



Tuggeranong Community Arts Association Incorporated

Constitution Objects and Rules

Associations Incorporations Act 1991

Adopted—Special General Meeting 12 February 2025

137 Reed Street Greenway | PO Box 1143 | Tuggeranong ACT 2901 |
info@tuggeranongarts.com | www.tuggeranongarts.com | 02 6293 1443
ABN: 66 461 861 538

Table of contents

Objects	3
Rules	4
Part 1—Preliminary	4
Part 2—Membership	8
Part 3 The Board and Chief Executive Officer.....	11
Division 3.1—Board functions	11
Division 3.2—Board composition	13
Division 3.3—Board meetings	16
Division 3.4 – Chief Executive Officer	19
Part 4 —General meetings.....	21
Part 5—Finances.....	26
Part 6—Miscellaneous.....	30
Schedule 1—Disputes	33
Schedule 2—Disciplinary procedure	36
Schedule 3—Appeals: dispute resolution and disciplinary decisions	40
Schedule 4—Transition from old rules	42

Associations Incorporation Act 1991

Tuggeranong Community Arts Association Incorporated

Constitution

Objects

^O1 General objects

The Association aims—

- (a) to foster and promote arts activities in Tuggeranong and other ACT southside communities; and
- (b) to inspire Tuggeranong and other ACT southside communities to participate in arts activities; and
- (c) to develop and deepen relationships, networks and partnerships within the Tuggeranong community, and between the Tuggeranong community and other communities, in order to carry out those aims.

^O2 Specific objects

In order to achieve its general objects under object ^O1, the Association aims to—

- (a) develop and deliver inclusive, engaging and quality arts programs; and
- (b) manage the Tuggeranong Community Arts Centre in a professional, sustainable and accessible way; and
- (c) ensure that the Association is eligible for, and capable of attracting, ACT Government and other funding as a major ACT arts organisation, as well as funding from other governments, authorities and institutions.

Rules

Part 1—Preliminary

^1.1 Dictionary

Note 1 Terms used in these rules have the same meaning that they have in the Associations Act (see the Legislation Act, s 148). For example, the following terms are defined in the Associations Act, dict:

- annual general meeting
- committee
- incorporated
- member
- objects
- public officer
- register of members
- special resolution.

Note 2 The Legislation Act contains definitions and other provisions relevant to these rules (see r ^1.2). For example:

- ACAT (ACT Civil and Administrative Tribunal)
- authorised deposit-taking institution
- document
- entity
- function
- may (see s 146)
- month
- must (see s 146)
- registrar-general
- special resolution
- writing
- year.

In these rules (including the objects and by-laws):

arts means a creative form of expression, for example any of the following (without limitation):

- (a) community arts;
- (b) digital and other new media;
- (c) film or video production;
- (d) Aboriginal and Torres Strait Islander arts;
- (e) literature;
- (f) music;
- (g) performing arts;
- (h) public art;
- (i) visual arts and crafts.

Association means the Tuggeranong Community Arts Association Incorporated.

Associations Act means the *Associations Incorporation Act 1991*.

auditor: see the *Associations Act*, section 70B.

Board means the committee of the Association (within the meaning of the *Associations Act*) (see Part 3 of these rules).

Board meeting means a meeting of the Board under rule ^3.3.1.

by-laws means by-laws made by the Board under rule ^6.5.

Examples of by-laws

- 1 A governance charter for the Association.
- 2 Election rules for executive directors.

casual director means a member appointed as a casual director under rule ^2.3.

Chair means the director appointed as the Chair of the Board under rule ^3.2.1(2).

Chief Executive Officer means the Chief Executive Officer of the Association appointed under rule ^3.4.1.

commencement time—see Schedule 4, rule ^S4.1.

Deputy Chair means the director appointed as the Deputy Chair of the Board under rule ^3.2.1(2).

director means a member appointed as a regular director, or a casual director, of the Board under rule ^2.3.

Note 1: All members of the Association are appointed as directors.

Note 2: A person appointed as a director is taken not to be a member, or a director, while the person is on leave of absence as a director (see r ^3.2.6(2)), or while the person's membership is suspended as a result of disciplinary action (see Sch 2, r ^S2.9(4)). However, such a person may be removed from office as a director or executive director during such a period (see r ^3.2.7(4)).

disciplinary action—see Schedule 2, rule ^S2.3.

disciplinary action decision—see Schedule 3, rule ^S3.1(a).

dispute decision—see Schedule 3, rule ^S3.1(b).

disqualified: for when a person is **disqualified** from membership, see rule ^2.4.

eligible: for who is **eligible** to be a member, see rule ^2.1.

executive director—see rule ^3.1.2.

Note: The executive directors are those directors who are appointed as the Chair, the Deputy Chair and the Treasurer, as well as any who are appointed to another office of executive director nominated by the Board.

financial year means the year ending on 31 December (see rule ^5.1).

general meeting means a general meeting of the Association, and includes an annual general meeting (see Part 4).

general meeting notice—see rule ^4.4(1).

gifts—see rule ^5.5(6).

ground for disciplinary action—see Schedule 2, rule ^S2.2.

Legislation Act means the *Legislation Act 2001*.

member means a person whose application for membership of the Association is approved under rule ^2.3.

Note 1: All members of the Association are appointed as directors under r ^2.3.

Note 2: A person appointed as a director is taken not to be a member, or a director, while the person is on leave of absence as a director (see r ^3.2.6(2)), or while the person's membership is suspended as a result of disciplinary action (see Sch 2, r ^S2.9(4)). However, such a person may be removed from office as a director or executive director (see Sch 3, r ^3.2.7(4)).

new rules—see Schedule 4, rule ^S4.1.

objects means the objects of the Association (see objects ^O1 and ^O2).

old rules—see Schedule 4, rule ^S4.1.

parties, to a dispute to which Schedule 1 applies—see Schedule 1, rule ^S1.1.

personally: voting **personally** at a Board meeting or a general meeting—

- (a) includes voting at such a meeting that is held virtually; but
- (b) does not include voting by proxy.

presiding member, at a general meeting—see rule ^4.7.

regular director means a member appointed as a regular director under rule ^2.3.

requesting members—see rule ^4.3(1)(a).

rules means the rules of the Association, and includes—

- (a) the objects; and
- (b) any by-laws.

TCAA general account—see rule ^5.4(1)(a).

TCAA public fund—see rule ^5.5(1).

Treasurer means the director appointed as the Treasurer of the Association under rule ^3.2.1(2).

vacancy: there is a **vacancy** at a particular time—

- (a) in an office (or offices) of director—if there are fewer than 9 directors at that time; and
- (b) in the office of an executive director—if there is no director holding the office, or appointed as a casual executive director to fill the office, at that time.

Note: There is taken to be a vacancy in an office of director while the person appointed to that office is taken not to be a member, or a director, while on leave of absence as a director (see r ^3.2.6(2)), or while the person's membership is suspended as a result of disciplinary action (see Sch 2, r ^S2.9(4)). However, such a person may be removed from office as a director or executive director during such a period (see r ^3.2.7(4)).

virtually: a Board meeting, or a general meeting, is held **virtually** if it is held using a method of communication, or a combination of methods of communication, that allows a participant to hear or otherwise know what each other participant says without the participants necessarily being in each other's presence.

Example 1—methods of communication

- 1 Video conferencing software.
- 2 Instant messaging.
- 3 Telephone conferencing.

Example 2—hybrid meetings

A meeting may be held *virtually* by a method or combination of methods allowing for communication without all participants being in each other's presence even if some of the participants are in each other's presence.

^1.2 Application of Electronic Transactions Act and Legislation Act.

The following Acts apply to these rules as if the rules were an instrument made under the Associations Act:

- (a) the Legislation Act;
- (b) the *Electronic Transactions Act 2001*.

Note 1: The Legislation Act contains definitions and other provisions relevant to the Association's rules. As a result of the application of the Legislation Act, terms used in these rules generally have the same meaning as in that Act or the Associations Act (see for example the terms listed in the notes at the head of r ^1.1).

Note 2: Under the *Electronic Transactions Act 2001*, s 8, information required to be given in writing may be given electronically.

^1.3 Notices

For the purposes of these rules—

- (a) notices must be given in writing; and
- (b) notices may be given in accordance with the Legislation Act or the *Electronic Transactions Act 2001*.

Note 1: Under the Legislation Act, s 247, notices may be given personally or by delivery in person or by post.

Note 2: Under the *Electronic Transactions Act 2001*, s 8, information required to be given in writing may be given electronically.

