

Constitution of Northern Rivers Foods Incorporated

Under the Associations Incorporation Act 2009

Updated to reflect NSW Fair Trading 2016 model constitution

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Part 1 - Preliminary

1. Definitions

(1) In this constitution:

An Entity means: an incorporated association incorporated under the Act or a co-operative formed under the Co-operatives Act 1992 or company incorporated under the Corporations Act 2001.

Membership Criteria means:

The member must conduct a food business primarily located in the Region; and

The goods and/or services produced by the member must be primarily created within the Region using produce of the Region where available; and

The member has a commitment to using labour from the Region for its operations.

Manufacturer Member means: a member that manufactures value added food products. Food manufacturer, value adder where value adding is responsible for more than 50% of your business income.

Grower Member means: a member that is: a primary producer of food products.

Seller Member means: a member that is a Food Distributor, Restaurant, Caterer or a Food Retailer.

Food Service Member means: a member that operates a business involving Restaurant/Cafe, Catering, Cooking School, Hotel/Motel, B&B, Farmstay, other accommodation.

Affiliate Member means: a member that is: a supplier of goods or services to the Food Industry, a Food Industry Association and or the media including but not limited to food & beverage writer or blogger. Professionals servicing the food industry such as: consultants, brokers, raw material suppliers, designers, publications, marketing & PR, government agencies, transportation companies, trade associations, research companies and universities; Farmers Markets; Consumers; Food Manufacturers and growers who don't comply with the full member guidelines. These members have no voting rights.

Foodie Fan Member means: a consumer member with a special interest in food who is interested in hearing more about our local food industry, events & special offers. Membership of this category does not include attendance at industry events unless specifically stated. These members have no voting rights. The membership criteria that is applied for the other (industry) members, does not apply to these consumer members.

Ordinary committee member means: a member of the committee who is not an office-bearer of the association.

Region means: *the Northern Rivers region of New South Wales*

Secretary means:

- (a) the person holding office under this constitution as secretary of the association, or
- (b) if no such person holds that office - the public officer of the association.

Special general meeting means a general meeting of the association other than an annual general meeting.

the Act means the *Associations Incorporation Act 2009*.

the Regulation means the *Associations Incorporation Regulation 2016*..

- (2) In this constitution:
 - (a) a reference to a function includes a reference to a power, authority and duty, and
 - (b) a reference to the exercise of a function includes, if the function is a duty, a reference to the performance of the duty.
- (3) The provisions of the *Interpretation Act 1987* apply to and in respect of this constitution in the same manner as those provisions would so apply if this constitution were an instrument made under the Act.

Part 2 - Membership

2. Membership generally

- 1) A person is eligible to be a member of the association if:
 - (a) the person is a natural person, and
 - (b) the person satisfies the Membership Criteria; and
 - (c) the person has been nominated and approved for membership of the association in accordance with clause 3.
- (2) An entity is eligible to be a member of the association if:
 - (a) the entity satisfies the Membership Criteria; and
 - (b) the entity has been nominated and approved for membership of the association in accordance with clause 3.
- (3) A person or entity is taken to be a member of the association if:
 - (a) the person is a natural person, and
 - (b) the person or entity was:
 - (i) in the case of an unincorporated body that is registered as the association - a member of that unincorporated body immediately before the registration of the association, or
 - (ii) in the case of an association that is amalgamated to form the relevant association - a member of that other association immediately before the amalgamation, or
 - (iii) in the case of a registrable corporation that is registered as an association - a member of the registrable corporation immediately before that entity was registered as an association.
- (4) A person is taken to be a member of the association if the person was one of the individuals on whose behalf an application for registration of the association under section 6 (1) (a) of the Act was made.
- (5) Classes of Members:
 - (a) Membership shall consist of the following classes:
 - (i) Manufacturer;
 - (ii) Grower;
 - (iii) Seller;
 - (iv) Food Service;
 - (v) Industry Affiliate (non-voting); and
 - (vi) Foodie Fan (consumer; non-voting).

