

Western Edge Youth Arts Incorporated

RULES of Association

Associations Incorporation Reform Regulations 2012
Associations Incorporation Reform Act 2012

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Rules for an Incorporated Association

Note

The persons who from time to time are members of the Association are an incorporated association by the name given in rule 1 of these Rules.

Under section 46 of the **Associations Incorporation Reform Act 2012**, these Rules are taken to constitute the terms of a contract between the Association and its members.

PART 1—PRELIMINARY

1 Name

The name of the incorporated association is "**Western Edge Youth Arts Incorporated**".

Note

Under section 23 of the Act, the name of the association and its registration number must appear on all its business documents.

2 Purposes

The purposes of the association are:

(1) to provide positive arts and performance experiences to culturally diverse young people living in the western suburbs of Melbourne.

(2) In addition to these basic objects, the objects of the Association consist of the doing of any lawful thing incidental or conducive to the attainment of the objects or purposes of the Association.

3 Financial year

The financial year of the Association is each period of 12 months ending on 31 December.

4 Definitions

In these Rules—

absolute majority, of the Board, means a majority of the Board members currently holding office and entitled to vote at the time (as distinct from a majority of Board members present at a Board meeting).

associate member means a member referred to in rule 15(1);

Chairperson, of a general meeting or Board meeting, means the person chairing the meeting as required under rule 47;

Board of Directors or Board means the Committee having management of the business of the Association;

Board meeting means a meeting of the Board Directors held in accordance with these Rules;

Board Director means a member of the Board elected or appointed under Division 3 of Part 5;

Office-bearer means a person elected as an officer of the Board (Chairperson, Deputy Chairperson, Treasurer) at an Annual General Meeting or appointed as an officer of the Association under this Constitution to fill a casual vacancy;

Ordinary member of the Board means a Director of the Board who is not an officer of the Association;

disciplinary appeal meeting means a meeting of the members of the Association convened under rule 24(3) Appeal Rights;

- disciplinary meeting** means a meeting of the Board convened for the purposes of rule 23 Decision of subcommittee;
- disciplinary subcommittee** means the subcommittee appointed under rule 21 Disciplinary subcommittee;
- financial year** means the 12 month period specified in rule 3;
- general meeting** means a general meeting of the members of the Association convened in accordance with Part 4 and includes an annual general meeting, a special general meeting and a disciplinary appeal meeting;
- member** means a member of the Association;
- member entitled to vote** means a member who under rule 14(2) is entitled to vote at a general meeting;
- special resolution** means a resolution that requires not less than three-quarters of the members voting at a general meeting, whether in person or by proxy, to vote in favour of the resolution;
- secretary** means a person appointed to perform the duties of a secretary of the company and includes an honorary secretary; In these Rules, a reference to the Secretary of the Association is a reference to the executive staff member appointed to that office in accordance with Rule 50 (1) (a)
- the Act** means the **Associations Incorporation Reform Act 2012** and includes any regulations made under that Act;
- the Registrar** means the Registrar of Incorporated Associations.

PART 2—POWERS OF ASSOCIATION

5 Powers of Association

- (1) Subject to the Act, the Association has power to do all things incidental or conducive to achieve its purposes.
- (2) Without limiting subrule (1), the Association may—
 - (a) acquire, hold and dispose of real or personal property;
 - (b) open and operate accounts with financial institutions;
 - (c) invest its money in any security in which trust monies may lawfully be invested;
 - (d) raise and borrow money on any terms and in any manner as it thinks fit;
 - (e) secure the repayment of money raised or borrowed, or the payment of a debt or liability;
 - (f) appoint agents to transact business on its behalf;
 - (g) enter into any other contract it considers necessary or desirable.
- (3) The Association may only exercise its powers and use its income and assets (including any surplus) for its purposes.

6 Not for profit organisation

- (1) The Association must not distribute any surplus, income or assets directly or indirectly to its members.

(2) Subrule (1) does not prevent the Association from paying a member—

(a) reimbursement for expenses properly incurred by the member; or

(b) for goods or services provided by the member—

if this is done in good faith on terms no more favourable than if the member was not a member.

Note

Section 33 of the Act provides that an incorporated association must not secure pecuniary profit for its members. Section 4 of the Act sets out in more detail the circumstances under which an incorporated association is not taken to secure pecuniary profit for its members.

PART 3—MEMBERS, DISCIPLINARY PROCEDURES AND GRIEVANCES

Division 1—Membership

7 Minimum number of members

The Association must have at least 5 members.

8 Classes of members

(1) Ordinary Members: have voting rights and can stand for office.

(2) Honorary member: an honorific reward for commendable services (*cannot vote or stand for office*)

(3) Associate member: Under 18 who wish to contribute (*cannot vote or stand for office*)

(4) Ex-officio member: Honorary Secretary, Executive Officers who wish to contribute (*cannot vote or stand for office*)

9 Who is eligible to be a member

Any person who supports the purposes of the Association is eligible for membership.

10 Application for membership

(1) To apply to become a member of the Association, a person must submit a written application in writing or electronically to the Secretary stating that the person—

(a) wishes to become a member of the Association; and

(b) supports the purposes of the Association; and

(c) agrees to comply with these Rules.

(2) The application—

(a) must be signed by or electronically identified by the applicant;

11 Consideration of application

(1) The Secretary must refer the application to the Board within 14 days of receiving the application.

(2) As soon as practicable after an application for membership is referred to the Board, the Board must by majority vote determine whether to accept or reject the application at the next meeting or via electronic communication prior to the next meeting.

(3) If the Board takes a decision on an application for membership, the Secretary must, as soon as practicable –

(a) notify the applicant in writing or electronically of the approval or rejection of the application for membership, whichever is applicable.

(4) No reason need be given for the rejection of an application.

12 New membership

(1) If an application for membership is approved by the Board—

(a) the Secretary must, as soon as practicable, enter the name and address of the new member, and the date of becoming a member, in the register of members.

(2) A person becomes a member of the Association and is entitled to exercise the rights of membership of that class when the Board has approved the application, his or her name is entered in the Register of Members (except that a member is not eligible to vote until 10 working days after his or her application has been accepted) and ceases to be a member of the Association when his or her name is removed from the Register of Members.

(3) An applicant whose application for membership of the Association is rejected must, if they wish to appeal against that decision, give notice to the Secretary of his or her intention to do so within a period of 14 days from the date they are advised of the rejection.

