



APACSNWSW

AUSTRALIAN PSYCHOLOGISTS
AND COUNSELLORS IN SCHOOLS NSW

**Australian Psychologists and
Counsellors in Schools New
South Wales (APACS NSW) Inc**

Under the Associations Incorporation Act 2009

CONSTITUTION

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Part 1 Preliminary

1 Definitions

(1) In this constitution:

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

secretary means:

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

membership secretary means:

- (a) The person holding office under this constitution as membership secretary of the association; or
- (b) If no person hold that office the secretary 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 has applied and been approved for membership of the association in accordance with clause 3.
- (2) A person is taken to be a member of the association if:
 - (a) the person is a natural person, and
 - (b) the person was a member of the NSW Chapter of APACS (APACS NSW) at the time of registration of the association under section 6 (1) (a) of the Act.
- (3) (a) There will be no limits on the number of members, except as provided in 2.3 (b)
 - (b) Honorary membership shall be limited to 4 members and Life membership shall be limited as determined by the committee from time to time

3 Application for membership

- (1) An application by a person for membership of the association:
 - (a) must be made through the APACS NSW website by the applicant in the form prescribed on the website; or
 - (b) if in another written (including electronic) form, which may be accepted from time to time by the committee, the data must be entered as soon as practicable onto the APACS NSW Website.
- (2) As soon as practicable after receiving an application for membership, along with the appropriate fees payable under this constitution, the membership secretary must refer the application to the committee, which is to determine whether to approve in the original form, or a modified form, or to reject the application.

- (3) As soon as practicable after the committee makes that determination, the membership secretary must:
 - (a) notify the applicant in writing (including by email or other electronic means, if the committee so determines) that the committee approved or rejected the application (whichever is applicable), and
 - (b) if the committee approved the application, provide the applicant with information about membership including their level of membership, the downloading of their membership certificate, professionally relevant information and the use of post nominals.
- (4) The membership secretary must, following approval by the committee, enter or cause to be entered the applicant's name in the register of members and, on the name being so entered, the applicant becomes a member of the association.

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 (section 11 (4)), or
 - (d) fails to pay the annual membership fee under clause 8 (2) within 6 months after the fee is due.
- (2) A person who ceases to be a member of the association by virtue of clause 4 (1) shall not be eligible for a refund of full or part fees.

5 Membership entitlements not transferable

- (1) A right, privilege or obligation which a person has by reason of being a member of the association:
 - (a) is not capable of being transferred or transmitted to another person, and
 - (b) terminates on cessation of the person's membership.
 - (c) is not capable of being exercised during a period when the member is not financial or while their membership is suspended.

6 Resignation of membership

- (1) A member of the association may resign from membership of the association by first giving to the membership secretary written notice, of at least 1 month, 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 membership secretary must make an appropriate entry in the register of members recording the date on which the member ceased to be a member.

7 Suspension of membership

- (1) A member's membership may be suspended;
 - (a) By the committee under section 12 (4); or
 - (b) At the request of the member, where the member is taking leave from their school related work as a psychologist, guidance officer or counsellor for a period of not less than 12 months and no more than three years. The suspension of membership under (b)
 - (i) is to be approved by a committee meeting having considered the individual reasons for the request, and
 - (ii) the member may reactivate their membership at the end of the period of suspended membership by paying the appropriate annual fee.
 - (c) A member suspended under section 12 (4) may have their suspension terminated by the committee.
 - (d) During the period of suspended membership, the member shall be entitled to access the website and receive emailed notices, newsletters and other information but shall not receive printed copies of publication such as the Journal or annuals or be entitled to other benefits of membership.
 - (e) During the period of suspended membership the member will not have voting rights.

8 Register of members

- (1) The membership secretary must establish and maintain a register of members of the association (whether in written or electronic form) specifying at least the name and relevant contact details (physical and/or electronic) of each person who is a member of the association and their level of membership together with the date on which the person became a member.
- (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 membership secretary'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 \$5 for each page produced.
- (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 then 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.

9 Fees and subscriptions

- (1) An applicant for membership must pay to the association an application fee and an annual subscription fee as prescribed in clause 9 (3).
- (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
 - (a) except as provided by paragraph (b), before the first day of the financial year of the association in each calendar year, or
 - (b) if the member becomes a member on or after the first day of the financial year of the association in any calendar year—on becoming a member and before the first day of the financial year of the association in each succeeding calendar year.
- (3) At each Annual General Meeting the committee will approve a schedule of application and annual fees to be effective for the next financial year for each level of membership.