Part 2—Membership

^2.1 Membership—eligibility

A person is *eligible* to be a member of the Association if the person is an individual, and if the person agrees to—

- (a) promote the objects of the Association; and
- (b) comply with these rules; and
- (c) serve on the Board as a director.

^2.2 Membership—application

An application for membership of the Association must be—

- (a) in writing in a form approved by the Board, accompanied by any documents required by the form; and
- (b) lodged with the Board in a way approved by the Board.

^2.3 Membership—Board decision

Approval of membership applications

(1) The Board may, by resolution, approve an application for membership of the Association from an eligible person that is made in accordance with rule ^2.2, in consideration of the following matters:

- (a) whether there are any vacancies on the Board, or whether any vacancies are anticipated;
- (b) the contribution towards promoting the objects of the Association that the person would make as a member and director;
- (c) the desirability of members and directors between them having a broad and diverse range of skills and experience;
- (d) the extent of any material personal interest the person may have in matters that will be considered by the Board, or in the business of the Association, and the effect such an interest may have on the governance of the Association;
- (e) any other matter relevant to the Board’s functions or the governance of the Association.

Note: A member is appointed as a director under subrule (4). The Board must ensure that there are at least 5, and no more than 9, directors currently holding office at any time (see r ^3.2.1(1)).

(2) The Board must not approve an application for membership from a person if, or while, the person is disqualified from membership (see rule ^2.4).

Members become directors

(3) A resolution approving a person’s application for membership of the Association must state whether the person is approved for appointment—

- (a) as a casual director; or

- (b) as a regular director.
- (4) The Board must, by resolution made during the Board meeting at which a person's application for membership is approved, appoint the person as a casual director or a regular director in accordance with the resolution approving the application.

Note: A person's membership of the Association begins when the person is appointed as a director in accordance with this subrule (see r ^2.5).

- (5) A resolution appointing a person as a regular director in a year may be made only at the first Board meeting after the annual general meeting is held in that year.

Notice to rejected applicants

- (6) If the Board rejects an application made under rule ^2.2, the Board must ensure that notice is given to the applicant accordingly.

^2.4 Disqualification from membership

A person is **disqualified** from membership—

- (a) if the person has previously been, but is no longer, a member of the Association—for a period of 12 months after the person's most recent period of membership ended; or

Example—end of term of directors

A regular director or a casual director stops being a member at the end of their term of office as a director (see r ^2.6(a)). They therefore become disqualified under this paragraph for re-appointment as a member for the period of 12 months after their term as a director ended. However, a casual director may be appointed as a regular director with effect from when their term of office as a casual director ends (see r ^3.2.4(2)).

- (b) while the person is the Chief Executive Officer, or a staff member of the Association; or
- (c) while the person is suspended from membership as a result of disciplinary action under Schedule 2; or
- (d) if the person would commit an offence against section 63 or 63B of the Associations Act were the person to accept an offer of appointment as a member of the committee of an incorporated Association; or
- (e) if the person would be disqualified from being a committee member of an incorporated Association under section 63A of the Associations Act.

Note 1: The Associations Act, ss 63 and 63B provide that it is an offence for a person to accept such an offer of appointment if—

- (a) the person has been convicted of certain offences (involving corporate governance or fraud etc.), or is bankrupt or insolvent (see the Associations Act, s 63(1) and (2)); or
- (b) the person is disqualified from managing a corporation or an Aboriginal and Torres Strait Islander corporation under certain Commonwealth laws.

Note 2: A person may be disqualified by an order of the ACAT from being the public officer or a member of the committee of an incorporated association if the person is or has been such a public officer or member of a committee, and has failed to comply with the Associations Act.

^2.5 When does membership begin?

A person's membership begins at the time the person is appointed as a director under rule ^2.3.

^2.6 When does membership end?

A person's membership ends when any of the following happens:

- (a) the person's term of office as a regular director or casual director ends under rule ^3.2.3 or ^3.2.4;
- (b) the person dies;
- (c) the person becomes disqualified from membership under rule ^2.4;
- (d) the person's membership is cancelled as a result of disciplinary action under Schedule 2 (after a disciplinary procedure);
- (e) the person resigns from office as a director;

Note: A director may resign from the Board by written notice given to the public officer (see the Associations Act, s 64A).

- (f) the person is removed from office as a director under rule ^3.2.7.

^2.7 Membership—not transferable

A member's rights and liabilities as a member—

- (a) are not transferable; and
- (b) end when the membership ends.

^2.8 Membership—register

- (1) The Board must ensure that a register of members is kept in accordance with the Associations Act.
- (2) Each member must, as soon as practicable after any information about the member in the register changes, give the Board notice of the change.

Note: The Associations Act, s 67 deals with the membership register. The register must be made available for inspection by the members (see that Act, s 67(2)).

^2.9 Dispute resolution, disciplinary procedure and appeals

- (1) The dispute resolution procedure set out in Schedule 1 applies to the Association.

Note: The Associations Act, s 65B requires a dispute resolution procedure to be set out in the Association's rules, and sets out principles that are to govern the procedure.

- (2) The disciplinary procedure set out in Schedule 2 applies to the Association.

Note: The Associations Act, s 65C allows a disciplinary procedure to be set out in the Association's rules, and sets out principles that are to govern the procedure.

- (3) The appeal process set out in Schedule 3 applies in relation to decisions made as a result of—

- (a) a dispute resolution procedure under Schedule 1; or
- (b) a disciplinary procedure under Schedule 2.

Note 1: The Associations Act, ss 65B(3)(e) and 65C(3)(d) require the dispute resolution procedure and the disciplinary procedure set out in the Association's rules to include an appeal process.

Note 2: The appeal process in Schedule 3 provides for a general meeting of the Association to hear appeals against decisions made by an independent decision-maker under Schedule 1 or 2.

Part 3 The Board and Chief Executive Officer

Division 3.1—Board functions

^3.1.1 Committee and committee members

- (1) The committee of the Association is called the Board of the Association.
- (2) A member of the committee is called a director of the Board.

Note 1: The Board is the committee of the Association for the purposes of the Associations Act. The directors are the members of the Association's committee for those purposes.

Note 2: All members of the Association are appointed as directors (and are therefore committee members for the purposes of the Associations Act): see r ^2.3.

^3.1.2 Board—executive directors and public officer

- (1) The Board has the following **executive directors**, appointed under rule ^3.2.1 from among the directors:
 - (a) the Chair;
 - (b) the Deputy Chair;
 - (c) the Treasurer;
 - (d) a director appointed to fill any other office of executive director that is nominated by the Board under subrule (2).

Note: The Board has the management of the Association (see the Associations Act, s 60 (2)).

- (2) The Board may nominate an office of executive director for the purposes of paragraph (1)(d) by resolution describing the functions of that office.
- (3) The Board must appoint a public officer.

Note: The public officer may be a director (including an executive director), but need not be. The Board may, for example, appoint the Chief Executive Officer as the Association's public officer (see r ^3.4.1(2)). See generally the Associations Act, section 57.

^3.1.3 Board functions

The Board may exercise the Association's functions under the Associations Act and these rules, other than any function required or permitted under that Act or these rules to be exercised by a general meeting.

Note: A provision of a law that gives an entity a function also gives the entity powers necessary and convenient to exercise the function (see the Legislation Act, s 196).

^3.1.4 Board—functions of Chair

The functions of the Chair include the following:

- (a) chairing Board meetings and general meetings (including annual general meetings);
- (b) exercising any other function given to the Chair—
 - (i) under the Associations Act or these rules; or
 - (ii) by the Board, or a general meeting, to achieve the Association's objects.

^3.1.5 Board—functions of Deputy Chair

The functions of the Deputy Chair include the following:

- (a) exercising the functions of the Chair if the Chair is unavailable to exercise those functions for any reason;
- (b) exercising any other function given to the Deputy Chair—
 - (i) under the Associations Act or these rules; or
 - (ii) by the Board, or a general meeting, to achieve the Association’s objects.

^3.1.6 Board—functions of Treasurer

The functions of the Treasurer include the following:

- (a) ensuring that the Association’s accounting records are kept in accordance with the Associations Act, section 71;
- (b) ensuring that a statement of accounts is prepared for presentation at the annual general meeting in accordance with the Associations Act, section 72 (annual statement of accounts);
- (c) presenting (or causing to be presented) the documents mentioned in the Associations Act, section 73 at each annual general meeting;
- (d) ensuring that the documents mentioned in the Associations Act, section 79 are lodged with the registrar-general in accordance with a requirement under that section;
- (e) exercising any other function given to the Treasurer—
 - (i) under the Associations Act or these rules; or
 - (ii) by the Board, or a general meeting, to achieve the Association’s objects.

