[191V: Incorporates alterations of 11 April 2024 (R2023/142)]

Replaces rulebook of 21 February 2022 (R2021/212)

 **Victorian Automotive Chamber of Commerce**

I CERTIFY under section 161 of the Fair Work (Registered Organisations) Act 2009 that the pages herein numbered 1 to 35 both inclusive contain a true and correct copy of the registered rules of the Victorian Automotive Chamber of Commerce

 DELEGATE OF THE GENERAL MANAGER

 FAIR WORK COMMISSION

**Rules of the**

**Victorian Automotive Chamber of Commerce**

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**RULES OF THE**

**VICTORIAN AUTOMOTIVE CHAMBER OF COMMERCE**

# **PART I – INTERPRETATION AND OBJECTS**

##  1 – INTERPRETATION AND DEFINITIONS

(a) The name of the Association is the Victorian Automotive Chamber of Commerce.

(b) The registered head office of the Association will be situated in Victoria.

(c) In this Constitution, any reference to the singular includes the plural, to any gender includes all genders, to persons includes all bodies and associations both incorporated and unincorporated, to any legislation or regulations includes all amending and succeeding legislation and regulation, to clauses and schedules of this Constitution and paragraph headings are for reference purposes only.

(d) If any doubt shall arise as to the construction or interpretation of any clause of this Constitution, or any of the by-laws and regulations for the time being of the Executive Board, the decision of the Executive Board shall be conclusive and binding on all the Members of the Association, provided that such a decision is reduced into writing and recorded in the minute book.

(e) In this Constitution, the following meanings apply unless the context requires otherwise:

 Accreditation Program means a program developed by the Association which comprises standards, requirements and criteria as developed by the Association from time to time which Members must satisfy in order to be granted accreditation from the Association.

 Act means the *Fair Work* *(Registered Organisations) Act 2009* (Cth).

 AEC means Australian Electoral Commission.

 Affiliated Association shall mean an affiliated association of the Association whose members are also Members of the Association declared pursuant to clause 9.

 Annual General Meeting means the annual general meeting of the Association required to be held in accordance with clause 13.

 Assistant Returning Officer means a person appointed in accordance with clause 32(n).

 Association means the Victorian Automotive Chamber of Commerce.

 Association Appointed Assistant Returning Officer means a person appointed by the Association (or their delegate as approved by the Association) to assist the Association Appointed Returning Officer in accordance with clause 10(f).

 Association Appointed Returning Officer means a person appointed as such by the Association (or their delegate as approved by the Association) in accordance with clause 10(f).

 Auditor means an auditor appointed in accordance with clause 36(f).

 By-law means a by-law made under clause 41.

 Chief Executive Officer means a person appointed in accordance with clause 30(a).

Committee means a committee established by the Executive Board under clause 40.

 Constitution means this constitution of the Association as amended from time to time.

 Division means a division of the Association formed pursuant to clause 9.

 Electronic Communication means communication via telephone conference, video conference, internet or other electronic means which allows real-time simultaneous communication.

 Entrance Fee means the entrance fee as determined by the Executive Board from time to time.

 Executive Board means the executive board appointed in accordance with clause 18.

 Executive Committee means an executive committee of a Division or Affiliated Association.

 General Division means a division comprising of all Members who are not otherwise a member of any Division or Affiliated Association in existence from time to time.

 General Meeting means the Annual General Meeting or any Special General Meeting of the Association convened in accordance with clause 13.

 Industrial Officer means the person appointed in accordance with clause 30(a).

 Industry Policy Council means the body constituted in accordance with clause 26.

 Investment Advisor means an investment advisor appointed in accordance with clause 31(g).

 Investment Committee means the investment committee established pursuant to clause 31(c) to manage the investment of the Special Capital Fund.

 Life Member means a life member of the Association conferred pursuant to clause 7(a).

 Member means a member for the time being of the Association and shall include persons, firms, corporations or associations engaged as principals in the automotive industry or allied trades.

 Membership means membership of the Association.

 Nominated Chamber Representative means a person appointed by a Member in accordance with clause 6.

 Office has the same meaning as defined by section 9 of the Act.

 Officer has the meaning prescribed by the Act and for the purposes of this Constitution means members of the Executive Board.

Principal Objects are those objects set out in clause 2(a).

 Regulations means the *Fair Work (Registered Organisations) Regulations 2009* (Cth).

 Returning Officer means a representative of the AEC appointed in accordance with clause 32(n).

 Service Associate means a service associate of the Association pursuant to clause 8.

 Special Capital Fund means the proceeds received by the Association from the sale of its shares in VACC Holdings Limited and AMEV Life Holdings Limited and the investments and property in which such proceeds are from time to time invested and all accretions thereto and any income therefrom which is retained in accordance with the provisions of clause 31.

 Special General Meeting means a General Meeting of the Association other than an Annual General Meeting convened in accordance with clause 13(c).

 Subscription means the subscriptions and fees as determined by the Executive Board from time to time.

## 2 – OBJECTS

(a) The Principal Objects for which the Association is established and maintained are to: -

 (i) advance, promote and by every lawful means to protect and support the automotive industry and allied trades or services in Australia; and

 (ii) preserve the interests of Members.