(4) When notice is given under sub-clause (3), the Association, in a General Meeting no later than the next Annual General Meeting, must either confirm or set aside the decision of the Board to reject the application, after having afforded the applicant who gave that notice a reasonable opportunity to be heard by, or to make representations in writing to, the Association in the General Meeting.

13 Annual subscription and fee on joining

(1) The Board has discretion to set annual subscription or joining fees.

14 General rights of members

(1) A member of the Association who is entitled to vote has the right—

(a) to receive notice of general meetings and of proposed special resolutions in the manner and time prescribed by these Rules; and

(b) to submit items of business for consideration at a general meeting; and

(c) to attend and be heard at general meetings; and

(d) to vote at a general meeting; and

(e) to have access to the minutes of general meetings and other documents of the Association as provided under rule 82; and

(f) to inspect the register of members.

(2) A member is entitled to vote if—

(a) the member is a member other than an associate member; and

(b) more than 10 business days have passed since he or she became a member of the Association; and

(c) the member's membership rights are not suspended for any reason.

15 Associate members

(1) Associate members of the Association include—

- (a) any members under the age of 18 years; and
 - (b) any other category of member as determined by special resolution at a general meeting.
- (2) An associate member must not vote but may have other rights as determined by the Board or by resolution at a general meeting.

16 Rights not transferable

The rights of a member are not transferable and end when membership ceases.

17 Ceasing membership

- (1) The membership of a person ceases on resignation, expulsion or death.
- (2) If a person ceases to be a member of the Association, the Secretary must, as soon as practicable, enter the date the person ceased to be a member in the register of members.

18 Resigning as a member

- (1) A member may resign by notice in writing given to the Association.

Note

Rule 81(3) sets out how notice may be given to the association. It includes by post or by handing the notice to a member of the Board.

- (2) A member is taken to have resigned if—
 - (a) the Secretary has made a written request to the member to confirm that he or she wishes to remain a member; and
 - (b) the member has not, within 3 months after receiving that request, confirmed in writing that he or she wishes to remain a member.

19 Register of members

- (1) The Secretary must keep and maintain a register of members that includes—
 - (a) for each current member—
 - (i) the member's name;
 - (ii) the address for notice last given by the member;
 - (iii) the date of becoming a member;
 - (iv) the class of membership to which the member belongs
 - (v) any other information determined by the Board; and
 - (b) for each former member, the date of ceasing to be a member.
- (2) Any member may, at a reasonable time and free of charge, inspect the register of members, or request a copy of the Register upon request to the Secretary.

Note

Under section 59 of the Act, access to the personal information of a person recorded in the register of members may be restricted in certain circumstances. Section 58 of the Act provides that it is an offence to make improper use of information about a person obtained from the Register of Members.

Division 2—Disciplinary action

20 Grounds for taking disciplinary action

The Association may take disciplinary action against a member in accordance with this Division if it is determined that the member—

- (a) has failed to comply with these Rules; or
- (b) refuses to support the purposes of the Association; or
- (c) has engaged in conduct prejudicial to the Association.

21 Disciplinary subcommittee

- (1) If the Board is satisfied that there are sufficient grounds for taking disciplinary action against a member, the Board must appoint a disciplinary subcommittee to hear the matter and determine what action, if any, to take against the member.
- (2) The members of the disciplinary subcommittee—
 - (a) may be Board members, members of the Association or anyone else; but
 - (b) must not be biased against, or in favour of, the member concerned.

22 Notice to member

- (1) Before disciplinary action is taken against a member, the Secretary must give written notice to the member—
 - (a) stating that the Association proposes to take disciplinary action against the member; and
 - (b) stating the grounds for the proposed disciplinary action; and
 - (c) specifying the date, place and time of the meeting at which the disciplinary subcommittee intends to consider the disciplinary action (the *disciplinary meeting*); and
 - (d) advising the member that he or she may do one or both of the following—
 - (i) attend the disciplinary meeting and address the disciplinary subcommittee at that meeting;
 - (ii) give a written statement to the disciplinary subcommittee at any time before the disciplinary meeting; and
 - (e) setting out the member's appeal rights under rule 24.
- (2) The notice must be given no earlier than 28 days, and no later than 14 days, before the disciplinary meeting is held.

23 Decision of subcommittee

- (1) At the disciplinary meeting, the disciplinary subcommittee must—
 - (a) give the member an opportunity to be heard; and
 - (b) consider any written statement submitted by the member.
- (2) After complying with subrule (1), the disciplinary subcommittee may—
 - (a) take no further action against the member; or
 - (b) subject to subrule (3)—
 - (i) reprimand the member; or
 - (ii) suspend the membership rights of the member for a specified period; or
 - (iii) expel the member from the Association.
- (3) The disciplinary subcommittee may not fine the member.
- (4) The suspension of membership rights or the expulsion of a member by the disciplinary subcommittee under this rule takes effect immediately after the vote is passed.

24 Appeal rights

- (1) A person whose membership rights have been suspended or who has been expelled from the Association under rule 23 may give notice to the effect that he or she wishes to appeal against the suspension or expulsion.
- (2) The notice must be in writing and given—
 - (a) to the disciplinary subcommittee immediately after the vote to suspend or expel the person is taken; or
 - (b) to the Secretary not later than 48 hours after the vote.
- (3) If a person has given notice under subrule (2), a disciplinary appeal meeting must be convened by the Board as soon as practicable, but in any event not later than 21 days, after the notice is received.
- (4) Notice of the disciplinary appeal meeting must be given to each member of the Association who is entitled to vote as soon as practicable and must—
 - (a) specify the date, time and place of the meeting; and
 - (b) state—
 - (i) the name of the person against whom the disciplinary action has been taken; and
 - (ii) the grounds for taking that action; and
 - (iii) that at the disciplinary appeal meeting the members present must vote on whether the decision to suspend or expel the person should be upheld or revoked.

25 Conduct of disciplinary appeal meeting

- (1) At a disciplinary appeal meeting—
 - (a) no business other than the question of the appeal may be conducted; and
 - (b) the Board must state the grounds for suspending or expelling the member and the reasons for taking that action; and
 - (c) the person whose membership has been suspended or who has been expelled must be given an opportunity to be heard.
- (2) After complying with subrule (1), the members present and entitled to vote at the meeting must vote by secret ballot on the question of whether the decision to suspend or expel the person should be upheld or revoked.
- (3) A member may not vote by proxy at the meeting.
- (4) The decision is upheld if not less than three quarters of the members voting at the meeting vote in favour of the decision.

