quorum for a General Meeting of the Association and no business shall be transacted at any General Meeting unless the requisite quorum is present when the meeting proceeds to business.
- (2) For the purpose of determining whether quorum of Members is present, a person attending as a proxy, or as representing a Member, shall be deemed a Member.
- (3) No business shall be transacted at any General Meeting unless a quorum is present when the meeting proceeds to business.

## ***Adjournment of General Meeting***

44. (1) If a quorum is not present within fifteen minutes of the time appointed for the meeting –

- (a) where the meeting was convened upon the requisition of Members – the meeting shall be dissolved; or
  - (b) in any other case –
    - (i) the meeting stands adjourned to the same day in the next week at the same time and place or to such other day (not being more than fourteen days after such meeting) at such time and place as the Chairman of the meeting may appoint; and
    - (ii) if at the adjourned meeting a quorum is not present within fifteen minutes from the time appointed for the meeting the meeting shall be dissolved.
- (2) The Chairman of a meeting may with the consent of any meeting at which a quorum is present, adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (3) When a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.
- (4) Except as provided by sub-Clause (3) it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

### **Chair of General Meeting**

45. (1) The President shall preside as Chairman at all General Meetings at which he or she is present, but if at any meeting he or she is absent or unable to preside, then the Members present shall choose one of the Sponsoring Body Appointed Directors present to be Chairman of the meeting.
- (2) The Treasurer who held office during the period to which an Annual Report refers or the Treasurer's nominee shall attend the Annual General Meeting at which that Annual Report is presented.

### ***Voting at General Meetings***

#### **Member Voting**

46. Subject to the provisions of this Constitution, every Member of the Association shall have one vote.
47. (1) At any General Meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded:
- (a) by the Chairman; or
  - (b) by at least five Members present in person or by proxy.

- (2) Unless a poll is so demanded, a declaration by the Chairman that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the minute book of the Association shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
  - (3) The demand for a poll may be withdrawn.
48. (1) Subject to sub-Clause (2) hereof, if a poll is demanded, it shall be taken in such manner and either at once or after an interval or adjournment or otherwise as the Chairman directs, and the result of the poll shall be the resolution of the meeting at which the poll was demanded. The demand for a poll shall not prevent the continuance of the meeting for the transaction of any business other than the question on which a poll has been demanded.
- (2) A poll demanded on a question of adjournment shall be taken forthwith.
49. Votes may be given on a poll either personally or by proxy. On a show of hands a Member present only by proxy shall have no vote.
50. No poll may be demanded on the election of a Chairman of a Meeting, or on any question of adjournment.

### **Members Not Entitled to Vote**

51. No member who is an Honorary Member shall be entitled to vote on any question either personally or by proxy or by attorney at any General Meeting of the Association or at a poll or in any postal ballot held by the Board of Directors or be counted in a quorum.
52. A suspended Member shall not be entitled to receive notice of nor attend nor vote at General Meetings. Members whose subscription or any sum prescribed by the Board of Directors is overdue for a period of three months shall not be entitled to receive notice of nor attend nor vote at General Meetings.

### **Casting Vote of Chairman**

53. In the case of an equality of votes, whether on a show of hands or on a poll, the Chairman of the meeting at which the show of hands takes place or at which the poll is demanded, in addition to the vote to which the Chairman may be entitled as a Member, shall have a casting vote.
54. The demand for a poll shall not prevent the continuance of a Meeting for the transaction of any business other than the question on which a poll has been demanded.

## ***Votes of Members***

### **Proxies**

55. An instrument appointing a proxy shall be in writing under the hand of the appointor or of the appointor's attorney duly authorised in writing. Such instrument of proxy may be for a specified meeting and any adjournment thereof.
56. (1) An instrument appointing a proxy may specify the manner in which the proxy is to vote in respect of a particular resolution and, where an instrument of proxy so provides, the proxy is not entitled to vote on the resolution except as specified in the instrument.
- (2) An instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.
- (3) An instrument appointing a proxy shall be in the form or to the effect of the form prescribed by the By-laws.
57. An instrument appointing a proxy shall not be treated as valid unless the instrument, and the power of attorney or other authority (if any) under which the instrument is signed or a notarially certified copy of that power or authority, is deposited with the Association or delivered to the office of the Secretary or the Secretary's nominee, by not later than 4.00 p.m. on the last working day not less than 48 hours prior to the day of the meeting.
58. A vote given in accordance with the terms of an instrument of proxy or of a power of attorney is valid notwithstanding the previous death or unsoundness of mind of the appointor, the revocation of the instrument (or of the authority under which the instrument was executed) or of the power, if no prior notification in writing of the death, unsoundness of mind or revocation has been received at the office of the Secretary or the Secretary's nominee.
59. Immediately after the conclusion of the meeting for which the proxy instruments have been lodged, the proxy instruments shall be placed in an envelope sealed and signed by the Chairman of the meeting and shall be held, unopened, by the Secretary or the Secretary's nominee for one month after the close of the meeting, after which they shall be destroyed.

### **Postal Voting**

60. The Board of Directors may at any time resolve that in lieu of submitting a proposal to a General Meeting it shall submit a resolution or resolutions to Members by means of a postal ballot which ballot shall be conducted as nearly as practicable in the manner set forth herein and the result of such postal ballot shall have the same force and effect as a resolution passed at the General Meeting of Members. This procedure may not be employed to pass special resolutions.
- (a) Prior to sending to Members the voting papers the Board of Directors shall appoint a panel of scrutineers, at least two of whom shall act as such.