Note (par (a)): See rule ^6.2(2) for how the Association’s accounting records are to be kept.

^3.1.7 Board—delegating functions of executive directors

- (1) The Board may, by resolution, provide for the functions of an executive director to be delegated to any other director (including another executive director).
- (2) However, a function of an executive director may not be delegated under subrule (1) if the director is required to perform the function personally—
 - (a) under the Associations Act or another territory law; or
 - (b) by the Board or a general meeting.

Note: For laws about delegations, see the Legislation Act, pt 19.4. For example, a director must not subdelegate powers given to the director under this subrule.

^3.1.8 Board—delegating functions to subcommittees

- (1) The Board may, by resolution, delegate a function of the Board under these rules to one or more subcommittees.
- (2) However, the Board must not delegate a function given to the Board—
 - (a) under the Associations Act or another territory law; or

- (b) by resolution of the members at a general meeting; or
- (c) under rule ^3.1.7 (Board—delegating functions of executive directors).

Note: For laws about delegations, see the Legislation Act, pt 19.4. For example, a subcommittee must not subdelegate powers given to the subcommittee under this subrule.

- (3) If the Board delegates a function to a subcommittee, the subcommittee may, subject to any limitation or condition in the delegation—
 - (a) meet on the dates and at the times and places agreed by the subcommittee; and
 - (b) decide its own procedures.

Division 3.2—Board composition

^3.2.1 Board membership and executive directors

Number of directors

- (1) The Board must ensure that—
 - (a) there are at least 5 directors at any time; and
 - (b) there are no more than 9 directors at any time.

Note: The members of the Association are the Board’s directors (see r ^2.3).

First Board meeting after the annual general meeting—appointments of regular directors and executive directors

- (2) At the first Board meeting following the annual general meeting of the Association, the Board must—
 - (a) make any appointments of members as regular directors required under rule ^2.3; and
 - (b) under rule ^3.2.2, appoint the executive directors from among the directors.

Note: The executive directors are those directors who are appointed as the Chair, the Deputy Chair and the Treasurer, as well as any who are appointed to another office of executive director nominated by the Board (see rr ^3.1.1(d) and ^3.1.1(2)).

- (3) A director cannot hold more than one position on the Board as executive director (or as a casual executive director).

Casual executive directors

- (4) The Board may, by resolution, appoint a director as a **casual executive director** to hold office during any vacancy in the office of an executive director.

Term of office of executive directors

- (5) An executive director (including a casual executive director) holds office from when the executive director is appointed until the earlier of the following:
 - (a) the time at the first Board meeting that follows the next annual general meeting after the appointment when—
 - (i) a new executive director is appointed in their place; or
 - (ii) the executive director is re-appointed;

- (b) if the executive director resigns from office as executive director, by notice given to the Board—the time the notice is given, or a later time stated in the notice;
 - (c) the executive director is removed from office as a director (under rule ^3.2.7(1)) or as an executive director (under rule ^3.2.7(2));
 - (d) the executive director’s membership of the Association ends under rule ^2.6.
- (6) An executive director is eligible for re-appointment.

^3.2.2 Executive directors—appointment and election procedure

- (1) If no more than one director is nominated for appointment to an office of executive director, the Board may, by resolution, appoint the director to that office.
- Note: The executive directors are the Chair, the Deputy Chair and the Treasurer, as well as any other office of executive director nominated by the Board (see r ^3.1.2).
- (2) If more than one director is nominated for appointment to any office of executive director, the Board must—
- (a) hold an election for the office in accordance with a procedure determined by the Board; and
 - (b) appoint the nominee who wins the election to that office.
- (3) An election under paragraph (2)(a) must be held in accordance with a procedure—
- (a) determined under subrule (4); or
 - (b) if no such procedure has been determined—determined by the Board, by resolution at the meeting at which the election is held.
- (4) The Board may, by by-law, determine appointment and election procedures for executive directors.

^3.2.3 Regular directors—term of office

Main rule

- (1) The term of office of a regular director ends—
- (a) at the end of the annual general meeting in the year that is 3 years after the director was appointed, or, if the term of office is extended under subrule (2) for a further period or periods, at the end of the extended period (or the latest of the extended periods); or
 - (b) if the director’s membership of the Association ends earlier under rule ^2.6—at that time.

Note: A regular director’s membership of the Association ends (at the latest) at the end of the director’s term of office (see r ^2.6(a)). A person is disqualified from again becoming a member and director within 12 months after the person’s membership ends for any reason (see r ^2.4(a)).

Extensions of term

- (2) The Board may, by resolution, extend a director’s term of office as a regular director with effect from the end of the initial period of 3 years mentioned in subrule (1)—
- (a) for a further period of up to 3 years; and

- (b) after an extension under paragraph (a)— for a further specified period of no longer than 1 year after the end of the extended period.
- (3) An extension of office under paragraph (2)(b) may be made only if the Board considers that there are special circumstances requiring such an extension in the interests of the effective governance of the Association.

Note: For the term of office of directors in office immediately before these rules came into effect, see Sch 4, r ^S4.3.

^3.2.4 Casual directors—term of office

- (1) The term of office of a casual director ends—
 - (a) at the end of the next annual general meeting after the director was appointed; or
 - (b) if the director’s membership of the Association ends earlier under rule ^2.6—at that time.
- (2) However, the Board may, by resolution, at the first Board meeting after the next annual general meeting following the person’s appointment as a casual director, appoint the person as a regular director.
- (3) A person appointed as a regular director under subrule (2) is taken to continue to be a member of the Association despite rule ^2.6(a).

Note 1: Rule ^2.6(a) would otherwise result in the person’s membership ending at the end of the annual general meeting concerned.

Note 2: For the term of office of directors in office immediately before these rules came into effect who were appointed to fill a casual vacancy, see Sch 4, r ^S4.4.

^3.2.5 Directors—remuneration

- (1) The Board may, by resolution, determine either or both of the following:
 - (a) remuneration of directors for carrying out the duties of office;
 - (b) expenses incurred by directors in carrying out the duties of office.
- (2) A director is entitled to remuneration or expenses (or both) in accordance with the terms of any determination made under subrule (1).

^3.2.6 Directors—leave of absence

- (1) At the request of a director, the Board may, by resolution, grant leave of absence to a director for an occasion (for example, a particular Board meeting or general meeting) or for a period of time, including leave of absence in relation to a previous occasion or time.
- Note: A director may be removed from office if the director does not attend 2 consecutive Board meetings, and has not been granted leave of absence under this rule for any of those meetings (see r ^3.2.7(1)(a)).
- (2) While a person who has been appointed as a director is on leave of absence under subrule (1), the person is taken not to be a member of the Association, or a director.

Note: As a result, for example, the person has no rights as a member or director to be notified of, or to vote or otherwise participate in, general meetings and Board meetings.

^3.2.7 Directors—removal from office

- (1) The Association may, by special resolution, remove a director from the Board before the end of the director’s term of office if the director—

- (a) both—
 - (i) does not attend 2 consecutive Board meetings; and
 - (ii) has not been granted leave of absence under rule ^3.2.6 from either of those 2 meetings; or
- (b) does not exercise their functions or discharge their duties as a director for a period of at least 3 months for reasons including (without limitation) physical or mental illness, or other incapacity; or
- (c) does not exercise their functions or discharge their duties as a director under the Associations Act, section 66A (duty of care and diligence); or
- (d) does not exercise their functions or discharge their duties as a director under the Associations Act, section 66B (duty of good faith and proper purpose); or
- (e) contravenes—
 - (i) the Associations Act, section 66C (use of position); or
 - (ii) the Associations Act, section 66D (use of information).

Note: A director stops being a member of the Association if the director is removed from office (see r ^2.6(a)).

- (2) The Association may, by special resolution, remove an executive director (including a casual executive director) from office as an executive director.
- (3) The presiding member at a general meeting called to consider a special resolution mentioned in subrule (1) or (2) must ensure that—
 - (a) the special resolution is the only item of business at the general meeting; and
 - (b) the director or executive director is given the opportunity to be heard (whether by written or oral submission, or both) about the special resolution; and
 - (c) the members present at the meeting vote on the special resolution by a secret ballot.
- (4) Despite rule ^3.2.6 and Schedule 2, r ^S2.9(4), in this rule, a reference to a director, or an executive director, who may be removed from office includes a reference to a person who is a director (including a director who is an executive director) while—
 - (a) the person is on leave of absence as a director under rule ^3.2.6; or
 - (b) the person’s membership is suspended as a result of disciplinary action under Schedule 2.

