

# Australian Counselling Association

## CONSTITUTION

Subject	Page No
<b>CONSTITUTION OF</b>	
<b>AUSTRALIAN COUNSELLING ASSOCIATION INCORPORATED</b>	
1. INTERPRETATION	2
2. NAME	2
3. DEFINITIONS AND INTERPRETATIONS	2
4. OBJECTS & POWERS	4
5. CLASSES OF MEMBERSHIP	7
6. MEMBERSHIP	7
7. MEMBERSHIP FEES	8
8. ADMISSION AND REJECTION OF MEMBERS	8
9. GRIEVANCE/DISPUTE PROCEDURES	8
10. TERMINATION OF MEMBERSHIP	10
11. APPEALS	10
12. REGISTER OF MEMBERS	11
13. SECRETARY	11
14. PUBLIC OFFICER	12
15. MEMBERSHIP OF THE BOARD	13
16. ELECTION OF THE BOARD	14
17. REMOVAL OF BOARD MEMBERS	16
18. RESIGNATION FROM THE BOARD	17
19. VACANCIES ON BOARD	17
20. FUNCTIONS OF THE BOARD	18
21. MEETINGS OF THE BOARD	19
22. CERTAIN MATTERS REQUIRING UNANIMOUS CONSENT	20
23. FORMATION OF COMMITTEES	20
24. VALIDITY OF NON-BOARD ACTIONS	21

<b>25. RESOLUTION OF THE BOARD WITHOUT MEETING</b>	<b>22</b>
<b>26. FIRST GENERAL MEETING</b>	<b>22</b>
<b>27. FIRST ANNUAL GENERAL MEETING</b>	<b>22</b>
<b>28. SUBSEQUENT ANNUAL GENERAL MEETING</b>	<b>22</b>
<b>29. BUSINESS TO BE CONDUCTED AT ANNUAL GENERAL MEETING</b>	<b>22</b>
<b>30. SPECIAL GENERAL MEETING</b>	<b>23</b>
<b>31. GENERAL MEETING</b>	<b>23</b>
<b>32. QUORUM</b>	<b>24</b>
<b>33. CONDUCT OF GENERAL MEETING</b>	<b>25</b>
<b>34. PROXIES</b>	<b>26</b>
<b>35. POSTAL AND ELECTRONIC BALLOTS</b>	<b>28</b>
<b>36. BY-LAWS</b>	<b>28</b>
<b>37. ALTERATION OF THESE RULES</b>	<b>28</b>
<b>38. COMMON SEAL</b>	<b>28</b>
<b>39. FUNDS AND ACCOUNTS</b>	<b>29</b>
<b>40. INDEMNITY</b>	<b>30</b>
<b>41. DOCUMENTS</b>	<b>31</b>
<b>42. FINANCIAL YEAR</b>	<b>31</b>
<b>43. DISTRIBUTION OF SURPLUS ASSETS</b>	<b>31</b>
<b>SCHEDULE 1 CONDUCT OF POSTAL OR ELECTRONIC BALLOTS</b>	<b>32</b>

# CONSTITUTION OF

## AUSTRALIAN COUNSELLING ASSOCIATION INCORPORATED

### 1. INTERPRETATION

A word or expression that is not defined in these rules, but is defined in the Associations Incorporation Act 1981 has, if the context permits, the meaning given by the Act.

### 2. NAME

The name of the incorporated association is 'Australian Counselling Association Inc' (the Association).

### 3. DEFINITIONS AND INTERPRETATIONS

3.1 In these rules unless the context otherwise indicates:

**Act** means the Associations Incorporation Act 2009.

**Annual General Meeting** means the general meeting to be held each year as required by these rules.

**Appeals Board** means the Chairperson and two Members of the Association as elected by the Board,

**Association** means Australian Counselling Association Inc/Incorporated.

**Board** means the Members of the Executive Committee for the time being constituted as provided for in these rules.

**By-Laws** means By-Laws of the Association for the time being in force.

**Convening Costs** will, until otherwise resolved by a Special Resolution of the Voting Members, be calculated as 110% of (the current standard postal fee for a letter in an envelope measuring 110mm x 220mm being posted in Grange) to an address in Australia x (the number of Voting Members recorded on the Register as at the date of the Association's receipt of the appeal or requisition).

**Executive** means the Chairperson, Vice Chairperson, Secretary and Treasurer.

**Financial Member** means a Member who is not then indebted to the Association for any reason and financial has a corresponding meaning.

**Judiciary Committee** means the committee constituted as such as provided in these Rules.

**Member** means a person who has been admitted as a member of the Association pursuant to rule 6 and whose membership has not been terminated.

**Notice Board** means the board or boards provided in the Association's Premises on which notices for the information of Members may be posted.

**Premises** means the Association's premises from time to time.

**Public Officer** means the person appointed by the Board to fulfil the duties and function of the Public Officer under these Rules.

**Regulations** or **Rules** means any instruction not being a By-Law, issued by the Board as such under these Rules or the By-Laws.

**Secretary** means the person appointed by the Board to fulfil the duties and functions of the Secretary under these Rules and includes the Chief Executive Officer (CEO).

**Special Resolution** has the meaning set out in the Act.

3.2 In these Rules, unless the context otherwise requires:

3.2.1 Words importing the singular number include the plural number and vice versa.

3.2.2 Words importing a gender include the other genders.

3.2.3 Person includes a body corporate, firm or association.

## **4. OBJECTS & POWERS**

4.1 The Objects of the Association are to:-

4.1.1 Provide and maintain premises and facilities for administration, members and clients.

4.1.2 To monitor, maintain, set and improve professional standards in counsellor education and practice.

4.1.3 To provide an industry based Association for persons engaged in the practice of Counselling and/or Psychotherapy.

4.1.4 Provide a Counselling Service for members of the public.

4.1.5 To be a self-regulatory body to provide for registration of members and to provide a mechanism for dealing with complaints about members.

4.1.6 To liaise with Government for the benefit of members and the public.

4.1.7 To provide a unified voice for the counselling industry.

4.1.8 To provide a consistent Code of Conduct and set of Practitioner Standards.

4.1.9 To promote the professional development and growth of counsellors.

4.1.10 To provide a Complaints Tribunal for the ethical practice of members.

4.1.11 To assess, review and recognise counsellor education courses.

4.1.12 To maintain a register of approved counsellors.

4.1.13 To identify to the public at large counsellors that meet nationally recognisable standards of education and practice.

4.1.14 To make the general public at large more aware of the counselling profession and the availability of reputable counsellors.

4.2 Without limiting its powers at law, the Powers of the Association are to, and the Association may in furtherance of the Objects:

4.2.1 Manage the funds and other assets and the liabilities of the Association.

4.2.2 Subscribe to, become a member of and co-operate with any other association or organisation, whose objects are altogether or in part similar to those of the Association provided that the

Association will not subscribe to or support with its funds any association, or organisation which does not prohibit the distribution of its income and property among its members to an extent at least as great as that imposed on the Association under these Rules.