(b) In furtherance of the Association’s Principal Objects, the purposes of the Association specifically include, but are not limited to, the following activities:

 (i) supporting and facilitating decision making on matters connected with the automotive industry and allied trades or services;

 (ii) promoting, supporting, or opposing legislative or other measures affecting the automotive industry and allied trades or services;

 (iii) entering into any form of alliance, joint venture, partnership or other relationship, whether commercial or otherwise, with any company, institution, society or association whose objects are altogether or in part similar to those of the Association;

 (iv) merging with any companies, institutions, societies, or associations having objects altogether or in part similar to those of this Association;

 (v) forming codes of practice whereby the transaction of business relating to the automotive industry or allied trades or services may be simplified and facilitated;

 (vi) improving the knowledge of Members in matters relating to the operation of a business, the automotive industry, its dimensions and changes and the skilling of employees;

 (vii) providing facilities for social interaction and discourse between Members, and if thought fit, providing, establishing and maintaining a venue for Members to gather socially;

 (viii) establishing sections, district or local branches and trade or other sections of the Association in any part of Victoria or in the Commonwealth of Australia with such limited powers and authorities and subject to such supervision and control as the Association deems fit;

 (ix) establishing, undertaking or contributing to any charitable or benevolent fund from which donations may be made to deserving persons who may be or have been engaged in the automotive industry and allied trades or services and contributing to or otherwise assisting any charitable or benevolent institutions or undertakings;

 (x) purchasing, taking on lease or in exchange, hire or otherwise acquiring any real or personal property and any rights and privileges necessary or convenient for the purpose of the Association;

 (xi) borrowing and raising any moneys required for the purpose of the Association upon such terms and on such securities as may be determined;

 (xii) investing and dealing with the moneys of the Association not immediately required upon such securities and in such manner as may from time to time be determined;

 (xiii) securing for the Members all the advantages of unity of action and advancing and protecting the interests of Members in any lawful manner whatsoever in matters which pertain to the relationship of employers and employees in the automotive industry or allied trades or services; and

 (xiv) undertaking and or doing all things or activities that a natural person may do which are necessary, incidental or conducive to the advancement of the Principal Objects.

# **PART II - MEMBERSHIP**

## 3 – MEMBERSHIP

(a) Membership shall be open to any person, firm, corporation, or association, genuinely engaged as principals in the automotive industry or allied trades or businesses and such membership shall continue until expiry of six months after such person, firm, corporation, or association, has ceased to be engaged in the automotive business or allied trades or businesses.

(b) The Executive Board may in its discretion grant an honorary Membership to any person who has ceased to be engaged in the automotive industry or allied trades or services for a period of twelve months, but such appointment shall be subject annually to review and revocation.

(c) There must be kept a register of Members, and of the Nominated Chamber Representatives of Members who are firms, corporations or associations, with their business addresses.

(d) Any Member or Nominated Chamber Representative who shall at any time change their place of business must immediately give notice of the change in writing to the Secretary.

(e) Within 14 days after the business or part of the business of a Member is assigned or transferred to a person who is not a Member of the Association the Member is required to notify the Association of the assignment or transfer.

## 4 – APPLICATIONS FOR MEMBERSHIP

(a) Applicants for Membership must sign and forward to the Secretary an application in the form or to the following effect:

 I desire to become a member of the Victorian Automotive Chamber of Commerce and agree to be bound by the constitution of the Association and the by-laws and regulations of each and any Division or Affiliated Association of which I may become a member, and authorise the entry of my name on the register of Members.

 Dated this .................. day of ............................. 20 …....

 Address ........................................................

 Nominated Chamber Representative …………………………..

 Signature ......................................................

(b) Upon receipt of an application for Membership, the Secretary must inform the applicant in writing of the financial obligations arising from Membership and the circumstances, and the manner, in which a Member may resign from the Association as provided for in this Constitution and any other applicable by-laws and regulations of the Association.

(c) Applications under clause 4(a) shall be dealt with by the Executive Board, who may only reject an application if the candidate is:

 (i) a natural person who is of general bad character; or

 (ii) a body corporate whose constituent documents include provisions which are inconsistent with the Principal Objects.

(d) On notification in writing to an applicant by the Secretary of their acceptance, such applicant shall become a Member, and that person’s or entity’s name must be entered on the register of Members.

## 5 – FEES AND SUBSCRIPTION

(a) Any Member admitted to Membership in any year must pay the Entrance Fee and the Subscription calculated in accordance with the following formula, or as otherwise determined by the Executive Board:

A\* x annual Subscription ($)

12

\*where A is the total number of whole calendar months between the date of admission and the 30th day of June next following, excluding the month in which the Member is admitted.

(b) On payment of the Entrance Fee and annual Subscription, the Member will be entitled to the privileges of Membership until the 30th day of June after their admission.

(c) Unless a Member resigns their Membership before 30 June in any year, they must pay the annual Subscription for the forthcoming year when due.

(d) Failure to pay any fee or subscription when due will trigger clause 11.

## 6 – NOMINATED CHAMBER REPRESENTATIVES

(a) Each Member that is a firm, corporation or association must, during its Membership, appoint one of its employees or members duly authorised in writing by the Member to be a representative on its behalf to attend and vote at all meetings of the Association and to hold any Office in the Association (Nominated Chamber Representative).

(b) The appointment of a Nominated Chamber Representative must be by written notice to the Secretary and will stand unless and until the Member notifies the Association in accordance with clause 6(c) that such appointment has been revoked or that the appointee has been replaced.

