



Constitution of Australian Diabetes Society Limited



Contents

INTRODUCTION.....	5
1. REPLACEABLE RULES EXCLUDED.....	5
2. DEFINITIONS AND INTERPRETATION.....	5
3. OBJECTS.....	7
4. POWERS.....	8
5. APPLICATION OF INCOME AND PROPERTY.....	8
6. NO DISTRIBUTION TO MEMBERS	8
7. LIMITED LIABILITY	9
8. GUARANTEE	9
MEMBERSHIP	9
9. NUMBER OF MEMBERS.....	9
10. CATEGORIES OF MEMBERSHIP	9
11. SPECIALIST MEMBERSHIP.....	10
12. PROFESSIONAL MEMBERSHIP.....	10
13. CORRESPONDING MEMBERSHIP	10
14. SUSTAINING MEMBERSHIP.....	11
15. RETIRED MEMBER	11
16. GRANT OF HONORARY LIFE MEMBERSHIP	11
17. FORM OF APPLICATION	11
18. ADMISSION TO MEMBERSHIP.....	12
19. NOTIFICATION BY MEMBERS	12
20. HONORARY LIFE MEMBERSHIP	12
21. REGISTER OF MEMBERS	13
ANNUAL SUBSCRIPTION.....	13
22. ANNUAL SUBSCRIPTION.....	13
23. UNPAID ANNUAL SUBSCRIPTIONS.....	13
CESSATION OF MEMBERSHIP.....	14
24. RESIGNATION.....	14
25. FAILURE TO PAY.....	14
26. CESSATION OF MEMBERSHIP	14
27. EXPULSION OF MEMBERS	14
28. EFFECT OF CESSATION OF MEMBERSHIP.....	15
APPOINTMENT OF DIRECTORS.....	15
29. COMPOSITION OF THE NATIONAL COUNCIL	15

30.	RETIREMENT AND ELECTION OF DIRECTORS.....	16
31.	NOMINATION FOR ELECTION	16
32.	ELECTION PROCEDURE FOR DIRECTORS.....	16
33.	TIME APPOINTMENT OR RETIREMENT TAKES EFFECT.....	17
34.	OFFICE BEARERS	17
35.	ELECTION OF OFFICE BEARERS AT NATIONAL COUNCIL MEETING	17
36.	ELIGIBILITY AND NOMINATION.....	17
APPOINTMENT OF DIRECTORS OF THE NATIONAL COUNCIL BETWEEN ANNUAL GENERAL MEETINGS.....		
37.	CASUAL VACANCIES.....	18
38.	INSUFFICIENT DIRECTORS	18
ALTERNATE DIRECTORS OF THE NATIONAL COUNCIL		
39.	APPOINTMENT.....	18
40.	RIGHTS AND POWERS OF ALTERNATE DIRECTOR OF THE NATIONAL COUNCIL	18
41.	SUSPENSION OR REVOCATION OF APPOINTMENT	18
42.	TERMINATION OF APPOINTMENT	19
POWERS OF NATIONAL COUNCIL		
43.	VALIDATION OF ACTS OF NATIONAL COUNCIL	19
44.	GENERAL BUSINESS MANAGEMENT	19
45.	NEGOTIABLE INSTRUMENTS.....	19
46.	ESTABLISHMENT OF BRANCHES OF THE SOCIETY	20
47.	REGULATIONS.....	20
COMMITTEES OF THE NATIONAL COUNCIL		
48.	MEMBERSHIP COMMITTEE	20
49.	OTHER COMMITTEES.....	20
REMOVAL AND RESIGNATION OF DIRECTORS OF THE NATIONAL COUNCIL.....		
50.	REMOVAL OF DIRECTORS OF THE NATIONAL COUNCIL	21
51.	RESIGNATION OF A DIRECTOR OF THE NATIONAL COUNCIL	21
52.	VACATION OF OFFICE OF DIRECTOR OF THE NATIONAL COUNCIL	21
DIRECTORS' INTERESTS.....		
53.	PROHIBITION ON BEING PRESENT OR VOTING.....	22
54.	CONFLICT	22

REMUNERATION OF DIRECTORS	22
55. NO DIRECTORS' REMUNERATION	22
56. DIRECTORS' EXPENSES.....	22
INDEMNITY AND INSURANCE	23
57. INDEMNITY	23
NATIONAL COUNCIL MEETINGS	23
58. MEETINGS OF THE NATIONAL COUNCIL.....	23
59. CALLING NATIONAL COUNCIL MEETINGS	23
60. NOTICE OF MEETING	23
61. TECHNOLOGY MEETING OF NATIONAL COUNCIL	23
62. CHAIRING NATIONAL COUNCIL MEETINGS	24
63. QUORUM	24
64. PASSING OF NATIONAL COUNCIL RESOLUTIONS	24
65. CIRCULATING RESOLUTIONS.....	25
MEETINGS OF MEMBERS.....	25
66. CIRCULATING RESOLUTIONS.....	25
67. CALLING OF GENERAL MEETING.....	25
68. AMOUNT OF NOTICE OF MEETING.....	26
69. PERSONS ENTITLED TO NOTICE OF GENERAL MEETING.....	26
70. HOW NOTICE IS GIVEN	26
71. WHEN NOTICE IS GIVEN	27
72. PERIOD OF NOTICE.....	28
73. CONTENTS OF NOTICE.....	28
74. NOTICE OF ADJOURNED MEETING.....	28
75. FAILURE TO GIVE NOTICE	28
76. TECHNOLOGY	29
77. QUORUM	29
78. CHAIR AT GENERAL MEETINGS.....	29
79. BUSINESS AT ADJOURNED MEETINGS.....	30
PROXIES AND BODY CORPORATE REPRESENTATIVES	30
80. WHO CAN APPOINT A PROXY.....	30
81. VOTES BY PROXY	30
82. DOCUMENT APPOINTING PROXY.....	30
83. LODGEMENT OF PROXY.....	31
84. VALIDITY OF PROXY VOTE.....	32
85. ATTORNEY OF MEMBER	32

VOTING AT MEETINGS OF MEMBERS	32
86. HOW VOTE MAY BE EXERCISED	32
87. VOTING DISQUALIFICATION	33
88. OBJECTIONS TO RIGHT TO VOTE	33
89. HOW VOTING IS CARRIED OUT	33
90. MATTERS ON WHICH A POLL MAY BE DEMANDED	33
91. WHEN A POLL IS EFFECTIVELY DEMANDED	33
92. WHEN AND HOW POLLS MUST BE TAKEN.....	34
93. CHAIR’S CASTING VOTE	34
ANNUAL GENERAL MEETING.....	34
94. BUSINESS OF AN ANNUAL GENERAL MEETING	34
MINUTES	35
95. MINUTES TO BE KEPT	35
ACCOUNTS, AUDIT AND RECORDS.....	36
96. ACCOUNTS	36
97. AUDIT.....	36
EXECUTION OF DOCUMENTS.....	36
98. EXECUTION OF DOCUMENTS	36
99. EXECUTION OF DOCUMENT AS A DEED	37
INADVERTENT OMISSIONS.....	37
100. FORMALITIES OMITTED.....	37
WINDING UP.....	37
101. WINDING UP.....	37