Division 3—Grievance procedure

26 Application

- (1) The grievance procedure set out in this Division applies to disputes under these Rules between—
 - (a) a member and another member;
 - (b) a member and the Board;
 - (c) a member and the Association.

- (2) A member must not initiate a grievance procedure in relation to a matter that is the subject of a disciplinary procedure until the disciplinary procedure has been completed.

27 Parties must attempt to resolve the dispute

The parties to a dispute must attempt to resolve the dispute between themselves within 14 days of the dispute coming to the attention of each party.

28 Appointment of mediator

- (1) If the parties to a dispute are unable to resolve the dispute between themselves within the time required by rule 27, the parties must within 10 days—
- (a) notify the Board of the dispute; and
 - (b) agree to or request the appointment of a mediator; and
 - (c) attempt in good faith to settle the dispute by mediation.
- (2) The mediator must be—
- (a) a person chosen by agreement between the parties; or
 - (b) in the absence of agreement—
 - (i) if the dispute is between a member and another member—a person appointed by the Board; or
 - (ii) if the dispute is between a member and the Board or the Association—a person appointed or employed by the Dispute Settlement Centre of Victoria.
- (3) A mediator appointed by the Board may be a member or former member of the Association but in any case must not be a person who—
- (a) has a personal interest in the dispute; or
 - (b) is biased in favour of or against any party.

29 Mediation process

- (1) The mediator to the dispute, in conducting the mediation, must—
- (a) give each party every opportunity to be heard; and
 - (b) allow due consideration by all parties of any written statement submitted by any party; and
 - (c) ensure that natural justice is accorded to the parties throughout the mediation process.
- (2) The mediator must not determine the dispute.

30 Failure to resolve dispute by mediation

If the mediation process does not resolve the dispute, the parties may seek to resolve the dispute in accordance with the Act or otherwise at law.

PART 4—GENERAL MEETINGS OF THE ASSOCIATION

31 Annual general meetings

- (1) The Board must convene an annual general meeting of the Association to be held within 5 months after the end of each financial year.

- (2) Despite subrule (1), the Association may hold its first annual general meeting at any time within 18 months after its incorporation.
- (3) The Board may determine the date, time and place of the annual general meeting.
- (4) The ordinary business of the annual general meeting is as follows—
 - (a) to confirm the minutes of the previous annual general meeting and of any special general meeting held since then;
 - (b) to receive and consider—
 - (i) the annual report of the Board on the activities of the Association during the preceding financial year; and
 - (ii) the financial statements of the Association for the preceding financial year submitted by the Board in accordance with Part 7 of the Act;
 - (c) to elect the members of the Board;
 - (d) to confirm or vary the amounts (if any) of the annual subscription and joining fee.
- (5) The annual general meeting may also conduct any other business of which notice has been given in accordance with these Rules.
- (6) All members of the Association are entitled to attend the Annual General Meeting. Any other person may be admitted to the meeting if the Chair so decides.

32 Special general meetings

- (1) Any general meeting of the Association, other than an annual general meeting or a disciplinary appeal meeting, is a special general meeting.
- (2) The Board may convene a special general meeting whenever it thinks fit.
- (3) No business other than that set out in the notice under rule 34 may be conducted at the meeting.

Note

General business may be considered at the meeting if it is included as an item for consideration in the notice under rule 34 and the majority of members at the meeting agree.

33 Special general meeting held at request of members

- (1) The Association must convene a special general meeting if a request to do so is made in accordance with subrule (2) by at least 2 members or members representing not less than 20% of the total number of members, whichever is the greater.
- (2) A request for a special general meeting must—
 - (a) be in writing; and
 - (b) state the business to be considered at the meeting and any resolutions to be proposed; and
 - (c) include the names and signatures of the members requesting the meeting; and
 - (d) be given to the Secretary.
- (3) If the Board does not convene a special general meeting within one month after the date on which the request is made, the members making the request (or any of them) may convene the special general meeting.
- (4) A special general meeting convened by members under subrule (3)—

- (a) must be held within 3 months after the date on which the original request was made; and
 - (b) may only consider the business stated in that request.
- (5) The Association must reimburse all reasonable expenses incurred by the members convening a special general meeting under subrule (3).

34 Notice of general meetings

- (1) The Secretary (or, in the case of a special general meeting convened under rule 33(3), the members convening the meeting) must give to each member of the Association—
- (a) at least 21 days' notice of a general meeting if a special resolution is to be proposed at the meeting; or
 - (b) at least 14 days' notice of a general meeting in any other case.
- (2) The notice must—
- (a) specify the date, time and place of the meeting; and
 - (b) indicate the general nature of each item of business to be considered at the meeting; and
 - (c) if a special resolution is to be proposed—
 - (i) state in full the proposed resolution; and
 - (ii) state the intention to propose the resolution as a special resolution; and
 - (d) comply with rule 35(5).
- (3) This rule does not apply to a disciplinary appeal meeting.

Note

Rule 23(4) sets out the requirements for notice of a disciplinary appeal meeting.

35 Proxies

- (1) A member may appoint another member as his or her proxy to vote and speak on his or her behalf at a general meeting other than at a disciplinary appeal meeting.
- (2) The appointment of a proxy must be in writing or electronically and signed by the member making the appointment.
- (3) The member appointing the proxy may give specific directions as to how the proxy is to vote on his or her behalf, otherwise the proxy may vote on behalf of the member in any matter as he or she sees fit.
- (4) One member may be appointed as proxy for no more than two absent members.
- (5) If the Board has approved a form for the appointment of a proxy, the member may use any other form that clearly identifies the person appointed as the member's proxy and that has been signed by the member.
- (6) Notice of a general meeting given to a member under rule 34 must—
 - (a) state that the member may appoint another member as a proxy for the meeting; and
 - (b) include a copy of any form that the Board has approved for the appointment of a proxy.
- (7) A form appointing a proxy must be given to the Chairperson of the meeting before or at the commencement of the meeting.