(c) Any instrument appointing, revoking or replacing a Nominated Chamber Representative must be delivered to the Secretary not less than forty-eight hours before the time for holding any meeting at which the Member is to be represented by the Nominated Chamber Representative in order for the instrument to be valid.

(d) Upon a Nominated Chamber Representative’s appointment being revoked, the person ceases to be eligible to hold any Office in the Association and any Office held by that person will be deemed vacant.

(e) Each Member may in addition appoint one or more of its employees or members to attend any General Meeting, but such additional appointees may have their appointments revoked at any time by the Nominated Chamber Representative and will not be entitled to vote in any election nor to be a candidate for election or nominator or seconder of a candidate for election to any Office.

## 7 – PAST PRESIDENTS AND LIFE MEMBERS

(a) The Executive Board may recommend to any Annual General Meeting the names of persons who have given long and meritorious service to the Association for election as Life Members to the Association and the Members may vote upon the proposed Life Members at such Annual General Meeting.

(b) Every Life Member will be entitled to all the privileges of Membership during their life without payment. There may not be more than two Life Members elected in any one year and there may not be more than ten Life Members at any one time.

(c) All past presidents of the Association will be advisory members of the Industry Policy Council and are entitled to attend all meetings of the Industry Policy Council but are not entitled in that capacity to vote or to perform any function in relation to the enforcement of by-laws and regulations or to exercise any of the functions of management.

## 8 – SERVICE ASSOCIATE

(a) Any firm, corporation or association carrying on business in or associated with the automotive industry or any allied trades or services may apply to be admitted as a Service Associate of the Association. The application must be in a form prescribed by the Executive Board and each application will be dealt with by the Executive Board who may accept or reject the same without ascribing any reason therefore and whose decision will be final.

(b) A Service Associate will be entitled to receive the same services from the Association as are granted to a Member including all services provided by any Division which is appropriate to the particular trade qualifications of the Service Associate.

(c) A Service Associate will not be entitled to vote at any General Meeting or any meeting of members of a Division, or to hold office within the Association or any Division, or to nominate or second any candidate for election with the Association or Division, except as may be permitted by the Executive Board.

(d) The Executive Board has the power to prescribe Subscriptions to be paid by Service Associates and each Service Associate must pay such Subscriptions as are prescribed and must comply with all directions of the Executive Board.

## 9 – DIVISIONS AND AFFILIATED ASSOCIATIONS

(a) The Association may be divided into such Divisions or Affiliated Associations as the Executive Board may from time to time determine. Unless otherwise determined by the Executive Board, the Divisions are as follows:

 (i) Automotive Dismantlers and Recyclers’ Division

 (ii) Automotive Electrical Division

 (iii) Automotive Repairers’ Division

 (iv) Body Repair Division

 (v) Commercial Vehicle Industry Association (Victoria)

 (vi) Engine Reconditioner and Radiator Service Division

 (vii) Farm and Industrial Machinery Dealers’ Association

 (viii) Motorcycle Industry Division

 (ix) Service Station and Convenience Store Division

 (x) Towing Operators’ Division

 (xi) Used Car Traders’ Division

 (xii) Victorian Automotive Dealers Association

 (xiii) Victorian Tyre Dealers’ Association

 (xiv) Tasmanian Division.

(b) As at the date of this Constitution, there are no Affiliated Associations.

(c) Each Member of the Association will be eligible for membership of such Division or Affiliated Association according to the by-laws and regulations of the Division or Affiliated Association concerned.

(d) Unless otherwise determined by the Executive Board, in addition to the Divisions and Affiliated Associations in existence at any one time, there will be a General Division which comprises of all Members who are not otherwise members of the other Divisions or Affiliated Associations. For the avoidance of doubt, the General Division will have a Divisional Committee which is elected in accordance with the by-laws and regulations of the General Division and the members of the General Division’s Divisional Committee will be entitled to:

 (i) elect and appoint a representative to the Industry Policy Council in accordance with clause 26;

 (ii) nominate a candidate for the Executive Board in accordance with clause 18(a); and

 (iii) vote in the elections for the Executive Board held in accordance with clause 18(g).

(e) Members desiring to form further Divisions or Affiliated Associations may do so with the approval of the Executive Board upon and subject to such terms and to such by-laws and regulations as the Executive Board may think fit provided that the Executive Board must not approve of the formation of any further Divisions or Affiliated Associations unless it is satisfied that the proposed Division or Affiliated Association will have a particular automotive interest to its Members.

(f) Applications for the formation of a Division or Affiliated Association must be signed and forwarded to the Secretary in the form or to the following effect:

We, the undersigned Members of the Victorian Automotive Chamber of Commerce desire to form a Division or Affiliated Association of the Victorian Automotive Chamber of Commerce, and agree to be bound by the constitution of the Association.

 Dated this …………….. day of ………………20……

 Signatures ……………………………………………………..stating address and business.

(g) The Executive Board may from time to time dissolve, make, consolidate, or amalgamate any Division or Affiliated Association.

(h) A Division or Affiliated Association that is dissatisfied with a decision under clause 9(g) may appeal to a Special General Meeting of the Members of the Association, which has been called for that purpose, against such decision. At such Special General Meeting, a majority of the Members attending and voting may resolve whether to confirm, alter or rescind the decision of the Executive Board made pursuant to clause 9(g).