Division 3.3—Board meetings

^3.3.1 Board meetings—general

When are Board meetings held?

- (1) The Board must hold at least 3 Board meetings between the end of an annual general meeting and the start of the next annual general meeting.
- (2) Board meetings must be held on a date, and at a time and place—
 - (a) decided by the Board, by resolution; or

- (b) requested by a director under subrule (3).
- (3) A director (or directors) may, at any time, request the Chair or the Chief Executive Officer to call a Board meeting on a day at least 3 business days after the date of the request.

Virtual participation in Board meetings

- (4) The Board may, by resolution, decide to hold a Board meeting virtually.
- (5) A director who takes part in a Board meeting virtually is taken, for all purposes, to be present at the meeting.

^3.3.2 Board meetings—notice and business

- (1) The Board must ensure that each director is given notice (a **Board meeting notice**) of a Board meeting at least—

- (a) 48 hours before the meeting; or
- (b) if the Board unanimously agrees on another period—that period before the meeting.

Note: The Board may require the Chief Executive Officer to give notices under this rule.

- (2) The Board meeting notice must state—

- (a) the date, time and place of the meeting; and
- (b) if the meeting is to be held virtually—how the directors may take part; and
- (c) the general nature of the business to be conducted at the meeting; and
- (d) if the meeting is called under rule ^3.3.1(3)—that the meeting is called at the request of the director (or directors) identified in the notice.

- (3) The Board may conduct business at a Board meeting only if—

- (a) the business is covered by the Board meeting notice; or
- (b) the majority of the directors at the meeting agree that it is appropriate to conduct the business at the meeting.

^3.3.3 Board meetings—Chair

A Board meeting must be chaired by—

- (a) the Chair; or
- (b) if the Chair is absent—the Deputy Chair; or
- (c) in any case—a director appointed, by resolution, to chair the meeting by the directors at the meeting.

^3.3.4 Board meetings—quorum

- (1) The Board may conduct business at a Board meeting only while there is a quorum of directors present of at least half of the current number of directors.
- (2) If a quorum is not present at the time stated in the Board meeting notice, the time of the meeting is taken to be postponed for 30 minutes.

(3) If a quorum is not present after the 30-minute postponement, the meeting is ended.

Note If a quorum for a Board meeting is not reached because a director present at the meeting has a personal interest in a matter being considered, a general meeting may be called to pass a resolution to deal with the matter (see the Associations Act, s 65A (3)).

^3.3.5 Board meetings—voting

Voting generally

(1) Each director—

- (a) has 1 vote on each question arising at the committee meeting; and
- (b) may only vote personally.

Note: A director who has a material personal interest in a matter to be considered at a Board meeting:

- (a) must disclose the interest (see the Associations Act, s 65); and
- (b) must not take part in a Board meeting while the matter is being considered, and must not vote on the matter (see the Associations Act, s 65A).

(2) A resolution is carried if a majority of the directors at the committee meeting vote in favour of the resolution.

(3) However, if the votes on a question are equal, the Chair has a second or deciding vote.

(4) The directors at a Board meeting may vote on a question at the meeting orally, in writing or by a show of hands.

Voting by ballot

(5) However, a vote on a question at a committee meeting must be conducted by ballot at the meeting if—

- (a) the Chair decides that the vote is to be by ballot; or
- (b) at least 2 directors request the vote to be by ballot.

(6) If a ballot is required, the ballot must be conducted in a way decided by the Chair.

^3.3.6 Board meetings—minutes

(1) The Board must ensure that minutes are taken for each Board meeting.

Note: The Board may require the Chief Executive Officer to take minutes of Board meetings.

(2) The following must be recorded in the minutes:

- (a) the names of the directors at the meeting;
- (b) whether the Board agreed that the minutes of the previous Board meeting are correct;
- (c) a description of the business conducted at the meeting;
- (d) if a director makes a disclosure of a material personal interest as required by the Associations Act, section 65 (1)—
 - (i) the nature and extent of the interest; and
 - (ii) the relationship of the interest to the Association’s activities;
- (e) any resolution on which a vote is taken at the meeting and the outcome of the vote.

Note A summary of the minutes of Board meetings must be provided to members of the Association on request (see the Associations Act, s 35). However, the Board may refuse access to any document if satisfied that allowing access would be prejudicial to the Association's interests (see the Associations Act, s 35A). See also r ^3.3.7 (Board meetings—records).

^3.3.7 Board meetings—records

The Board must ensure that the following records are kept in relation to each Board meeting:

- (a) Board meeting notices;
- (b) minutes of Board meetings;
- (c) copies of documents considered at Board meetings;
- (d) any other documents related to the Board meeting or to business at the meeting that the Board, by resolution, directs should be retained as records.

Note 1: The Board may require the Chief Executive Officer to keep the Association's records under this rule.

Note 2: See r ^6.2(1) for how the Association's records are to be kept. See r ^6.2(3), and the Associations Act, ss 35 and 35A, for access to such records.

Division 3.4 – Chief Executive Officer

^3.4.1 Role of the Chief Executive Officer

Appointment

- (1) The Board must, by resolution, appoint a Chief Executive Officer of the Association on such terms and conditions as the Board considers appropriate, including (without limitation) terms and conditions as to remuneration.
- (2) The terms and conditions may include the requirement to carry out either or both of the following functions:
 - (a) the functions of the public officer of the Association;
 - (b) functions associated with the office of a secretary of an incorporated association.

Note: The Board may appoint the Chief Executive Officer under r ^3.1.2(3) as the public officer of the Association.

- (3) The Chief Executive Officer must be appointed as an employee of the Association.

Note: The *Fair Work Act 2009* (Cwlth) applies to the employment of the Chief Executive Officer, including the provisions of the Act relating to unfair dismissal.

Attendance at Board meetings

- (4) The Chief Executive Officer, or a staff member of the Association representing the Chief Executive Officer—
 - (a) must attend all Board meetings; and
 - (b) may take part in Board deliberations (subject to subrule (5)); and
 - (c) is not entitled to vote at a Board meeting.

Note: The Chief Executive Officer cannot be a member or director of the Association (see r 2.4(b)).

Conflict of interest

- (5) If the Chief Executive Officer, or a staff member of the Association, present at a Board meeting has a material personal interest in a matter that is to be, or that is being, considered at that meeting, the Chief Executive Officer or the staff member has the same obligations in relation to the matter as a director would have under the Associations Act if the director had such an interest in the matter.

Note: Under the Associations Act, s 65, a director must disclose a material personal interest in a matter to be considered by a Board meeting. Under that Act, s 65A, a director must not be present at a meeting while a matter in which the director has a material personal interest is being considered by a Board meeting, or vote on the matter.

Part 4 —General meetings

- Note 1 The Association must hold an annual general meeting once each calendar year, within 5 months after the end of the Association’s financial year (see the Associations Act, s 69). The Association’s financial year ends on 31 December.
- Note 2 The Association’s incorporation may be cancelled if it has not convened an annual general meeting during the previous 3 years (see the Associations Act, s 93 (1) (d)).
- Note 3 Rule ^4.1 deals specifically with annual general meetings. The other rules in this Part apply to all general meetings, including annual general meetings as relevant.

^4.1 Annual general meetings—notice and business

- (1) The Board must ensure that notice of an annual general meeting is given to each member.

Note: The Board may require the Chief Executive Officer to give notices under this rule.

- (2) The notice must be given—

- (a) at least 14 days before the date fixed for the annual general meeting; or
- (b) if a special resolution is to be considered at the meeting—at least 21 days before the date fixed for the meeting.

Note A special resolution requires at least 21 days notice (see the Associations Act, s 70).

- (3) The notice must—

- (a) state the date, time and place of the annual general meeting; and
- (b) if the meeting is to be held virtually—state how members may take part in the meeting; and
- (c) include the agenda for the annual general meeting; and
- (d) attach minutes of the previous annual general meeting; and
- (e) attach reports on the Association’s activities during the preceding financial year; and
- (f) provide information and documents directly relevant to any matters to be decided, dealt with or done at the annual general meeting.