- 4.2.3 Buy or otherwise acquire, sell or otherwise dispose or deal in all kinds of articles, commodities and provisions, both liquid and solid, for the Members or persons lawfully using the Premises.
- 4.2.4 Purchase, take on lease or in exchange, hire and otherwise acquire any lands, buildings, easements or other property, real and personal, and any rights or privileges which may be requisite for the purpose of, or capable of being conveniently used in connection with any of the Objects of the Association provided that the Association will only deal with any property which it acquires subject to a trust in the manner as is allowed by law having regard to the trust.
- 4.2.5 Enter into any arrangements with any person including any Government or Authority that are incidental or conducive to the attainment of the Objects and to obtain from a person any rights, privileges or concessions which the Association may think desirable to obtain and to carry out, exercise, utilise and comply with the arrangements, rights, privileges and concessions.
- 4.2.6 Appoint, employ, engage, remove, suspend or terminate employees, agents and other persons as may be necessary or convenient.
- 4.2.7 Remunerate any person for services rendered or to be rendered.
- 4.2.8 Whether by way of brokerage or otherwise, place or assist to place or guarantee the placing of any unsecured notes, debentures, or other securities of the Association.
- 4.2.9 Construct, improve, maintain, develop, work, manage, carry out, alter or control any property or improvements to property directly or indirectly to advance the Association interests, and contribute to, subsidise or otherwise assist and take part in any such activity.
- 4.2.10 Invest and deal with money of the Association not immediately required in the manner as may from time to time be thought fit subject where applicable to any legal requirement.
- 4.2.11 Lend and advance money or give credit to any person, guarantee or indemnify any person for the payment of money or the performance of contracts or obligations by any person, and otherwise to assist any person.
- 4.2.12 Borrow or raise money either alone or jointly with any person in the manner as may be thought proper and whether upon fluctuating advance account or overdraft or otherwise, represent or secure any money and further advances borrowed or to be borrowed or to be borrowed alone or with any person by notes secured or unsecured, debentures or debenture stock perpetual or

otherwise or by mortgage, charge, lien or other security upon the whole or any part of the Association's property and to purchase, redeem or pay off any such facilities or securities.

- 4.2.13 Draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange, bills of lading and other negotiable or transferable instruments.
- 4.2.14 Sell, improve, manage, develop, exchange, lease, dispose of, turn to account or otherwise deal with all or any part of the property and rights of the Association.
- 4.2.15 Take or hold mortgages, charges, liens or other security to secure payment of any money due to the Association for any reason including the purchase price, or any unpaid balance of the purchase price, of any part of the Association's property.
- 4.2.16 Accept any gift of property (including money) whether subject to any trust or not, for any of the Objects but subject always to the terms of the trust.
- 4.2.17 Take steps by appeals, public meetings or otherwise to procure contributions to the funds of the Association whether of donations, subscriptions or otherwise.
- 4.2.18 Print, publish and circulate any publication (including journals, periodicals, books or leaflets) that the Association may think desirable for the promotion of the Objects.
- 4.2.19 Where it furthers the objects of the Association to amalgamate with any one or more other incorporated Association having similar objects, the other Association(s) must have rules prohibiting the distribution of its assets and income to members.
- 4.2.20 Purchase or otherwise acquire and undertake all or any part of the assets or rights, liabilities or obligations of any person.
- 4.2.21 Make donations for patriotic, charitable or community purposes.
- 4.2.22 Transact any lawful business in aid of Australia in the prosecution of any war or peace keeping in which Australia is engaged.
- 4.2.23 Determine the hours during which the Premises will be open to Members and to close it on the days and for the times as may be necessary or desirable.
- 4.2.24 The assets and income of the Association shall be applied solely in furtherance of its above mentioned objectives and no portion shall be distributed directly or indirectly to the members of the association except as bona fide compensation for services rendered or expenses incurred on behalf of the Association.
- 4.2.25 Do all things as are incidental or conducive to the attainment of the Objects and the exercise of the powers of the Association.

## **5. CLASSES OF MEMBERSHIP**

5.1 The membership of the Association will consist of the following classes of membership:

The membership of the Association will consist of membership classes as determined by the management board from time to time.

5.2 Members must meet the standards and criteria as laid down by the Association for full and general membership prior to being eligible for membership. The standards and criteria for Full Membership and General Membership shall only be varied by unanimous resolution of the Board.

5.3 The number of full and general members is unlimited.

## **6. MEMBERSHIP**

6.1 Membership of the association shall be open to those individuals and entities meeting the Membership Qualifications.

6.2 A person who, on the day the association is incorporated, was a member of the unincorporated association and who, on or before a day fixed by the Board, agrees in writing to become a member of the incorporated association, must be admitted by the Board to the same class of membership of the Association as the member held in the unincorporated Association.

6.3 A member of the incorporated association who, before becoming a member, has paid the member's annual subscription for membership of the unincorporated association on or before a day fixed by the Board, is not liable to pay a further amount of annual subscription for the period before the day fixed by the Board as the day on which the next annual subscription is payable.

6.4 An applicant for membership of the Association, other than the members of the unincorporated association mentioned in subsection 6.1, must be proposed by one Voting Member and seconded by another Voting Member of the Board.

6.5 An application for membership must be:

6.5.1 in writing; and

6.5.2 signed by the applicant and the applicant's proposer and seconder; and

6.5.3 in the form decided by the Board.

6.6 Each Member will receive a Registration Certificate, issued by the Secretary or their nominated



representative which must be displayed in a place of easy viewing and access by the public/clients when the member is practicing as a Counsellor with membership of the Association.

- 6.7 No Member will be entitled to any benefit or advantage from the Association, which is not shared equally by every Member of that class of membership.

## **7. MEMBERSHIP FEES**

- 7.1 The membership fees for each class of membership:

7.1.1 is the amount determined by the Board from time to time at a Board Meeting; and

7.1.2 is payable when and in the way as the Board determines.

- 7.2 Unless the Board otherwise determines, Membership renewal fees will be payable annually on the anniversary date of first joining the Association.

## **8. ADMISSION AND REJECTION OF MEMBERS**

8.1 Proposals for membership of the Association will upon receipt by the Association, be entered, in the order of time in which the proposals are received by the Secretary, or their nominated representative, in a Register ("Register") to be kept by the Secretary or their nominated representative. A proposal will, subject to subsection 8.2 be dealt with and determined in the order of priority in which it is so recorded.

8.2 The Board may use its absolute discretion in determining the outcome of an application for membership.

## **9. GRIEVANCE/DISPUTE PROCEDURES**

9.1 If a Member or member of the public ("Complainant") wishes to complain about a Member ("Cited Member") the Complainant must lodge with the Secretary or their representative a Complaint Form in the form approved by the Board and pay any fees prescribed by the Board.

9.2 If a Member wishes to complain against an employee, the Member must lodge with a member of the Executive or the Secretary a written, signed and dated complaint.