Corporations Act 2001 (Cth)

Company limited by guarantee

Constitution

of

Australian Diabetes Society Limited

Introduction

1. Replaceable rules excluded

1.1 The replaceable rules contained in the Act do not apply to the Society.

2. Definitions and interpretation

2.1 Definitions

In this constitution:

- (1) **Act** means the *Corporations Act 2001(Cth)* and includes any amendment or re-enactment of it or any legislation passed in substitution for it;
- (2) **business day** means a day that is not a Saturday, a Sunday or a public holiday or bank holiday in the place where the Society has its registered office;
- (3) **Corresponding Member** means a member of the Society who has the rights and obligations set out in rule 13;
- (4) **department or unit** means a grouping of medical specialists/scientists recognised within an institution as an entity/department/unit;
- (5) **Diabetes Australia** means Diabetes Australia Limited (ACN 008 528 461);
- (6) **Diabetes Australia Nominee Director** means a Director appointed to the National Council pursuant to rule 38;
- (7) **Diabetes Australia Member** means Diabetes Australia pursuant to rule 21;
- (8) **Diabetes Australia Member Delegate** means a person appointed by Diabetes Australia to represent it at general meetings of the Society;

- (9) **Honorary Life Member** means a member of the Society who has the rights and obligations set out in rule 16;
- (10) **Membership Committee** means the committee so titled appointed by the National Council and in the absence of a membership committee means the National Council acting in committee;
- (11) **National Council** means the board of Directors and the Secretary of the Society;
- (12) **Professional Member** means a member of the Society who has a key clinical role in the professional care of people with diabetes or is a medical graduate or scientist interested in diabetes mellitus and has the rights and obligations set out in rule 12;
- (13) **Retired Member** means a member of the Society who has the rights and obligations set out in rule 15;
- (14) **retired from full-time employment** means to be employed, self-employed or engaged in any activity for remuneration for less than 10 hours per week;
- (15) **Secretary** means the secretary referred to in rule 34 and any other person appointed to perform the duties of a secretary of the Society;
- (16) **Skills-Based Director** means a director chosen by the Society, who is not a member of the Society but is deemed to hold the relevant and necessary skills required for the position of director of the National Council;
- (17) **Society** means Australian Diabetes Society Limited (ACN 053 787 965);
- (18) **Special Matter** means a decision of the National Council in relation to the following matters:
- (a) borrow money or enter into another form of financial accommodation;
 - (b) invest other than in deposits with an Authorised Deposit-taking Institution;
 - (c) the purchase or sale of a major asset (such as real property);
 - (d) amendments to the Constitution of the Society;
 - (e) a resolution to wind up the Society; or
 - (f) the approval of any annual plan/budget with a deficit

outcome;

- (19) **Special Member Matter** means a decision of the Members in relation to the following matters:
 - (a) amendments to the Constitution of the Society;
 - (b) a resolution to wind up the Society.
- (20) **Special Resolution** has the meaning given in the Act;
- (21) **Specialist Member** means a member of the Society who has the rights and obligations set out in rule 11;
- (22) **Specialist Member – clinician** means a fellow of the Royal Australasian College of Physicians (RACP) and has satisfactorily completed training in Diabetes Management supervised by the Specialist Advisory Committee in Endocrinology of the RACP, or equivalent training acceptable, in its discretion, to the National Council and who has the rights and obligations set out in rule 11;
- (23) **Specialist Member – scientist** means a non-clinician who holds a PhD (or equivalent) with the predominant research field being diabetes and who has the rights and obligations set out in rule 11
- (24) **Student Member** means a member of the Society who is a registered student (part time or full time) in Australia with an annual income limit of \$40,000 per annum and has the rights and obligations as set out in rule 12. Proof of student registration must accompany the membership application form;
- (25) **Sustaining Member** means a member of the Society who has the rights and obligations set out in rule 14; and
- (26) **Voting members** means those members who are entitled to vote at general meetings of the Society according to this constitution.

2.2 Interpretation

- (1) Reference to:
 - (a) one gender includes the others;
 - (b) the singular includes the plural and the plural includes the singular;
 - (c) something being “written” or “in writing” includes that being represented or reproduced in any mode in a visible form – for the avoidance of doubt this shall include by electronic mail; and
 - (d) a person includes a body corporate.

- (2) Except so far as the contrary intention appears in this constitution:
 - (a) an expression has in this constitution the same meaning as in the Act; and
 - (b) if an expression is given different meanings for the purposes of different provisions of the Act, the expression has, in a provision of this constitution that deals with a matter dealt with by a particular provision of the Act, the same meaning as in that provision of the Act.
- (3) "Including" and similar expressions are not words of limitation.
- (4) Headings and any table of contents or index are for convenience only and do not form part of this constitution or affect its interpretation.

3. Objects

3.1 The objects for which the Society is established are to enhance the welfare of individuals having diabetes mellitus including:

- (1) to promote among members of the medical profession, scientists and others the free exchange of knowledge with respect to diabetes mellitus;
- (2) to develop in association with Diabetes Australia and other interested bodies, education methods designed to give those who have diabetes mellitus a better understanding of their condition;
- (3) to improve standards of diagnosis and management of diabetes mellitus;
- (4) to disseminate accurate information about diabetes mellitus;
- (5) to promote research related to diabetes mellitus by individuals, hospitals, clinics, universities and other institutions and organisations;
- (6) to be responsible for statements relating to the professional and research aspects of diabetes mellitus (both medical and scientific); and
- (7) to take such other measures and encourage such service as will enhance the welfare of individuals having diabetes mellitus.

3.2 The Society must pursue charitable purposes only and must apply its income in promoting those purposes.

4. Powers

- 4.1 The Society has all the powers of an individual and a body corporate but does not have the power to issue shares.
- 4.2 Despite rule 4.1 the powers of the Society are ancillary to and exercisable only to pursue the objects of the Society set out in rule 3.

5. Application of income and property

- 5.1 The income and property of the Society, from wherever it is derived, must be applied solely towards the promotion of the objects of the Society set out in rule 3.

6. No distribution to members

- 6.1 No portion of the income or property of the Society may be paid directly or indirectly, by way of dividend, bonus or otherwise to the members of the Society.
- 6.2 Rule 6.1 does not prevent:
 - (1) the payment in good faith of remuneration to any officer, servant or member of the Society in return for any services actually rendered to the Society or for goods supplied in the ordinary and usual way of business;
 - (2) the payment of interest at a rate not exceeding the rate charged by the Society's bankers from time to time on overdraft accounts of under \$100,000 plus 2% on money borrowed from any member of the Society;
 - (3) the payment of reasonable and proper rent by the Society to a member of the Society for premises leased by the member to the Society; or
 - (4) the reimbursement of expenses incurred by any member on behalf of the Society.

7. Limited liability

- 7.1 The liability of the members is limited.

8. Guarantee

- 8.1 Every member of the Society undertakes to contribute an amount not exceeding \$10 to the property of the Society if it is wound up while the member is a member or within 1 year after the member ceases to be a member, if required for payment:
 - (1) of the debts and liabilities of the Society (contracted before the

- member ceases to be a member);
- (2) of the costs, charges and expenses of winding up; and
- (3) for the adjustment of the rights of the contributories among themselves.