- (b) The Board of Directors shall cause voting papers to be posted to each Member who would have been entitled, if present, to vote at a General Meeting held on the day of posting of the said voting papers to the address shown for that Member in the Register. Such voting papers shall set out any resolutions proposed by the Board of Directors and shall contain full directions as to the method of voting.
- (c) All Members wishing to vote on any resolution must do so by voting in the manner indicated in the directions and by posting the voting papers to the Association addressed in the manner specified in the voting papers so as to be received by the Association within twenty-eight days of the date of posting to the Member by the Association.
- (d) Within seven days after the last day upon which votes can be received under paragraph 60(c) the scrutineers or at least two of them shall meet and examine the voting papers.
- (e) Envelopes containing the voting papers may be opened either before or at such meeting of the scrutineers but may only be opened in the presence of at least two of the scrutineers. The scrutineers shall reject the vote of any Member who at the date of such meeting was in arrears for more than three months with any subscription or any other sum prescribed by the Board of Directors or who has failed to observe the directions mentioned in paragraph 60(b) (unless in their opinion the Member clearly indicated the way in which the Member wished to vote) and they may reject any other vote which in their view ought properly to be rejected.
- (f) The scrutineers shall as soon as practicable report the result of the voting to the President and shall include in such report a statement of the number of votes rejected by them and the reasons for such rejection. The President shall arrange for the result of the postal ballot to be given to Members within reasonable time after the receipt of such report in such manner as the Board of Directors may determine. The report of the scrutineers as to the result of the voting shall be conclusive.
- (g) A resolution passed by such ballot shall have the same effect as if it were a resolution passed at a General Meeting of Members held on the date of the report of the scrutineers.
- (h) Where for any reason the President is unable to exercise any powers granted to the position under this Clause the power shall be exercised by a Director appointed by the Board of Directors for that purpose.

## **CHAPTER 6: THE BOARD OF DIRECTORS**

### ***Composition of the Board***

61. The Board of Directors shall consist of the following:
- (1) Each of the Sponsoring Bodies shall be entitled to appoint up to two (2) Directors to the Board of Directors and may at any time revoke such appointments.
  - (2) Up to two (2) Directors may be elected from the membership of the Association. Until such time as an election can be conducted, which shall be no later than the Annual General Meeting following the adoption of this Constitution, the Board of Directors may appoint these Directors for a term expiring at the next Annual General Meeting.
62. A Sponsoring Body shall inform the Secretary of its appointee Director in writing who shall hold office until notice of the revocation of such appointment is given by the appointing Sponsoring Body to the Secretary in writing or until the appointee vacates the office of Director. In the event of any casual vacancy among the Sponsoring Body Appointed Directors, the Sponsoring Body who is, by virtue of this vacancy, not represented may fill such vacancy in the same manner.

### ***Election of Directors***

63. The conduct of the elections of a Director under Clause 61(2) shall be in accordance with the By-laws of the Association and shall be on the basis of one vote per Member. Voting for Directors shall be limited to Members of the association.
64. Only a Member may nominate to be a Director under paragraph 61(2).
65. A Director elected under sub-Clause 61(2) shall take office for a period of one year immediately following the conclusion of the Annual General Meeting at which their election is announced subject to Clauses 66, 67 and 72.

### ***Term of Directors***

66. (1) A Director appointed or elected under sub-Clause 61 shall not be entitled to hold office following a consecutive period of nine years service upon the Board of Directors as a Member-elected Director, Sponsoring Body Appointed Director or Director nominated by the Board of Directors.

For these purposes a period of service shall:

- (a) commence at the conclusion of the Annual General Meeting of the Association at which the Member's first election to Board of Directors is announced;
- (b) exclude period(s) of less than one year in total in which the Member fills a casual vacancy.

- (2) A Director appointed or elected under sub-Clause 61 at the conclusion of a nine year period of service as determined under this Clause is eligible to serve second and subsequent periods of nine years provided a break of at least three years occurs between each nine year period.

### ***Casual Vacancies***

67. In the event that there is a vacancy from the Directors elected under sub-Clause 61(2) prior to the completion of their term, the Board of Directors shall determine through the By-laws which Member shall fill the vacancy for the remainder of the term.

### ***Alternate Directors***

68. A Director may appoint, with approval from the Board of Directors, another Member as an Alternate Director to exercise all or such delegated powers for a specified period or meeting.
69. If the appointing Director so requests, the Association must give the Alternate Director notice of Directors' meetings.
69. Where an Alternate Director exercises validly the Director's powers, the exercise of the power is just as effective as if the powers were exercised by the Director.
70. The appointment of the Alternate Director may be revoked at any time by the appointing Director or shall lapse when the specified time has lapsed.
71. An appointment of an Alternate Director or its termination must be in writing. A copy of such must be provided to the Association.

### ***Conflict of Interest***

72. (1) (a) If a Director is directly or indirectly interested in any contract or proposed contract with the Association; and
- (b) the interest could conflict with the proper performance of the Directors' duties in relation to the contract or proposed contract –
- (i) the Director, as soon as practicable after becoming aware of the relevant facts, must declare the nature of the interest to the Association; and
- (ii) the Director will be disqualified from office in respect of the contract or proposed contract only. The disqualified Director will be unable to exercise any of the rights and benefits conferred to that position by the Association in relation to the contract or proposed contract;

- (c) (b)(ii) of this Clause will not apply if the interest of the Director:
  - (i) may be properly regarded as not being material; and



- (ii) does not exceed 5% of the issued shares (if a company) or 5% of the capital of the business proposing to enter into a contractual arrangement with the Association; and
  - (d) any such contract, once entered into, shall be disclosed both as to the parties and as to the nature of the contract in the Annual Report covering the period when such contract is entered into, and in each subsequent Annual Report during the currency of such contract.
- (2) A Director must exercise their powers and discharge their duties:
  - (a) in good faith and for the best interest of the Association; and
  - (b) for a proper purpose.
- (3) A Director must not improperly use their position to:
  - (a) gain an advantage for themselves or someone else; or
  - (b) cause detriment to the Association.
- (4) A Director must not improperly use information obtained or received as a director to:
  - (a) gain an advantage for themselves or someone else; or
  - (b) cause detriment to the Association.
- (5) The Board of Directors by special resolution may remove a Director found to have breached this clause from the Board of Directors and bar such person from being a Director of the Association for a minimum of three years.