3. Nomination for membership

- (1) A nomination of a person or entity for membership of the association:
 - (a) must be made by a member of the association in writing in the form set out in Appendix 1 to this constitution (via the Northern Rivers Food website)
 - (b) must be lodged with the secretary of the association.
- (2) As soon as practicable after receiving a nomination for membership, the secretary must refer the nomination to the committee, which is to determine whether to approve or to reject the nomination.
- (3) As soon as practicable after the committee makes that determination, the secretary must:
 - (a) notify the nominee, in writing, that the committee approved or rejected the nomination (whichever is applicable), and
 - (b) if the committee approved the nomination, request the nominee to pay (within the period of 28 days after receipt by the nominee of the notification) the sum payable under this constitution by a member as entrance fee and annual subscription.
- (4) The secretary must, on payment by the nominee of the amounts referred to in subclause (3) (b) within the period referred to in that provision, enter or cause to be entered the nominee's name in the register of members and, on the name being so entered, the nominee becomes a member of the association.
- (5)
 - (1) A member which is an entity must authorise an individual to exercise on its behalf any function conferred by or under this constitution and may revoke the authority of any individual so authorised.
 - (2) A function exercised by an individual authorised under this section by an entity, is taken to have been exercised by the entity.
 - (3) Nothing in this section affects any liability or obligation imposed by or under this constitution on an entity which is a member.
 - (4) A document purporting to be an authorisation under this section or to be a revocation of such an authorisation is admissible in evidence and is, unless the contrary is proved, taken to be such an authorisation or revocation.
 - (5) Any individual so authorised is eligible to act in any capacity that a person may act under this constitution.
- (6) A member may only apply for membership in one class of membership which must be nominated on the application for membership.

4. Cessation of membership

- (1) A person ceases to be a member of the association if the person:
 - (a) dies, or
 - (b) resigns membership, or
 - (c) is expelled from the association, or
 - (d) fails to pay the annual membership fee under clause 8 (2) within 3 months after the fee is due.

- (2) An entity ceases to be a member of the association if the entity:
 - (a) is wound up, or
 - (b) resigns membership, or
 - (c) is expelled from the association, or
 - (d) fails to pay the annual membership fee under clause 8 (2) within 3 months after the fee is due.

5. Membership entitlements not transferable

A right, privilege or obligation which a person or entity has by reason of being a member of the association:

- (a) is not capable of being transferred or transmitted to another person or entity, and
- (b) terminates on cessation of the person's or entity's membership.

6. Resignation of membership

- (1) A member of the association may resign from membership of the association by first giving to the secretary written notice of at least one month (or such other period as the committee may determine) of the member's intention to resign and, on the expiration of the period of notice, the member ceases to be a member.
- (2) If a member of the association ceases to be a member under subclause (1), and in every other case where a member ceases to hold membership, the secretary must make an appropriate entry in the register of members recording the date on which the member ceased to be a member.

7. Register of members

- (1) The public officer of the association must establish and maintain a register of members of the association specifying the name and postal or residential address of each member of the association together with the date on which the member became a member and the class of membership.
- (2) The register of members must be kept in New South Wales:
 - (a) at the main premises of the association, or
 - (b) if the association has no premises, at the association's official address.
- (3) The register of members must be open for inspection, free of charge, by any member of the association at any reasonable hour.
- (4) A member of the association may obtain a copy of any part of the register on payment of a fee of not more than \$1 for each page copied or, if some other amount is determined by the committee, that other amount..
- (5) If a member requests that any information contained on the register about the member (other than the member's name) not be available for inspection, that information must not be made available for inspection.
- (6) A member must not use information about a person obtained from the register to contact or send material to the person, other than for:
 - (a) the purposes of sending the person a newsletter, a notice in respect of a meeting or other event relating to the association or other material relating to the association, or

- (b) any other purpose necessary to comply with a requirement of the Act or the Regulation.
- (7) If the register of members is kept in electronic form:
- (a) it must be convertible into hard copy, and
 - (b) the requirements in subclauses (2) and (3) apply as if a reference to the register of members is a reference to a current hard copy of the register of members.