Membership

9. Number of members

- 9.1 The number of members for which the Society proposes to be registered is unlimited.

10. Categories of membership

- 10.1 The classes of members of the Society are:

- (1) Specialist Member-scientist;
- (2) Specialist Member-clinician;
- (3) Professional Members;
- (4) Student Members;
- (5) Corresponding Members;
- (6) Sustaining Members;
- (7) Retired Members;
- (8) Honorary Life Members; and
- (9) Diabetes Australia Member.

- 10.2 Additional categories of members, if recommended by the National Council, may be created from time to time by the members in general meeting.

11. Specialist membership

- 11.1 Any person may be admitted as a Specialist Member who is a fellow of the Royal Australasian College of Physicians (RACP) and has satisfactorily completed training in Diabetes Management supervised by the Specialist Advisory Committee in Endocrinology of the RACP, or equivalent training acceptable, in its discretion, to the National Council (Specialist Member – clinician)

or:

is a non-clinician who holds a PhD (or equivalent) with the predominant research field being diabetes (Specialist Member – scientist).

11.2 Specialist Members have the right to receive notices of and to attend and be heard at any general meeting and to vote on any motion at any general meeting.

11.3 Specialist Members (Clinician or Scientist) may vote on special resolutions.

12. Professional Membership

12.1 Any person who:

(1) has a key clinical role in professional care of people with diabetes; or

(2) is a medical graduate or scientist interested in diabetes mellitus;

may apply for professional membership of the Society.

12.2 Professional Members have the right to receive notices of and to attend and be heard at any general meeting and to vote at any general meeting other than in respect of any Special Resolution.

12.3 For clarity, Student Members have the same right to receive notices of, to attend and be heard, and to vote at any general meeting of the Society as Professional Members.

13. Corresponding Membership

13.1 Any person who:

(1) is a medical graduate or scientist eligible to be an Professional Member; and

(2) is residing overseas for a period exceeding 12 months;

may apply for corresponding membership of the Society.

13.2 A Corresponding Member:

(1) has the right to receive notices of and to attend and be heard at any general meeting; but

(2) has no right to vote at any general meeting.

14. Sustaining Membership

14.1 Any organisation, firm or company which is interested in supporting the Society may apply for membership as a Sustaining Member of the Society.

14.2 A Sustaining Member:

(1) has the right to receive notices of and to attend and be heard at

any general meeting; but

- (2) has no right to vote at any general meeting.

15. Retired Member

15.1 Any member of the Society who is retired from full-time employment may be admitted as a Retired Member. A Retired Member:

- (1) has the right to receive notices of and to attend and be heard at any general meeting; but
- (2) has no right to vote at any general meeting.

16. Grant of Honorary Life Membership

16.1 Any individual may be granted honorary life membership pursuant to rule 20 below.

16.2 An Honorary Life Member:

- (1) has the right to receive notices of and to attend and be heard at any general meeting; and
- (2) has the right to vote on any motion at any general meeting.

16.3 Honorary Life Members may vote on special resolutions.

17. Form of application

17.1 An application for membership must be:

- (1) in writing in a form approved by the Membership Committee;
- (2) signed by the applicant;
- (3) signed by the proposer, who must be a financial member; and
- (4) lodged with the Society at its registered office for consideration by the Membership Committee.

17.2 If the applicant is a body corporate it must nominate 1 person (**nominated representative**) to represent it in the Society. The application form must:

- (1) state the name and address of the nominated representative; and
- (2) be signed by the nominated representative.

17.3 An application form must be accompanied by the annual subscription, determined in accordance with rule 22.

18. Admission to membership

- 18.1 The Membership Committee will, after considering the application, make a recommendation to the National Council for or against admitting the applicant to membership. The National Council will consider the recommendation of the Membership Committee but is not required to act in accordance with it.
- 18.2 The National Council need give no reason for the rejection of an application.
- 18.3 If an application for membership is rejected the annual subscription must be refunded to the applicant.
- 18.4 If an applicant is accepted for membership:
- (1) the Secretary must notify the applicant of admission in the form of a receipt for the annual subscription or in any other form the National Council determines; and
 - (2) the name and details of the member must be entered in the register of members.

19. Notification by members

- 19.1 Each member must promptly notify the Society at its registered office in writing of any change in their qualification to be a member of the Society.
- 19.2 Each Sustaining Member must promptly notify the Society at its registered office in writing of any change in the person nominated as its nominated representative under rule 17.2.
- 19.3 A person nominated as a nominated representative must consent to the nomination in writing.

20. Honorary Life Membership

- 20.1 A Specialist Member, Professional Member or Corresponding Member may be nominated by a proposer and seconder (both of whom must be Specialist Members) for admission as an Honorary Life Member of the Society. Nominations must be delivered to the Society at its registered office for consideration by the National Council and must be supported by a curriculum vitae which evidences the member's pre-eminence in professional, scientific or societal aspects of diabetes.
- 20.2 The nomination will be considered by the National Council and if, in the opinion of the National Council (directors of the National Council having an interest in the nomination having declared that interest and abstained from voting) the nominee is distinguished by their contribution to the knowledge of diabetes or to the welfare of people with diabetes and worthy of the distinction, the member will be conferred with Honorary Life Membership.

21. Diabetes Australia Member

- 21.1 The sole member of the Diabetes Australia member class shall be Diabetes Australia.
- 21.2 The Diabetes Australia Member is entitled to one (1) vote in a general meeting.
- 21.3 Diabetes Australia shall appoint a person as the Diabetes Australia Member Delegate to attend general meetings and vote on behalf of the Diabetes Australia Member in a general meeting.

22. Register of members

- 22.1 A register of members of the Society must be kept in accordance with the Act.
- 22.2 Each member and nominated representative must promptly notify the Society at its registered office in writing of any change in that person's name, address, facsimile number or electronic mail address.

Annual subscription

23. Annual subscription

- 23.1 The annual subscription payable by a member of the Society is the sum the National Council determines from time to time. The subscription amount may vary between classes of members.
- 23.2 All annual subscriptions are due and payable in advance on 1 July in each year or on such other date as may be set by the National Council.
- 23.3 If a person is admitted to membership of the Society during the months of January to June inclusive the National Council may reduce the annual subscription payable by the applicant in any manner it sees fit.
- 23.4 No annual subscription is payable by any Honorary Life Member.

24. Unpaid annual subscriptions

- 24.1 If:
 - (1) the annual subscription of a member remains unpaid for 2 months after it becomes payable; and
 - (2) a notice of default is given to the member following a resolution of the National Council to do this;

the member ceases to be entitled to any of the rights or privileges of membership but these may be reinstated on payment of all arrears if the National Council sees fit.

Cessation of membership

25. Resignation

- 25.1 A member may resign from membership of the Society by giving written notice to the Society at its registered office.
- 25.2 The resignation of a member takes effect on the date of receipt of the notice of resignation or any later date provided in the notice.

26. Failure to pay

- 26.1 Membership will be terminated and the member's name will be removed from the register of members by the National Council if a member has not paid all arrears of annual subscriptions under rule 22 for a period of two years.
- 26.2 A person whose membership is so terminated may reapply for membership at any time but the member must have paid all outstanding arrears of subscription moneys.