- (8) A form appointing a proxy sent by post or electronically is of no effect unless it is received by the Association no later than 24 hours before the commencement of the meeting.
- (9) Proxies count in calculating the number required to call for a secret ballot, and the number required to pass a motion, but not in calculating the number required for a quorum.

36 Use of technology

- (1) A member not physically present at a general meeting may be permitted to participate in the meeting by the use of technology that allows that member and the members present at the meeting to clearly and simultaneously communicate with each other.
- (2) For the purposes of this Part, a member participating in a general meeting as permitted under subrule (1) is taken to be present at the meeting and, if the member votes at the meeting, is taken to have voted in person.

37 Quorum at general meetings

- (1) No business may be conducted at a general meeting unless a quorum of members is present.
- (2) The quorum for a general meeting is the presence (physically, by proxy or as allowed under rule 36) of a majority of members entitled to vote.
- (3) If a quorum is not present within 30 minutes after the notified commencement time of a general meeting—
 - (a) in the case of a meeting convened by, or at the request of, members under rule 33— the meeting must be dissolved;

Note

If a meeting convened by, or at the request of, members is dissolved under this subrule, the business that was to have been considered at the meeting is taken to have been dealt with. If members wish to have the business reconsidered at another special meeting, the members must make a new request under rule 33.

- (b) in any other case—
 - (i) the meeting must be adjourned to a date not more than 21 days after the adjournment; and
 - (ii) notice of the date, time and place to which the meeting is adjourned must be given at the meeting and confirmed by written notice given to all members as soon as practicable after the meeting.
- (4) If a quorum is not present within 30 minutes after the time to which a general meeting has been adjourned under subrule (3)(b), the members present at the meeting (if not fewer than 3) may proceed with the business of the meeting as if a quorum were present.

38 Adjournment of general meeting

- (1) The Chairperson of a general meeting at which a quorum is present may, with the consent of a majority of members present at the meeting, adjourn the meeting to another time at the same place or at another place.
- (2) Without limiting subrule (1), a meeting may be adjourned—
 - (a) if there is insufficient time to deal with the business at hand; or
 - (b) to give the members more time to consider an item of business.

Example

The members may wish to have more time to examine the financial statements submitted by the Board at an annual general meeting.

- (3) No business may be conducted on the resumption of an adjourned meeting other than the business that remained unfinished when the meeting was adjourned.
- (4) Notice of the adjournment of a meeting under this rule is not required unless the meeting is adjourned for 14 days or more, in which case notice of the meeting must be given in accordance with rule 35.

39 Voting at general meeting

- (1) On any question arising at a general meeting—
 - (a) subject to subrule (3), each member who is entitled to vote has one vote; and
 - (b) members may vote personally or by proxy; and
 - (c) except in the case of a special resolution, the question must be decided on a majority of votes.
- (2) If votes are divided equally on a question, the Chairperson of the meeting has a second or casting vote.
- (3) If the question is whether or not to confirm the minutes of a previous meeting, only members who were present at that meeting may vote.
- (4) This rule does not apply to a vote at a disciplinary appeal meeting conducted under rule 25.

40 Special resolutions

A special resolution is passed if not less than three quarters of the members voting at a general meeting (whether in person or by proxy) vote in favour of the resolution.

Note

In addition to certain matters specified in the Act, a special resolution is required—

- (a) to remove a Board member from office;
- (b) to alter these Rules, including changing the name or any of the purposes of the Association.

41 Determining whether resolution carried

- (1) Subject to subsection (2), the Chairperson of a general meeting may, on the basis of a show of hands, declare that a resolution has been—
 - (a) carried; or
 - (b) carried unanimously; or
 - (c) carried by a particular majority; or
 - (d) lost—and an entry to that effect in the minutes of the meeting is conclusive proof of that fact.
- (2) If a poll (where votes are cast in writing) is demanded by three or more members on any question—
 - (a) the poll must be taken at the meeting in the manner determined by the Chairperson of the meeting; and
 - (b) the Chairperson must declare the result of the resolution on the basis of the poll.
- (3) A poll demanded on the election of the Chairperson or on a question of an adjournment must be taken immediately.

- (4) A poll demanded on any other question must be taken before the close of the meeting at a time determined by the Chairperson.
- (5) 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.

42 Minutes of general meeting

- (1) The Board must ensure that minutes are taken and kept of each general meeting.
- (2) The minutes must record the business considered at the meeting, any resolution on which a vote is taken and the result of the vote.
- (3) In addition, the minutes of each annual general meeting must include—
 - (a) the names of the members attending the meeting; and
 - (b) proxy forms given to the Chairperson of the meeting under rule 35(6); and
 - (c) the financial statements submitted to the members in accordance with rule 30(4)(b)(ii); and
 - (d) the certificate signed by two Board members certifying that the financial statements give a true and fair view of the financial position and performance of the Association; and
 - (e) any audited accounts and auditor's report or report of a review accompanying the financial statements that are required under the Act.

PART 5—BOARD

Division 1—Powers of Board

43 Role and powers

- (1) The business of the Association must be managed by or under the direction of a Board.
- (2) The Board may exercise all the powers of the Association except those powers that these Rules or the Act require to be exercised by general meetings of the members of the Association.
- (3) The Board may—
 - (a) appoint and remove staff;
 - (b) establish subcommittees consisting of members with terms of reference it considers appropriate.

44 Delegation

- (1) The Board may delegate to a member of the Board, a subcommittee or staff, any of its powers and functions other than—
 - (a) this power of delegation; or
 - (b) a duty imposed on the Board by the Act or any other law.
- (2) The delegation must be in writing and may be subject to the conditions and limitations the Board considers appropriate.
- (3) The Board may, in writing, revoke a delegation wholly or in part.

Division 2—Composition of Board of Directors and duties of members

45 Composition of Board of Directors

The Board consists of—

- (a) a Chairperson; and
- (b) a Deputy-Chairperson; and
- (c) a Treasurer; and
- (d) ordinary members (if any) elected under rule 55.

46 General Duties

- (1) As soon as practicable after being elected or appointed to the Board, each Board Director must become familiar with these Rules, the Act and the Board Charter.
- (2) The Board is collectively responsible for ensuring that the Association complies with the Act and that individual members of the Board comply with these Rules.
- (3) Board Directors must exercise their powers and discharge their duties with reasonable care and diligence.
- (4) Board Directors must exercise their powers and discharge their duties—
 - (a) in good faith in the best interests of the Association; and
 - (b) for a proper purpose.
- (5) Board Directors and former Board Directors must not make improper use of—
 - (a) their position; or
 - (b) information acquired by virtue of holding their position—so as to gain an advantage for themselves or any other person or to cause detriment to the Association.