### ***Powers of the Board of Directors***

- 73. (1) The affairs of the Association shall be managed by the Board of Directors which may exercise all such powers of the Association, and do on behalf of the Association all such acts as may be exercised and done by the Association, and as are not by Statute or by this Constitution required to be exercised or done by the Association in General Meeting, or to be delegated by the Board of Directors to Committees, subject nevertheless, to the provisions of the Statutes.
- (2) Without prejudice to the general powers conferred by sub-Clause 73(1) and the other powers conferred by this Constitution, it is hereby expressly declared that the Board of Directors shall have the following powers on behalf of the Association:
  - (a) it may from time to time make, vary, amend, enlarge, revoke and repeal By-laws, and Pronouncements ancillary to but not inconsistent with this Constitution on all subjects not expressly reserved for the Association in General Meeting whether the same be expressed amongst its powers;

- (b) it may prescribe conditions or qualifications (in addition to the requisites of this Constitution) for applicants for admission as Members and for changes in the status of Members, either generally or in any particular case;
- (c) it may fund prizes, award scholarships or bursaries to students and set up special funds or make grants for the education, advancement and training of students and accountants on such terms as it may think fit;
- (d) it may at its discretion appoint such Officers and Agents for permanent, temporary or special services as it may from time to time think fit and may determine their duties and fix their salaries or emoluments and may require security in such instances and to such amount as it shall think fit and it may appoint from time to time the Bankers and Legal Advisers of the Association. It may also in its discretion remove or suspend such Officers and Agents;
- (e) it may purchase, rent or otherwise acquire and furnish and equip suitable premises for the use of the Association;
- (f) it may take cognisance of anything affecting the Association or the professional conduct of members and shall have power to bring before any meeting of the Association any matters which it considers material to the Association and may make any recommendations and take such action as it thinks fit in relation thereto;
- (g) it may communicate from time to time with similar bodies and with members of the profession in other places for the purpose of obtaining and communicating information. It may also negotiate and arrange with other similar bodies for the reciprocal recognition of the status of members;
- (h) it shall each year circulate amongst the Members a copy of the accounts and a report of the activities of the Association during the previous year;
- (i) it may institute, conduct, defend, compound or abandon any legal proceedings by and against the Association or its Officers or otherwise concerning the affairs of the Association and also may compound and allow time for payment or satisfaction of any debts due or of any claims or demands by or against the Association;
- (j) it may refer any claims or demands by or against the Association to arbitration and observe and perform every award made as a result of such arbitration;
- (k) it may make and give receipts, releases and other discharges for moneys payable to the Association and for the claims and demands of the Association;

- (l) it may invest and deal with any moneys of the Association upon such security and in such manner as it thinks fit and it may from time to time vary and call in such investments;
- (m) it may borrow or raise money by bank overdraft or otherwise by the issue of debentures or any other securities founded or based upon all or any of the property and rights of the Association, or without any such security and upon such terms as to priority or otherwise as it shall think fit;
- (n) it may from time to time as it thinks fit establish committees and may revoke the establishment of any such committee;
- (o) it may from time to time in its absolute discretion delegate any of its powers, authorities and discretions to any committee, or Officer of the Association on such conditions and for such period it may think fit and it may at any time revoke such delegation;
- (p) it may appoint committees from its own Members or from them and other persons including persons who are not Members of the Association with such powers as it may prescribe provided such powers be not in excess of its own. At all meetings of any Committee which includes persons who are not Members of the Association the Chairman shall be a Director;
- (q) notwithstanding sub-Clause 77(10) hereof, it may from time to time in its absolute discretion make a payment to the employer of a Member who is or has been the President as an amount appropriate to compensate the employer for the loss of the services of the President or incidental expenses related thereto in connection with the period of office of the President. A Member who is or has been President and who is a partner or a principal of a business shall be deemed to be an employee of the business;
- (r) notwithstanding paragraph 73(2)(q) and sub-Clause 77(10) hereof, it may from time to time in its absolute discretion make a payment to the employer of a Member who is or has been a Director as an amount appropriate to compensate the employer for the loss of the services of the Director or incidental expenses related thereto in connection with the period of office of the Director. A Member who is a partner or a principal of a business shall be deemed to be an employee of the business;
- (s) it may exercise all such powers, privileges and discretions as are not by Statute or this Constitution expressly and exclusively required to be exercised by the Members in General Meeting.

74. The members of the Board of Directors may act despite any vacancy in their number; and it shall be lawful for them to act as the Board of Directors subject to there being a quorum.

## ***Proceedings of the Board of Directors***

### **Regulations of Meetings**

75. (1) The Board of Directors may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit, provided that the Board of Directors shall meet at least once every year.

#### **Quorum**

- (2) A quorum of the Board of Directors shall consist of not less than one Director from each of the Sponsoring Bodies.

#### **Voting**

- (3) A meeting of the Board of Directors at which a quorum is present shall be competent to exercise all the authorities, powers and discretions vested in the Board of Directors generally.
- (4) In case of an equality of votes the President or if the President is not present another Sponsoring Body Appointed Director shall have a second or casting vote.