Examples—information relevant to matters to be decided

1 Information about the appointment of prospective new members.

2 Information about a proposed budget for the Association.

3 Any documents the Association is required to lodge with the registrar-general under the Associations Act, section 79(1).

- (4) The following (without limitation) must be done at an annual general meeting:

- (a) the minutes of the previous annual general meeting must be approved;
- (b) reports on the on the Association’s activities during the preceding financial year must be presented;
- (c) the documents mentioned in the Associations Act, section 73 (1) must be presented (including the auditor’s report);
- (d) an auditor must be appointed for the current financial year (see rule ^5.2).

Note The Associations Act, s 73 (1) requires the Board to present a statement of accounts, an auditor’s report (for a large Association), and a report about the Board membership, principal activities and profit or loss.

^4.2 General meetings—called by the Board

The Board may call a general meeting whenever it considers appropriate.

^4.3 General meetings (other than the AGM)—called at request of members

- (1) The Board must call a general meeting (other than an annual general meeting) if—
 - (a) at least 20% of the members of the Association (the **requesting members**) ask for a meeting to be called; and
 - (b) the request—
 - (i) is made in writing; and
 - (ii) is given to the Chair or the Chief Executive Officer; and
 - (iii) states the purpose of the meeting; and
 - (iv) is signed by each requesting member.
- (2) If the Board does not call a general meeting within 1 month after the date of the request, a requesting member may call a general meeting to be held not more than 3 months after the date of the request.
- (3) If a general meeting is called under subrule (2), the requesting members must give the general meeting notice required under rule ^4.4(1) to each member of the Association.
- (4) The Board must reimburse any reasonable expenses incurred by the requesting members in calling a general meeting under subrule (2).

^4.4 General meetings (other than the AGM)—notice and business

General meeting notice

- (1) The Board must ensure that each member is given notice of a general meeting (a **general meeting notice**) other than an annual general meeting—
 - (a) at least 5 days before the meeting; or
 - (b) if a special resolution is to be considered at the meeting—at least 21 days before the meeting.

Note 1: The Board may require the Chief Executive Officer to give notice of a general meeting under this rule, and to prepare the agenda for the meeting.

Note 2: A special resolution requires at least 21 days notice (see the Associations Act, s 70).

- (2) A general meeting notice must—
 - (a) state the date, time and place of the meeting; and
 - (b) if the meeting is to be held virtually—state how members may take part in the meeting; and
 - (c) include the agenda for the meeting; and
 - (d) provide information and documents directly relevant to any matters to be decided at the meeting.

General meeting business

- (3) The presiding member must ensure that only the following business is conducted at a general meeting notified under this rule or rule ^4.3(3):
 - (a) the business covered by the general meeting notice;
 - (b) decisions about the procedure of the meeting.

^4.5 General meetings—business included in the agenda

- (1) A member may give the Chair or the Chief Executive Officer notice about any business the member would like to be considered at a general meeting (including the annual general meeting).
- (2) The Board must ensure that any business notified under subrule (1) is included as an agenda item in the earlier of the notice of a general meeting given under—
 - (a) rule ^4.1 (annual general meetings—notice and business); or
 - (b) rule ^4.4 (general meetings (other than the AGM)—notice and business.

^4.6 General meetings—virtual meetings

- (1) A general meeting may be held virtually if—
 - (a) the Board so decides, by resolution; or
 - (b) for a meeting called by requesting members under rule ^4.3—the requesting members request that the meeting should, or may, be held virtually.
- (2) A member who takes part in a general meeting virtually is taken, for all purposes, to be present at the meeting.

^4.7 General meetings—presiding member

The *presiding member* at a general meeting is—

- (a) the Chair; or
- (b) if the Chair is absent—the Deputy Chair; or
- (c) in any case—another director, appointed by resolution at the meeting.

^4.8 General meetings—quorum

- (1) The members of the Association may conduct business at a general meeting only while there is present a quorum of a least half the number of members.
- (2) If a quorum is not present at the time stated in the general meeting notice, the time of the meeting is taken to be postponed for 30 minutes.
- (3) If a quorum is not present after the 30-minute postponement, the presiding member may adjourn the meeting to another day and time that is not earlier than 7 days, and not later than 14 days, after the meeting that is being adjourned.
- (4) The Board must, within 48 hours after adjourning a meeting under subrule (3), give each member notice stating—

- (a) that the meeting was adjourned under subrule (3); and
 - (b) the new date, time and place of the meeting; and
 - (c) if the adjourned meeting is to be held virtually—how members may take part in the meeting.
- (5) The only business that may be conducted on the resumption of an adjourned meeting is the business that remained unfinished when the meeting was adjourned.

^4.9 General meetings—voting

- (1) Each member of the Association—
- (a) has 1 vote on each question arising at a general meeting; and
 - (b) may only vote personally.
- (2) A motion is carried (except in the case of a special resolution) if a majority of the members vote in favour of the motion.
- Note A special resolution needs at least $\frac{3}{4}$ of the votes to pass (see the Associations Act, s 70).
- (3) However, if the votes on a question are equal, the presiding member has a second or deciding vote.
- (4) The members at a general meeting may vote on a question at the meeting orally, in writing or by a show of hands.
- (5) However, a vote on a question at a general meeting must be by ballot conducted at the meeting if—
- (a) the presiding member directs that the vote is to be by ballot; or
 - (b) at least 3 members present at the meeting request that the vote be by ballot.

^4.10 General meetings—minutes

- (1) The Board must ensure that minutes are taken and kept for each general meeting.
- Note 1: The Board may require the Chief Executive Officer to take and keep minutes of general meetings.
- Note 2: See r ^6.2(1) for how the Association’s records (including minutes of general meetings) are to be kept. See r ^6.2(3), and the Associations Act, ss 35 and 35A, for access to such records.
- (2) The following must be recorded in the minutes:
- (a) the names of the members present at the meeting;
 - (b) a description of the business conducted at the meeting;
 - (c) if a vote is taken at the meeting—
 - (i) the motion on which the vote is taken; and
 - (ii) the outcome of the vote; and
 - (iii) whether the vote was taken orally, in writing, by a show of hands or by ballot.
- (3) The presiding member must review the minutes and sign them if they are correct.

- (4) The outcome of a vote on a matter at a general meeting is taken to be the resolution of the general meeting of the members of the Association on the matter.

^4.11 General meetings—adjournment

- (1) The presiding member may, at any time, adjourn a general meeting if—

- (a) there is a quorum; and
- (b) the majority of members vote to adjourn the meeting.

Note: A general meeting may also be adjourned if a quorum is not present (see r ^4.8).

- (2) The only business that may be conducted on the resumption of an adjourned meeting is the business that remained unfinished when the meeting was adjourned.

Part 5—Finances

^5.1 Financial year

The financial year of the Association is the year ending on 31 December.

^5.2 Auditor

- (1) The Association must, at each annual general meeting, appoint an auditor for the current financial year of the Association.
- (2) The Board must fix the remuneration for the auditor.

Note: See the Associations Act, ss 74-79, for provisions relating to the auditor and the auditor's functions.

^5.3 Funds—source

- (1) The Association's funds consist only of the following:
 - (a) ACT Government and other funding as a major ACT arts organisation, as well as funding from other governments, authorities and institutions;
 - (b) revenue received in relation to the provision of arts activities in accordance with the Association's objects;
 - (c) donations;
 - (d) any other source that the Board decides, by resolution, subject to—
 - (i) the Associations Act, section 114 (investment with associations); and
 - (ii) any resolution passed by the Association at a general meeting.
- (2) The Board must—
 - (a) issue a receipt for any money received by the Association as soon as practicable after the money is received, unless it is impracticable to do so; and
 - (b) ensure that all money received by the Association is deposited into the TCAA general account with an authorised deposit-taking institution as soon as practicable after the money is received.

Examples—when impracticable to issue receipt

- 1 A gold coin donation.
- 2 An anonymous donation.

^5.4 Funds—general use and management

- (1) The Association must—
 - (a) open and maintain an account (the **TCAA general account**) with an authorised deposit-taking institution; and
 - (b) pay all money received by the Association into the TCAA general account, except money paid into the TCAA public fund under rule ^5.5; and
 - (c) pay all amounts spent by the Association out of the TCAA general account.

Note An **authorised deposit-taking institution** is an institution (eg a bank, credit union or building society) that is authorised under the *Banking Act 1959* (Cwlth), s 9(3) (see Legislation Act, dict, pt 1).