Note

See also Division 3 of Part 6 of the Act which sets out the general duties of the office holders of an incorporated association.

- (6) In addition to any duties imposed by these Rules, a Board member must perform any other duties imposed from time to time by resolution at a general meeting.

47 Chairperson and Deputy-Chairperson

- (1) Subject to subrule (2), the Chairperson or, in the Chairperson's absence, the Deputy-Chairperson is the Chairperson for any general meetings and for any Board meetings.
- (2) If the Chairperson and the Deputy-Chairperson are both absent, or are unable to preside, the Chairperson of the meeting must be—
 - (a) in the case of a general meeting—a member elected by the other members present; or
 - (b) in the case of a Board meeting—a Board member elected by the other Board members present.

48 Secretary

- (1) The Secretary must perform any duty or function required under the Act to be performed by the secretary of an incorporated association.

Example

Under the Act, the secretary of an incorporated association is responsible for lodging documents of the association with the Registrar.

- (2) The duties of the Secretary may be delegated to staff.
- (3) The Secretary must—
 - (a) maintain the register of members in accordance with rule 19 Register of Members; and
 - (b) keep custody of the common seal (if any) of the Association and, except for the financial records referred to in rule 76(3), all books, documents and securities of the Association in accordance with rules 79 and 82; and
 - (c) subject to the Act and these Rules, provide members with access to the register of members, the minutes of general meetings and other books and documents; and
 - (d) perform any other duty or function imposed on the Secretary by these Rules.
- (4) The Secretary must give to the Registrar notice of his or her appointment within 14 days after the appointment.

49 Treasurer

- (1) The Treasurer must—
 - (a) receive all moneys paid to or received by the Association and issue receipts for those moneys in the name of the Association; and
 - (b) ensure that all moneys received are paid into the account of the Association within 5 working days after receipt; and
 - (c) make any payments authorised by the Board or by a general meeting of the Association from the Association's funds; and
 - (d) ensure cheques are signed by at least 2 authorised persons.
- (2) The Treasurer must—
 - (a) ensure that the financial records of the Association are kept in accordance with the Act; and
 - (b) coordinate the preparation of the financial statements of the Association and their certification by the Board prior to their submission to the annual general meeting of the Association.
- (3) The Treasurer must ensure that at least one other Board member has access to the accounts and financial records of the Association.

50 Executive Officers and other staff

- (1). The Board shall appoint an executive officer as a salaried officer and Ex-officio member. The responsibilities of the Executive Officer shall include:
 - (a) acting as Secretary to the Association in accordance with Rule 48.
 - (b) undertaking delegated duties in rules 49 (1) (2) and (3)
 - (c) implementing the Board's policies and decisions.
- (2). The Board may appoint any other staff to carry out the functions of the Board on such terms and conditions as the Board sees fit.

Division 3—Election of Board Directors and tenure of office

51 Who is eligible to be a Board member

A member is eligible to be elected or appointed as a Director of the Board if the member—

- (a) is 18 years or over; and
- (b) is entitled to vote at a general meeting.

52 Qualification of Board of Directors

A majority of the Board Directors at any time must fall within one or more of the following categories:

- (a) a person who identifies with a community in which the organisation works in
- (b) a barrister or solicitor, registered medical practitioner, member of the Institute of Chartered Accountants in Australia or of the Australian Society of Certified Practising Accountants, or other person belonging to a professional body which has a code of ethics and rules of conduct;
- (c) a person working in the Education industry in Victoria
- (d) a person known to a broad section of the community because he or she performs a public function

53 Positions to be declared vacant

(1) This rule applies to—

- (a) the first annual general meeting of the Association after its incorporation; or
- (b) any subsequent annual general meeting of the Association, after the annual report and financial statements of the Association have been received.

(2) The Chairperson of the meeting must declare all positions on the Board vacant and hold elections for those positions in accordance with rules 54 to 56.

54 Nominations

(1) Nominations of candidates for election as office bearers of the Association or as ordinary members of the Board must be—

- a. Made in writing
- b. delivered to the Secretary of the Association not less than 7 days before the date fixed for holding of the annual general meeting.

(2) A candidate may only be nominated for one office, or as an ordinary member of the Board, prior to the annual general meeting.

(3) At the annual general meeting prior to the election of each position, the Chairperson of the meeting must call for nominations to fill that position.

(4) An eligible member of the Association may—

- (a) nominate himself or herself; or
- (b) with the member's consent, be nominated by another member.

(5) A member who is nominated for a position and fails to be elected to that position may be nominated for any other position for which an election is yet to be held.

55 Election of Officers and Ordinary board members

- (1) The annual general meeting must by resolution decide the number of ordinary members of the Board (if any) it wishes to hold office for the next year.
- (2) At the annual general meeting, a single election may be held to fill all of the ordinary member positions.
- (3) Once members are elected a separate election must be held for each of the following Office-bearer positions—
 - (a) Chairperson;
 - (b) Deputy-Chairperson;
 - (c) Treasurer
- (4) If only one member is nominated for the position, the Chairperson of the meeting must declare the member elected to the position.
- (3) If more than one member is nominated, a ballot must be held in accordance with rule 56.
- (4) On his or her election, the new Chairperson may take over as Chairperson of the meeting.
- (5) At each Annual General Meeting the number of the ordinary members required to fill vacancies on the Board shall be elected and shall, unless otherwise disqualified, shall hold office until the conclusion of the Annual General Meeting next after the date of his or her election but is eligible for re-election.

56 Ballot

- (1) If a ballot is required for the election for a position, the Chairperson of the meeting must appoint a member to act as returning officer to conduct the ballot.
- (2) The returning officer must not be a member nominated for the position.
- (3) Before the ballot is taken, each candidate may make a short speech in support of his or her election.
- (4) The election must be by secret ballot.
- (5) The returning officer must give a blank piece of paper to—
 - (a) each member present in person; and
 - (b) each proxy appointed by a member.

Example

If a member has been appointed the proxy of 5 other members, the member must be given 6 ballot papers—one for the member and one each for the other members.