#### **Pecuniary Interests**

- (5) If a member of the Board of Directors shall have a pecuniary interest either direct or indirect in any business to be transacted by the Board of Directors at the meeting at which he or she is present they shall declare such an interest and its nature at the commencement of the meeting and shall be ineligible to vote in relation to such business or to take part in any discussion relating thereto. The Chairman of the meeting may require such member to leave the meeting during the course of discussions relating to such business. A register of Board of Directors members' interests shall be kept in such form as the Board of Directors may determine.

### **Convening a Meeting**

76. On the request of three members of the Board of Directors (at least one of whom shall be a Sponsoring Body's Appointed Director) the Secretary shall, at any time, summon a meeting of the Board of Directors by notice served upon the members of the Board of Directors.

### **Disqualification of Members of the Board of Directors**

77. The office of a member of the Board of Directors shall be vacated:
- (1) if, being a Sponsoring Body Appointed Director under sub-Clause 61(1) his or her appointment is revoked by the Sponsoring Body who nominated him or her as a Director;
- (2) if he or she is suspended from membership of the Association;

- (3) if, being a Member elected Director under Clause 61(2), he or she ceases for any reason to be a Member of the Association;
- (4) the Director becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
- (5) the Director becomes an insolvent under administration;
- (6) the Director is absent from three consecutive meetings of the Board of Directors without the consent of the Board even if an Alternate Director attends pursuant to clause 68 in that Director's place;
- (7) if, by notice in writing to the Association, he or she resigns their office;
- (8) if they shall become prohibited by law from acting as a member of the Board of Directors;
- (9) the subscription and other moneys owing to the Association by the Director are overdue for three months;
- (10) the Director is appointed to any salaried office of the Association or any office of the Association for which a fee is paid by the Association or receives any remuneration from the Association PROVIDED THAT nothing in this Clause shall prevent the payment of interest at the lowest rate paid by the Association's banker in respect of term deposits for the time being on money borrowed from the Director or reasonable and proper rent for premises demised or let by the Director to the Association or the payment by the Institute of reasonable and proper travel allowance or repayment of out-of-pocket expenses incurred by the Director in carrying out the duties of a Director and PROVIDED FURTHER THAT nothing in this sub-Clause shall affect the exercise of the power vested in the Board of Directors by paragraphs 73(2)(q) and 73(2)(r) in relation to the President or a Director who at the time of the exercise of such power is a Director. For the purposes of this sub-Clause, the expression "out-of-pocket expenses" shall be taken to include all expenditure and outgoings incurred by such Director in carrying out the directions of the Board of Directors other than the payment by the Association of a travel allowance to a Director, and the Board of Directors shall prior to the Director undertaking the tasks in relation to which the Director will claim such out-of-pocket expenses, nominate the proportion of the Director's own out-goings and business expenditure which the Director may claim, and thereafter from time to time until such tasks are completed, or until the Director ceases to be a Director.

78. The acts of a member of the Board of Directors shall be effective until such time as an entry of the vacating of office under Clause 77 is entered into the minutes of the Board of Directors.

### **Election Of Office Bearers**

79. There shall be a President, Vice President and Treasurer of the Association.

80. The President shall be elected by and from the Directors appointed by the Sponsoring Bodies. The term of the President so elected shall be from the close of the Annual General Meeting at which their appointment was announced, until the close of the next Annual General Meeting. All such elections shall be conducted in such manner as may be prescribed by the By-laws from time to time made by the Board of Directors. In the case of an equality of votes, the President shall in addition, have a casting vote.
81. The Board of Directors shall elect from its members a Vice President. The term of the Vice President so elected shall be from the close of the Annual General Meeting at which their appointment was announced, until the close of the next Annual General Meeting
82. The Board of Directors shall elect from its members a Treasurer. The term of the Treasurer so elected shall be from the close of the Annual General Meeting at which their appointment was announced, until the close of the next Annual General Meeting
83. No Director shall hold the office of President, Vice President or Treasurer of the Association for more than three consecutive terms of one year each, but a part term brought about by the filling of a casual vacancy shall not count as a term for the purpose of this provision.
84. Any casual vacancy in these offices shall be filled as follows:
  - (1) In the event of a casual vacancy in the office of President a new President shall be elected from the remaining Sponsoring Body Appointed Directors at a special meeting of the Board of Directors called for the purpose and shall remain in office for the remainder of the term of the vacating President.
  - (2) In the event of a casual vacancy in the office of Vice President a new Vice President shall be elected by the Board of Directors at a special meeting of the Board of Directors called for the purpose and shall remain in office of the remainder of the term of the vacating Vice President.
  - (3) In the event of a casual vacancy in the office of Treasurer a new Treasurer shall be elected by the Board of Directors at a special meeting of the Board of Directors called for the purpose and shall remain in office of the remainder of the term of the vacating Treasurer.

### **Chairman of Meetings**

85. The President shall preside at all meetings of the Board of Directors at which he or she shall be present, but if at any meeting he or she is absent or unable to preside, then the Board of Directors present shall choose one of the Sponsoring Body Appointed Directors present to be Chairman of the meeting subject to Clause 76.

## **Delegation of Powers and Committees**

86. (1) The Board of Directors may delegate any of its powers, duties or functions to Committees consisting (subject to the requirements of Clause 76) of such members of the Board of Directors and other persons, whether or not Members of the Association, as the Board of Directors think fit.
- (2) Any Committees so formed shall, in the execution of the powers so delegated, conform to any regulations imposed on them by the Board of Directors. The meetings and proceedings of any such Committee shall be governed by the provisions of this Constitution and any associated By-laws. Any such Committee may by resolution co-opt as a member of the Committee any person who is considered suitable for such period as the Committee may decide.
- (3) The President shall be an ex-officio member of all the Board of Directors' Committees, sub-committees and working groups except those delegated with disciplinary powers under Chapter 7.