9.3 The Cited Member will be notified by the Board and may be suspended from membership and therefore will not practice as a Member of the Association until the matter is finalised unless the

Board otherwise approves and for the approved purposes only.

- 9.4 Any person infringing these Rules or whose conduct is, in the opinion of the Chairperson or Secretary, not in the interests of the Members may be immediately removed from the Association's Premises.
- 9.5 The Board may suspend from membership the Member removed from the association's Premises pursuant to this clause and the Member will be deemed to be a Cited Member for the purposes of this section.
- 9.6 Upon receipt of a Complaint Form or of notification of the Board's suspension decision, the Secretary will notify the Complainant and the Cited member of the time and place of a Judiciary Committee meeting and be issued with the Grievance Procedures Information Sheet.
- 9.7 The Complainant and Cited member will each be given the opportunity to be heard or present written documentary evidence before or to the Judiciary Committee.
- 9.8 The Judiciary Committee will investigate all complaints in the manner laid down in the Policy and Procedures Manual, Grievance and Dispute Procedures.
- 9.9 Decisions of the Judiciary Committee are to be referred to the Board for ratification.
- 9.10 The Board may:
  - 9.10.1 Lift the suspension; or
  - 9.10.2 Renew the suspension of the member's membership for a period of time; or
  - 9.10.3 Terminate the member's membership; or
  - 9.10.4 Make any other order as the Board determines appropriate.
- 9.11 Cited members will be advised of the Board's decision in writing.
- 9.12 A member will not make any derogatory or insulting remark against the Association or any other Member or criticise or make an allegation of impropriety or misconduct to or against any employee without first advising the Secretary of his or her complaint or concern. The member making the complaint or expressing concern will, subject to these Rules, abide by any direction given by the Secretary.
- 9.13 A member making a remark, criticism or allegation who does not abide by a direction of the

Secretary or the Board or does not otherwise comply with this clause will be acting in breach of these Rules.

## **10. TERMINATION OF MEMBERSHIP**

10.1 A member may resign from membership of the Association at any time by giving written notice to the Secretary.

10.2 The resignation takes effect on:

10.2.1 the day and at the time the notice is received by the Secretary; or

10.2.2 if a later day is stated in the notice – the later day

10.3 The Board may terminate a member's membership if the member:

10.3.1 is convicted of an indictable offence; or

10.3.2 does not comply with any of the provisions of these rules; or

10.3.3 has membership fees in arrears for at least two (2) months; or

10.3.4 conducts himself or herself in a way considered to be injurious or prejudicial to the character or interests of the association.

10.4 The Board may determine that a person is not to be readmitted to membership for a period of time specified in the Board's decision.

10.5 Before the Board terminates a member's membership, the Board must give the member a full and fair opportunity to show why the membership should not be terminated.

10.6 If, after considering all representations made by the member, the Board decides to terminate the membership, the Secretary, or their authorised representative, must give the member a written notice of the decision.

10.7 Any person on ceasing to be a Member will have no rights whatsoever to claim upon the Association or its property or funds or any of the Boards members.

## **11. APPEALS**

11.1 A person whose application for membership has been rejected, or whose membership has been

suspended or terminated, may give the Secretary written notice of the person's intention to appeal to the Appeals Board against the decision provided that notice of the appeal is lodged within 30 days of the date shown on the suspension/termination notification from the Association.

11.2 The Secretary will notify the Appeals Board within one month of the date of the receipt by the Secretary of notice of the appeal.

11.3 Any person who wishes to appeal to a general meeting for any reason must pay the Association in cleared funds all costs associated with the appeal including the Convening Costs before the meeting is convened. If the appellant is successful, the money paid by the appellant will be refunded.

## **12. REGISTER OF MEMBERS**

12.1 The Board must keep and maintain a register of members.

12.2 The register of members must include the following particulars for each member:

12.2.1 the full name and residential address of the member;

12.2.2 the date of admission as a member;

12.2.3 the date of death or resignation of the member;

12.2.4 details about the termination or reinstatement of membership;

12.2.5 any other particulars the Board or the members at a general meeting decide.

12.3 The register must be open for inspections at all reasonable times.

12.4 Any member requiring to inspect the register must make prior application to the Secretary before any such inspection.

## **13. SECRETARY**

13.1 If the Association has not elected an interim officer as Secretary for the Association before its incorporation, the members of the Board must ensure a Secretary is appointed or elected for the Association within 1 month after incorporation.

13.2 If a vacancy happens in the office of Secretary, the members of the Board must ensure a Secretary is appointed or elected for the Association within 1 month after the vacancy happens.

13.3 The Secretary must be an individual residing in Queensland, or in another State but not more than 65 km from the Queensland border, who is:

13.3.1 a member of the association elected by the association as Secretary; or

13.3.2 any of the following persons appointed by the Board

(i) a member of the Association's Executive Committee;

(ii) a member of the Association;

(iii) another person.

13.4 The Board may appoint and remove the Association's Secretary at any time.

## **14. PUBLIC OFFICER**

14.1 The Board must appoint a Public Officer.

14.2 The Public Officer must be a person who is aged 18 years or more and is ordinarily resident in New South Wales.

14.3 The Public Officer may, but need not be, held by a Board member.

14.4 Within 28 days after taking office as the Association's Public Officer, the Board must notify the Secretary of:

(a) the person's full name and date of birth;

(b) an address within New South Wales at which the Public Officer can generally be found and at which documents can be served on the Association by post; and

(c) the fact that the person has taken office Public Officer.

14.5 If there is any change in the address of the Public Officer, the Public Officer must notify the Secretary of the new address within 28 days after the change occurs.

14.6 The Board must fill any vacancy in the office of Public Officer within 28 days after vacancy arises.

14.7 The Public Officer is an authorised signatory of the Association.

## **15. MEMBERSHIP OF THE BOARD**

15.1 The Board consists of:

- (a) the Chairperson; and
- (b) the Treasurer; and
- (c) the Secretary who will form the Executive; and
- (d) the immediate past Chairperson (as an Ex-officio member, without any voting rights).

15.2 A member of the Board, other than the Secretary and Treasurer, must be a member of the Association.

15.3 The Student member will have one vote and must only vote in relation to Student issues.

15.4 The immediate past Chairperson, if not still a Board member, may continue as an ex-officio member of the Board for a period of 12 months after assuming that position but will have no voting rights on the Board.

15.5 A member must be a voting member and have service in a continuous capacity on the Board for one term, from one Annual General Meeting to the next Annual General Meeting, before being eligible to be elected by the members to any Executive positions of:

- (a) Chairperson; or
- (b) Secretary; or
- (c) Treasurer.

15.6 The Board may, by a majority decision by the members of the Board present, remove any Board member who is absent from 3 consecutive Board meetings without apology to the Secretary.

15.7 Subject to subsection 15.8 at each Annual General Meeting of the Association, all Board positions, with the exception the Members of the Executive who have served less than two (2) years will retire from office, but will be eligible upon nomination for re-election.