10 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 9.

11 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 2010* applies to a dispute referred to arbitration.

12 Disciplining of members

- (1) A complaint may be made to the committee by any person 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 13.
- (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.

13 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 12, 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 13 (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 13 (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.

14 Membership categories

Membership of APACS NSW consists of the following categories of members:

(1) General Member

- 1 A General Member of APACS NSW is a person who:
 - (a) Is approved as a General Member through the Committee and
 - (b) Is providing a direct or indirect service to students as a psychologist, counsellor or guidance officer, in a school or school related workplace approved by the Committee; and
 - (c) Is a psychologist or
 - (d) have post graduate qualifications such as in counselling or psychology recognised by the Committee from a university or other tertiary institution and be receiving ongoing professional supervision; and
 - (e) wishes to subscribe to the objects of APACS NSW
- 2 A General Member will have voting rights

(2) Associate Member:

- 1 An Associate Member is a person who:
 - (a) is approved as an Associate Member through the committee and :
 - (b) is ineligible for full membership; and
 - (c) who wishes to subscribe to the objects of APACS NSW.
- 3 An Associate Members will not have voting rights unless elected onto the committee when they will have voting rights

(3) Student Member:

- (1) A Student Member is a person who:
 - (a) Is approved as a Student Member through the committee; and
 - (b) Who is an unwaged student studying courses leading to General membership; and

(c) who is intending to work in schools or TAFE or a school related workplace; and

(d) who wishes to subscribe to the objects of APACS NSW

(2) A Student Member will not have voting rights unless elected onto the committee when they will have voting rights.

(3) Evidence of enrolment is required on an annual basis.

(4) International Member:

(1) An International Member is a person who:

(a) Is approved as an international member through the committee; and

(b) Who resides outside of Australia; and

(c) provides evidence of training or experience in psychology and/or counselling practice in educational institutions which the Committee recognises as relevant and equivalent to the requirements for Associate or general Membership; and

(d) who wishes to subscribe to the objects of APACS NSW

(2) An International Member will have voting rights equivalent to the level of resident membership they would be entitled to.

(5) Emeritus Member:

(1) An Emeritus Member is a person who:

(a) is approved as an Emeritus Member by the Committee on the basis of

(b) having been a General or Associate member of APACS NSW (or previously AGCA) for five or more years and

(c) provides evidence of being fully retired.

(2) An Emeritus Members will not have voting rights.

(6) Life Member:

(1) A Life Member is a person who:

(a) has been conferred life membership by an Annual General Meeting following a recommendation from a general committee meeting in recognition of exceptional service to APACS NSW (previously AGCA); and

(b) shall be entitled to all the rights of General Members; and

(c) from the date of their selection shall be exempt from the payment of all levies and subscriptions.

(7) Honorary Member:

- (1) An Honorary Member is a person who:
 - (a) May or may not be a current member and is recognised for their significant interest in and support of the Association, or to school psychology and school counselling services generally; and
 - (b) following an acceptance of a nomination has Honorary Membership conferred at an Committee Meeting by resolution of the meeting.
- (2) Honorary membership is reviewed on an annual basis by the committee which will decide if an individual's honorary membership is extended.
- (3) An Honorary member will not have voting rights.
- (4) An Honorary member will be exempt from all levies and subscriptions for the period of time awarded Honorary membership status.

Part 3 The committee

15 Powers of the committee

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

- (a) is to control and manage the affairs of the association; and
- (b) may exercise all the functions that 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 the acts and do all things that appear to the committee to be necessary or desirable for the proper management of the affairs of the association and
- (d) may join or affiliate with other associations with similar aims and objectives or which can benefit the affairs of the association.

16 Composition and membership of committee

- (1) The committee is to consist of:
 - (a) the office-bearers of the association, and
 - (b) at least 4 general committee members; and
 - (c) a student representative.each of whom is to be elected at the annual general meeting of the association under clause 17.

Note. Section 28 of the Act contains further requirements concerning eligibility for membership and composition of the committee.