8. Fees and subscriptions

- (1) A member of the association must, on admission to membership, pay to the association a fee of \$220 (plus GST) or, if some other amount is determined by the committee, that other amount.
- (2) In addition to any amount payable by the member under subclause (1), a member of the association must pay to the association an annual membership fee of \$220 (plus GST) or, if some other amount is determined by the committee, that other amount:
 - (a) except as provided by paragraph (b), before 1 July in each calendar year, or
 - (b) if the member becomes a member on or after 1 July in any calendar year - on becoming a member and before 1 July in each succeeding calendar year.
- (3) A Foodie Fan (Consumer) Member of the association must, on admission to membership, pay the association a fee of \$120 (plus GST) or, if some other amount is determined by the committee, that other amount.

9. Members' liabilities

The liability of a member of the association to contribute towards the payment of the debts and liabilities of the association or the costs, charges and expenses of the winding up of the association is limited to the amount, if any, unpaid by the member in respect of membership of the association as required by clause 8.

10. Resolution of disputes

- (1) A dispute between a member and another member (in their capacity as members) of the association, or a dispute between a member or members and the association, are to be referred to a community justice centre for mediation under the *Community Justice Centres Act 1983*.
- (2) If a dispute is not resolved by mediation within 3 months of the referral to a community justice centre, the dispute is to be referred to arbitration.
- (3) The *Commercial Arbitration Act 1984* applies to any such dispute referred to arbitration.

11. Disciplining of members

- (1) A complaint may be made to the committee by any member that a member of the association:
 - (a) has refused or neglected to comply with a provision or provisions of this constitution, or
 - (b) has wilfully acted in a manner prejudicial to the interests of the association.
- (2) The committee may refuse to deal with a complaint if it considers the complaint to be trivial or vexatious in nature.

- (3) If the committee decides to deal with the complaint, the committee:
 - (a) must cause notice of the complaint to be served on the member concerned, and
 - (b) must give the member at least 14 days from the time the notice is served within which to make submissions to the committee in connection with the complaint, and
 - (c) must take into consideration any submissions made by the member in connection with the complaint.
- (4) The committee may, by resolution, expel the member from the association or suspend the member from membership of the association if, after considering the complaint and any submissions made in connection with the complaint, it is satisfied that the facts alleged in the complaint have been proved and the expulsion or suspension is warranted in the circumstances.
- (5) If the committee expels or suspends a member, the secretary must, within 7 days after the action is taken, cause written notice to be given to the member of the action taken, of the reasons given by the committee for having taken that action and of the member's right of appeal under clause 12.
- (6) The expulsion or suspension does not take effect:
 - (a) until the expiration of the period within which the member is entitled to appeal against the resolution concerned, or
 - (b) if within that period the member exercises the right of appeal, unless and until the association confirms the resolution under clause 12, whichever is the later.

12. Right of appeal of disciplined member

- (1) A member may appeal to the association in general meeting against a resolution of the committee under clause 11, within 7 days after notice of the resolution is served on the member, by lodging with the secretary a notice to that effect.
- (2) The notice may, but need not, be accompanied by a statement of the grounds on which the member intends to rely for the purposes of the appeal.
- (3) On receipt of a notice from a member under subclause (1), the secretary must notify the committee, which is to convene a general meeting of the association to be held within 28 days after the date on which the secretary received the notice.
- (4) At a general meeting of the association convened under subclause (3):
 - (a) no business other than the question of the appeal is to be transacted, and
 - (b) the committee and the member must be given the opportunity to state their respective cases orally or in writing, or both, and
 - (c) the members present are to vote by secret ballot on the question of whether the resolution should be confirmed or revoked.
- (5) The appeal is to be determined by a simple majority of votes cast by members of the association.

Part 3 - The Executive Committee

13. Powers of the Executive Committee

Subject to the Act, the Regulation and this constitution and to any resolution passed by the association in general meeting, the Executive Committee:

- (a) is to control and manage the affairs of the association, and
- (b) may exercise all such functions as may be exercised by the association, other than those functions that are required by this constitution to be exercised by a general meeting of members of the association, and
- (c) has power to perform all such acts and do all such things as appear to the Executive Committee to be necessary or desirable for the proper management of the affairs of the association.