15.8 Notwithstanding the previous provision, the inaugural board will sit for a period of five (5) years,  
Constitution of ACA Inc.

with the exception of the inaugural Chairperson who will sit for a period of fifteen (15) years, before vacating their positions to ensure continuity, but will be eligible upon nomination for re-election.

15.9 Notwithstanding the previous provision, the first Chairperson of the Association may after the expiry of their first fifteen (15) year term in that role as provided for in rule 15.8, if not re-elected at the Annual General Meeting for a second term as Chairperson, remain as an ordinary member of the board for a further five (5) year period.

15.10 The Board, with the exception of the Executive will serve a minimum term of 12 months and the Executive will serve a minimum term of two years.

15.11 The Association must keep a register of the Board containing the following particulars in relation to each Board member;

(a) the Board member's name, date of birth and residential address;

(b) the date of which the Board member takes office;

(c) the date of which the Board member vacates office;

(d) such other particulars as may be prescribed by the regulations.

15.12 Any changes in the Board's membership must be recorded in the register of the Board within one month after the change occurs.

15.13 The register of the Board must be kept in New South Wales at the main premises of the Association and at all reasonable hours, be available for inspection, free of charge, by any person.

## **16. ELECTION OF THE BOARD**

16.1 The election of Board members will take place in the following manner:

16.1.1 any two (2) full members of the Association (a proposer and a seconder) may nominate another full member (the candidate) to serve as a member of the Board.

16.1.2 the nomination must be:

16.1.3 (i) in writing; and

(ii) signed by the candidate and the proposer and seconder; and

- 16.1.4 given to the Secretary at least 21 days before the Annual General Meeting at which the election is to be held;
- 16.1.5 each full member present at the Annual General Meeting may vote for any number of candidates not more than the number of vacancies;
- 16.1.6 if, at the start of the meeting, there are not enough candidates nominated, nominations may be taken from the floor of the meeting.
- 16.2 A list of the candidates' names in alphabetical order, with the names of the members who nominated each candidate, must be posted on the Notice Board for at least 7 days immediately preceding the date set for the holding of the Annual General Meeting.
- 16.3 If required by the Board, a balloting list must be prepared containing the names of the candidates in alphabetical order.
- 16.4 The order of listing candidates for a position will be determined by a drawing of lots.
- 16.5 A candidate for a position on the Board must be present at the Annual General Meeting when the election upon his/her nomination is conducted, unless the members present at the Annual General Meeting approves otherwise.
- 16.6 Should all positions on the Board not be filled at the Annual General Meeting, any vacancies may be considered as casual and filled by appointment by the Board members.
- 16.7 An employee, other than the Secretary, must not be a Board Member.
- 16.8 A Board member, excepting the inaugural Chairperson and Secretary, must not either directly or indirectly be involved with (by being a director of or shareholder in a company or an employee or agent of or consultant to a company or a partner, an employee or agent of or consultant to a firm or a beneficiary of a trust or whose spouse or child holds any such position or owns any such interest - in these Rules referred to simply as 'being involved with') any person who:
- (i) supplies goods or services to the Association; and
  - (ii) otherwise has a business arrangement or relationship with the Association.
- 16.9 Any person who fulfils the requirements of subsection 16.8 is not eligible for election or re-election to the Board.
- 16.10 A Board member who contravenes the requirements of subsection 16.8 must immediately resign from the Board, and if not, without limiting clause 17, may be removed as a member of the Board



by the other Board Members.

- 16.11 A Board member who contravenes 16.8 or 16.9 will indemnify the Association against any loss, cost or expense incurred by the Association in relation to the contravention.
- 16.12 A Board member must not use his or her position as a member of the Board for personal or business gain or benefit (including publicity).
- 16.13 At least three quarters of the Board members may resolve to waive the applicability of subsections 16.8, 16.9, 16.10, 16.11 or 16.12 where they consider to do so would be in the best interests of the Association.
- 16.14 Any waiver pursuant to subsection 16.13 will be limited to the terms of the resolution of the Board members and will be disclosed to the Members at each Annual General Meeting held during the currency of the waiver.
- 16.15 Any waiver pursuant to subsection 16.13 disclosed at an Annual General Meeting may be overruled by the Members in general meeting with effect as and from the date of the resolution of the Members.
- 16.16 Subsection 16.8 does not apply to Directors or employees of the Australian Counselling Association Pty Ltd.

## **17. REMOVAL OF BOARD MEMBERS**

- 17.1 The office of a Board member becomes vacant subject to the provisions of subsections 17.2 and 17.3 if the Board Member:
  - 17.1.1 Makes any arrangement or composition with his/her creditors generally;
  - 17.1.2 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;
  - 17.1.3 Is not a Financial Member;
  - 17.1.4 Becomes an employee of the Association except as Secretary;
  - 17.1.5 Is directly or indirectly interested in any contract or arrangement or proposed contract or arrangement with the Association and fails to declare the nature of his/her interest in the manner required by the Act;
  - 17.1.6 Becomes prohibited from being a Board Member by reason of any order made under the Act;

- 17.1.7 Otherwise ceases to be a Board member or to be eligible to be a Board Member by virtue of the Act or these Rules.
- 17.2 A member may be removed from office at a general meeting of the Association if a majority of the members present at the meeting vote in favour of removing the member.
- 17.3 Before a vote of members is taken about removing a member from office, the member will be given a full and fair opportunity to show cause why he or she should not be removed from office.
- 17.4 If a Board Member is suspended from membership of the Association, he/she will also be suspended from membership of the Board.
- 17.5 The Board may by resolution remove any Board Member before the expiration of their period of office. The Board Member who has been removed may appeal to a general Meeting and the provisions of section 11 apply as if the Board Member had been suspended as a member.

## **18. RESIGNATION FROM THE BOARD**

- 18.1 A Board member may resign from the Board by giving written notice of resignation to the Secretary.
- 18.2 The resignation takes effect on:
  - 18.2.1 the day and at the time the notice is received by the Secretary; or
  - 18.2.2 if a later day is stated in the notice the later day.

## **19. VACANCIES ON BOARD**

- 19.1 If a casual vacancy occurs on the Board, the continuing members of the committee may appoint another member of the association to fill the vacancy until the next Annual General Meeting.
- 19.2 The continuing members of the Board may act despite a casual vacancy on the Board.
- 19.3 However, if the number of committee members is less than the number fixed under these rules as a quorum of the Board, the continuing members may act only to:
  - 19.3.1 increase the number of Executive Committee members to the number required for a quorum;  
or
  - 19.3.2 call a general meeting of the Association.

## **20. FUNCTIONS OF THE BOARD**

20.1 Subject to these Rules or a resolution of the Association members carried at a general meeting, the Board:

20.1.1 has the general control and management of the administration of the affairs, property and funds of the Association; and

20.1.2 has authority to interpret the meaning of these Rules and any matter relating to the Association on which the rules are silent.