(i) Where a Division or Affiliated Association is dissolved, consolidated, or amalgamated:

 (i) any members of the Industry Policy Council who were appointed by the dissolved, consolidated, or amalgamated Division or Affiliated Association, are entitled to remain on the Industry Policy Council for the remainder of their usual term in office;

 (ii) any members of the Executive Board who were nominated by the dissolved, consolidated, or amalgamated Division or Affiliated Association, are entitled to remain on the Executive Board for the remainder of their usual term in office;

 (iii) any member of a dissolved Division or Affiliated Association will automatically become a member of the General Division, and will be eligible for membership of any other Division or Affiliated Association according to the by-laws and regulations of the Division or Affiliated Association concerned; and

 (iv) any member whose membership changes to a new Division or Affiliated Association as a result of their original Division or Affiliated Association being dissolved, consolidated, or amalgamated will have their period of financial membership of the original Division or Affiliated Association recognised if standing as a candidate for election to the Executive Committee of the new Division or Affiliated Association for the purposes of clause 10(e).

## 10 – GOVERNANCE OF DIVISIONS AND AFFILIATED ASSOCIATIONS

The issue of a by-law or regulation creating a Division or Affiliated Association shall be subject to the observance and performance by its members of the conditions contained in this clause 10. The members of such Division or Affiliated Association must organise themselves conformably to the Association.

(a) Subject to clause 10(b), the members of such Division or Affiliated Association must adopt by-laws and regulations for the governing of such Division or Affiliated Association provided that:

(i) the by-laws and regulations so adopted are in accordance with this Constitution and are approved by the Executive Board; and

 (ii) a Division or Affiliated Association may by resolution of a general meeting of its members of which notice has been given, make, alter and amend its by-laws and regulations provided they are in accordance with this Constitution and are approved by the Executive Board.

(b) The Association may make by-laws and regulations relating to its Accreditation Program and related matters which Divisions and Affiliation Associations (as applicable) must adopt and be bound by. If there are any inconsistencies between by-laws and regulations developed by the Association under this clause 10(b) and those developed by a Division or Affiliated Association under clause 10(a), those developed by the Association will prevail to the extent of the inconsistency.

(c) A Division or Affiliated Association shall not by itself, its chairman, or by any committee or deputation appointed by it either in the name of the Association or in its own name enter into any form of negotiation, consultation or agreement with or take any action, legal or otherwise, against manufacturers, wholesalers, retailers of or any Government or Minister of the Crown or any other person or corporation in respect of any commodity, including accessories, replacement parts, wholesalers of petrol, oil and tyres of any description. Any such desired negotiation, consultation, agreement or action must be submitted to the Secretary and be approved of by the Executive Board and be handled, managed and administered as determined by the Executive Board.

(d) A Division or Affiliated Association shall not by itself or its chairman or by any committee appointed by it, form or become part of a deputation to any other organisation, company or Government without first submitting the subject matter to be presented, considered or discussed with the names of those forming the deputation to the Secretary of the Association and obtaining the approval of the Executive Board in writing.

(e) The Association shall not be responsible for any expenses incurred by any Division or Affiliated Association for which the authority has not been first granted by the Executive Board, nor shall any Division or Affiliated Association call for subscriptions from its members or make levy on its members without first obtaining the permission from the Executive Board.

(f) The Executive Board shall appoint an Association Appointed Returning Officer and an Association Appointed Assistant Returning Officer to conduct and assist in the conduct of Association facilitated elections including any elections conducted for:

 (i) a position on an Executive Committee;

 (ii) the positions of chairman and vice chairman of an Executive Committee;

 (iv) the position of IPC Representative on the Industry Policy Council.

 The Association Appointed Returning Officer must not be an Office holder, a Member or an employee of the Association and the Association Appointed Assistant Returning Officer must not be an Office holder or a Member, but may be an employee of the Association.

(g) Each Division or Affiliated Association shall be governed by a chairman, a vice chairman and an Executive Committee, the office bearers of which, shall be elected by members of the Division or Affiliated Association for two calendar years in accordance with clauses 10(h) to 10(p). Only a current financial Member of the Division who is or has been a financial Member of the Division for any period of no less than 1 year may stand as a candidate for election to the Executive Committee.

(h) Members of the Executive Committee shall be elected by members of the respective Division or Affiliated Association by secret ballot. The voting of the secret ballot shall be conducted in such manner as may be determined by the Executive Board from time to time, including by electronic means.

(i) Elections of the Executive Committee shall be held every two years and prior to the election of the Executive Board. At least four weeks prior to the proposed date of the Executive Committee election, the Association Appointed Returning Officer will request from members of the relevant Division or Affiliated Association, nominations for election to the Executive Committee, which must be received by the Association Appointed Returning Officer no less than two weeks prior to the election.

(j) Any Member or Executive Committee member may nominate a person for an Executive Committee member position.

(k) A nomination must:

 (i) be in the form required by the Executive Board from time to time; and

 (ii) signed by a proposer, seconder and nominee who shall be members of the Division or Affiliated Association for which the election is to be held.

(l) A valid nomination received in accordance with clause 10(k) may only be withdrawn at the complete discretion of the Association Appointed Returning Officer.