- (2) The total number of committee members is to be at least 8 and no more than 20.
- (3) The office-bearers of the association are as follows:
 - (a) the president
 - (b) the vice-president
 - (c) the treasurer
 - (d) the secretary
- (4) A committee member may hold up to 2 offices (other than both the offices of president and vice-president).
- (5) Each member of the committee is, subject to this constitution, to hold office until immediately before the election of committee members at the annual general meeting next following the date of the member's election, and is eligible for re-election.

17 Election of committee members

- (1) Nominations of candidates for election as office-bearers of the association or as ordinary 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 Received by the secretary of the association at least 14 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 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 committee are taken to be casual vacancies. (See Section 20 Casual Vacancies)
- (4) If the number of nominations received is equal to the number of vacancies to be filled for each position, the persons nominated are taken to be elected.
- (5) If the number of nominations received exceeds the number of vacancies for each position to be filled, a ballot is to be held.
- (6) The ballot for the election of office-bearers and general committee members of the committee is to be conducted at the annual general meeting in any usual and proper manner that the committee directs.
- (7) A person nominated as a candidate for election as an office-bearer or as a general committee member of the association must be a voting member of the association, except for the student representative.

18 Secretary

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

19 Treasurer

- (1) 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
 - (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, and
 - (c) that the association's financial records are prepared for auditing.

20 Casual vacancies

- (1) In the event of a casual vacancy occurring in the membership of the committee, the committee may appoint a member of the association to fill the vacancy and the member so appointed is to hold office, subject to this constitution, until the annual general meeting next following the date of the appointment.
- (2) A casual vacancy in the office of a member of the committee occurs if the member:
 - (a) dies; or
 - (b) ceases to be a member of the association; or
 - (c) is or 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 21; or
 - (f) becomes a mentally incapacitated person; or
 - (g) is absent without the consent of the committee from 3 consecutive meetings of the committee; or

- (h) is convicted of an offence involving fraud or dishonesty or the Child Protection (Working with Children) Act 2012 No 51 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.

21 Removal of committee members

- (1) The association in general meeting may by resolution remove any member of the 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 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.

22 Committee meetings and quorum

- (1) The committee must meet at least 3 times in each period of 12 months at the place and time that the committee may determine.
- (2) Additional meetings of the committee may be convened by the president or by any member of the committee.
- (3) Oral or written notice of a meeting of the committee must be given by the secretary to each member of the committee at least 48 hours (or any other period that may be unanimously agreed on by the members of the 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 committee members present at the meeting unanimously agree to treat as urgent business.
- (5) Any 5 members of the committee constitute a quorum for the transaction of the business of a meeting of the committee.
- (6) No business is to be transacted by the 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 committee:

- (a) the president or, in the president's absence, the vice-president is to preside, or
 - (b) if the president and the vice-president are absent or unwilling to act, one of the remaining members of the committee chosen by the members present at the meeting is to preside.
- (9) (a) A resolution in writing signed or assented to by facsimile or other form of electronic communication by all the voting APACS NSW Committee, shall be as valid and effectual as if it had been passed at a meeting of the APACS NSW Committee duly convened and held. Any such resolution may consist of several documents in like form each signed by one of more of the APACS NSW Committee.
- (b) A resolution which is not assented to by all APACS NSW Committee shall be valid so long as a majority of voting APACS NSW Committee Members are in favour and indicate their assent, and all APACS NSW Committee Members eligible to vote receive a notice of the proposed resolution in a timely fashion in the same manner as all other APACS NSW Committee.
 - (c) Without limiting the power of the APACS NSW Committee to regulate its meetings as it thinks fit, a meeting of the APACS NSW Committee may be held where one or more of the APACS NSW Committee is not physically present at the meeting, provided that:
 - (i) all persons participating in the meeting are able to communicate audibly with each other effectively, simultaneously and instantaneously whether by means of telephone, radio, conference video or other form of communication.
 - (ii) notice of the meeting is given to all the APACS NSW Committee Members entitled to notice in accordance with the usual procedures agreed upon or laid down from time to time by the APACS NSW Committee; and
 - (iii) any meeting held where one or more of the APACS NSW Committee Members is not physically present shall be deemed to be held at the place specified in the notice of meeting provided a APACS NSW Committee is there present the meeting shall be deemed to be held at the place where the Chair of the meeting is located.
 - (d) The APACS NSW Committee may by Regulations approve any other form of decision making which uses technology or other means provided no person eligible to exercise a vote is disadvantaged or reasonably rendered unable to vote.
 - (e) An APACS NSW Committee Member may not leave a meeting conducted pursuant to this rule by disconnecting his telephone, radio, conference video or other form of communication unless that person has previously obtained the express consent of the Chair of the meeting.
 - (f) An APACS NSW Committee Member shall be conclusively presumed to have been present and to have formed part of the quorum at all times during the meeting by telephone, radio, conference television or other form of instantaneous audio or audio and visual communication unless that person has previously obtained the express consent of the Chair of the meeting to leave the meeting.