- (6) If the ballot is for a single position, the voter must write on the ballot paper the name of the candidate for whom they wish to vote.
- (7) If the ballot is for more than one position—
 - (a) the voter must write on the ballot paper the name of each candidate for whom they wish to vote;
 - (b) the voter must not write the names of more candidates than the number to be elected.
- (8) Ballot papers that do not comply with subrule (7)(b) are not to be counted.
- (9) Each ballot paper on which the name of a candidate has been written counts as one vote for that candidate.
- (10) The returning officer must declare elected the candidate or, in the case of an election for more than one position, the candidates who received the most votes.

- (11) If the returning officer is unable to declare the result of an election under subrule (10) because 2 or more candidates received the same number of votes, the returning officer must—
 - (a) conduct a further election for the position in accordance with subrules (4) to (10) to decide which of those candidates is to be elected; or
 - (b) with the agreement of those candidates, decide by lot which of them is to be elected.

Examples

The choice of candidate may be decided by the toss of a coin, drawing straws or drawing a name out of a hat.

57 Term of office

- (1) Subject to subrule (3) and rule 58, an Office-bearer of the Board of Directors (Chairperson, Deputy Chairperson and Treasurer) holds office, unless otherwise disqualified, until the conclusion of the Annual General Meeting occurring the second year after the date of their election, and shall be eligible to stand for re-election for one more 2-year term.
- (2) Retiring Office-bearers may stand for re-election, but must not serve in the same office for more than two consecutive terms.
- (3) Subject to subrule (3) and rule 58, an ordinary member of the Board of Directors holds office, unless otherwise disqualified, until the conclusion of the Annual General Meeting occurring the second year after the date of their election, and shall be eligible to stand for re-election for one more term.
- (4) At the first Annual General Meeting after the adoption of these rules the members will determine a staggered election approach for office bearers by changing of one-two positions (Chair, Vice Chair or Treasurer).
- (5) A general meeting of the Association may—
 - (a) by special resolution remove a Board member from office; and
 - (b) elect an eligible member of the Association to fill the vacant position in accordance with this Division.
- (6) A member who is the subject of a proposed special resolution under subrule (3)(a) may make representations in writing to the Secretary or Chairperson of the Association (not exceeding a reasonable length) and may request that the representations be provided to the members of the Association.
- (7) The Secretary or the Chairperson may give a copy of the representations to each member of the Association or, if they are not so given, the member may require that they be read out at the meeting at which the special resolution is to be proposed.

58 Vacation of office

- (1) A Board member may resign from the Board by written notice addressed to the Board.
- (2) The resignation takes effect at –
 - (a) the time the notice is received by the Secretary; or
 - (b) if a later time is stated in the notice, the later time.
- (3) A person ceases to be a Board member if he or she—
 - (a) ceases to be a member of the Association; or

(b) fails to attend 3 consecutive Board meetings (other than special or urgent Board meetings) without leave of absence under rule 71; or

(c) otherwise ceases to be a Board member by operation of section 78 of the Act.

Note

A Board member may not hold the office of secretary if they do not reside in Australia.

59 Filling casual vacancies

(1) The Board may appoint an eligible member of the Association to fill a position on the Board that—

(a) has become vacant under rule 58; or

(b) was not filled by election at the last annual general meeting.

(2) In the event of a casual vacancy occurring in the office of an ordinary member of the Board, the Board may appoint a new member to fill the vacancy and the member appointed shall hold office, unless otherwise disqualified, until the conclusion of the Annual General Meeting next following the date of appointment.

(3) If the position of Secretary becomes vacant, the Board must appoint another Ex-officio member to the position within 14 days after the vacancy arises.

(4) Rule 57 applies to any Board member appointed by the Board under subrule (1) or (2).

(5) The Board may continue to act despite any vacancy in its membership, however, if the number of Board members is less than the number fixed under clause 37 (2) as a quorum of the Board, the continuing members may act only to –

(a) increase the number of Board members to the number required for a quorum; or

(b) call a general meeting.

60 Removal of a Board member

(1) The Board may as it sees fit, by resolution, remove any member of the Board before the expiration of the member's term of office and appoint another member in his or her place to hold office until the expiration of the term of the first-mentioned member.

(2) A Board member has no right of appeal against the member's removal from office under this rule.

(3) A member who is the subject of a proposed resolution referred to in subclause (1) may make representations in writing to the Secretary or Chair of the Association (not exceeding a reasonable length) and may request that the representations be provided to the members of the Association.

(4) The Secretary or the Chair may give a copy of the representations to each member of the Association or, if they are not so given, the member is entitled to require that they be read out at the meeting.

Division 4—Meetings of Board

61 Meetings of Board

(1) The Board must meet at least 4 times in each year at the dates, times and places determined by the Board.

- (2) The date, time and place of the first Board meeting must be determined by the members of the Board as soon as practicable after the annual general meeting of the Association at which the members of the Board were elected.
- (3) Additional meetings of the Board may be convened by the Chairperson or by at least one-third of the members of the Board.
- (4) The Board may hold meetings, or permit members of the Board to participate in its meetings, by using any technology that allows members to clearly and simultaneously communicate with each other participating member.

62 Notice of meetings

- (1) Notice of each Board meeting must be given to each Board Director no later than 7 days before the date of the meeting.
- (2) Notice may be given of more than one Board meeting at the same time.
- (3) The notice must state the date, time and place of the meeting.
- (4) If a special Board meeting is convened, the notice must include the general nature of the business to be conducted.
- (5) The only business that may be conducted at the meeting is the business for which the meeting is convened.

63 Urgent meetings

- (1) In cases of urgency, a meeting can be held without notice being given in accordance with rule 62 Notice of meetings, provided that as much notice as practicable is given to each Board member by the quickest means practicable.
- (2) Any resolution made at the meeting must be passed by an absolute majority of the Board.
- (3) The only business that may be conducted at an urgent meeting is the business for which the meeting is convened.

64 Procedure and order of business

- (1) The procedure to be followed at a meeting of a Board must be determined from time to time by the Board.
- (2) The order of business may be determined by the members present at the meeting.