14. Composition and membership of Executive Committee

- (1) The Executive Committee is to consist of:
 - (a) the office-bearers of the association, and
 - (b) up to 5 ordinary Executive Committee members, each of whom is to be elected at the annual general meeting of the association under clause 15.
- (2) The total number of Executive Committee members is to be 10.
- (3) The office-bearers of the association are as follows:
 - (a) the Chair
 - (b) the vice-chair
 - (c) the treasurer
 - (d) the secretary
 - (e) the Executive Officer.
- (4) An Executive Committee member may hold up to 2 offices (other than both the Chair and vice-Chair offices).
- (5) There is no maximum number of consecutive terms for which an Executive Committee member may hold office.

Note. Schedule 1 to the Act provides that an association's constitution is to address the maximum number of consecutive terms of office of any office-bearers on the Executive Committee.

- (6) Each member of the Executive Committee is, subject to this constitution, to hold office until immediately before the election of Executive Committee members at the annual general meeting next following the date of the member's election, and is eligible for re-election.

15. Election of Executive Committee members

- (1) Nominations of candidates for election as office-bearers of the association or as ordinary Executive Committee members:
 - (a) must be made in writing, signed by 2 members of the association and accompanied by the written consent of the candidate (which may be endorsed on the form of the nomination), and

- (b) must be delivered to the secretary of the association at least 7 days before the date fixed for the holding of the annual general meeting at which the election is to take place.
- (2) If insufficient nominations are received to fill all vacancies on the Executive Committee, the candidates nominated are taken to be elected and further nominations are to be received at the annual general meeting.
- (3) If insufficient further nominations are received, any vacant positions remaining on the Executive Committee are taken to be casual vacancies.
- (4) If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated are taken to be elected.
- (5) If the number of nominations received exceeds the number of vacancies to be filled, a ballot is to be held.
- (6) The ballot for the election of office-bearers and ordinary Executive Committee members of the Executive Committee is to be conducted at the annual general meeting in such usual and proper manner as the Executive Committee may direct.
- (7) A person nominated as a candidate for election as an office-bearer or as an ordinary Executive Committee member of the association must be a member of the association.

16. Secretary

- (1) The secretary of the association must, as soon as practicable after being appointed as secretary, lodge notice with the association of his or her address.
- (2) It is the duty of the secretary to keep minutes of:
 - (a) all appointments of office-bearers and members of the Executive Committee, and
 - (b) the names of members of the Executive Committee present at a Executive Committee meeting or a general meeting, and
 - (c) all proceedings at Executive Committee meetings and general meetings.
- (3) Minutes of proceedings at a meeting must be signed by the chairperson of the meeting or by the chairperson of the next succeeding meeting.
- (4) The signature of the chairperson may be transmitted by electronic means for the purposes of subclause (3).

17. Treasurer

It is the duty of the treasurer of the association to ensure:

- (a) that all money due to the association is collected and received and that all payments authorised by the association are made, and
- (b) that correct books and accounts are kept showing the financial affairs of the association, including full details of all receipts and expenditure connected with the activities of the association.

18. Executive Officer

It is the duty of the Executive Officer of the association to ensure:

- (a) The Executive Committee may confer on a Executive Officer such of the powers conferred on the Executive Committee by this constitution for such time, to be exercised for purposes, on terms and with restrictions as they

think fit and all or any of those powers may be conferred collaterally with but not to the exclusion of the powers of the Executive Committee and may be revoked or varied by the Executive Committee.

19. Casual vacancies

- (1) In the event of a casual vacancy occurring in the membership of the Executive Committee, the Executive Committee may appoint a member of the association to fill the vacancy, provided the member so appointed is to hold office, subject to this constitution, until the conclusion of the annual general meeting next following the date of the appointment.
- (2) A casual vacancy in the office of a member of the Executive Committee occurs if the member:
 - (a) dies, or
 - (b) ceases to be a member of the association, or
 - (c) becomes an insolvent under administration within the meaning of the *Corporations Act 2001* of the Commonwealth, or
 - (d) resigns office by notice in writing given to the secretary, or
 - (e) is removed from office under clause 19, or
 - (f) becomes a mentally incapacitated person, or
 - (g) is absent without the consent of the Executive Committee from 3 consecutive meetings of the Executive Committee, or
 - (h) is convicted of an offence involving fraud or dishonesty for which the maximum penalty on conviction is imprisonment for not less than 3 months, or
 - (i) is prohibited from being a director of a company under Part 2D.6 (Disqualification from managing corporations) of the *Corporations Act 2001* of the Commonwealth.