## **Validation**

87. All acts bona fide done by any meeting of the Board of Directors or of any Committee of the Board of Directors, or by any person acting as a member of the Board of Directors, shall, even though it be afterwards discovered that there was some defect in the appointment or continuance in office of any such member or person, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed or had duly continued in office and was qualified to be a member of the Board of Directors.
88. The Board of Directors shall cause proper minutes to be made of all appointments of officers made by the Board of Directors and of the proceedings of all meetings of the Association and of the Board of Directors and of Committees of the Board of Directors. All business transacted at such meetings, and any such minutes of any meeting, if purporting to be signed by the Chairman of such meeting, or by the Chairman of the next succeeding meeting, shall be sufficient evidence without any further proof of the facts therein stated.

## **Rotary Resolutions**

89. A resolution in writing, a copy of which has been forwarded to every member of the Board of Directors and signed by at least two-thirds of the votes of the Board of Directors thereof to signify approval and which has been returned to the Secretary within fourteen days from the date of dispatch from the Association's office, shall be as valid and effectual as if it had been passed at a meeting of the Board of Directors duly called and constituted.

## CHAPTER 7: INVESTIGATION AND DISCIPLINARY PROCEDURES

### *Misconduct and Penalties*

90. (1) If any Member has been convicted by a court of law of an offence which, in the opinion of the Board of Directors or a Disciplinary Tribunal is inconsistent with being a Member of the Association, the Board of Directors or the Disciplinary Tribunal (whichever is hearing the matter) shall impose one or more of the penalties and costs listed at (3) below.

(2) If any Member:

- (a) has been found by the Board of Directors or a Disciplinary Tribunal to be guilty of any breach of the Constitution, By-laws, Regulations or Pronouncements of the Association; or
- (b) has in the opinion of the Board of Directors or a Disciplinary Tribunal failed to observe a proper standard of professional care, skill or competence; or
- (c) has in the opinion of the Board of Directors or a Disciplinary Tribunal obtained admission by improper means; or
- (d) has ceased to hold the necessary qualifications for membership; or
- (e) has become an insolvent under administration; or
- (f) has in the opinion of the Board of Directors or a Disciplinary Tribunal been guilty of conduct which is not in the best interests of the Association; or
- (g) ceases to have capacity at Law; or
- (h) has failed to comply with any reasonable request made pursuant to a matter under this Chapter of the Constitution by the Board of Directors, a Committee of the Board of Directors, an Officer of the Association or has failed to comply with an order of a Disciplinary Tribunal or Appeals Tribunal.

The Board of Directors or a Disciplinary Tribunal will impose on that Member any one or more of the penalties and/or costs listed at (3) below.

(3) Penalties:

- (a) forfeiture of membership;



- (b) suspension from membership for any period that the Board of Directors or a Disciplinary Tribunal shall prescribe and on such terms and conditions as to resumption of membership as the Board of Directors or a Disciplinary Tribunal may prescribe, and not limiting the generality of the foregoing may require the Member to pass prescribed examinations or successfully complete a course of study;
- (c) a fine not exceeding \$10,000 and in default of payment within the period of 30 days or such other period as the Board of Directors or a Disciplinary Tribunal may from time to time determine, forfeiture of membership;
- (d) censure;
- (e) admonishment;
- (f) any other penalty deemed appropriate;
- (g) payment of all or any of the costs and expenses reasonably incurred by the Association in the investigation and determination of any matter arising under this sub-Clause concerning such person and in default of payment of such costs and expenses, forfeiture of membership within a period of time to be determined by the Board of Directors or a Disciplinary Tribunal.

### ***Suspension***

- 91. If any Member has been charged with an offence, which in the opinion of the Board of Directors warrants suspension, the Board of Directors shall suspend the Member until such time as the Board of Directors considers reasonable.
- 92. During any period of suspension a Member shall continue to pay all fees and subscriptions and shall be subject to this Constitution, By-laws, Regulations and Pronouncements relating to the conduct of Members apart from Clause 94 shall cease to enjoy any of the rights or benefits conferred on Members by this Constitution or by the By-laws, Regulations or Pronouncements and shall deliver up to the Association their Certificate of Membership and, if applicable, any other certificate issued by the Association.

### ***Forfeiture***

- 93. A person whose membership has been forfeited shall cease to be a Member. The Member's name shall be removed from the Register and the Member shall return the Certificate or Certificates of Membership of the Association forthwith.
- 94. A Member who has been suspended or who has submitted a resignation may be declared to have forfeited membership if the Member fails to deliver up on demand the Certificate or Certificates of Membership of the Association to the Association.

## ***Appointment of Investigator, Investigations Review Officer and Disciplinary Tribunals***

95. (1) The Board Of Directors may appoint a person or persons to the position of "Investigator" in order to undertake investigations on behalf of the Association in relation to alleged breaches of this Constitution, By-laws, Regulations and Pronouncements of the Association or any matters referred to in Clause 93, by Members of the Association. The Investigator should not be a Member of the Association. The Investigator shall be responsible to the Chief Executive Officer at all times.

(2) The Board of Directors shall appoint an "Investigations Review Officer" who shall review the work of the Investigator in relation to matters dealing with Members as prescribed in the By-laws.

Such person shall be a member of long standing, with experience in relation to matters relating to investigations and disciplinary procedures, and shall be accessible at all reasonable times. The Investigations Review Officer may be, but is not limited to, an Officer of the Association.

96. (1) The Board of Directors shall appoint such Disciplinary Tribunals as required.

(2) Persons appointed to such Disciplinary Tribunals shall be prescribed by the By-Laws and appointed for a term of two years.

(3) The Investigations Review Officer at their discretion shall direct which Disciplinary Tribunal is to hear any case against a Member.

(4) The Board of Directors may prescribe the qualifications and requirements necessary for appointment to a Disciplinary Tribunal.