27. Cessation of membership

- 27.1 A member who is an individual ceases to be a member:
- (1) on the death of the member; or
 - (2) if the member is expelled under rule 27.
- 27.2 A Sustaining Member ceases to be a member:
- (1) if it is wound up or is otherwise dissolved or deregistered; or
 - (2) if it is expelled under rule 27.
- 27.3 An Honorary Life Member ceases to be a member:
- (1) in accordance with rule 26.1; or
 - (2) if the National Council, for any reason, requests in writing the resignation of the member and the member does not resign within 2 months after the request is sent.

28. Expulsion of members

- 28.1 If any member:
- (1) wilfully refuses or neglects to comply with the provisions of this constitution; or
 - (2) is guilty of any conduct which, in the opinion of the National

Council, is unbecoming of a member or prejudicial to the interests of the Society;

the National Council may resolve to expel the member from the Society and remove the member's name from the register of members.

- 28.2 At least 1 week before the meeting of the National Council at which a resolution of the nature referred to in rule 27.1 is proposed the National Council must give to the member notice of:
- (1) the meeting;
 - (2) what is alleged against the member; and
 - (3) the intended resolution.
- 28.3 At the meeting and before the passing of the resolution, the member must have an opportunity of giving orally or in writing any explanation or defence the member sees fit.
- 28.4 A member may, by notice in writing lodged with the Secretary at least 24 hours before the time for holding the meeting at which the resolution is to be considered by the National Council, elect to have the question dealt with by the Society in general meeting and in that event, a general meeting of the Society must be called for that purpose.
- 28.5 If at the meeting a resolution to the same effect as the resolution which was to be considered by the National Council is passed by a majority of two thirds of those present and voting (and the vote must be taken by secret ballot), the member concerned is expelled and the member's name must be removed from the register of members.

29. Effect of cessation of membership

- 29.1 If any member ceases to be a member under this constitution, the member remains liable to pay to the Society any money which, at the time of the member ceasing to be a member, the member owes to the Society on any account and for any sum not exceeding \$10 for which the member is liable under rule 8 of this constitution.

Appointment of Directors

30. Composition of the National Council

- 30.1 The National Council will comprise a minimum of 9 directors and a maximum of 13 directors, not more than three of whom (not including the Diabetes Australia Nominee Director) are resident in the same State and Territory and not more than one of whom is a member of the same Department or Unit and provided;
- (1) one director may be other than a Specialist Member or a Skills-Based Director;

- (2) a minimum of 1 director must be a Specialist Member-scientist;
- (3) a minimum of 4 directors must be Specialist Member-clinicians;
- (4) a maximum of 2 Skills-Based Directors;
- (5) one director must be a Diabetes Australia Nominee Director appointed pursuant to rule 38; and
- (6) a director of the National Council may attend all general meetings of the Society and may be heard on any matter but, unless also a voting member will not be entitled to vote.

30.2 The Society in general meeting may by resolution increase or reduce the number of directors referred to in rule 29.1 but the number may not be reduced below 3.

31. Retirement and election of directors

31.1 At every second annual general meeting of the Society, the president and a minimum of one additional director will retire from office.

31.2 Where two directors do not voluntarily retire, those two directors who have been directors for the longest period of time will retire. As between three or more directors who have been in office for the same period of time, the person or persons to retire will, in default of agreement, be determined by lot.

31.3 The vacancies on the National Council created by the retirement of directors pursuant to rule 30.1 will be filled by persons elected by the voting members, subject to the provisions of rule 29.1.

32. Nomination for election

32.1 Each candidate for election as a director must be proposed by a member and be seconded by another member.

32.2 A nomination of a candidate for election must:

- (1) be in writing;
- (2) be signed by the candidate; and
- (3) be signed by the proposer and seconder.

32.3 A nomination of a candidate for election must be lodged with the Society at its registered office at least 90 days before the annual general meeting of the Society.

33. Election procedure for directors

33.1 Subject to rule 38, election of directors will be by electronic ballot, or as otherwise resolved by the Society in a general meeting.

34. Time appointment or retirement takes effect

34.1 Subject to the election result being declared by the chairman of the annual general meeting, the elected directors will take office and the retiring directors will retire at the conclusion of that meeting.

35. Office bearers

35.1 The office bearers of the Society are:

- (1) the president of the National Council;
- (2) the president-elect of the National Council;
- (3) the vice-president of the National Council;
- (4) the treasurer of the National Council and;
- (5) the Secretary of the National Council.

The president-elect is also eligible to hold office as one of the vice-president, treasurer or Secretary.

36. Election of office bearers at National Council meeting

36.1 Office bearers are elected by the National Council at the meeting of the National Council immediately preceding the annual general meeting of the Society and hold office until the meeting of the National Council immediately following the second annual general meeting of the Society occurring after their appointment.

36.2 The National Council may vest in the treasurer and the Secretary those powers, duties and authorities as it from time to time determines.

37. Eligibility and nomination

37.1 The president, vice-president and president-elect of the National Council must be elected from directors of the National Council.

37.2 Notwithstanding rule 36.1, the National Council may, in exceptional circumstances appoint a member of the Society, who is not an elected director of the National Council, to hold office as president of the National Council. In those circumstances the person so elected will hold office until the first meeting of the National Council after the next annual general meeting of the Society and will be ex-officio a director of the National Council for the term of office as president.

38. Diabetes Australia Nominee Director

- 38.1 The National Council will, by resolution, appoint a person to the office of Diabetes Australia Nominee Director for a specified term not exceeding 2 years.
- 38.2 Prior to the appointment of a Diabetes Australia Director, Diabetes Australia must nominate to the National Council a suitable eligible person for appointment as a Diabetes Australia Nominee Director.
- 38.3 A person is not eligible for appointment as a Diabetes Australia Nominee Director unless the person is:
- (1) of sound mind;
 - (2) physically and mentally capable of performing the functions of a Director;
 - (3) not disqualified from managing corporations under the Law;
 - (4) a director or senior employee of Diabetes Australia.
- 38.4 A Diabetes Australia Nominee Director must not hold office (without re-appointment) by the National Council for more than 2 years.
- 38.5 If a Diabetes Australia Nominee Director retires or is removed from the National Council, the National Council will appoint a replacement Diabetes Australia Nominee Director in accordance with the process set out in this rule 38.

Appointment of directors of the National Council between Annual General Meetings

39. Casual vacancies

- 39.1 If the office of a director of the National Council is vacant as a consequence of rules 50 - 52 the voting members of the Society may appoint another person to hold office as a director of the National Council in the place of the director so removed. The person appointed will hold office only until the time when the person removed would have retired.
- 39.2 If the director of the National Council removed from office was the president or the vice-president of the National Council, the directors at the next meeting will elect one of their number as president or vice-president (as the case may be). Such a person will hold office until the person removed would have ordinarily vacated office.

40. Insufficient directors

- 40.1 If there is a vacancy in the office of a director, the remaining directors may act, but if the number of remaining directors is not sufficient to constitute a quorum at a meeting of directors, they may act only for the purpose of increasing the number of directors to a number sufficient to constitute a quorum or convening a general meeting of the Society.