- (2) The Association's funds may be used only to advance the Association's objects—
 - (a) in the way the Board decides; or
 - (b) if a general meeting passes a resolution about the way the funds are to be used—in accordance with the resolution.
 - (3) The Board may make payments on the Association's behalf.
 - (4) The Board may delegate its functions under subrule (3) to—
 - (a) a director; or
 - (b) a person employed or engaged by the Association.
- Note For laws about delegations, see the Legislation Act, pt 19.4.

^5.5 TCAA public fund

What is the TCAA public fund?

- (1) The public fund for the Association maintained for the purposes of the rules of the Association as in force immediately before the commencement time is continued under this rule as the **TCAA public fund**.

Note: The TCAA public fund continues to be listed on the Register of Cultural Organisations under the *Income Tax Assessment Act 1997* (Cwlth).

- (2) The TCAA public fund must be kept separate from the TCAA general account.

Principal purpose

- (3) The principal purpose of the TCAA public fund is to advance the objects of the Association by providing a way for members of the public to make Commonwealth income tax deductible contributions to the Association.

Administration

- (4) The TCAA public fund must be administered by a committee, appointed by resolution of the Board, that meets the following criteria:
 - (a) the committee consists of at least 3 persons, any or all of whom may be directors;
 - (b) a majority of the committee members must be persons having a degree of responsibility to the general community by reason of their occupation or standing in the community, in addition (in the case of committee members who are directors) to their responsibilities as directors of the Association.

Sources of fund

- (5) The TCAA public fund may consist only of the following:
 - (a) gifts to the Association that are made to advance the objects of the Association;
 - (b) money received because of those gifts, including the following:
 - (i) proceeds from the sale of gifted property;
 - (ii) returns from investments in money in the TCAA public fund, if invested in accordance with the guidelines (if any) for such public funds issued by the Australian Taxation Office;

- (c) distributions from funds, authorities or institutions in Australia mentioned in the *Income Tax Assessment Act 1997* (Cwlth), Subdivision 30-B, or charities (within the meaning of the *Charities Act 2013* (Cwlth)).
- (6) For the purposes of subrule (5), **gifts** are the following:
- (a) gifts of money (whether deductible or non-deductible by the donor) and property;
 - (b) testamentary gifts (made under a will);
 - (c) the whole amount of deductible contributions made to a fund-raising event staged to raise funds to advance the objects of the Association.
- (7) The committee administering the TCAA public fund must ensure that—
- (a) a receipt is issued for any money or property received for deposit into the fund, indicating that it has been deposited into that fund, unless it is impracticable to do so; and
 - (b) money received for deposit into the fund is deposited into a separate account with an authorised deposit-taking institution (other than the TCAA general account) as soon as practicable after the money is received; and
 - (c) records are kept evidencing the receipt and use of money and property in the fund.

Examples—when impracticable to issue receipt

- 1 A gold coin donation.
- 2 An anonymous donation.

Use of money and property

- (8) Money and property of the fund—
- (a) except in the case described in subrule (9) (winding up etc.), may be transferred out of the fund only—
 - (i) to advance the objects of the Association; and
 - (ii) in accordance with a decision of the committee appointed under subrule (4); and
 - (b) must not be distributed to persons in their capacity as members of the Association, or as directors, except as—
 - (i) reimbursement for out of pocket expenses; or
 - (ii) proper remuneration for administrative services.

Winding up etc.

- (9) In the event of the TCAA public fund being wound up or dissolved, including in the course of the winding-up or dissolution of the Association, the surplus assets remaining after the payment of the fund's liabilities must be transferred to another fund, authority or institution that—
- (a) is mentioned in the *Income Tax Assessment Act 1997* (Cwlth), Subdivision 30-B; and
 - (b) has objects similar to those of the Association; and
 - (c) has been nominated by special resolution.

Note: On dissolution of the Association, all of the Association's surplus property may be transferred to a fund, authority or institution described in this subrule, but it need not be the same as the fund, authority or institution nominated under this subrule (see the Associations Act, s 92(2)).

Notice to ATO

- (10) The Board must notify the Australian Taxation Office (or another agency responsible for the administration of the Register of Cultural Organisations under the *Income Tax Assessment Act 1997* (Cwlth)) of any alterations made to these rules in relation to the management or administration of the TCAA public fund.

Part 6—Miscellaneous

^6.1 Insurance and indemnity

Insurance

- (1) The Association must take out and maintain insurance to protect its directors, Chief Executive Officer, staff, property and volunteers.

Note: There are no members of the Association apart from its directors (see r ^2.3).

Indemnity

- (2) The Association must indemnify a person against liability incurred by the person as a director while carrying out the person's functions as a director—

- (a) to the extent that the person is not otherwise indemnified; and
- (b) unless the liability arises out of conduct—
 - (i) contravening the Associations Act; or
 - (ii) undertaken dishonestly.

Note: For a director's conduct that contravenes the Associations Act, see in particular the Associations Act, s 66A (duty of care and diligence), s 66B (duty of good faith and proper purpose), s 66C (misuse of position) and s 66D (misuse of information).

- (3) The Board may, by resolution, require the Association to make a payment (by way of loan advance or otherwise) in respect of legal costs incurred by a person—

- (a) in defending an action for liability incurred as mentioned in subrule (1); or
- (b) in resisting or responding to actions taken by an agency of the Commonwealth or a State or Territory, or a liquidator.

- (4) The Association may enter into an agreement with a person to give effect to the rights of the person under this rule on any terms and conditions that the Board thinks fit, without limiting those rights.

- (5) The indemnity under this rule is a continuing indemnity.

^6.2 Records and other documents

- (1) The Board must ensure that all the Association's records and other documents, other than accounting records, are kept in safe custody under the Board's control.

- (2) The Treasurer must ensure that the Association's accounting records are kept in safe custody under the Board's control.

- (3) The Board must ensure that all the Association's records and other documents (other than the register of members) are available for inspection by a member free of charge at a place in the ACT at a reasonable time, subject to the Associations Act, section 35A.

Note 1: The Associations Act, section 35A provides that the Board may refuse to allow a member to inspect a record or other document if satisfied that allowing access would be prejudicial to the Association's interests (see also Associations Act, s 35).

Note 2: The Associations Act provides for inspection of the register of members (see the Associations Act, s 67A). A member may apply to restrict access to personal information of the member recorded on the register of members (see the Associations Act, s 67B).

^6.3 Common seal

- (1) This rule applies if the Association has a common seal.
- (2) The Board must ensure that the common seal is kept in safe custody under the Board's control.
- (3) The common seal may be attached to a document only if its attachment is—
 - (a) authorised by the Board; and
 - (b) witnessed by 2 committee members.

Note The Association's documents may be authenticated or executed other than under a common seal (see the Associations Act, s 55).

^6.4 Property of defunct Association

- (1) The Association may pass a special resolution nominating another association, or a fund, authority or institution, in which surplus property of the Association, apart from any property covered by subrule (2), is to vest on dissolution, or the completion of the winding-up, of the Association.

Note 1 If the Association does not nominate another association, fund, authority or institution, the surplus property (apart from property covered by subrule (2)) vests in the registrar-general (see the Associations Act, s 92(1)(c)).

Note 2 An association may be nominated only if it complies with the Associations Act, s 92 (2). A fund, authority or institution may be nominated only if it is in Australia and is mentioned in the *Income Tax Assessment Act 1997* (Cwlth), sdiv 30-B (see the Associations Act, s 92(1)(a) and (b)).

Note 3 All money and property in the TCAA public fund must be transferred to another fund, authority or institution of the sort described in Note 2 if the fund is being wound up, including if it is being wound up in the course of the winding-up of the Association (see r ^5.5(9)).

- (2) On the dissolution, or the completion of the winding-up, of the Association, subject to any licence granted to the Association by the Territory, or any deed or agreement between the Association and the Territory—
 - (a) all the property (including all fixtures, furniture, fittings and equipment) at the premises occupied by the Association, including property purchased by the Association, is to remain with the premises; and
 - (b) such property vests in the Australian Capital Territory.

^6.5 By-laws

- (1) The Board may, by resolution, make by-laws for the purposes of these rules.
- (2) A by-law is binding on the Association and on persons in their capacity as members and directors.
- (3) However, a by-law is not valid to the extent of any inconsistency with these rules.
- (4) A by-law may be amended or repealed by the Board, or by the Association at a general meeting.

Note: The Legislation Act, s 44 provides that the power to make by-laws covers matters required or permitted, or necessary or convenient, to be prescribed for these rules, and for a number of related matters.