- (g) A minute of the proceedings at a meeting held by telephone, radio, conference television or instantaneous audio or audio and visual communication shall be sufficient evidence of the proceedings and of the observance of all necessary formalities if certified as a correct minute by the Chair of the meeting or by the Secretary if present at the meeting.

23 Appointment of association members as committee members to constitute quorum

- (1) If at any time the number of committee members is less than the number required to constitute a quorum for a committee meeting, the existing committee members may appoint a sufficient number of members of the association as committee members to enable the quorum to be constituted.
- (2) A member of the committee so appointed is to hold office, subject to this constitution, until the annual general meeting next following the date of the appointment.
- (3) This clause does not apply to the filling of a casual vacancy to which clause 20 applies.

24 Use of technology at committee meetings

- (1) A committee meeting may be held at 2 or more venues using any technology approved by the committee that gives each of the committee's members a reasonable opportunity to participate.
- (2) A committee member who participates in a committee meeting using that technology is taken to be present at the meeting and, if the member votes at the meeting, is taken to have voted in person.

25 Delegation by committee to sub-committee

- (1) The 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 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 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 any conditions or limitations as to the exercise of any function, or as to time or circumstances, that may be specified in the instrument of delegation.
- (4) Despite any delegation under this clause, the 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 committee.
- (6) The 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.

26 Voting and decisions

- (1) Questions arising at a meeting of the committee or of any sub-committee appointed by the committee are to be determined by a majority of the votes of members of the committee or sub-committee present at the meeting.
- (2) Each member present at a meeting of the committee or of any sub-committee appointed by the 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 22 (5), the committee may act despite any vacancy on the committee.
- (4) Between meetings duly moved and seconded urgent motions may be processed using an electronic polling system; the outcomes of these motions may be acted upon immediately and are to be tabled at the next committee meeting.
- (5) Any act or thing done or suffered, or purporting to have been done or suffered, by the committee or by a sub-committee appointed by the committee, is valid and effectual despite any defect that may afterwards be discovered in the appointment or qualification of any member of the committee or sub-committee.

Part 4 General meetings

27 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.

28 Annual general meetings - calling of and business at

- (1) The annual general meeting of the association is, subject to the Act and to clause 27, to be convened on the date and at the place and time that 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 and declare the results of elections and appointments;
 - (d) to receive and consider any financial statement or report required to be submitted to members under the Act and appoint an auditor if necessary;
 - (e) to consider and vote on any proposed changes to this constitution.
- (3) An annual general meeting must be specified as that type of meeting in the notice convening it.
- (4) Attendance and participation in a General Meeting:
- (a) A Member not physically present at a General Meeting may participate in the General Meeting by use of technology that allows the Member and the Members present at the Meeting to clearly and simultaneously communicate audibly with each other. Visual communication is not necessary.
 - (b) The APACS NSW Committee must authorize the use of any technology to be used for the purposes of this clause.
 - (c) A Member participating in a General Meeting under clause 28(4) is taken to be present at the Meeting and, if the Member votes at the Meeting, is taken to have voted in person.

29 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 of at least 5% 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 the 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.

30 Notice Of Meetings

- (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.

Note. A special resolution must be passed in accordance with section 39 of the Act.

- (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 28 (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.

31 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) Eight 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 5) are to constitute a quorum.

32 Presiding member

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

33 Adjournment

- (1) The president 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.