65 Use of technology

- (1) A Board member who is not physically present at a Board meeting may participate in the meeting by the use of technology that allows that Board member and the Board members present at the meeting to clearly and simultaneously communicate with each other.
- (2) For the purposes of this Part, a Board member participating in a Board meeting as permitted under subrule (1) is taken to be present at the meeting and, if the member votes at the meeting, is taken to have voted in person.

66 Quorum

- (1) No business may be conducted at a Board meeting unless a quorum is present.
- (2) The quorum for a Board meeting is the presence (in person or as allowed under rule 65) of a majority of the Board members holding office.
- (3) If a quorum is not present within 30 minutes after the notified commencement time of a Board meeting—
 - (a) in the case of a special meeting—the meeting lapses;

- (b) in any other case—the meeting must be adjourned to a date no later than 14 days after the adjournment and notice of the time, date and place to which the meeting is adjourned must be given in accordance with rule 62.

67 Voting

- (1) Questions arising at a meeting of the Board, or at a meeting of any sub-committee appointed by the Board, shall be determined by a majority of votes on a show of hands or, if a member requests, by a ballot taken in such manner as the person presiding at that meeting may determine.
- (2) On any question arising at a Board meeting, each Board member present at the meeting has one vote.
- (2) A motion is carried if a majority of Board members present at the meeting vote in favour of the motion.
- (3) Subrule (2) does not apply to any motion or question which is required by these Rules to be passed by an absolute majority of the Board.
- (4) If votes are divided equally on a question, the Chairperson of the meeting has a second or casting vote.
- (5) Voting by proxy is permitted in accordance with rule 35 Proxies.
- (6) Any act done, or purporting to have been done, by the Board or by a sub-committee appointed by the Board, is valid and effectual despite any defect that may afterwards be discovered in the appointment or qualification of any member of the Board or sub-committee.

68 Circulating resolutions

- (1) The Board may pass a valid resolution without a Board meeting being held if a majority of the Board members entitled to vote on the resolution cast their vote either in favour of or against that motion.
- (2) Voting intention must be provided in writing via email from the email. If no majority decision is possible, the resolution lapses.
- (3) Hard copies showing the voting intentions of every Board member who has voted on the resolution must be kept with the Associations minutes.
- (4) A circulating resolution is deemed to have passed on the day and time when the document was signed by the member whose signature achieves a majority.
- (5) Every resolution passed must be entered in the minutes of the next meeting of the Board as soon as practicable.

69 Conflict of interest

- (1) A Board member who has a material personal interest in a matter being considered at a Board meeting must disclose the nature and extent of that interest to the Board.
- (2) The member—
 - (a) must not be present while the matter is being considered at the meeting; and
 - (b) must not vote on the matter.

Note

Under section 81(3) of the Act, if there are insufficient Board members to form a quorum because a member who has a material personal interest is disqualified from voting on a matter, a general meeting may be called to deal with the matter.

- (3) This rule does not apply to a material personal interest—
 - (a) that exists only because the member belongs to a class of persons for whose benefit the Association is established; or
 - (b) that the member has in common with all, or a substantial proportion of, the members of the Association.
- (4) The Secretary must record the disclosure in the minutes of the meeting of the Board at which it is made.
- (5) If, at a meeting of the Board of Directors or a sub-committee, a member of the Board or sub-committee votes in respect of any matter in which the member has a material personal interest, that vote is not to be counted.

70 Minutes of Board meeting

- (1) The Board must ensure that minutes are taken and kept of each Board meeting.
- (2) The minutes must record the following—
 - (a) the names of the members in attendance at the meeting;
 - (b) the business considered at the meeting;
 - (c) any resolution on which a vote is taken and the result of the vote;
 - (d) any material personal interest disclosed under rule 69 Conflict of Interest.
- (3) The minutes kept pursuant to this rule must be confirmed by a resolution passed by the members of the Board (as relevant) at a subsequent meeting.

71 Leave of absence

- (1) The Board may grant a Board member leave of absence from Board meetings for a period not exceeding 3 months.
- (2) The Board must not grant leave of absence retrospectively unless it is satisfied that it was not feasible for the Board member to seek the leave in advance.

PART 6—FINANCIAL MATTERS

72 Income and property

- (1) No proportion of the income or property is to be paid or transferred to any member of the Association unless the payment or transfer is made in accordance with this rule
- (2) The Association may
 - (a) pay a member of the Association –
 - (i) remuneration in return for services rendered to the Association, or for goods supplied to the Association, in the ordinary course of business of the member; or
 - (ii) remuneration that constitutes a reimbursement for out-of-pocket expenses incurred by the servant or member for any of the objects or purposes of the Association; or
 - (b) pay a member of the Board remuneration in return for carrying out the functions of a member of the Board; and
 - (c) pay a member of a sub-committee remuneration in return for carrying out the functions of a member of the sub-committee;
- (3) Despite sub-clause (a), (b) and (c), the Association is not to pay a person any amount under that sub-clause unless the Board has first approved that payment.

73 Source of funds

The funds of the Association may be derived from joining fees, annual subscriptions, donations, fund-raising activities, grants, interest and any other sources approved by the Board.

74 Management of Funds

- (1) The Association must open an account with a financial institution from which all expenditure of the Association is made and into which all of the Association's revenue is deposited.
- (2) Subject to any restrictions imposed by a general meeting of the Association, the Board may approve expenditure on behalf of the Association.
- (3) The Board may authorise the General Manager to expend funds on behalf of the Association (including by electronic funds transfer) up to a specified limit as set out in the delegations schedule without requiring approval from the Board for each item on which the funds are expended.
- (4) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by either of two members of the Board or, of one member of the Board and of the public officer of the Association.
- (5) All funds of the Association must be deposited into the financial account of the Association no later than 5 working days after receipt.
- (6) With the approval of the Board, the Secretary may maintain a cash float provided that all money paid from or paid into the float is accurately recorded at the time of the transaction.