(m) If the number of nominations received for positions on the Executive Committee is equal to or less than the number of positions to be filled, then those nominated shall be deemed elected.

(n) If there are insufficient nominations received to fill all vacancies for Executive Committee positions, the remaining positions will be deemed casual vacancies and filled as determined by the Executive Committee in its absolute discretion.

(o) If the number of candidates nominated for each position on the Executive Committee is greater than the positions to be elected to that office, a secret ballot of the members of the Division or Affiliated Association shall be conducted.

(p) The voting of the secret ballot shall be conducted in such manner as may be determined by the Executive Board from time to time, including by electronic means.

(q) The Executive Committee of a Division or Affiliated Association will elect a chairman and a vice chairman from among its number by secret ballot. The voting of the secret ballot shall be conducted in such manner as may be determined by the Executive Board from time to time, including by electronic means. The nominations for these offices shall be in the hands of the Association Appointed Returning Officer at least one week prior to the first Executive Committee meeting held after the election of the Executive Committee.

(r) For the avoidance of doubt, the provisions of clause 32 do not apply to any elections held under this clause.

(s) Each Division or Affiliated Association shall meet at least twice in each year and shall within seven days after every meeting send to the Secretary, or the Secretary’s delegate, a copy of the minutes of the said meeting.

(t) A person entitled to attend a meeting of a Division or Affiliated Association may attend the meeting via Electronic Communication, in such manner as may be determined by the Executive Board from time to time.

(u) Where a person is permitted to participate in a meeting via Electronic Communication, the person’s attendance will be counted toward the quorum and the person will be permitted to participate in the meeting as if they were present at the place where the meeting was convened.

(v) The Executive Board may within twenty-eight days from the date of receipt of a resolution from a Division or Affiliated Association disallow the same if in its opinion such resolution is not in the best interests of the Association.

(w) The President, the Secretary and the Chief Executive Officer shall ex officio be entitled to attend any meetings convened by any Division or Affiliated Association.

## 11 – TERMINATION OF MEMBERSHIP

(a) Any Member who has not paid their Subscription, call or other sums presently payable by them or it to the Association within one month of its due date shall automatically be regarded as unfinancial and not entitled to vote at any meetings or proceedings nor enjoy any other privileges of Membership.

(b) The Member must be provided with a notice advising that they have become unfinancial, and that they will cease to be a Member of the Association if they do not pay the Subscription, call or other sums payable within 42 days of the due date.

(c) If a Member fails to pay any Subscription, call or other sums presently payable by them to the Association within 42 days of the due date, they shall ipso facto cease to be a Member of the Association but their Membership may be reinstated at the discretion of the Executive Board on payment of all arrears.

(d) Any Member may resign their Membership in accordance with this clause 11 and from the date of such resignation such Member will cease to be a Member, but will nevertheless remain liable for and pay to the Association all moneys which at the time they cease to be a Member may be due by the Member to the Association, and at once return (at their cost) all badges, certificates, and/or other property of the Association held by the Member.

(e) Subject to section 178 of the Act, any dues payable but not paid by a former Member of the Association, in relation to a period before the Member’s resignation from the Association took effect, may be sued for and recovered in the name of the Association, in a court of competent jurisdiction, as a debt due to the Association.

(f) A notice of resignation by a Member must be in writing and addressed to the Secretary and must be delivered to the Secretary by:

 (i) leaving it with the Secretary personally;

 (ii) leaving it in an envelope addressed to the Secretary at the registered office of the Association; or

 (iii) posting it in an envelope addressed to the Secretary at the registered office of the Association

(g) The notice of resignation takes effect:

 (i) where the Member ceases to be eligible to become a Member of the Association:

 (A) on the day on which the notice is received by the Association; or

 (B) on the day specified in the notice, which is a day not earlier than the day when the Member ceases to be eligible to become a Member,

 whichever is later; or

 (ii) in any other case:

 (A) at the end of two weeks after the notice is received by the Association; or

 (B) on the day specified in the notice,

 whichever is later.

(h) A notice delivered to the Secretary will be taken to have been received by the Association when it was delivered.

(i) A notice of resignation that has been received by the Association is not invalid because it was not addressed to and delivered to the Secretary.

(j) A resignation from Membership of the Association is valid even if it is not affected in accordance with this clause 11 if the Member is informed in writing by or on behalf of the Association that the resignation has been accepted.

(k) Where the Membership of a Member ceases for any reason whatsoever, that person, firm, corporation or association must not thereafter claim or represent any affiliation with the Association and must not display any notices or signs or do any other thing which identifies connection or affiliation with the Association.

(l) Where the Membership of a Member ceases for any reason whatsoever and the Nominated Chamber Representative of that Member holds Office, a meeting of the Executive Board must be held within 14 days to consider the removal of that Nominated Chamber Representative from Office. If the Executive Board finds that the underlying Member has ceased to be a Member, the Executive Board may, by a resolution carried by a two-thirds majority of the Executive Board, resolve to remove the Nominated Chamber Representative from Office, whereby their position on the Executive Board will become vacant.

## 12 – MISCONDUCT

(a) If any Member:

 (i) is found guilty of a criminal offence;

 (ii) wilfully refuses or wilfully neglects to comply with the provisions of this Constitution;

 (iii) is in breach of the VACC Code of Conduct or any other code of conduct formed by the Association; or

 (iv) is otherwise in breach of a relevant industry code,

such Member may be cautioned, fined a sum not exceeding $5,000, suspended for a period of not more than twelve months, or expelled from the Association in accordance with clause 12(b).