Alternate directors of the National Council

41. Appointment

- 41.1 A director of the National Council may, in writing and with the approval of the National Council appoint a person to be their alternate or substitute director of the National Council during their inability for any time to act as such a director. An approval given under this article may at any time be revoked.

42. Rights and powers of alternate director of the National Council

- 42.1 An alternate director of the National Council is entitled to notice of meetings of the National Council and, if the appointor is not present at a meeting, is entitled to attend and vote in his or her stead.

43. Suspension or revocation of appointment

- 43.1 A director of the National Council may revoke or suspend the appointment of an alternate appointed by him or her.
- 43.2 Rule 52 applies to alternate directors of the National Council.

44. Termination of appointment

- 44.1 The appointment of an alternate director automatically terminates:
- (1) if the appointor ceases to hold office as director;
 - (2) if the National Council's approval, required by rule 39.1, is revoked; or
 - (3) if the alternate director of the National Council resigns from the appointment by written notice to the Secretary of the Society.

Powers of National Council

45. Validation of acts of National Council

- 45.1 The acts of the National Council or a director or Secretary of the Society are valid despite any defect that may afterwards be discovered in

appointment or qualification.

46. General business management

- 46.1 The business of the Society is to be managed by or under the direction of the National Council.
- 46.2 The National Council may exercise all the powers of the Society except any powers that the Act or this constitution requires the Society to exercise in general meeting.
- 46.3 A rule made or resolution passed by the Society in general meeting does not invalidate any prior act of the National Council which would have been valid if that rule or resolution had not been made or passed.
- 46.4 The National Council may engage all such officers and employees as it may consider necessary and regulate their duties and fix their salaries.

47. Negotiable instruments

- 47.1 Any 2 directors of the National Council may sign, draw, accept, endorse or otherwise execute a negotiable instrument, only where the execution of that negotiable instrument has prior approval by the Executive of the National Council in writing.
- 47.2 If a second director of the National Council is unavailable at any time to act as co-signatory for the purposes of rule 45.1, a Specialist Member of the Society, who has been co-opted by the National Council for the purposes of rule 5, may act as co-signatory.

48. Establishment of branches of the Society

- 48.1 The National Council may establish such local branches of the Society as it determines from time to time and provide for the establishment and control of such branches in regulations.

49. Regulations

- 49.1 The National Council has power from time to time to make, amend or repeal such regulations as are in its opinion necessary and desirable for the proper control, administration and management of the Society's affairs, operations, finances, interests, effects and property.
- 49.2 Notwithstanding the foregoing provisions of this rule, the Society in general meeting, may amend or repeal any regulations made by the National Council.
- 49.3 Any regulations will:
 - (1) be subject to the Act and this constitution; and

- (2) when in force, be binding on all members and National Council directors and shall have the same effect as these rules.

Committees of the National Council

50. Membership Committee

- 50.1 There will be a Membership Committee of the National Council comprising such number of the National Council (and the Society) as the National Council determines.
- 50.2 The Membership Committee will meet from time to time to consider applications for membership to the Society and to make recommendations to the National Council in respect of those applications, and when it does, the rules of this constitution applicable to the National Council, will apply to it.

51. Other committees

- 51.1 The National Council may delegate any of its powers and duties to other committees as it thinks fit from time to time.
- 51.2 Any other committee must consist of at least one director of the National Council and such other persons as it may determine.
- 51.3 The powers and duties delegated to a committee will be upon any terms and conditions as the National Council may determine, including the fixing of a quorum for a meeting. The president will be, ex-officio, a member of any such committee.

Removal and resignation of directors of the National Council

52. Removal of directors of the National Council

- 52.1 Subject to the Act, the voting members of the Society may by ordinary resolution (of which special notice will be given) remove any director of the National Council from office.

53. Resignation of a director of the National Council

- 53.1 A director of the National Council may resign as a director of the National Council of the Society by giving a written notice of resignation to the Society at its registered office.

54. Vacation of office of director of the National Council

- 54.1 In addition to any other circumstances in which the office of a director of

the National Council becomes vacant under the Act, the office of a director of the National Council becomes vacant if the director of the National Council:

- (1) becomes bankrupt or suspends payment or compounds with his or her creditors;
- (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;
- (3) is not present (either personally or by an alternate) at 2 consecutive meetings of directors without special leave of absence from the directors and the directors declare his or her seat to be vacant;
- (4) becomes disqualified from being a director under the Act or any order made under the Act;
- (5) becomes deregistered by the Australian Health Practitioner Regulation Agency
- (6) is directly or indirectly interested in any contract or proposed contract with the Society and fails to declare the nature of his interest in the manner required by the Act;
- (7) is removed from office in accordance with rule 50; or
- (8) resigns from office in accordance with rule 51.

54.2 A vacancy occurring on the National Council pursuant to rule 52.1 will be filled by a person elected by the National Council, and that person will hold office only until the time when the person in whose stead he is elected would have retired from office.

Directors' interests

55. Prohibition on being present or voting

55.1 Except where permitted by the Act a director who has a material personal interest in a matter that is being considered at a meeting of the National Council:

- (1) must not be counted in a quorum;
- (2) must not vote on the matter; and
- (3) must not be present while the matter is being considered at the meeting.

56. Conflict

- 56.1 A director who holds any office or possesses any property by which, whether directly or indirectly, duties or interests might be created in conflict with his or her duties or interests as director must declare at a meeting of the National Council of the Society or by written notice to the Secretary of the Society the fact and the nature, character and extent of the conflict.

Remuneration of directors

57. No directors' remuneration

- 57.1 Despite rule 6.2 no director may receive any remuneration for his or her services in his or her capacity as a director of the Society.

58. Directors' expenses

- 58.1 Despite rule 55 the Society may pay the directors' travelling and other expenses that they properly incur:
- (1) in attending National Council meetings or any meetings of committees of directors;
 - (2) in attending any general meetings of the Society; and
 - (3) in connection with the Society's business.

Indemnity and insurance

59. Indemnity

- 59.1 To the extent permitted by the Act, the Society indemnifies:
- (1) every person who is or has been a director or officer of the Society; and
 - (2) where the National Council considers it appropriate to do so, any person who is or has been a director or officer of a related body corporate of the Society;

against any liability incurred by that person in his or her capacity as a director or officer of the Society or of the related body corporate (as the case may be).

National Council meetings

60. Meetings of the National Council

- 60.1 The National Council will meet at such times and places as may be determined from time to time by it, but must meet at least once in every financial year of the Society.

61. Calling National Council meetings

- 61.1 A director may at any time, and the president must on the requisition of a director, call a meeting of the National Council.

62. Notice of meeting

- 62.1 Subject to rule 60.2, not less than 7 days notice must be given to every director of the National Council of any meeting specifying the time, place and general nature of the business of such meeting, but where the president considers an emergency exists he may take such steps as he considers necessary to notify directors of the National Council of the proposed meeting despite 7 days notice not having been given.
- 62.2 A director of the National Council who is absent from Australia is not entitled to receive notices pursuant to this rule.