^6.6 Transition from old rules

The rules in Schedule 4 apply to matters relating to the transition between the rules of the Association as in force immediately before the commencement time and these rules.

Schedule 1—Disputes

^S1.1 Dispute resolution—purpose

- (1) The purpose of this Schedule is to set out the procedure the Association must use if there is a dispute under the Associations Act or these rules about a matter between any of the following *parties*:

- (a) a member and another member;
- (b) a member and the Association.

Note: Paragraph (1)(b) includes a dispute between a member and the Board, or a director, acting on behalf of the Association.

- (2) In this Schedule, a reference to a member who is a party to the dispute includes a reference to a person acting on behalf of the member under the Associations Act, s 65B(2) in the dispute resolution procedure.

Note 1: This Schedule applies subject to the principles set out in the Associations Act, s 65B(3).

Note 2: If a dispute between a member and the Association concerns the member in the member's capacity as a director (or executive director), the dispute may be dealt with by consideration of whether the director (or executive director) should be removed from office under rule ^3.2.7. If a director is removed from office as a director, the director's membership of the Association ends under rule ^2.6.

^S1.2 Dispute resolution—resolution by parties between themselves

The parties to the dispute must make a reasonable attempt to resolve the dispute between themselves.

^S1.3 Dispute resolution—start of procedure

- (1) If the dispute is not resolved within a reasonable time, any party may start a dispute resolution procedure by giving notice of the dispute to the Board including details of the following:

- (a) the parties to the dispute;
- (b) the subject matter of the dispute;
- (c) attempts to resolve the dispute;
- (d) a suggested decision-maker, or a selection of suggested decision-makers, if any, agreed by the parties.

- (2) If the Association is a party to the dispute, the Board may give notice of the dispute under subrule (1) by resolution at a Board meeting.

Note 1: A disciplinary procedure cannot be started against a member in relation to a matter while there is an ongoing dispute resolution procedure in relation to the matter (see the Associations Act, s 65B(4)).

Note 2: A dispute resolution procedure cannot be started in relation to a matter while there is an ongoing disciplinary procedure in relation to the matter (see the Associations Act, s 65C(4)).

^S1.4 Dispute resolution—appointment of decision-maker

- (1) As soon as practicable after notice of the dispute is given under rule ^S1.3, the Board must appoint a decision-maker to decide the outcome of the dispute.

Note: The appointment must be made in accordance with the Legislation Act, pt 19.3.

- (2) The decision-maker must be—

- (a) nominated by agreement between the parties; or
 - (b) in the absence of agreement—
 - (i) if the dispute is between members—appointed by the Board, by resolution; or
 - (ii) if the Association is a party—a person appointed by Relationships Australia, or a member of the Institute of Arbitrators and Mediators Australia.
- (3) The Board may appoint a person as decision-maker only if the Board reasonably considers that the person—
- (a) is unbiased; and
 - (b) has appropriate knowledge, skills and experience; and
 - (c) does not have a material personal interest that could give rise to a conflict of interest, or the appearance of a conflict of interest, in relation to the dispute.
- (4) A person is not disqualified from being a decision-maker only because the person is or has been a member.
- (5) As soon as practicable after a decision-maker has been appointed under this rule, the Board must ensure that each party is given notice of the appointment including—
- (a) a copy of the notice of dispute under rule ^S1.3; and
 - (b) details of the decision-maker.
- (6) The Board must ensure that the decision-maker is given all information and facilities reasonably necessary in order to carry out the dispute resolution procedure under this Schedule, including any information and facilities reasonably requested by the decision-maker.

^S1.5 Dispute resolution—process

- (1) The Board must ensure that the decision-maker conducts the dispute resolution procedure in accordance with this rule.
- (2) The decision-maker must—
- (a) give each party every opportunity to be heard; and
 - (b) allow due consideration by all parties of any written statement submitted by any party; and
 - (c) ensure that natural justice is accorded to the parties throughout the procedure; and
 - (d) complete the procedure as soon as practicable.
- (3) The decision-maker must complete the procedure by giving each party, and the Board (if the Board is not a party), notice of the decision-maker’s decision about the dispute stating—
- (a) the dispute decision; and
 - (b) the reasons for the decision; and
 - (c) that a party to the dispute may appeal the dispute decision under Schedule 3 within 7 business days after the day the notice is given to the party.

^S1.6 Dispute resolution procedure—ending dispute by agreement

- (1) The parties to a dispute may agree to end the dispute at any time before the decision-maker decides the outcome of the dispute.
- (2) If the parties agree to end the dispute, they must give notice to the following people:
 - (a) if the Board is not a party to the dispute—the Board;
 - (b) if a decision-maker has been appointed for the dispute—the decision-maker.
- (3) The notice must state—
 - (a) that the parties have agreed to end the dispute; and
 - (b) the terms of the agreement.

^S1.7 Dispute resolution—decision of decision-maker

- (1) The Board must, in considering any matter in relation to the dispute, or the subject matter of the dispute, take into account the decision made by the decision-maker.

Example—disciplinary procedure

The decision could be taken into account in the course of a disciplinary procedure against a member.

- (2) Subrule (1) does not apply until 7 business days after the day (or the latest day) the notice of the dispute decision is given to each party, subject to subrule (3).
- (3) If a party appeals against the dispute decision under Schedule 3, the decision takes effect, subject to the outcome of the appeal, on the later of—
 - (a) the day when the appeal is withdrawn or finalised; or
 - (b) the day provided by subsection (2).

Note: The Associations Act, s 50, has the effect that any decision taken by the Association in relation to a dispute between members, or between the Association and a member, is invalid unless the rules of natural justice are complied with in any proceedings in relation to the dispute.

Schedule 2—Disciplinary procedure

^S2.1 Disciplinary procedure—purpose

The purpose of this Schedule is to set out the disciplinary procedure the Association must use if it proposes to take disciplinary action against a member in relation to the member’s status as a member of the Association.

Note: This Schedule applies subject to the principles set out in the Associations Act, s 65C(3).

^S2.2 Disciplinary procedure—grounds for disciplinary action

Each of the following is a **ground for disciplinary action** against a person in the person’s capacity as a member of the Association:

- (a) the person has failed to comply with the Associations Act or these rules;
- (b) the person has acted in a way that is likely to be harmful to the Association.

Note: Disciplinary action may be taken against a member in the member’s capacity as a director, or executive director, by removal from office under r ^3.2.7. If a director is removed from office as a director, the director’s membership of the Association ends under r ^2.6.

^S2.3 Disciplinary procedure—what is disciplinary action?

- (1) The **disciplinary action** that may be taken against a member as a result of the disciplinary procedure includes the following:

- (a) a reprimand;
- (b) suspension of membership of the Association for a stated period;
- (c) cancellation of membership of the Association and disqualification from membership for a stated period.

- (2) However, **disciplinary action** does not include a monetary penalty.

^S2.4 Disciplinary procedure—when does it start?

If the Board is satisfied that a ground for disciplinary action exists in relation to a member, the Board may, by resolution, propose to take disciplinary action (the **proposed disciplinary action**) against the member in relation to the member’s status as a member.

Note 1: The Associations Act, s 50, has the effect that any decision taken by the Association in relation to a dispute between the Association and a member is invalid unless the rules of natural justice are complied with in any proceedings in relation to the dispute.

Note 2: In addition, the Associations Act, s 65C(3) sets out a number of principles the Association must observe in applying a disciplinary procedure. This Schedule applies subject to those principles.

Note 3: A disciplinary procedure cannot be started against a member in relation to a matter while there is an ongoing dispute resolution procedure in relation to the matter (see the Associations Act, s 65B(4)).

Note 4: A dispute resolution procedure cannot be started in relation to a matter while there is an ongoing disciplinary procedure in relation to the matter (see the Associations Act, s 65C(4)).

^S2.5 Disciplinary procedure—appointment of decision-maker

- (1) As soon as practicable after a resolution is passed under rule ^S2.4, the Board must, by resolution, appoint a decision-maker to decide whether to take the proposed disciplinary action.

Note: The appointment must be made in accordance with the Legislation Act, pt 19.3.

- (2) The Board may appoint a person as decision-maker only if the Board reasonably considers that the person—
 - (a) is unbiased; and
 - (b) has appropriate knowledge, skills and experience; and
 - (c) does not have a material personal interest that could give rise to a conflict of interest, or the appearance of a conflict of interest, in relation to the matter giving rise to the disciplinary procedure.
- (3) A person is not disqualified from being a decision-maker only because the person is or has been a member.
- (4) The Board must ensure that the decision-maker is given all information and facilities reasonably necessary in order to carry out the disciplinary procedure under this Schedule, including any information and facilities reasonably requested by the decision-maker.