 (b) The Executive Board may, by a resolution carried by a two-thirds majority of the Executive Board, resolve to expel a Member who has acted in a manner described in clause 12(a), provided that:

 (i) the meeting at which such a resolution is made, was called for the purpose of considering that resolution;

 (ii) the Member is given at least seven days’ notice of the meeting of the Executive Board and of the matters to be enquired into at such meeting; and

 (iii) at the meeting and before the passing of any resolution, the Member has had an opportunity of giving orally or in writing any explanation or defence they may think fit and calling before the Executive Board any person having knowledge of the facts of the matters in question to place such facts before the Executive Board.

(c) Any Member who is dissatisfied with a resolution of the Executive Board passed pursuant to clause 12(b) may appeal to a Special General Meeting of the Members of the Association against such resolution. At such Special General Meeting, a majority of the Members attending and voting may resolve whether to confirm, alter or rescind the resolution of the Executive Board passed pursuant to clause 12(b).

# **PART III – GENERAL MEETINGS**

## 13 – GENERAL MEETINGS

(a) The Annual General Meeting of the Association will be held during such month and at such time and place as may be determined by the Executive Board but no later than six months after the end of the financial year.

(b) Twenty-one days notice shall be given of the Annual General Meeting, and in the case of a Special General Meeting, twenty-one days notice shall be given except where time is of the essence, in which case no less than 7 days notice will be given.

(c) A Special General Meeting may be convened by the President or five members of the Executive Board at any time.

(d) The Secretary must convene a Special General Meeting on receipt of a requisition signed by at least twenty-five Members of the Association, stating the purpose for which such meeting is required.

(e) A person entitled to attend a General Meeting may attend the meeting via Electronic Communication, in such manner as may be determined by the Executive Board from time to time.

(f) Where a person is permitted to participate in a meeting via Electronic Communication, the person’s attendance will be counted toward the quorum and the person will be permitted to participate in the meeting as if they were present at the place where the meeting was convened.

(g) Any Member wishing to bring forward any resolution at any General Meeting must give at least nine days notice and in the case of the Annual General Meeting, thirty days notice in writing to the Secretary of their intention to do so.

(h) No business shall be transacted at any General Meeting except that stated in the notice convening the General Meeting.

(i) The Secretary shall, in giving notice of a meeting, include in such notice any resolution of which the Secretary has had due notice from any Member.

(j) The chairman may, with the consent of any meeting at which a quorum is present, and must, if so directed by the meeting, adjourn the meeting from time to time and from place to place but no business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

(k) When a meeting is adjourned for 30 days or more, a notice of the adjourned meeting must be given as in the case of the original meeting.

(l) Except as provided in clause 13(k) it is not necessary to give any notice of adjournment or the business to be transacted at any adjourned meeting.

## 14 – ENTITLEMENT TO VOTE

(a) Each Member whether a person, company, association or firm shall, subject to clause 11(a), be entitled to one vote. Votes may be given at any General Meeting either by a show of hands, by ballot, by proxy or by Electronic Communication in such manner as may be determined by the Executive Board from time to time.

(b) On a show of hands every Member present in person, by Nominated Chamber Representative or by proxy shall have one vote and upon a ballot every Member will have one vote. Where a firm or corporation being a Member is represented by a Nominated Chamber Representative or by a proxy who is not a Member, such Nominated Chamber Representative or proxy will be entitled to vote on behalf of such firm or corporation on a show of hands or by ballot.

(c) If a Member becomes unfinancial in accordance with clause 11(a) then they are not entitled to vote.

(d) The instrument appointing a proxy shall be in writing signed by the Member, or if the Member is a corporation either signed under common seal or by an authorised officer. No person shall act as a proxy unless they are entitled on their own behalf to be present and vote at the meeting at which they act as proxy, or they have been appointed to act at that meeting as a proxy for a Member. The instrument appointing a proxy shall be deposited at the registered office of the Association not less than forty-eight hours before the relevant General Meeting.

(e) An instrument appointing a proxy may be in the following form or in any other form which the Executive Board may approve:

 I/We.................................................... of ................................................................

 being a member of the Victorian Automotive Chamber of Commerce hereby

 appoint ....................................................................................................... of

 ...................................................................... as my/our proxy to vote on my/our behalf at the general meeting of the Association

 to be held on the ......................................................................

 day of ................................................................ ............20 .............., and at an

 adjournment thereof.

 Signed this ...................... day of .................................. 20 ….....

## 15 – BUSINESS OF GENERAL MEETINGS

(a) The business of the Annual General Meeting of the Association shall, as far as practicable, be conducted as follows:

 (i) receive the report of the Executive Board;

 (ii) receive the statement of accounts;

 (iii) receive the report of the result of the election of any Officers;

 (iv) appoint an Auditor; and

 (v) consider, and if necessary take action with reference to any business or motion of which due notice may have been given, or which the three-fourths of the Members present or represented of such meeting consent thereto not being inconsistent with this Constitution.