20.2 The Board may exercise the powers of the Association:

20.2.1 to borrow, raise or secure the payment of amounts in a way the Association members decide; and

20.2.2 to secure the amounts mentioned in subsection 20.2.1 or the payment or performance of any debt, liability, contract, guarantee or other engagement incurred or to be entered into by the association in any way, including by the issue of debentures (perpetual or otherwise) charged upon the whole or part of the association's property, both present and future; and

20.2.3 to purchase, redeem or pay off any securities issued; and

20.2.4 to borrow amounts from members and pay interest on the amounts borrowed; and

20.2.5 to mortgage or charge the whole or part of its property; and

20.2.6 to issue debentures and other securities, whether outright or as security for any debt, liability or obligation of the Association; and

20.2.7 to provide and pay off any securities issued; and

20.2.8 to invest in a way the members of the Association may from time to time decide.

20.3 For subsection 20.2.4 the rate of interest must not be more than the current rate being charged for overdrawn accounts on money lent (regardless of the term of the loan) by:

20.3.1 the financial institution for the Association; or

20.3.2 if there is more than 1 financial institution for the Association - the financial institution nominated by the Association.

## **21. MEETINGS OF THE BOARD**

21.1 Subject to subsections 21.2 to 21.16, the Board may meet and conduct its proceedings as it considers appropriate.

21.2 The Board must meet at least once every 3 months to exercise its functions.

21.3 The committee must decide how a meeting is to be called.

21.4 Notice of a meeting is to be given in the way decided by the committee.

21.5 If the Secretary receives a written request signed by at least 33% of the Board member or if directed by the Executive members, the Secretary must call a special meeting of the Board.

21.6 A request for a special meeting must state:

21.6.1 why the special meeting is being called; and

21.6.2 the business to be conducted at the meeting.

21.7 At an Executive Committee meeting, more than 50% of the members elected or appointed to the committee as at the close of the last general meeting of the members form a quorum.

21.8 A question arising at a Board meeting is to be decided by a majority vote of committee members present at the meeting and, if the votes are equal, the Chairperson will have a casting vote.

**21.9** A Board member, other than the inaugural Chairperson, must not vote on a question about a contract or proposed contract with the association if the member or his or her immediate family (limits) ("relative") or any entity in which the member or his or her relative has an interest, has an interest in the contract or proposed contract, and if the member does vote the member's vote must not be counted.

21.10 The secretary must give each Executive Committee member at least 14 days notice of a special meeting of the committee.

21.11 A notice of a special meeting must state:

21.11.1 the day, time and place of the meeting; and

21.11.2 the business to be conducted at the meeting.

- 21.12 The Chairperson or, if there is no Chairperson or if the Chairperson is not present within 10 minutes after the time fixed for a Board meeting, the Vice-Chairperson is to preside as chairperson at the meeting.
- 21.13 If the Chairperson and the vice-Chairperson are absent from an Executive Committee meeting, the members may choose 1 of their number to preside as chairperson at the meeting.
- 21.14 If a quorum is not present within 30 minutes after the time fixed for an Executive Committee meeting called on the request of committee members, the meeting lapses.
- 21.15 If a quorum is not present within 30 minutes after the time fixed for an Executive Committee meeting called other than on the request of committee members, the meeting is to be adjourned to:
- 21.15.1 the same day, time and place in the next week; or
- 21.15.2 a day, time and place decided by the committee.
- 21.16 If, at the adjourned meeting mentioned in subsection 21.15, a quorum is not present within 30 minutes after the time fixed for the meeting, the meeting lapses.
- 21.17 The minutes of every Board Meeting will be affirmed at the next Board Meeting signed, to verify their meaning, by the chairperson of that meeting or the chairperson of the next Board meeting.

## **22. CERTAIN MATTERS REQUIRING UNANIMOUS CONSENT**

- 22.1 The following matters require unanimous consent of the board:
- 22.1.1 variation or approval of membership or membership standards;
- 22.1.2 variation or approval of training or training standards for full or general members;
- 22.1.3 issues relating to the interest of the Association (in any form) in any other entity in which the Association has a financial interest and or affects interests pertaining to the Associations members.

## **23. FORMATION OF COMMITTEES**

- 23.1 The Board may delegate the whole or part of its powers to a sub-committee of the Association members considered appropriate by the Board and including at least one Board Member.

- 23.2 A sub-committee may only exercise delegated powers in the way the Board decides.
- 23.3 A sub-committee may elect a chairperson of its meetings.
- 23.4 If a chairperson is not elected, or if the chairperson is not present within 10 minutes after the time fixed for a meeting, the members present may choose 1 of their number to be chairperson of the meeting.
- 23.5 A Committee will report regularly on its activities and make recommendations to the Board.
- 23.6 A subcommittee may meet and adjourn as it considers appropriate.
- 23.7 A question arising at a subcommittee meeting is to be decided by a majority vote of the members present at the meeting and, if the votes are equal, the question is decided in the negative.
- 23.8 The Executive and the Judiciary Committee are each sub-committees of the Board.
- 23.9 The Judiciary Committee will consist of the Chairperson (or his/her nominee) and 2 or more other Members (other than the Secretary or any other employee) appointed by the Board.

## **24. VALIDITY OF NON-BOARD ACTIONS**

- 24.1 An act performed by the Executive Committee, a subcommittee or a person acting as a member of the Executive Committee is taken to have been validly performed.
- 24.2 Subsection 23.1 applies even if the act was performed when:
- 24.3 there was a defect in the appointment of a member of the Board, subcommittee or person acting as a member of the Board; or
- 24.4 a Board member, subcommittee member or person acting as a member of the Board was disqualified from being a member.

## **25. RESOLUTION OF THE BOARD WITHOUT MEETING**

- 25.1 A written resolution signed by a majority of Board members for the time being entitled to receive notice of a Board meeting is as valid and effectual as if it had been passed at a committee meeting that was properly called and held.
- 25.2 A resolution mentioned in subsection 25.1 may consist of several documents in like form, each signed by one (1) or more members of the Board.

## **26. FIRST GENERAL MEETING**

- 26.1 The first general meeting must be held not less than 1 month, and not more than 3 months, after the day the association is incorporated.
- 26.2 The Board must decide where the meeting is to be held.
- 26.3 The business to be conducted at the first general meeting must include the appointment of an auditor.

## **27. FIRST ANNUAL GENERAL MEETING**

- 27.1 The first annual general meeting must be held within 24 months after the day the association is incorporated.

## **28. SUBSEQUENT ANNUAL GENERAL MEETING**

- 28.1 Each subsequent Annual General Meeting must be held:
  - 28.1.1 At least once each year; and
  - 28.1.2 Within 3 months after the end of the Association's previous financial year.