^S2.6 Disciplinary procedure—notice to affected member

As soon as practicable after a decision-maker has been appointed, the Board must ensure that the member subject to the proposed disciplinary action is given a notice stating—

- (a) that a disciplinary procedure has started; and
- (b) details of the proposed disciplinary action; and
- (c) the name and contact details for the decision-maker; and
- (d) any further relevant information about the procedure.

^S2.7 Disciplinary procedure—opportunity to be heard

- (1) Before deciding whether to take the proposed disciplinary action, the decision-maker must invite the member to make a written or oral submission (or both) about—
 - (a) the proposed disciplinary action; and
 - (b) the grounds for the proposed disciplinary action.
- (2) The invitation must state a period of not less than 14 business days (the *submission period*) within which the member is invited to make either or both of the following (as specified in the notice):
 - (a) a written submission;
 - (b) an oral submission.
- (3) If the member is invited to make an oral submission or submissions, the invitation must state a day or time, or days and times, when the member may make the submission.

^S2.8 Disciplinary procedure—outcome

As soon as practicable after the submission period has ended, the decision-maker must—

- (a) consider any submissions received by the decision-maker during the submission period; and

- (b) decide whether to take the proposed disciplinary action, another disciplinary action, or no disciplinary action against the member (the ***disciplinary action decision***); and
- (c) give the member and the committee notice stating the following:
 - (i) the disciplinary action decision;
 - (ii) the reasons for the disciplinary action decision;
 - (iii) if the decision-maker decides to take disciplinary action—the day the disciplinary action takes effect (which must be later than 7 business days after the day the notice is given to the member);
 - (iv) that the member or the Board may, before the decision takes effect, appeal the disciplinary action decision under Schedule 3.

^S2.9 Disciplinary procedure—effect of disciplinary decision

- (1) A decision to take disciplinary action against a member takes effect 7 days after the day of the notice of the disciplinary action decision under rule ^S2.8, or a later day stated in the notice, subject to subrule (2) of this rule.
- (2) If the member appeals against the disciplinary decision under Schedule 3, the decision takes effect, subject to the outcome of the appeal, on the later of
 - (a) the day when the appeal is withdrawn or finalised; or
 - (b) the day provided by subsection (1).
- (3) If the decision-maker decides to take disciplinary action against a person who is a member, the committee must, when the decision takes effect under this rule—
 - (a) if the person’s membership is cancelled—remove information about the person from the register of members; or
 - (b) in any other case—record the details of the disciplinary action in the register of members.
- (4) If a disciplinary action decision is to suspend a person’s membership of the Association, and of the Board, for a stated period, then after the decision takes effect under this rule, the person is taken not to be a member of the Association, or a director, during the period of suspension.

Note: As a result, for example, the person has no rights as a member or director to be notified of, or to vote or otherwise participate in, general meetings and Board meetings.

^S2.10 Disciplinary procedure—when does it stop?

- (1) A disciplinary procedure against a member must not be continued if the Board, by resolution, decides to stop the disciplinary procedure before the decision-maker makes a disciplinary action decision.
- (2) If the Board decides to stop the disciplinary procedure, the Board must ensure that notice of the decision is given to—
 - (a) the member; and
 - (b) the decision-maker.
- (3) The notice must state—

- (a) that the Board has decided to stop the disciplinary procedure for proposed disciplinary action against a member; and
- (b) the reasons for the Board’s decision to stop the disciplinary procedure.

Note: For what must be included in a statement of reasons, see the Legislation Act, s 179.

^S2.11 Disciplinary procedure—no further action by Association

If a decision-maker makes a disciplinary action decision against a member, the Association must not take, or propose to take, any further disciplinary action against the member in relation to the conduct making up the grounds for disciplinary action set out in the notice given to the member under rule ^S2.8.

Note: This rule prevents the Board from taking (or proposing to take) disciplinary action on behalf of the Association, and also prevents the Association from taking disciplinary action in any other way (for example, at a general meeting).

Schedule 3—Appeals: dispute resolution and disciplinary decisions

^S3.1 Appeals—purpose

The purpose of this Schedule is to set out a process for appeals against the following:

- (a) a decision (a **dispute decision**) made by a decision-maker, and notified to the parties to the dispute, under Schedule 1, rule ^S1.5;
- (b) a decision (a **disciplinary action decision**) made by a decision-maker, and notified to the member subject to the action, under Schedule 2, rule S2.8.

^S3.2 Appeal outcome—setting aside decision-maker’s decision

A dispute decision or disciplinary action decision may be set aside by special resolution of the Association.

Note 1: A special resolution requires at least 21 days notice and needs to be passed with at least $\frac{3}{4}$ of the votes (see the Associations Act, s 70).

Note 2: If a decision of the Association deprives a member of a right provided by the Association’s rules, the member may apply to a court for an order to vary or set aside the decision (see the Associations Act, s 49).

^S3.3 Who can appeal a decision?

- (1) A party to a dispute may appeal the dispute decision.
- (2) The following people may appeal a disciplinary action decision:
 - (a) the member who is the subject of the disciplinary action decision;
 - (b) the Board.

^S3.4 Appeal notices

A person appealing a decision must, within 7 business days after being given notice of the decision, give the Board notice of the appeal (an **appeal notice**) stating the grounds for the appeal.

^S3.5 Withdrawing an appeal

A person appealing a decision may, at any time before the appeal is decided, withdraw the appeal by giving notice to the Board.

^S3.6 General meeting to decide appeal

- (1) As soon as practicable after the Board receives an appeal notice—
 - (a) the Board must ensure that the parties to the appeal are given a copy of the appeal notice; and
 - (b) the Board must call a general meeting to consider a special resolution about the appeal.
- (2) The presiding member at the general meeting must ensure that—

- (a) the special resolution is the only item of business at the general meeting; and
 - (b) the parties to the appeal are given the opportunity to be heard (whether by written or oral submission, or both) about the special resolution; and
 - (c) the members present at the general meeting vote on the special resolution by a secret ballot.
- (3) A member who is a party to an appeal must not vote on the special resolution.

Schedule 4—Transition from old rules

^S4.1 Interpretation

In these rules:

commencement time means the time these rules came into effect.

new rules means the Association’s rules as in force at and after the commencement time.

old rules means the Association’s rules as in force immediately before the commencement time.

^S4.2 Members

A person who was a member immediately before the commencement time continues to be a member on and after that time, subject to the new rules.

^S4.3 Directors (other than casual directors)

- (1) This rule applies to a person who held office as a director immediately before the commencement time, other than a director who had been appointed to fill a casual vacancy on the Board.
- (2) The person continues to hold office as a director at and after the commencement time as if the person had been appointed as a regular director, and the new rules apply accordingly, subject to subrule (3).
- (3) Rule 42 of the old rules continues to apply in relation to the person’s term of office as a director, until the earlier of the following events:
 - (a) the person’s term of office as a director ends under rule 42 of the old rules in its continued application under this subrule;
 - (b) the person’s membership of the Association otherwise ends at the time provided rule 2.6 of the new rules .

^S4.4 Casual directors

- (1) This rule applies to a person who held office as a director immediately before the commencement time if the person had been appointed to fill a casual vacancy on the Board.
- (2) The person continues to hold office as a director at and after the commencement time as if the person had been appointed as a casual director at the commencement time, and the new rules apply accordingly.

Note: The term of office of a casual director under this rule ends at the end of the next annual general meeting after this rule comes into effect (see r ^3.2.4(1)).

^S4.5 Executive office-holders

- (1) A director who held office as the Chair, Deputy-Chair or Treasurer immediately before the commencement time continues to hold that office at and after the commencement time as if the director had been appointed to that office as an executive director, and the new rules apply accordingly.
- (2) The office of Secretary is abolished by the new rules.

^S4.6 By-laws

A by-law made by the Board before the commencement time that was in force immediately before the commencement time continues in force at and after that time as if it had been made by the Board under the new rules.

^S4.7 Matters arising under the old rules

- (1) If, immediately before the commencement time, there is a matter arising under the old rules that had not been completely finalised under the old rules, at and after the commencement time the new rules apply to that matter as if it had arisen under the new rules.
- (2) The Board may do anything necessary to ensure that such a matter is fairly and efficiently dealt with under the new rules.

Example—by-laws

The Board may make by-laws for the purposes of this rule.