20. Removal of Executive Committee members

- (1) The association in general meeting may by resolution remove any member of the Executive Committee from the office of member before the expiration of the member's term of office and may by resolution appoint another person to hold office until the expiration of the term of office of the member so removed.
- (2) If a member of the Executive Committee to whom a proposed resolution referred to in subclause (1) relates makes representations in writing to the secretary or president (not exceeding a reasonable length) and requests that the representations be notified to the members of the association, the secretary or the president may send a copy of the representations to each member of the association or, if the representations are not so sent, the member is entitled to require that the representations be read out at the meeting at which the resolution is considered.

21. Executive Committee meetings and quorum

- (1) The Executive Committee must meet at least 3 times in each period of 12 months at such place and time as the Executive Committee may determine.
- (2) Additional meetings of the Executive Committee may be convened by the Chair or by any member of the Executive Committee.
- (3) Oral or written notice of a meeting of the Executive Committee must be given by the secretary to each member of the Executive Committee at least 48 hours (or

such other period as may be unanimously agreed on by the members of the Executive Committee) before the time appointed for the holding of the meeting.

- (4) Notice of a meeting given under subclause (3) must specify the general nature of the business to be transacted at the meeting and no business other than that business is to be transacted at the meeting, except business, which the Executive Committee members present at the meeting unanimously agree to treat as urgent business.
- (5) Any 3 members of the Executive Committee constitute a quorum for the transaction of the business of a meeting of the Executive Committee.
- (6) No business is to be transacted by the Executive Committee unless a quorum is present and if, within half an hour of the time appointed for the meeting, a quorum is not present, the meeting is to stand adjourned to the same place and at the same hour of the same day in the following week.
- (7) If at the adjourned meeting a quorum is not present within half an hour of the time appointed for the meeting, the meeting is to be dissolved.
- (8) At a meeting of the Executive Committee:
 - (a) the Chair or, in the Chair's absence, the vice-chair is to preside, or
 - (b) if the Chair and the vice-Chair are absent or unwilling to act, such one of the remaining members of the Executive Committee as may be chosen by the members present at the meeting is to preside.

22. Delegation by Executive Committee to sub-committee

- (1) The Executive Committee may, by instrument in writing, delegate to one or more sub-committees (consisting of the member or members of the association that the committee thinks fit) the exercise of any of the functions of the Executive Committee that are specified in the instrument, other than:
 - (a) this power of delegation, and
 - (b) a function which is a duty imposed on the Executive Committee by the Act or by any other law.
- (2) A function the exercise of which has been delegated to a sub-committee under this clause may, while the delegation remains unrevoked, be exercised from time to time by the sub-committee in accordance with the terms of the delegation.
- (3) A delegation under this clause may be made subject to such conditions or limitations as to the exercise of any function, or as to time or circumstances, as may be specified in the instrument of delegation.
- (4) Despite any delegation under this clause, the Executive Committee may continue to exercise any function delegated.
- (5) Any act or thing done or suffered by a sub-committee acting in the exercise of a delegation under this clause has the same force and effect as it would have if it had been done or suffered by the Executive Committee.
- (6) The Executive Committee may, by instrument in writing, revoke wholly or in part any delegation under this clause.
- (7) A sub-committee may meet and adjourn as it thinks proper.