## **29. BUSINESS TO BE CONDUCTED AT ANNUAL GENERAL MEETING**

- 29.1 The following business must be conducted at each annual general meeting:
  - 29.1.1 Receiving the statement of income and expenditure, assets, liabilities and mortgages, charges and securities affecting the property of the Association for the last financial year;

- 29.1.2 Receiving the auditor's report on the financial affairs of the Association for the last financial year;
- 29.1.3 Presenting the audited statement to the meeting for adoption;
- 29.1.4 Electing members of the Executive Committee;
- 29.1.5 Appointing an auditor.

### **30. SPECIAL GENERAL MEETING**

30.1 The Secretary may only call a special general meeting by giving each member notice of the meeting within 14 days after:

**30.1.1** being directed to call the meeting by the Board; **or**

30.1.2 being given a written request signed by:

- (i) at least 33% of the members of the Association presently on the Board; or
- (ii)** at least the number of ordinary members of the Association equal to double the number of members of the Association presently on the Board plus 1; **or**

30.2 A request mentioned in subsection 30.1.2 must state:

30.2.1 why the special general meeting is being called; and

30.2.2 the business to be conducted at the meeting.

### **31. GENERAL MEETING**

31.1 The Secretary may call a general meeting of the Association.

31.2 The Secretary will convene a general meeting by giving not less than 14 days notice of the meeting to the Voting members:

31.2.1 As required by this Constitution;

31.2.2 When directed to do so by the Board;

31.3 On the requisition in writing signed by not less than the number of Voting members as would be required in attendance at a general meeting, to constitute a quorum. The requisition must:-



- 31.3.1 Disclose the nature of the business to be transacted and the clause in this constitution to which the business relates and which the meeting should consider in particular;
- 31.3.2 Be accompanied by payment or an undertaking to pay within 7 days of the date of the requisition (in cleared funds) the Convening costs.
- 31.4 The secretary need not prepare or issue any notices of meeting under clause 31.3 until receipt of payment of the convening costs.
- 31.5 The manner in which a notice is given will be determined by the Board.
- 31.6 Notice of a general meeting will clearly state the nature of the business to be discussed at the proposed meeting.

## **32. QUORUM**

- 32.1 Subject to subsection 32.5 at a general meeting, the number of voting members required to constitute a quorum will be double the number of positions on the Board plus one.
- 32.2 No business will be conducted at a general meeting unless a quorum of Voting Members is present at the time when the meeting proceeds to business.
- 32.3 If a quorum is not present within 30 minutes after the time fixed for a general meeting called on the request of members of the Board or the Association, the meeting lapses.
- 32.4 If a quorum is not present within 30 minutes after the time fixed for a general meeting called, other than on the request of members of the Board or the Association, the meeting is to be adjourned to:
  - 32.4.1 the same day, time and place in the next week; or
  - 32.4.2 a day, time and place decided by a majority of the Board members.
- 32.5 If at an adjourned meeting, a quorum under subsection 32.1 is not present within 30 minutes after the time fixed for the meeting, the member's present form a quorum.
- 32.6 The Chairperson may, with the consent of the meeting at which a quorum is present, and must if directed by the meeting, adjourn the meeting from time to time and from place to place.

- 32.7 If a meeting is adjourned under subsection 32.6, only the business left unfinished at the meeting from which the adjournment took place may be conducted at the adjourned meeting.
- 32.8 The secretary is not required to give the members notice of an adjournment or of the business to be conducted at an adjourned meeting unless a meeting is adjourned for at least 30 days.
- 32.9 If a meeting is adjourned for at least 30 days, notice of the adjourned meeting must be given in the same way notice is given for an original meeting.
- 32.10 In this rule "member" includes a person attending as a proxy or representing a corporation that is a member.

### **33. CONDUCT OF GENERAL MEETING**

- 33.1 Subject to these Rules, at each general meeting:
- 33.1.1 The Chairperson, or if there is no Chairperson, or if the Chairperson is not present within fifteen (15) minutes after the time appointed for the meeting or is unwilling to act, the Vice- Chairperson is to preside as Chairperson; and
- 33.1.2 If the Vice-Chairperson is not present or is unwilling to act as Chairperson, the voting members present must elect one (1) of their number to be the Chairperson of the meeting; and
- 33.1.3 The chairperson will maintain order and conduct the meeting in a proper and orderly manner; and
- 33.1.4 Before the meeting, the Board will appoint a person to act as the returning officer for the meeting, the returning officer will verify to the chairperson the number of valid proxies received by the Association for the purposes of the meeting; and
- 33.1.5 Each question, matter or resolution will be decided by a majority (or the required majority if a resolution is other than an ordinary resolution) of votes of the voting members present; and
- 33.1.6 Each voting member present will be entitled to one vote only and if the votes are equal, the Chairperson has a casting vote as well as a primary vote; and
- 33.1.7 A member may vote in person, or by proxy or by attorney; and
- 33.1.8 On a show of hands, each person present who is a member or a representative of a member has 1 vote; and

- 33.1.9 In a secret ballot, each member present in person or by proxy or by attorney or other properly authorised representative has 1 vote; and
- 33.1.10 A member is not entitled to vote at a general meeting if the member's annual Subscription is in arrears at the date of the meeting.
- 33.2 Voting will be by show of hands or a division of voting members, unless at least 20% of the members present demand a secret ballot.
- 33.3 If a secret ballot is held, the chairperson will appoint two members to conduct the secret ballot in such manner as the chairperson decides.
- 33.4 The result of the ballot as declared by the Chairperson is taken to be the resolution of the meeting at which the ballot was held.
- 33.5 Subject to clause 33.6, the Secretary will cause full and accurate minutes of all questions, matters, resolutions and other proceedings of every Board Meeting and General meeting, for a period no less than 5 years, to be entered in a book to be open for inspection at all reasonable times by any Financial member who applies to the Secretary for that inspection.
- 33.6 The Board or Secretary may refuse to permit any person to inspect the records of the Association that relate to confidential, personal, employment, commercial or legal matters or where to do so may be prejudicial to the interests of the Association.
- 33.7 The minutes of every general meeting will be signed, to verify their meaning by the chairperson of that meeting or the chairperson of the next general meeting.

#### **34. PROXIES**

- 34.1 Subject to these Rules, a voting member may appoint another member to be his/her proxy for the purposes of attending, speaking at and voting for that voting member at a general meeting.
- 34.2 An instrument appointing a proxy must be in writing in the form approved by the Board; and
- 34.2.1 if the appointor is an individual – signed by the appointor or the appointor's attorney properly authorized in writing; or
- 34.2.2 if the appointor is a corporation – either under seal or signed by a properly authorized officer or attorney of the corporation; and

- 34.2.3 the form must be lodged with the secretary not later than 24 hours before the time for the holding of the general meeting.
- 34.3 A proxy may be a member of the Association or another person.
- 34.4 The instrument appointing the proxy is taken to confer authority to demand or join in demanding a secret ballot.
- 34.5 If someone wants to give a member an opportunity to vote for or against a resolution, the instrument appointing a proxy must be in the following or like form

AUSTRALIAN COUNSELLING ASSOCIATION INC.