63. Technology meeting of National Council

- 63.1 A National Council meeting may be held using telephone or by any other technology provided that:
- (1) each of the directors taking part in the meeting must be able to hear and be heard by each of the other directors taking part in the meeting; and
 - (2) at the commencement of the meeting each director must announce his or her presence to all the other directors taking part in the meeting.
- 63.2 A director is conclusively presumed to have been present and to have formed part of a quorum at all times during a technology meeting unless that director has previously obtained the express consent of the chair to leave the meeting.

64. Chairing National Council meetings

- 64.1 The president of the National Council is the chair of all meetings of the National Council.
- 64.2 At a meeting of the National Council if:
- (1) no president has been elected as provided by rule 35; or
 - (2) the president is not present within 15 minutes after the time appointed for the holding of the meeting or is unwilling to act;

the vice-president of the National Council is the chair of the meeting, but if:

- (3) no vice-president has been elected as provided by rule 35; or
- (4) the vice-president is not present within 15 minutes after the time appointed for the holding of the meeting or is unwilling to act;

the directors of the National Council present must elect a director present to chair the meeting.

65. Quorum

- 65.1 Subject to rule 65.4, a quorum for a meeting of the National Council is one-half in number of its members for the time being or the closest whole number above that fraction.
- 65.2 Subject to rule 63.1, the directors of the National Council may act notwithstanding any vacancy in their body.
- 65.3 An alternate director of the National Council is counted in a quorum at a meeting at which the director who appointed the alternate is not present (so long as the alternate is, under the Act relating to directors' interests, entitled to vote).
- 65.4 If a Special Matter is to be discussed or determined at a meeting of the National Council, the Diabetes Australia Nominee Director must be present in order for there to be a quorum.
- 65.5 If a Special Matter is not able to be determined due to the quorum requirement in rule 65.4 due to the absence of the Diabetes Australia Nominee Director, the quorum for the subsequent adjourned meeting will be fifty per cent (50%) of the Directors as at the time scheduled for the commencement of the meeting, or such greater number as is fixed by the National Council.
- 65.6 Diabetes Australia may appoint
 - (1) its President in the first instance; or
 - (2) if its President is unavailable, its Company Secretary;

as an alternate director to the Diabetes Australia Nominee Director.

66. Passing of National Council resolutions

- 66.1 A resolution of the National Council must be passed by a majority of the votes cast by directors of the National Council entitled to vote on the resolution.
- 66.2 Every director of the National Council is entitled to one vote.
- 66.3 The chair has a casting vote if necessary, in addition to any vote he or she

has as a director of the National Council.

- 66.4 A person who is an alternate director of the National Council is entitled (in addition to his or her own vote if he or she is a director of the National Council) to 1 vote on behalf of each director whom he or she represents as an alternate director at the meeting and who is not present at the meeting.

67. Circulating resolutions

- 67.1 The National Council may pass a resolution without a National Council meeting being held if all the directors of the National Council entitled to receive notice of a meeting of the National Council sign a document containing a statement that he or she is in favour of the resolution set out in the document.
- 67.2 Separate copies of a document may be used for signing by directors of the National Council if the wording of the resolution and statement is identical in each copy.
- 67.3 The resolution is passed when the last director signs.

Meetings of members

68. Circulating resolutions

- 68.1 This rule 66 applies to resolutions which the Act, or this constitution, requires or permits to be passed at a general meeting, except a resolution under section 329 of the Act to remove an auditor.
- 68.2 The Society may pass a resolution without a general meeting being held if all the members entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.
- 68.3 Separate copies of a document may be used for signing by members if the wording of the resolution and statement is identical in each copy.
- 68.4 The resolution is passed when the last member signs.

69. Calling of general meeting

- 69.1 The National Council may call a general meeting whenever it sees fit.
- 69.2 Except as permitted by law, a general meeting, to be called the **annual general meeting**, must be held at least once in every calendar year.
- 69.3 The National Council:
- (1) may convene an extraordinary general meeting at any time; and
 - (2) must, on the requisition of 5% of voting members, or 10 members

(whichever is the fewer) convene an extraordinary general meeting of members to be held in accordance with the provisions of the Act but, in any case, not later than 2 months after the receipt by the Society of the requisition.

- 69.4 The requisition for an extraordinary general meeting must state the objects of the meeting and be signed by the requisitionists and deposited at the registered office of the Society and may consist of several documents in like form each signed by one or more requisitionists.
- 69.5 If the National Council does not within 21 days after the deposit of a requisition proceed to convene an extraordinary general meeting of members, the requisitionists, or any of them representing more than one-half of the total voting rights of all of them, may themselves in the same manner as nearly as possible as that in which meetings are to be convened by the National Council, call a meeting, but a meeting so convened shall not be held after the expiration of 3 months from the said date of the deposit of the requisition.
- 69.6 Any reasonable expenses incurred by the requisitionists by reason of the failure of the National Council to convene an extraordinary general meeting, will be paid to the requisitionists by the Society.

70. Amount of notice of meeting

- 70.1 Subject to the provisions of the Act as to short notice, at least 21 days' notice of a general meeting must be given in writing to those persons who are entitled to receive notices from the Society.

71. Persons entitled to notice of general meeting

- 71.1 Written notice of a meeting of the Society's members must be given individually to:

- (1) each member entitled to vote at the meeting;
- (2) each director of the National Council; and
- (3) the Society's auditor.

- 71.2 No other person is entitled to receive notice of general meetings.

72. How notice is given

- 72.1 The Society may give the notice of meeting to a member:

- (1) personally;
- (2) by sending it by post to the address for the member in the register of members or the alternative address (if any) nominated by the member;

- (3) by sending it to the facsimile number or electronic address (if any) nominated by the member;
- (4) by sending it by other electronic means (if any) nominated by the member; or
- (5) by notifying the member in accordance with rule 70.2.

72.2 If the member nominates:

- (1) an electronic means (**nominated notification means**) by which the member may be notified that notices of meeting are available; and
- (2) an electronic means (**nominated access means**) the member may use to access notices of meeting;

the Society may give the member notice of the meeting by notifying the member (using the nominated notification means):

- (3) that the notice of meeting is available; and
- (4) how the member may use the nominated access means to access the notice of meeting.

73. When notice is given

73.1 A notice of meeting sent by post is taken to be given 3 days after it is posted.

73.2 Except as provided by rule 71.3, a notice of meeting given to a member under rule 70.1(3) is taken to be given on the business day after it is sent.

73.3 A notice of meeting given to a member under rule 70.1(3) is not effective if:

- (1) in the case of service by facsimile, the Society's facsimile machine issues a transmission report that the transmission was unsuccessful;
- (2) in the case of service by electronic mail, the Society's computer reports that delivery has failed; or
- (3) in either case the addressee notifies the Society immediately that the notice was not fully received in a legible form.

73.4 A notice of meeting given to a member under rule 70.1(5) is taken to be given on the business day after the day on which the member is notified that the notice of meeting is available.

73.5 A certificate signed by a manager, Secretary or other officer of the Society that the notice was posted or given in accordance with this rule 71 is conclusive evidence of the matter.

74. Period of notice

74.1 Subject to the Act and this constitution where a specified number of days' notice or notice extending over any period is required to be given, the day of service is excluded, and the day upon which the notice expires is included.