## ***Proceedings of Investigator and the Disciplinary Tribunals***

97. (1) (a) The powers conferred on the Board of Directors or Disciplinary Tribunal by Clause 90 shall not be exercised until a report on the matter in question has been made to the Board of Directors or to the appropriate Disciplinary Tribunal by an Investigator, and until a meeting of the Board of Directors or the appropriate Disciplinary Tribunal has considered such matter of which meeting the Member concerned has been given at least fourteen days notice in writing specifying the matter or matters to be considered and at which meeting such Member shall be given the opportunity of being heard with or without the Member's solicitor or counsel or may be represented by some other Member and of presenting such evidence as the Member may desire. The said notice shall be served personally or be sent by certified mail. A Member shall be deemed to have received the said notice upon delivery, or, if posted, three days after the day of posting in an envelope addressed to the address of the Member in the Register.

- (b) Notwithstanding paragraph 97(1)(a) within specific areas defined in the By-laws or Pronouncements of the Board of Directors, the Investigator may make a decision, with the approval of the Investigations Review Officer, as to an investigation matter and give the Member concerned by notice in writing of the decision.
- (2) The procedures at every such meeting shall be conducted in such manner as the Board of Directors may from time to time prescribe.
- (3) The Board of Directors or a Disciplinary Tribunal may engage a solicitor with or without counsel to assist it at such meeting.
- (4) The Board of Directors, any Disciplinary Tribunal or the Investigator shall not be under any obligation to disclose to the Member concerned or any other Member the source of any information giving rise to such proceedings.

### ***Arbitration/Mediation***

98. Subject to the By-laws, the Investigator may, with the approval of the Investigations Review Officer, recommend to the parties that they undertake arbitration/mediation as a preferred means of settlement.

### ***Notice of Findings***

99. Any Member against whom any finding has been made or upon whom any sanction has been imposed shall be given notice in writing of the finding or sanction by the Board of Directors, a Disciplinary Tribunal or by the Investigator by personal service or by certified mail. A Member shall be deemed to have received the said notice upon delivery, or, if posted, three days after the day of posting in an envelope addressed to the address of the member in the Register. The Chief Executive Officer may inform other persons of the result of any Investigations undertaken by the Association.

### ***Appeals***

#### **Appeals Tribunal**

100. (1) There shall be an Appeals Tribunal to hear appeals by the Association and Members of the Association against findings of the Disciplinary Tribunal.
- (2) The Appeals Tribunal shall comprise a Chairman and at least two other persons appointed by the Board of Directors.
- (3) The Appeals Tribunal members shall be appointed for an initial term of two years and may be reappointed.
- (4) The Appeals Tribunal may engage counsel to assist it at the hearing of appeals.

- (5) The members of the Appeals Tribunal may be paid such fees and reimbursements of expenditure as are determined by the Board of Directors from time to time.

### **Procedures for the Lodgement of Appeals**

- 100A. (1) Any Member of the Association against whom any finding has been made by the Disciplinary Tribunal may, within 30 days of notice of such finding having been deemed to have been served, lodge a Notice of Appeal with the Executive Officer of the Appeals Tribunal.
- (2) The Association may, within 30 days of a finding being made by the Disciplinary Tribunal in respect of a Member of the Association, lodge a Notice of Appeal in respect of that finding, with the Executive Officer of the Appeals Tribunal.
- (3) An appellant may make an application for an extension of time to lodge a Notice of Appeal, with the Chairman of the Appeals Tribunal. The Chairman of the Appeals Tribunal may only grant such an extension in exceptional circumstances.

### **Content of Notice of Appeal**

100B. The Notice of Appeal:

- (1) must be in writing and state the grounds of the appeal which may not be amended except with the leave of the Chairman of the Appeals Tribunal; and
- (2) must state whether the appellant:
  - (a) intends to appear before the Appeals Tribunal;
  - (b) is to be assisted by Counsel, or in the case of an appeal by a Member of the Association by a fellow Member of the Association; and
- (3) may include submissions on such matters as the appellant wishes to be taken into account by the Appeals Tribunal.

### **Effect of Lodgement of a Notice of Appeal**

100C. The lodgement of a Notice of Appeal against a finding of the Disciplinary Tribunal shall operate as a stay of the implementation of that finding pending the final determination of the appeal by the Appeals Tribunal.

### **Executive Officer**

100D. The Association shall appoint an Executive Officer to the Appeals Tribunal to manage the receipt and processing of appeals and perform such duties as set out in the By-laws.

### **Procedures**

100E. The procedures of the Appeals Tribunal shall be prescribed in the By-laws.

## **Public Notice of Findings**

101. Public notice of any penalty against a Member or any fine imposed upon or costs awarded against a Member may be published in such manner as the Board of Directors shall deem fit and the Certificate or Certificates of Membership of the Association of the Member so suspended or whose membership has been forfeited shall in either case be delivered to the Chief Executive Officer to be retained during the member's suspension or to be cancelled.

## **CHAPTER 8: ANCILLIARY CLAUSES**

### ***Funds of the Association***

102. All moneys when received on account of the Association shall be paid into the account of the Association at its Bankers.
103. The funds of the Association shall be applied as approved by the Board of Directors and subject to any directions that may be given from time to time by the Board of Directors.
104. All moneys withdrawn by the account of the Association from its bankers shall be by cheques drawn upon its Bankers, signed by such persons as the Board of Directors may determine, by a Banker's Authority signed by such persons as the Board of Directors may determine, or by electronic means by such persons as the Board of Directors may determine.
105. Surplus funds of the Association may be invested by the Board of Directors at its discretion. No member of the Board of Directors shall be answerable for any loss which may arise from any such investment or from any cause except from wilful neglect or default.