(b) Notice of any business or motion to be discussed at the Annual General Meeting of the Association shall be considered to be duly served if it is sent to the Secretary thirty days at least before the date on which the said meeting shall be called

 Fifteen Members present shall respectively constitute a quorum at an Annual General Meeting or a Special General Meeting. In the event of a quorum not being present within thirty minutes of the hour for which any meeting shall have been called, it shall be in the power of the Members then present to adjourn such meeting for any period not exceeding seven days and from time to time until a meeting shall have been duly constituted.

(c) The Executive Board shall, at every Annual General Meeting, lay before the Association’s Members the President’s Report and the Annual Report, the Financial Statement, the Operating Report and the Auditor’s Report for the financial year, each of which shall be prepared in accordance with the requirements of the Act.

(d) Every Member of the Association shall be notified of the release of the Annual Report, Financial Statement, Operating Report and Auditor’s Report at least twenty-one days prior to the Annual General Meeting and a copy shall be made available on the Association’s website, and if requested by a Member, a copy forwarded by post or electronically.

## 16 – BALLOT PARTICIPATION

Whenever a ballot is to be taken for the purpose of submitting a matter to a vote of the Members of the Association or of a Division or of an Affiliated Association, the Secretary shall notify every Member concerned of the meeting at which the vote is to take place or the arrangements for any ballot which is to be held by post, electronically or by such other means as determined by the Executive Board from time to time, and shall ensure that every financial Member concerned is given the opportunity of voting at such meeting or ballot.

# **PART IV – EXECUTIVE BOARD**

## 17 – COMPOSITION OF EXECUTIVE BOARD

(a) The Association will have an Executive Board consisting of:

 (i) the President;

 (ii) the Vice-President;

 (iii) the Secretary; and

 (iv) six other board members,

all of whom may hold office as members of the Executive Board for two calendar years or until others are elected.

(b) Notwithstanding any other provision of this Constitution, in particular clauses 17(a) and 32:

 (i) If in an election year, the AEC notifies the Association that it is unable to conduct elections of the Executive Board at the Annual General Meeting at which the election was scheduled, this clause 17(b) shall apply.

 (ii) Upon receipt of a notice under clause 17(b)(i), the Executive Board shall use its reasonable endeavours to ensure the AEC conducts the election as soon as practicable after the Annual General Meeting at which the election was scheduled.

 (iii) As soon as reasonably practicable after the AEC notifies the Association that it is able to conduct elections in accordance with this Constitution, the Secretary shall convene an Annual General Meeting or if the timeframe in which an Annual General Meeting must be convened under 13(a) has expired, a Special General Meeting, to conduct the election. If a Special General Meeting is convened under this clause 17(b)(iii), that Special General Meeting shall be deemed to be the Annual General Meeting in an election year at which the Executive Board is declared, for the purposes of clauses 18(a), 18(g), 32(a)(ii), 32(c), 32(e), 32(x)(iv).

 (iv) If the AEC is unable to conduct elections of the Executive Board before the expiry of the two-year term of an Officer, that Officer shall continue in office until their successor is declared elected.

 (v) The term of an Officer elected to the Executive Board at the meeting convened under 17(b)(iii) shall be reduced by such period as the preceding Officer remained in office beyond two years under 17(b)(iv). Elections to subsequent Executive Boards shall then proceed in accordance with the procedures in these Rules.

## 18 – ELECTION OF EXECUTIVE BOARD

(a) Each Division or Affiliated Association in existence from time to time is entitled to one nomination for the nine positions on the Executive Board. Nominations must be in the hands of the Returning Officer at least seven weeks prior to the Annual General Meeting at which the Executive Board is to be declared.

(b) To be qualified for a position on the Executive Board, the candidate must be a member of an Executive Committee of a Division or Affiliated Association.

(c) Each Division or Affiliated Association’s nomination shall be elected by ballot by the members of the Executive Committee of that Division or Affiliated Association.

(d) No person may be nominated by more than one Division, Affiliated Association and/or category of Membership. Where this occurs, clause 32(b) will apply.

(e) If the number of nominations received from the Divisions or Affiliated Associations in accordance with clause 18(c) is equal to the number of vacancies on the Executive Board to be filled, or if there are insufficient nominations received to fill all vacancies on the Executive Board, then those nominations will be declared elected.

(f) If there are insufficient nominations received to fill all vacancies on the Executive Board, each Division or Affiliated Association is entitled to submit one nomination for the remaining vacancies on the Executive Board. Nominations in accordance with this clause 18(f) must be in the hands of the Returning Officer within two weeks of notice being given to the Divisions and Affiliated Associations that they are entitled to submit a further nomination.

(g) If the number of nominations received from the Divisions or Affiliated Associations in accordance with clause 18(c) (and, if applicable, 18(f)) exceeds the number of vacancies on the Executive Board to be filled, those nominations will be elected by the Members in accordance with the provisions of clause 32. The ballot material must be sent to the Members on the roll of voters no later than four weeks prior to the Annual General Meeting at which the Executive Board is to be declared and the ballot will close on a date which is at least one week prior to that Annual General Meeting.

## 19 – ELECTION OF PRESIDENT, VICE PRESIDENT AND SECRETARY

(a) The Executive Board will elect from among its members, a President, Vice President and Secretary by an attendance ballot at the first meeting of the Executive Board after the AGM or, if the Executive Board was elected under clause 17(b), the first meeting of the Executive Board after the meeting at which the election took place, and in accordance with this clause 19. For the avoidance of doubt, the provisions of clause 32 do not apply to such an election.