I, \_\_\_\_\_ of \_\_\_\_\_, being a member of the association, appoint \_\_\_\_\_ of \_\_\_\_\_, \_\_\_\_\_ as my proxy to vote for me on my behalf at the (annual) general meeting of the \_\_\_\_\_ association, to be held on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_, and at any adjournment of the meeting.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

Signature.

\* in favour of

This form is to be used \_\_\_\_\_ the resolution.

\*against

\*Strike out whichever is not wanted. (Unless otherwise instructed, the proxy may vote as the proxy considers appropriate.);

- 34.6 Any issue of validity of a proxy will be determined by the Chairperson of the meeting acting on the advice of the Returning Officer.

**35. POSTAL AND ELECTRONIC BALLOTS**

- 35.1 The Association may hold a postal or electronic ballot to determine any issue or proposal (including but not limited to a general meeting, special general meeting or board meeting).
- 35.2 A postal or electronic ballot is to be conducted in accordance with Schedule 1 of this Constitution.

**36. BY-LAWS**

- 36.1 The board may make, amend or repeal by-laws, not inconsistent with these Rules, for the internal management of the Association.
- 36.2 Any by-law may be set aside by the voting members in a General Meeting.

**37. ALTERATION OF THESE RULES**

- 37.1 Subject to the Act, these Rules may be amended, repealed or added to by a Special Resolution carried at a General Meeting.
- 37.2 An amendment, repeal or addition is valid only if it is registered by the chief executive.

**38. COMMON SEAL**

- 38.1 The Board must ensure the Association has a common seal.
- 38.2 The common seal must be:
  - 38.2.1 kept securely by the Board; and
  - 38.2.2 used only under the authority of the Board.
- 38.3 Each instrument to which the seal is attached must be signed by a member of the Board and countersigned by:
  - 38.3.1 the Secretary; or
  - 38.3.2 another member of the Board; or
  - 38.3.3 someone appointed by the Board.

## **39. FUNDS AND ACCOUNTS**

- 39.1 The funds of the Association must be kept in an account in the name of the Association in a financial institution decided by the Board.
- 39.2 Records and accounts must be kept and maintained either in written or printed form in the English language or in a computerised or electronic medium showing full and accurate particulars of the financial affairs of the Association for a period not less than 5 years.
- 39.3 Money will be banked as soon as practicable after receipt.
- 39.4 Cheques will be signed by the Chairperson and any one other of the Secretary, Treasurer, Association Accountant, or other member authorised from time to time by the Board.
- 39.5 Cheques other than cheques for wages, allowances or petty cash recoupment, must be crossed 'not negotiable'.
- 39.6 A petty cash account must be kept on the imprest system, and the Executive Committee must decide the amount of petty cash to be kept in the account.
- 39.7 All expenditure must be approved or ratified at a Board meeting.
- 39.8 The Treasurer must, as soon as practicable after the end of each financial year, ensure a statement containing the following particulars is prepared:
- 39.8.1 the income and expenditure for the financial year just ended;
- 39.8.2 the Association's assets and liabilities at the close of the year;
- 39.8.3 the mortgages, charges and securities affecting the property of the Association at the close of the year.
- 39.9 The financial statements will be examined by the auditor who must present a report upon the audit to the Secretary prior to the holding of the Annual General Meeting next following the financial year in respect of which the audit was made.
- 39.10 The income and property of the Association will be used and applied solely in promotion of its Objects and in the exercise of its Powers. No portion of it will be distributed, paid or transferred directly or indirectly by way of dividend, bonus or otherwise by way of profit to or amongst the Members.

- 39.11 The payment in good faith of interest to a Member in respect of money advanced by the member to the association or otherwise owing by the Association to the member or of remuneration to an officer or employee of the association or to a member of the association or other person in return for any services actually rendered to the association.
- 39.12 The payment or repayment to a member of out of pocket expenses, money lent, reasonable and proper charges for goods hired by the Association or reasonable and proper charges for goods hired by the Association or reasonable and proper rent for premises demised or let to the Association.

#### **40. INDEMNITY**

- 40.1 All board members and trustees holding property for the association will be indemnified out of the property and funds of the association against all losses and expenses incurred in the discharge of their duties except any due to their own wilful act or default.
- 40.2 Each Board Member or trustee will be responsible only for so much money or property as he or she actually received for, or in discharge of the business of the association, and each one will be answerable only for their own acts, neglects or defaults and not for those of any other person, on for insufficiency of any security for money invested or of title to any estate or property acquired, or for any loss or damage which may happen in the discharge of their duties unless due to their own wilful neglect or default.
- 40.3 An employee may be indemnified out of the property of the Association against any liability:
- 40.3.1 Incurred by the employee acting in that capacity;
- 40.3.2 For the costs and expenses incurred by the employee in defending proceedings, whether civil or criminal, in which judgment is given in favour of the employee or in which the employee is acquitted; or
- 40.3.3 in connection with an application in relation to such proceedings, in which the court grants relief to the employee.
- 40.4 Subject to the law, the Association may pay insurance premiums in respect of insurance for the benefit of the Board Members and the Association's employees when acting in their respective capacities against:
- 40.4.1 Costs and expenses in defending any proceedings, whether civil or criminal, whatever their outcome, or

- 40.4.2 A liability arising from negligence or other conduct not being a liability incurred by the person acting in that capacity and arising out of conduct involving a wilful breach of duty in relation to the Association or a breach of the law or of this Constitution dealing with improper use of confidential information or position.
- 40.5 The association may pay insurance premiums in respect of insurance for the benefit of the auditor.

## **41. DOCUMENTS**

- 41.1 Except as otherwise provided by these Rules, the board will provide for the safe custody of the books and records, documents, instruments of title and securities of the Association.
- 41.2 Subject to these Rules, any electronically kept records will be available to transfer into hard copy in NSW at the address of the Public Officer.
- 41.3 A person may not copy or take extracts of the register of members or use or disclose the confidential information of the association without the prior approval of the Board.

## **42. FINANCIAL YEAR**

- 42.1 The financial year for the association ends on 30 June in each year.

## **43. DISTRIBUTION OF SURPLUS ASSETS**

- 43.1 This section applies if the association:
- 43.1.1 is wound-up under part 10 of the Act; and
  - 43.1.2 it has surplus assets.
- 43.2 The surplus assets must not be distributed among the Association members.
- 43.2.1 The surplus assets must be given to another entity
  - 43.2.2 having objects similar to the Association's objects; and
  - 43.2.3 the rules of which prohibit the distribution of the entity's income and assets to its members.
- 43.3 In section 43 "surplus assets" has the meaning given by section 92(3) of the Act.



# SCHEDULE 1

## CONDUCT OF POSTAL OR ELECTRONIC BALLOTS

### **1 BALLOTS**

1.1 The committee must:

(a) cause the details of the matter on which the ballot is to be held to be set out in a statement, and

(b) fix the dates for:

(i) the forwarding of postal ballot papers, or the giving of access to electronic ballot papers, to members, and

(ii) the closing of the ballot, and

(c) appoint a returning officer for the ballot.