75. Contents of notice

75.1 A notice of a general meeting must:

- (1) set out the place, date and time for the meeting (and, if the meeting is to be held in 2 or more places, the technology that will be used);
- (2) state the general nature of the meeting's business;
- (3) if a special resolution is to be proposed at the meeting, set out an intention to propose the special resolution and state the resolution;
- (4) be worded and presented in a clear, concise and effective manner; and
- (5) contain a statement setting out the following information:
 - (a) that the member has a right to appoint a proxy; and
 - (b) that the proxy need not be a member of the Society.

76. Notice of adjourned meeting

76.1 When a meeting is adjourned for 10 days or more, notice of the adjourned meeting must be given as in the case of an original meeting, except that it will not be necessary to give any notice of adjournment or of the business to be transacted at an adjourned meeting.

77. Failure to give notice

77.1 Any general meeting will be deemed not to be duly convened if the National Council or the requisitionists fail to give notice of any general meeting in accordance with this constitution.

78. Technology

78.1 The Society may hold a meeting of its members at 2 or more venues using any technology that gives the members as a whole a reasonable opportunity to participate.

79. Quorum

- 79.1 Subject to rule 79.5, a quorum constitutes 10% in number of Specialist Members (Clinician and Scientist) and Honorary Life Members or the closest number above that percentage present in person or by duly appointed proxy, attorney or representative provided that at least 3 directors of the National Council are in attendance.
- 79.2 No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business.
- 79.3 If a quorum is not present within 30 minutes after the time for the meeting set out in the notice of meeting:
- (1) where the meeting was called by the members or upon the requisition of members, the meeting is dissolved; or
 - (2) in any other case, the meeting is adjourned to the date, time and place the National Council specifies. If the National Council does not specify 1 or more of those things, the meeting is adjourned to:
 - (a) if the date is not specified – the same day in the next week;
 - (b) if the time is not specified – the same time; and
 - (c) if the place is not specified – the same place.
- 79.4 If no quorum is present at the resumed meeting within 30 minutes after the time for the meeting, the voting members present will constitute a quorum.
- 79.5 If a Special Member Matter is to be discussed or determined at a general meeting, the Diabetes Australia Member Delegate must be present in order for there to be a quorum.
- 79.6 If a Special Member Matter is not able to be determined due to the quorum requirement in rule 79.5 due to the absence of the Diabetes Australia Member Delegate, the quorum for the subsequent adjourned meeting pursuant to rule 79.3 will be:
- (1) 10% in number of Specialist Members (Clinician and Scientist) and Honorary Life Members or the closest number above that percentage present in person or by duly appointed proxy, attorney or representative provided that at least 3 directors of the National Council are in attendance; or
 - (2) If no quorum is present at the resumed meeting within 30 minutes after the time for the meeting, the voting members present will constitute a quorum.

80. Chair at general meetings

80.1 The president of the National Council, if present, presides as chair at every general meeting.

80.2 Where a general meeting is held and:

- (1) there is no president of the National Council; or
- (2) the president is not present within 15 minutes after the time appointed for the holding of the meeting or is unwilling to act;

the vice-president of the National Council if present presides as chair of the meeting or, if the vice-president is not present within 15 minutes after the time appointed for the holding of the meeting or is unwilling to act, the members present may appoint any 1 of their number to be chair of the meeting.

80.3 The chair may with the consent of any meeting at which a quorum is present, and must if so directed by the meeting, adjourn the meeting.

81. Business at adjourned meetings

81.1 Only unfinished business is to be transacted at a meeting resumed after an adjournment.

Proxies and body corporate representatives

82. Who can appoint a proxy

82.1 A member who is entitled to attend and cast a vote at a meeting of the Society's members may appoint an individual or a body corporate as the member's proxy to attend and vote for the member at the meeting. The proxy need not be a member.

83. Votes by proxy

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

83.2 A proxy:

- (1) may demand or join in demanding a poll; and
- (2) may vote on a poll.

83.3 A proxy may vote or abstain as he or she chooses except where the appointment of the proxy directs the way the proxy is to vote on a particular resolution. If a proxy votes at all, the proxy will be deemed to have voted all directed proxies in the manner directed.

84. Document appointing proxy

- 84.1 An appointment of a proxy is valid if it is signed by the member making the appointment and contains the information required by section 250A(1) of the Corporations Act. The Directors may determine that an appointment of proxy is valid even if it only contains some of the information required by section 250A(1) of the Corporations Act.
- 84.2 A proxy's appointment is valid at an adjourned general meeting.
- 84.3 A proxy or attorney may be appointed for all general meetings or for any number of general meetings or for a particular purpose.
- 84.4 Unless otherwise provided for in the proxy's appointment or in any instrument appointing an attorney, the appointment of the proxy or the attorney will be taken to confer authority:
- (1) to vote on:
 - (a) any amendment moved to the proposed resolutions and on any motion that the proposed resolution not be put or any similar motion; and
 - (b) any procedural motion, including any motion to elect the chairperson, to vacate the chair or to adjourn the general meeting,even though the appointment may specify the way the proxy or attorney is to vote on a particular resolution; and
 - (2) to vote on any motion before the general meeting whether or not the motion is referred to in the appointment.
- 84.5 If a proxy appointment is signed by the member but does not name the proxy or proxies in whose favour it is given, the chair may either cast as proxy or complete the appointment by inserting the name or names of one or more directors or the Secretary.

85. Lodgement of proxy

- 85.1 The written appointment of a proxy must be received by the Society, at least 48 hours (unless otherwise specified in the notice of meeting to which the proxy relates) before:
- (1) the time for holding the general meeting or adjourned general meeting at which the appointee is intended to vote; or
 - (2) the taking of a poll on which the appointee is intended to vote.
- 85.2 The Society receives an appointment of a proxy or attorney and any power of attorney or other authority under which the appointment was executed when they are received at:

- (1) the national office; or
- (2) such place, electronic address or otherwise specified for that purpose in the notice of meeting.

85.3 An instrument appointing a proxy may be in the following form or in a form that is as similar to the following form as the circumstances allow:

Australian Diabetes Society Limited
ACN 053 787 965

I, _____ of _____, being a member of the above named company, appoint _____ of _____ or, in his or her absence, _____ of _____ as my proxy to vote for me on my behalf at the *annual general/*extraordinary/*general meeting of the company to be held on _____ and at any adjournment of that meeting.

† This form is to be used *in favour of/*against the resolution.

Signed on _____ .

* Strike out whichever is not desired.

† To be inserted if desired.

86. Validity of proxy vote

86.1 A vote cast by a proxy is valid although, before the proxy votes:

- (1) the appointing member dies;
- (2) the member is mentally incapacitated;
- (3) the member revokes the proxy's appointment; or
- (4) the member revokes the authority under which the proxy was appointed by a 3rd party;

unless the Society receives written notice of that event before the start or resumption of the meeting at which the proxy votes.

87. Attorney of member

87.1 An attorney for a member may do whatever the member could do personally as a member, but if the attorney is to vote at a meeting of members or a class of members the instrument conferring the power of attorney or a certified copy of it must be produced to the Society at least 15 minutes before the meeting or the taking of a poll, in the same way as the appointment of a proxy.