23. Voting and decisions

- (1) Questions arising at a meeting of the Executive Committee or of any sub-committee appointed by the committee are to be determined by a majority of the votes of members of the Executive Committee or sub-committee present at the meeting.
- (2) Each member present at a meeting of the Executive Committee or of any sub-committee appointed by the Executive Committee (including the person presiding at the meeting) is entitled to one vote but, in the event of an equality of votes on any question, the person presiding may exercise a second or casting vote.
- (3) Subject to clause 20 (5), the Executive Committee may act despite any vacancy on the Executive Committee.
- (4) Any act or thing done or suffered, or purporting to have been done or suffered, by the Executive Committee or by a sub-committee appointed by the Executive Committee, is valid and effectual despite any defect that may afterwards be discovered in the appointment or qualification of any member of the Executive Committee or sub-committee.

Part 4 - General meetings

24. Annual general meetings - holding of

- (1) The association must hold its first annual general meeting within 18 months after its registration under the Act.
- (2) The association must hold its annual general meetings:
 - (a) within 6 months after the close of the association's financial year, or
 - (b) within any later time that may be allowed or prescribed under section 37 (2) (b) of the Act

25. Annual general meetings - calling of and business at

- (1) The annual general meeting of the association is, subject to the Act and to clause 23, to be convened on such date and at such place and time as the committee thinks fit.
- (2) In addition to any other business, which may be transacted at an annual general meeting, the business of an annual general meeting is to include the following:
 - (a) to confirm the minutes of the last preceding annual general meeting and of any special general meeting held since that meeting,
 - (b) to receive from the committee reports on the activities of the association during the last preceding financial year,
 - (c) to elect office-bearers of the association and ordinary committee members,
 - (d) to receive and consider any financial statement or report required to be submitted to members under the Act.
- (3) An annual general meeting must be specified as such in the notice convening it.

26. Special general meetings - calling of

- (1) The committee may, whenever it thinks fit, convene a special general meeting of the association.
- (2) The committee must, on the requisition in writing of at least 5 per cent of the total number of members, convene a special general meeting of the association.
- (3) A requisition of members for a special general meeting:
 - (a) must be in writing, and
 - (b) must state the purpose or purposes of the meeting, and
 - (c) must be signed by the members making the requisition, and
 - (d) must be lodged with the secretary, and
 - (e) may consist of several documents in a similar form, each signed by one or more of the members making the requisition.
- (4) If the committee fails to convene a special general meeting to be held within 1 month after that date on which a requisition of members for the meeting is lodged with the secretary, any one or more of the members who made the requisition may convene a special general meeting to be held not later than 3 months after that date.
- (5) A special general meeting convened by a member or members as referred to in subclause (4) must be convened as nearly as is practicable in the same manner as general meetings are convened by the committee.

- (6) For the purposes of subclause (3):
- (a) a requisition may be in electronic form, and
 - (b) a signature may be transmitted, and a requisition may be lodged, by electronic means.

27. Notice

- (1) Except if the nature of the business proposed to be dealt with at a general meeting requires a special resolution of the association, the secretary must, at least 14 days before the date fixed for the holding of the general meeting, give a notice to each member specifying the place, date and time of the meeting and the nature of the business proposed to be transacted at the meeting.
- (2) If the nature of the business proposed to be dealt with at a general meeting requires a special resolution of the association, the secretary must, at least 21 days before the date fixed for the holding of the general meeting, cause notice to be given to each member specifying, in addition to the matter required under subclause (1), the intention to propose the resolution as a special resolution.
- (3) No business other than that specified in the notice convening a general meeting is to be transacted at the meeting except, in the case of an annual general meeting, business which may be transacted under clause 24 (2).
- (4) A member desiring to bring any business before a general meeting may give notice in writing of that business to the secretary who must include that business in the next notice calling a general meeting given after receipt of the notice from the member.

28. Quorum for general meetings

- (1) No item of business is to be transacted at a general meeting unless a quorum of members entitled under this constitution to vote is present during the time the meeting is considering that item.
- (2) Five members present (being members entitled under this constitution to vote at a general meeting) constitute a quorum for the transaction of the business of a general meeting.
- (3) If within half an hour after the appointed time for the commencement of a general meeting a quorum is not present, the meeting:
 - (a) if convened on the requisition of members, is to be dissolved, and
 - (b) in any other case, is to stand adjourned to the same day in the following week at the same time and (unless another place is specified at the time of the adjournment by the person presiding at the meeting or communicated by written notice to members given before the day to which the meeting is adjourned) at the same place.
- (4) If at the adjourned meeting a quorum is not present within half an hour after the time appointed for the commencement of the meeting, the members present (being at least 3) are to constitute a quorum.