1.2 Every ballot must be conducted by the returning officer appointed by the committee.

### **2 RETURNING OFFICERS**

2.1 A member of the association or a person who is not a member of the association may be appointed as a returning officer.

2.2 Despite subclause (2.1), a committee member of the association may not be appointed as a returning officer.

2.3 The returning officer may be assisted in the performance of his or her duties by any person (who would be eligible to be a returning officer) appointed by the returning officer.

### **3 PREPARATION OF VOTING ROLL**

3.1 The returning officer must prepare a roll of the full names and addresses of the members of the association who are eligible to vote.

3.2 A person whose name is on the roll is entitled to vote in the ballot, and no person is otherwise so entitled.

### **4 ELECTRONIC VOTING**

4.1 This clause applies to a ballot for determination of a matter by the association that is to be conducted by means of electronic voting.

- 4.2 Electronic voting is to be by means of email or other electronic means determined by the committee.
- 4.3 Without limiting subclause (4.2), the other electronic means of voting may include requiring voters to access a voting website and to vote in accordance with directions contained on that website.
- 4.4 The returning officer must ensure that the form for the electronic ballot paper contains:
- (a) instructions for completing the voting paper, and
  - (b) the question to be determined, and
  - (c) the means of indicating the voter's choice on the question to be determined.
- 4.5 The returning officer must, at least 14 days (or 21 days in the case of a special resolution) before the date fixed for the closing of the ballot, give each person entitled to vote:
- (a) access to an electronic ballot paper, or to a voting website or electronic application containing an electronic ballot paper, that complies with this clause, and
  - (b) access to information about:
    - (i) how the ballot paper must be completed, and
    - (ii) the closing date of the ballot, and
    - (iii) if voting is by email-the address where the ballot paper is to be returned, and
    - (iv) if voting is by other electronic means, the means of accessing the electronic voting system and how the completed electronic ballot paper is to be sent to the returning officer.
- 4.6 Each person entitled to vote must vote in accordance with the instructions contained in the information.
- 4.7 If the ballot is a secret ballot, the returning officer must ensure that the identity of the voter cannot be ascertained from the form of the electronic ballot paper.
- 4.8 An electronic ballot paper must be sent to the returning officer no later than the close of the ballot.
- 4.9 The returning officer must ensure that all electronic ballot papers are stored securely until the counting of the votes begins.

## **5 POSTAL VOTING**

- 5.1 This clause applies to a ballot for the determination of a matter by the association that is to be conducted by means of postal voting.
- 5.2 The returning officer must prepare ballot papers that contain:

- (a) instructions for completing the voting paper, and
  - (b) the question to be determined, and
  - (c) a box opposite and to the left of each question.
- 5.3 The returning officer must, at least 14 days (or 21 days in the case of a special resolution) before the date fixed for the closing of the ballot, give each person entitled to vote:
- (a) a ballot paper prepared in accordance with this clause, and
  - (b) a notice describing:
    - (i) how the ballot paper must be completed, and
    - (ii) the closing date of the ballot, and
    - (iii) the address where the ballot paper is to be returned, and
  - (c) a returning envelope addressed to the returning officer and the reverse side of which is noted or printed with the name and address of the member and, if the ballot is a secret ballot, an envelope marked "Voting Paper".
- 5.4 Each person entitled to vote must vote by marking the ballot paper in accordance with the instructions contained in the notice.
- 5.5 If the ballot is a secret ballot, a voter must, after completing the ballot paper:
- (a) enclose and seal the ballot paper in the envelope marked "Voting Paper", and
  - (b) enclose and seal that envelope in the returning envelope addressed to the returning officer, and
  - (c) give the envelope to the returning officer so that it is received no later than the close of the ballot.
- 5.6 If the ballot is not a secret ballot, a voter must, after completing the ballot paper:
- (a) enclose and seal the ballot paper in the returning envelope addressed to the returning officer, and
  - (b) give the envelope to the returning officer so that it is received no later than the close of the ballot.
- 5.7 On receipt of a returning envelope, the returning officer must:
- (a) compare the information on each returning envelope with the information on the voting roll to confirm that the vote was cast by a person entitled to vote in the ballot, and
  - (b) ensure that the ballot papers are securely stored until the counting of the votes begins.
- 5.8 A voter may give a returning envelope to the returning officer by post or personal delivery.

## **6 INFORMAL VOTES**

- 6.1 A ballot paper of a voter who votes by means of electronic voting or postal voting is informal if the voter has failed to record a vote in accordance with the information provided by the returning officer.
- 6.2 Despite subclause (1), if, in the opinion of the returning officer, a voter's intention is clearly indicated on a ballot paper for a postal vote, the ballot paper is not informal merely because it contains an unnecessary mark.
- 6.3 If voting is carried out by electronic voting using a voting website or other electronic application (but not if voting is by email), the website or application is to provide a warning message to a person casting an informal vote that the proposed vote is informal.

## **7 ASCERTAINING RESULT OF BALLOT**

- 7.1 As soon as practicable after the close of the ballot for a postal vote, the returning officer must:
- (a) in the case of a secret ballot, open the envelopes marked "Voting Paper" and remove the ballot papers, and
  - (b) in the case of any ballot, reject as informal any ballot papers that do not comply with the requirements of this Regulation, and
  - (c) ascertain the result of the ballot by counting the votes not rejected.
- 7.2 As soon as practicable after the close of a ballot conducted by electronic voting, the returning officer must:
- (a) review all information and reports about the electronic ballot, and
  - (b) reject as informal any votes that do not comply with the requirements of this Regulation, and
  - (c) ascertain the results of the electronic ballot.

## **8 STATEMENT BY RETURNING OFFICER**

- 8.1 The returning officer must make out and sign a statement of the result of the ballot.
- 8.2 On the declaration of the returning officer of the result of the ballot, the committee must cause an entry to be made in the minute book showing the result of the ballot.
- 8.3 The returning officer must forward a copy of the statement to the chairperson of the committee who must announce the result of the ballot at the next general meeting.

## **9 NOTIFICATION OF RESULT OF BALLOT FOR SPECIAL RESOLUTIONS**

- 9.1 In the case of a special resolution, the association must cause the result of the ballot to be notified in writing to its members as soon as practicable after the ballot.

## **10 RETENTION OF BALLOT PAPERS**

- 10.1 The returning officer must retain:

- (a) all ballot papers, and
- (b) all rejected returning envelopes relating to postal voting, and
- (c) all records relating to electronic voting (whether formal or otherwise), and
- (d) all rolls,

used in connection with the conduct of the ballot, in accordance with this clause.

- 10.2 The returning officer must retain those items in secure storage for a period of not less than 8 weeks after the date fixed for the closing of the ballot unless directed in writing by the committee to retain those items for a longer period.