34 Making of decisions

- (1) A question arising at a general meeting of the association is to be determined by:
 - (a) a show of hands or voice identification or, if the meeting is one to which clause 39 applies, any appropriate corresponding method that the committee may determine; or
 - (b) by a ballot, if on the motion of the president or if 5 or more members present at the meeting decide that the question should be determined by a ballot of members attending the meeting either in person or by electronic means
- (2) If the question is to be determined by a show of hands or voice identification, a declaration by the president 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) Subclause (2) applies to a method determined by the committee under subclause (1) (a) in the same way as it applies to a show of hands.
- (4) If the question is to be determined by a ballot, the ballot is to be conducted in accordance with the directions of the president.
- (5) (a) Motions may be determined by electronic voting or by postal voting or other appropriate use of technology.
 - (b) The APACS NSW Committee will determine at its absolute discretion when and how a motion will be determined by postal vote, electronic voting, or using other technology.

- (c) If postal and electronic voting is used the procedures shall be consistent with the Act, or where the Act is silent, according to procedures set by the APACS NSW Committee from time to time.
- (6) Evidence of resolutions:
- (a) Unless a poll is demanded, a declaration by the Chair that a Resolution has on a show of hands or voice identification been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the association, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the Resolution.

35 Special resolutions

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

36 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 president 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.

37 Proxy votes not permitted

Proxy voting must not be undertaken at an ordinary meeting. Proxy voting is an option for Special General Meetings or Annual General Meetings.

38 Postal or 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 13).
- (2) A postal or electronic ballot is to be conducted in accordance with Schedule 3 to the Regulation.

39 Use of technology at general meetings

- (1) A general meeting may be held at 2 or more venues using any technology approved by the committee that gives each of the association's members a reasonable opportunity to participate.

- (2) A member of an association who participates in a general meeting using that technology is taken to be present at the meeting and, if the member votes at the meeting, is taken to have voted in person.

Part 5 Miscellaneous

40 Insurance

The association may effect and maintain insurance.

41 Funds - source

- (1) The funds of the association are to be derived from application fees, annual subscriptions of members, grants, donations and, subject to any resolution passed by the association in general meeting, any other sources that 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) If requested, the association will, as soon as practicable after receiving any money, issue an appropriate receipt.

42 Funds - management

- (1) Subject to any resolution passed by the association in general meeting, the funds of the association are to be used solely in pursuance of the objects of the association in the manner that the committee determines.
- (2) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by 2 authorised signatories.

43 Association is non-profit

Subject to the Act and the Regulation, the association must apply its funds and assets solely in pursuance of the objects of the association and must not conduct its affairs so as to provide a pecuniary gain for any of its members.

Note. Section 5 of the Act defines **pecuniary gain** for the purpose of this clause.

44 Distribution of property on winding up of association

- (1) Subject to the Act and the Regulations, in a winding up of the association, any surplus property of the association is to be transferred to another organisation with similar objects and which is not carried on for the profit or gain of its individual members.
- (2) In this clause, a reference to the surplus property of an association is a reference to that property of the association remaining after satisfaction of the debts and liabilities of the association and the costs, charges and expenses of the winding up of the association.

Note. Section 65 of the Act provides for distribution of surplus property on the winding up of an association.

45 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.

46 Custody of books etc

Except as otherwise provided by this constitution, all records, books and other documents relating to the association must be kept in New South Wales:

- (1) at the main premises of the association, in the custody of the public officer or a member of the association (as the committee determines), or
- (2) if the association has no premises, at the association's official address, in the custody of the public officer.

47 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 \$5 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.

48 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, email or some other form of electronic transmission to an address or phone number 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, email or some other form of phone or 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.

49 Financial year

The financial year of the association is:

- (1) the period of time commencing on the date of incorporation of the association and ending on the following 30 June; and
- (2) 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.

50 Changing the constitution

This constitution may be changed by a simple majority at an Annual General Meeting.

- 1) Any proposed change to this constitution must be proposed by at least 5 members and
- 2) be passed by a simple majority at a committee meeting or special general meeting at least 8 weeks prior to the Annual General Meeting at which the proposed changes will be discussed and
- 3) If passed by the committee meeting or special general meeting the proposed changes accompanied by explanatory notes must be distributed to all members along with the notice and business agenda of the Annual General Meeting.
- 4) The explanatory notes may, but not necessarily, contain arguments for and/or against the proposed changes.
- 5) If passed by the Annual General Meeting the secretary will incorporate any changes into this constitution as soon as practicable.