29. Presiding member

- (1) The Chair or, in the Chair's absence, the vice-Chair, is to preside as chairperson at each general meeting of the association.
- (2) If the Chair and the vice-Chair are absent or unwilling to act, the members present must elect one of their number to preside as chairperson at the meeting.

30. Adjournment

- (1) The chairperson of a general meeting at which a quorum is present may, with the consent of the majority of members present at the meeting, adjourn the meeting from time to time and place to place, but no business is to be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.
- (2) If a general meeting is adjourned for 14 days or more, the secretary must give written or oral notice of the adjourned meeting to each member of the association stating the place, date and time of the meeting and the nature of the business to be transacted at the meeting.
- (3) Except as provided in subclauses (1) and (2), notice of an adjournment of a general meeting or of the business to be transacted at an adjourned meeting is not required to be given.

31. Making of decisions

- (1) A question arising at a general meeting of the association is to be determined by either:
 - (a) a show of hands, or
 - (b) if on the motion of the chairperson or if 5 or more members present at the meeting decide that the question should be determined by a written ballot—a written ballot will be conducted.
- (2) If the question is to be determined by a show of hands, a declaration by the chairperson that a resolution has, on a show of hands, been carried or carried unanimously or carried by a particular majority or lost, or an entry to that effect in the minute book of the association, is evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against that resolution.
- (3) If the question is to be determined by a written ballot, the ballot is to be conducted in accordance with the directions of the chairperson.

32. Special resolutions

A special resolution may only be passed by the association in accordance with section 39 of the Act.

33. Voting

- (1) On any question arising at a general meeting of the association a member has one vote only.
- (2) In the case of an equality of votes on a question at a general meeting, the chairperson of the meeting is entitled to exercise a second or casting vote.
- (3) A member is not entitled to vote at any general meeting of the association unless all money due and payable by the member to the association has been paid.
- (4) A member is not entitled to vote at any general meeting of the association if the member is under 18 years of age.

34. Proxy votes not permitted

Proxy voting must not be undertaken at or in respect of a general meeting.

Note: Schedule 1 of the Act provides that an association's constitution is to address whether members of the association are entitled to vote by proxy at general meetings.

35. Postal & Electronic Ballots

- (1) The association may hold a postal or electronic ballot (as the committee determines) to determine any issue or proposal (other than an appeal under clause 12).
- (2) A postal or electronic ballot is to be conducted in accordance with Schedule 3 to the Regulation.

Part 5 - Miscellaneous

36. Insurance

The association may effect and maintain insurance.

37. Funds - source

- (1) The funds of the association are to be derived from entrance fees and annual subscriptions of members, donations and, subject to any resolution passed by the association in general meeting, such other sources as the committee determines.
- (2) All money received by the association must be deposited as soon as practicable and without deduction to the credit of the association's bank or other authorised deposit-taking institution account.
- (3) The association must, as soon as practicable after receiving any money, issue an appropriate receipt.

38. Funds - management

- (1) Subject to any resolution passed by the association in general meeting, the funds of the association are to be used in pursuance of the objects of the association in such manner as the committee determines.
- (2) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by any 2 members of the committee or employees of the association, being members or employees authorised to do so by the committee.

39. Not for Profit Association

- a) Subject to clause 2.2 (b), the income and property of the association must be applied solely towards the promotion and achievement of the Objects.
- b) No part of the income or property of the association may be paid to or distributed among the Members except as:
 - i) Fair and reasonable remuneration in return for any services rendered to or for the association in the ordinary course of business and on an arms' length basis;
 - ii) Fair and reasonable reimbursement for out of pocket expenses of a kind authorised by resolution of the Board and reasonably and properly incurred by the Member for or on behalf of the Association;
 - iii) Payment for goods or services supplied to the company for a fair value and in the ordinary course of business.
 - iv) Interest at a commercial rate on money borrowed by the Association from any Member; or
 - v) Reasonable and proper rent for premises let by any Member to the Association.