### ***Financial Year and Subscription Year***

106. Unless and until otherwise determined by the Association in General Meeting, the financial year and the subscription year of the Association shall begin on the 1st July in each year and shall end on the 30th June of the following year.

### ***Appointment of Auditor***

107. The Auditors of the Association for the time being shall audit the accounts of the Association for presentation at each Annual General Meeting in fulfilment of the Board of Directors duties under the Law.

### ***Audit of Accounts***

108. A registered company auditor shall be appointed and the Auditor's duties regulated in accordance with the Law and any other relevant Acts.

### ***Chief Executive Officer and Secretary***

109. A Chief Executive Officer and Secretary of the Association shall be appointed by the Board of Directors for such time, and shall be paid such remuneration and shall serve upon such conditions as the Board of Directors may think fit, and any Chief Executive Officer or Secretary may be removed by the Board of Directors.

### ***The Seal***

110. Documents shall be executed by the Association only with the express or delegated authority of the Board of Directors and may be so executed either:

- (1) under the Common Seal of the Association with the attestation of two members of the Board of Directors and the Secretary; or
- (2) without the Common Seal but with the signatures of two Directors or one Director and the Secretary and in favour of any purchaser or person bona fide dealing with the Association execution in such form shall be conclusive evidence of due execution.

## ***Indemnity***

### **Indemnity for Liability (Other than for Legal Costs)**

111. To the extent permitted by the Law, the Association indemnifies every person who is or has been a Director, Secretary, Chief Executive Officer, Committee member and any other Officer of the Association or of a wholly-owned subsidiary of the Association against any liability incurred by the person as a Director, Secretary, Chief Executive Officer, Committee member and any other Officer of the Association or of a wholly-owned subsidiary of the Association, to another person except in circumstances where:
- (1) the liability is owed to the Association or a wholly-owned subsidiary of the Association; or
  - (2) the liability is owed to a person other than the Association or a wholly-owned subsidiary of the Association and the liability arises out of conduct involving a lack of good faith; or
  - (3) the liability arises from a pecuniary penalty order under section 1371G or a compensation order under section 1371H of the Law.

### **Indemnity for Legal Costs**

112. To the extent permitted by the Law, the Association indemnifies every person who is or has been a Director, Secretary, Chief Executive Officer, Committee member and any other Officer of the Association or of a wholly-owned subsidiary of the Association against any liability for costs and expenses incurred by that person in defending any proceedings unless the costs and expenses are incurred:
- (1) in defending or resisting proceedings in which the person is found to have a liability for which they could not be indemnified under Clause 111; or
  - (2) in defending or resisting criminal proceedings in which the person is found to be guilty; or
  - (3) in defending or resisting proceedings brought by the Australian Securities and Investment Commission ("ASIC") or a liquidator for a Court order if the grounds for making the order are found by the Court to have been established; or

- (4) in connection with proceedings for relief to the person under the Law and the Court denies the relief, save that sub-Clause (3) shall not be construed as excluding any indemnity being provided to a person for costs and expenses incurred in responding to actions by ASIC or a liquidator as part of an investigation before commencing proceedings for the Court order.

### **Insurance Premiums for Certain Liabilities**

113. The Association may pay, or agree to pay, a premium in respect of a contract insuring a person who is or has been a Director, Secretary, Chief Executive Officer, Committee member and any other Officer of the Association or of a subsidiary of the Association against a liability:

- (1) incurred by the person in their capacity as a Director, Secretary, Chief Executive Officer, Committee member and any other Officer of the Association or a subsidiary of the Association or in the course of acting in connection with the affairs of the Association or a subsidiary of the Association or otherwise arising out of the Officer's holding such office PROVIDED THAT the liability does not arise out of conduct involving a wilful breach of duty in relation to the Association or a subsidiary of the Association or a contravention of Sections 182 or 183 of the Law; or
- (2) for costs and expenses incurred by that person in defending proceedings, whatever their outcome.

### **Payment of Legal Costs**

114. To the extent permitted by the Law, the Association may make (or agree to make) payment, whether by way of advance, loan or otherwise, to a Director, Secretary, Committee member and any other Officer of the Association or a wholly-owned subsidiary of the Association in respect of costs and expenses incurred by that person in defending any proceedings provided that:

- (1) the person is or may be entitled to be indemnified by the Association against liability for the cost and expenses pursuant to Clause 113;
- (2) it would be reasonable in the circumstances of the Association, disregarding any other financial benefit given or payable to the person by the Association, to:
  - (i) make the payment at the time the payment was or is given; or
  - (ii) agree to make the payment at the time when the agreement is or was made; and
- (3) the person must repay the amount paid if the costs and expenses become costs and expenses for which the person is not entitled to be indemnified by the Association pursuant to Clauses 112 and 113.



## **Exemptions**

115. Nothing in Clauses 112 and 113 shall be construed as providing an exemption to a person from a liability to the Association incurred as a Director, Secretary, Chief Executive Officer, Committee member and any other Officer of the Association.

## **Definition of “Proceedings”**

116. For Clauses 112 and 113 the term “proceedings” means any proceedings, whether civil or criminal, being proceedings in which it is alleged that the person has done or omitted to do some act, matter or thing in that person’s capacity as an Officer or in the course of acting in connection with the affairs of the Association or a wholly-owned subsidiary of the Association (for the purposes of Clauses 113 and 115) or a subsidiary (for the purposes of Clause 113) or otherwise arising out of the Officer’s holding such office including proceedings alleging that the person was guilty of negligence, default, breach of trust or breach of duty in relation to the Association or a wholly-owned subsidiary of the Association (for the purposes of Clauses 113 and 115) or a subsidiary (for the purposes of Clause 114).