Voting at meetings of members

88. How vote may be exercised

- 88.1 Subject to rules 87 and 88 at any general meeting of members,
- (a) each Specialist Member has one vote on a show of hands and on a poll in respect of any motion put to the meeting
 - (b) each Professional Member and each Honorary Life Member has one vote on a show of hands and on a poll in respect of any motion other than in respect to any question upon which a Special Resolution is required.
- 88.2 The vote may be exercised in person or by proxy or attorney.

89. Voting disqualification

- 89.1 A member is not entitled to vote at a general meeting if the annual subscription of the member is more than 2 months in arrears at the date of the meeting or the postponed or adjourned meeting.

90. Objections to right to vote

- 90.1 A challenge to a right to vote at a meeting of members:
- (1) may only be made at the meeting; and
 - (2) must be determined by the chair, whose decision is final.
- 90.2 A vote not disallowed following the challenge is valid for all purposes.

91. How voting is carried out

- 91.1 A resolution put to the vote at a meeting of the Society's members must be decided on a show of hands unless a poll is demanded.
- 91.2 On a show of hands, a declaration by the chair is conclusive evidence of the result. Neither the chair nor the minutes need to state the number or proportion of the votes recorded in favour or against.
- 91.3 Unless otherwise required by this constitution or the Act, all resolutions of the Society are ordinary resolutions which are resolutions passed by more than 50% of the votes cast by members entitled to vote on the resolutions.

92. Matters on which a poll may be demanded

- 92.1 A poll may be demanded on any resolution.
- 92.2 A demand for a poll may be withdrawn.

93. When a poll is effectively demanded

93.1 At a meeting of the Society's members, a poll may be demanded by:

- (1) at least 3 members entitled to vote on the resolution; or
- (2) the chair.

93.2 The poll may be demanded:

- (1) before a vote is taken;
- (2) before the voting results on a show of hands are declared; or
- (3) immediately after the voting results on a show of hands are declared.

94. When and how polls must be taken

94.1 A poll demanded on a matter other than the election of a chair or the question of an adjournment must be taken when and in the manner the chair directs.

94.2 A poll on the election of a chair or on the question of an adjournment must be taken immediately.

94.3 The demand for a poll does not prevent the continuance of a meeting for the transaction of any business other than the question on which a poll has been demanded.

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

95. Chair's casting vote

95.1 In the case of an equality of votes, whether on a show of hands or on a poll, the chair of the meeting has a casting vote in addition to any vote he or she may have in his or her capacity as a member or proxy.

95.2 The chair has a discretion both as to use of the casting vote and as to the way in which it is used.

Annual general meeting

96. Business of an annual general meeting

96.1 The business of an annual general meeting may include any of the following, even if not referred to in the notice of meeting:

- (1) the consideration of accounts, balance sheets, the National Council's report and auditor's report; and

- (2) the fixing of the auditor's remuneration.

All other business transacted at an annual general meeting and all business transacted at any other general meeting or extraordinary general meeting is special business.

- 96.2 The business of the annual general meeting also includes any other business which under this constitution or the Act ought to be transacted at an annual general meeting.
- 96.3 The chair of the annual general meeting must allow a reasonable opportunity for the members as a whole at the meeting to ask questions about or make comments on the management of the Society.
- 96.4 If the Society's auditor or the auditor's representative is at the meeting, the chair of an annual general meeting must allow a reasonable opportunity for the members as a whole at the meeting to ask the auditor or that representative questions relevant to the conduct of the audit and the preparation and content of the auditor's report.

Minutes

97. Minutes to be kept

- 97.1 The National Council must keep minute books in which they record within 1 month:
 - (1) proceedings and resolutions of meetings of the Society's members;
 - (2) proceedings and resolutions of National Council meetings;
 - (3) resolutions passed by members without a meeting; and
 - (4) resolutions passed by National Council without a meeting.
- 97.2 The directors must ensure that minutes of a meeting are signed within a reasonable time after the meeting by 1 of the following:
 - (1) the chair of the meeting; or
 - (2) the chair of the next meeting.
- 97.3 The National Council must ensure that minutes of the passing of a resolution without a meeting are signed by a director of the National Council within a reasonable time after the resolution is passed.
- 97.4 Without limiting rule 95.1 the National Council must record in the minute books:
 - (1) all appointments of officers;

- (2) the names of the directors of the National Council and alternate directors of the National Council present at all meetings of National Council and the Society; and
- (3) all other matters required by the Act to be recorded in the minute books, including each notice and standing notice given by a director of a material personal interest.

Accounts, audit and records

98. Accounts

98.1 The National Council must cause proper accounting and other records to be kept in accordance with the Act, including with respect to:

- (1) all sums of money received and expended by the Society and the matter in respect of which the receipt and expenditure takes place;
- (2) all sales and purchases of real and personal property by the Society; and
- (3) the assets and liabilities of the Society.

98.2 The accounts of the Society will be kept at the registered office of the Society or, subject to the Act, at such other place as the National Council thinks fit, and will always be open to inspection by directors of the National Council.

98.3 The financial year of the Society will close on 30 June each year.

98.4 The National Council must distribute copies of every profit and loss account, balance sheet and statement of cash flows (including every document required by law to be attached to them) as required by the Act.

99. Audit

99.1 A registered company auditor must be appointed.

99.2 The remuneration of the auditor must be fixed and the auditor's duties regulated in accordance with the Act.

Execution of documents

100. Execution of documents

100.1 The Society may execute a document if the document is signed by:

- (1) 2 directors of the National Council of the Society; or

- (2) a director of the National Council of the Society and the Secretary or another person duly appointed by the National Council for that purpose.

100.2 The same person may not sign in the dual capacities of director and Secretary.

100.3 A director may sign any document as director, with or without the common seal, although the document relates to a contract, arrangement, dealing or other transaction in which he or she is interested and his or her signature complies with the requirements of this constitution as to execution despite his or her interest.

101. Execution of document as a deed

101.1 The Society may execute a document as a deed if the document is expressed to be executed as a deed and is executed in accordance with rule 99.

Inadvertent omissions

102. Formalities omitted

102.1 If some formality required by this constitution is inadvertently omitted or is not carried out the omission does not invalidate anything, including any resolution, which but for the omission would have been valid unless it is proved to the satisfaction of the directors that the omission has directly prejudiced any member financially. The decision of the directors is final and binding on all members.

Winding up

103. Winding up

103.1 If upon the winding up or dissolution of the Society any property remains, after satisfaction of all its debts and liabilities, that property must not be paid to or distributed among the members of the Society but must be given or transferred to some other institution or institutions determined by the members of the Society at or before the time of dissolution which has similar objects to the Society and which is approved by the Commissioner of Taxation as an income tax exempt charitable institution for the purposes of any Commonwealth Taxation Act.

103.2 If the members do not make the necessary determination under rule 101.1, the Society may apply to the Supreme Court to determine the institution or institutions.

103.3 If the organisation is wound up or its endorsement as a deductible gift recipient is revoked (whichever occurs first), any surplus of the following assets shall be transferred to another organisation with similar objects,

which is charitable at law, to which income tax deductible gifts can be made:

- (1) gifts of money or property for the principal purpose of the organisation
- (2) contributions made in relation to an eligible fundraising event held for the principal purpose of the organisation
- (3) money received by the organisation because of such gifts and contributions



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