40. Change of name, objects and constitution

An application for registration of a change in the association's name, objects or constitution in accordance with section 10 of the Act is to be made by the public officer or a committee member.

41. Custody of books etc

Except as otherwise provided by this constitution, the public officer must keep in his or her custody or under his or her control all records, books and other documents relating to the association.

42. Inspection of books etc

- (1) The following documents must be open to inspection, free of charge, by a member of the association at any reasonable hour:
 - (a) records, books and other financial documents of the association,
 - (b) this constitution,
 - (c) minutes of all committee meetings and general meetings of the association.
- (2) A member of the association may obtain a copy of any of the documents referred to in subclause (1) on payment of a fee of not more than \$1 for each page copied.
- (3) Despite subclauses (1) and (2), the committee may refuse to permit a member of the association to inspect or obtain a copy of records of the association that relate to confidential, personal, employment, commercial or legal matters or where to do so may be prejudicial to the interests of the association.

43. Service of notices

- (1) For the purpose of this constitution, a notice may be served on or given to a person:
 - (a) by delivering it to the person personally, or
 - (b) by sending it by pre-paid post to the address of the person, or
 - (c) by sending it by facsimile transmission or some other form of electronic transmission to an address specified by the person for giving or serving the notice.
- (2) For the purpose of this constitution, a notice is taken, unless the contrary is proved, to have been given or served:
 - (a) in the case of a notice given or served personally, on the date on which it is received by the addressee, and
 - (b) in the case of a notice sent by pre-paid post, on the date when it would have been delivered in the ordinary course of post, and
 - (c) in the case of a notice sent by facsimile transmission or some other form of electronic transmission, on the date it was sent or, if the machine from which the transmission was sent produces a report indicating that the notice was sent on a later date, on that date.

44. Financial year

The financial year of the association is:

- (a) the period of time commencing on the date of incorporation of the association and ending on the following 30 June, and
- (b) each period of 12 months after the expiration of the previous financial year of the association, commencing on 1 July and ending on the following 30 June.

Note: Schedule 1 of the Act provides that an association's constitution is to address the association's financial year.

45. Winding Up

45.1 No Right to Surplus Assets

No Member has any right to any surplus assets remaining after the completion of the winding up or dissolution of the Association

45.2 Transfer of Surplus Assets

- a) If on the winding up or dissolution of the Association there remains surplus assets, after the satisfaction of all the Association's debts and liabilities, then such surplus must be given or transferred to a Company, association or authority:
 - i) With objects the same as or similar to the Objects of the Association; and
 - ii) Which has a constitution prohibiting the distribution of income and property among its members to an extent at least as great as is imposed by this constitution.
- b) The company, association or authority to which any surplus assets of the Association will be transferred will be determined by resolution of the Association at a general meeting at or before the winding up or dissolution of the Association and, if not, will be determined by the Supreme Court of New South Wales.

Appendix 1 Application for membership of association

(Clause 3 (1))

APPLICATION FOR MEMBERSHIP OF ASSOCIATION

.....

[name of association]

Incorporated (incorporated under the *Associations Incorporation Act 2009*)

I/the entity,

.....

[full name of applicant]

of

[address]

.....

[occupation]

hereby apply to become a Grower/Manufacturer/Seller/Affiliate member of the above named incorporated association. In the event of admission as a member, I/the entity agree to be bound by the constitution of the association for the time being in force.

.....
Signature of applicant Date

The entity appoints [full name of individual] to be its representative

.....
Signature of applicant Date

I/the entity,

.....

[full name]

a member of the association, nominate the applicant for membership of the association.

.....
Signature of proposer Date

I/the entity,

.....

[full name]

a member of the association, second the nomination of the applicant for membership of the association.

.....
Signature of seconder Date

Note a member may only be a member in one class of membership

If an entity is applying for membership it must authorise in writing an individual to perform its functions as a member.