## ***Members in Public Practice***

### **Member Obligations**

117. A Member shall not, without the consent of the Association, provide or hold themselves out to provide Public Practice services unless the Member has been issued with a Public Practice Certificate or the Member is found by the Association to be exempt from the obligation to hold such a certificate.
118. The Board of Directors shall prescribe By-laws and Regulations for the issue and renewal of a Public Practice Certificate and for any exemption from the obligation to hold a Public Practice Certificate.
119. The Board of Directors may at any time prescribe any conditions and fees for the issue and/or renewal of a Public Practice Certificate, either generally or in a particular case.

### **Certificates of Membership and Public Practice**

120. (1) On admission to membership or on a change in status, or being accepted to provide Public Practice services and on payment of the prescribed fee (if any) a Certificate of Membership certifying the Member’s status or where appropriate a Public Practice Certificate in the form prescribed by the Board of Directors from time to time shall be issued to such Member.
- (2) The Certificate of Membership shall be under the Seal of the Association and shall bear the signatures or facsimile signatures of any two Directors and the Chief Executive Officer, and its issue shall be recorded in a register kept for that purpose.
- (3) Every such Certificate shall remain the property of the Association and the Board of Directors shall be at liberty at any time to call for and compel its production and delivery and may alter, amend, cancel or destroy any such Certificate or issue a new Certificate in lieu thereof.

- (4) Any person ceasing to be a Member of the Association shall return the Certificate of Membership, or if applicable return the Public Practice Certificate for cancellation.
- (5) Any person ceasing to be in Public Practice or who no longer meets the requirements to be in Public Practice shall return the Public Practice Certificate for cancellation.
- (6) If any person neglects or refuses to return the Certificate the Association may institute legal or other proceedings for its recovery.
- (7) A Member shall not, without the permission of the Association, make or allow to be made any photographic or other imitation of an Association Certificate of Membership or Public Practice Certificate.
- (8) If a Certificate is defaced, lost or destroyed it may be replaced on payment of such fee (if any) and on such terms as the Board of Directors thinks fit.
- (9) The Board of Directors upon being satisfied that any Member holds any special qualification may issue to such Member a further Certificate or Certificates showing the Member's special qualification or qualifications and the Board of Directors may similarly endorse a Certificate of Membership for a like purpose.

### ***Other Categories of Members***

#### **Life Members and Honorary Members**

121. (1) Any Member who has rendered such services to the Association as would in the opinion of the Board of Directors entitle the Member to the distinction or upon whom the Board of Directors desires to confer such distinction may be elected a Life Member by the Board of Directors.
  - (2) A Life Member shall be entitled to all the privileges of membership without payment of the annual subscription.
  - (3) Any person who is not a Member of the Association may be elected an Honorary Member by the passing of a Resolution by the Board of Directors.
  - (4) The Board of Directors may revoke Honorary Membership at any time without ascribing any reason for so doing.
122. No registration or admission fee and no annual subscription shall be payable by an Honorary Member or a Life Member.

#### **Students and Affiliates**

123. The Board of Directors may from time to time determine by By-law or Regulation the conditions upon which persons may become and remain registered Students or Affiliates of the Association. An admission and subscription fee may be prescribed from time to time by the Board of Directors for registration of Affiliates and Students.

## ***Examinations, Assessments and Courses of Study***

### **Prescribed Courses of Study, Examinations or Assessments**

124. The Board of Directors may establish and conduct in relation to the Association such courses of study, examinations and assessment procedures as the Board of Directors may deem appropriate from time to time.
125. The Board of Directors may make, and may from time to time alter, amend or add to, By-laws prescribing courses of study, examinations and assessment procedures of the Association, the sections into which the courses of study, examinations and assessments shall be divided, the syllabuses of the subjects contained therein and all other matters incidental to the conduct of the courses of study, examinations and assessments. Any concessions and exemptions which may be allowed to individuals holding other educational and professional qualifications shall be such as the Board of Directors may from time to time determine.

### **Exemption from Course of Study/Examination/Assessment**

126. The Association may exempt any person from the whole or any part of a prescribed course of study or the prescribed examinations on the grounds that the person has passed examinations which in the opinion of the Board of Directors are of equivalent standard, or has been accredited through the process of recognition of prior learning (RPL) or has been assessed against endorsed workplace assessment competency standards and may permit any person who fails in an examination to re-present for the whole or any part of a subsequent examination.

### **Board of Examiners**

127. A Board of Examiners or Boards of Examiners may from time to time be appointed by and hold office at the will of the Board of Directors for the purpose of examining candidates for admission to membership of the Association or for a change in status and may be comprised of such persons whether Members of the Association or not as the Board of Directors shall deem proper.
128. The Board of Directors may from time to time appoint and remove examiners, assistants and providers of professional and specialist services on such terms as to remuneration and otherwise as the Board of Directors may think fit.

### ***Interpretation of this Constitution***

129. Subject to the overriding powers of Members in General Meetings, and to the jurisdiction of the Courts, if any doubt shall arise as to the proper construction or meaning of any of this Constitution or of any By-laws, Pronouncements or Regulations made hereunder or any of them or of any expression therein the decision of the Board of Directors thereon shall be final and conclusive provided such decision be reduced to writing and recorded in the minute book of the proceedings of the Board of Directors.

- 130 This Constitution may be amended, repealed, rescinded and replaced in accordance with the Law. Nothing whether contained in this Constitution for the time being in force or otherwise howsoever shall be construed as implying or creating any privilege, priority or right in favour of any Member so as to limit the power of the Association at any time to alter, rescind or repeal the same and adopt a new Constitution in its place.
131. If a Clause or part thereof is, or may become, unenforceable at law for any reason whatsoever, this Constitution is severable in respect of such Clause or part thereof and the remainder of this Constitution is to be read and construed for all intents and purposes as if the same did not form part of this Constitution.