75 Public Funds

- (1) Donations will be deposited into the public fund listed on the Register of Cultural Organisation. These monies will be kept separate from other funds of the Association and will only be used to further the Associations Statement of Purpose.
- (2) The fund will be administered by a management committee or a subcommittee of the management, a majority of whom, because of their tenure of some public office or their professional standing, have an underlying community responsibility, as distinct from obligations solely in regard to the cultural objectives of Western Edge Youth Arts.
- (3) No monies/assets in this fund will be distributed to members or office bearers of the Association, except as reimbursement of out-of-pocket expenses incurred on behalf of the fund or proper remuneration for administrative services.
- (4) Any proposed amendments or alterations to provision for the public fund will be notified to the Department responsible for the administration of the Register of Cultural Organisations to assess the effect of any amendments on the public funds continuing deductible gift recipient status.
- (5) If upon winding up or dissolution of the Public Fund listed on the Register of Cultural Organisations, there remains after satisfaction of all its debts and liabilities, any property or funds, the property or funds shall not be paid to or distributed among its members, but shall be given or transferred to some other fund, authority or institution having objects similar to the objects of this public fund, and whose rules shall prohibit the distribution of its or their income among its or their members, such fund, authority or institution to be eligible for tax deductibility of donations under Subdivision 30-B, section 30-100, of the Income Tax Assessment Act 1997 (the Act) and listed on the Register of Cultural Organisations maintained under the Act.

76 Financial records

- (1) The Association must keep financial records that—
 - (a) correctly record and explain its transactions, financial position and performance; and
 - (b) enable financial statements to be prepared as required by the Act.
- (2) The Association must retain the financial records for 7 years after the transactions covered by the records are completed.
- (3) The Secretary must keep in his or her custody, or under his or her control—
 - (a) the financial records for the current financial year; and
 - (b) any other financial records as authorised by the Board.

77 Financial statements

- (1) For each financial year, the Board must ensure that the requirements under the Act relating to the financial statements of the Association are met.
- (2) Without limiting subrule (1), those requirements include—
 - (a) the preparation of the financial statements;
 - (b) if required, the review or auditing of the financial statements;
 - (c) the certification of the financial statements by the Board;
 - (d) the submission of the financial statements to the annual general meeting of the Association;
 - (e) the lodgement with the Registrar of the financial statements and accompanying reports, certificates, statements and fee.

78 Auditor

- (1) At each Annual General Meeting, the members of the Association present at the meeting are to appoint a person meeting the requirements of the Act as the auditor of the Association.
- (2) If an auditor is not appointed at an Annual General Meeting under subclause 39.1, the Board is to appoint a person as the auditor of the Association as soon as practicable after that Annual General Meeting.
- (3) The auditor is to hold office until the next Annual General Meeting and is eligible for re-appointment.
- (4) Except as provided in subclause (5), the auditor, once appointed, may only be removed from office by a special resolution at a General Meeting.
- (5) If a casual vacancy occurs in the office of auditor, the Board is to appoint a person to fill the vacancy until the next Annual General Meeting.

PART 7—GENERAL MATTERS

79 Common seal

- (1) The Association may have a common seal.
- (2) If the Association has a common seal—
 - (a) the name of the Association must appear in legible characters on the common seal;
 - (b) a document may only be sealed with the common seal by the authority of the Board and the sealing must be witnessed by the signatures of two Board members;

(c) the common seal must be kept in the custody of the Secretary.

80 Registered address

The registered address of the Association is—

- (a) the address determined from time to time by resolution of the Board; or
- (b) if the Board has not determined an address to be the registered address—the postal address of the Secretary.

81 Notice requirements

- (1) Any notice required to be given to a member or a Board member under these Rules may be given—
 - (a) by handing the notice to the member personally; or
 - (b) by sending it by post to the member at the address recorded for the member on the register of members; or
 - (c) by email or facsimile transmission.
- (2) Subrule (1) does not apply to notice given under rule 66 Quorum, urgent meetings.
- (3) Any notice required to be given to the Association or the Board may be given—
 - (a) by handing the notice to a member of the Board; or
 - (b) by sending the notice by post to the registered address; or
 - (c) by leaving the notice at the registered address; or
 - (d) if the Board determines that it is appropriate in the circumstances—
 - (i) by email to the email address of the Association or the Secretary; or
 - (ii) by facsimile transmission to the facsimile number of the Association.

82 Custody and inspection of books and records

(1) Custody and Inspection of Books and Records

Members may not have access to the financial records, books, securities and any other document of the Association, including minutes of committee meetings, unless otherwise permitted by these Rules, law, or the Committee.

See note following rule 19 for details of access to the register of members.

(2) Members may on request inspect:

- (i) the register of members;
- (ii) the minutes of general meetings; and
- (iii) these Rules

subject to sub-rules 45.1(c), 45.1(d), and 45.1(e).(3)

- (3) The Secretary may refuse to allow a member to inspect the register of members if permitted by the Act.^[1] ^[1] Note: Under section 59 of the Act, access to the personal information of a person recorded in the register of members may be restricted in certain circumstances. Section 58 of the Act provides that it is an offence to make improper use of information about a person obtained from the Register of Members.

- (4) Members must not:
- (i) use information obtained about another person from the register of members to contact or send materials to the other person; or
 - (ii) disclose information obtained about a person from the register of members knowing that the information is likely to be used to contact or send materials to the other person; unless the purpose for which the information is used or disclosed is otherwise expressly permitted by these Rules or by law.
- (5) The Secretary must post on the organisations website
- a)(the Constitution and By-laws of the Organisation;
 - (i)If the Association provides access to these Rules and By-Laws on the Association's website, the Committee shall be deemed to have allowed a member to inspect and copy these Rules, unless the member informs the Association that he or she is unable to access the Rules on the website.
- (6) A member must be given a copy of these Rules and minutes of general meetings within one month of the Association receiving a request by the member.
- (7) Any Office-bearer vacating their office must return to the premises of the Organisation within 14 days any records held by the Officeholder other than on those premises.

83 Winding up and cancellation

- (1) The Association may be wound up voluntarily by special resolution.
- (2) In the event of the winding up or the cancellation of the incorporation of the Association, the surplus assets of the Association must not be distributed to any members or former members of the Association.
- (3) Subject to the Act and any court order made under section 133 of the Act, the surplus assets must be given to a body that has similar purposes to the Association and which is not carried on for the profit or gain of its individual members.
- (4) The body to which the surplus assets are to be given must be decided by special resolution.

84 Alteration of Rules

- (1) These Rules may only be altered by special resolution of a general meeting of the Association.

Note

An alteration of these Rules does not take effect unless or until it is approved by the Registrar. If these Rules (other than rule 1, 2 or 3) are altered, the Association is taken to have adopted its own rules, not the model rules.

- (2) A copy of this Constitution, including amendments from time to time, shall be posted on the Associations website.
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