(b) To be qualified for the Office of President, the candidate must have served as a member of the Executive Board for the preceding term.

(c) Members of the Executive Board will nominate for the positions of President, Vice President or Secretary by filling out a nomination form and returning it to the Returning Officer. For the avoidance of doubt, members of the Executive Board may self-nominate for the positions of President, Vice President and Secretary.

(d) Where there is more than one nomination for any one position, there shall be an election by secret ballot and the result ascertained on the basis of preferential voting. The names of the candidates nominated shall be arranged in alphabetic order according to their surnames.

(e) If the result of an election conducted in accordance with clause 19(d) is a tie between two Officers, the winner will be decided by the flip of a coin.

(f) Subject to this clause 19, the President, Vice President and Secretary will preside for the ensuing two years.

(g) If the position of President, Vice President or Secretary becomes vacant, the Executive Board must elect a person to the position in accordance with clauses 21(b) and 32; or appoint a person to the position in accordance with clause 21(a) within 14 days after the vacancy arises, until the retiring officer’s term of Office has expired, in accordance with section 146 of the Act.

(h) Until the positions of President, Vice President and Secretary have been filled in accordance with clause 19(g), any meetings of the Executive Board shall be chaired by such person as the Executive Board determines by way of a show of hands.

## 20 – REMOVAL OF OFFICERS

(a) Except as provided for in clauses 6(c), and 20(c), the power to remove members of the Executive Board and all persons holding Office will be at the discretion of Members. Such removal must be passed by a resolution carried by a two-thirds majority of the Members present at a Special General Meeting called for that purpose.

(b) A member of the Executive Board or a person elected to an Office within the Association will not be removed from Office in accordance with clause 20(a) unless, after they have been afforded a reasonable opportunity of being heard in their defence, they have been found guilty by a two-thirds majority of the Members present at the meeting, of a misappropriation of the funds of the Association or a substantial breach of this Constitution, or of gross misbehaviour, or gross neglect of duty.

(c) A position on the Executive Board will be deemed vacant and the person holding such position will cease to be a member of the Executive Board if:

 (i) the person sends into the Executive Board their written resignation; or

 (ii) the person is removed from Office in accordance with clause 20(a).

(d) If a person holding a position on the Executive Board:

 (i) ceases to be eligible to hold the position of Nominated Chamber Representative of the Member they have been appointed by in accordance with clause 6; or

 (ii) the Member to which the person has been appointed as Nominated Chamber Representative ceases to be eligible to be a Member of the Association,

a meeting of the Executive Board must be held within 14 days to consider whether that person has ceased to be eligible to hold the position of Nominated Chamber Representative or the underlying Member has ceased to be eligible for Membership. If it is found that either clause 20(d)(i) or 20(d)(ii) is satisfied, the Executive Board may, by a resolution carried by a two-thirds majority of the Executive Board, resolve to remove the person from Office, whereby their position on the Executive Board will become vacant.

(e) The continuing members of the Executive Board may act notwithstanding any vacancy on the Executive Board.

## 21 – VACANCY ON THE EXECUTIVE BOARD

(a) In the event that any position on the Executive Board becomes vacant, the Executive Board may, in its absolute discretion, appoint the Nominated Chamber Representative of a Member to the vacant Office and the person will continue in Office up to the end of the term of the person they are replacing provided that the unexpired portion of the term of Office in which the vacancy occurs does not exceed three-quarters of the term.

(b) Where the unexpired portion of the term of Office in which the vacancy occurs exceeds three-quarters of the term, then the position will be filled by election in accordance with clause 32, with the necessary changes, subject to the following rules:

 (i) each of the Executive Committees that does not currently have a nominee on the Executive Board (including the Executive Committee that nominated the individual in the position that has become vacant) may nominate one person to fill the vacant position on the Executive Board; and

 (ii) All Members are entitled to vote on the election from the selected nominees.

(c) Any member elected to a position in accordance with clause 21(b) will hold Office for the unexpired portion of their predecessor’s term of Office.

## 22 – POWERS AND DUTIES OF THE EXECUTIVE BOARD

(a) Subject to the Members in General Meeting, the transaction of the business of the Association and its entire management including the acceptance or rejection of applications for Membership for formation of Divisions and Affiliated Associations, will be vested in the Executive Board, which, in addition to the powers and authorities by these clauses expressly conferred on it, may exercise all powers and do all such acts and things as may be exercised and done by the Association in General Meeting.

(b) Subject to clause 31 the Executive Board must invest any moneys which are not required to be used at the time for the purposes of the Association and the Executive Board may act as trustees for any specific undertaking or enterprise authorised by the Association.

## 23 – MEETINGS OF THE EXECUTIVE BOARD

(a) Subject to clause 23(b), the Executive Board may meet as often as is deemed necessary for the dispatch of business. Subject to this Constitution, the Executive Board may adjourn and otherwise regulate its meetings as it thinks fit.

(b) The Executive Board must meet at least six times in each calendar year.

(c) Unless all Executive Board members agree to hold a meeting at shorter notice either by agreement that is sufficiently evidenced in writing or by their presence, or in accordance with clause 23(f), not less than two days written notice of Executive Board meetings must be given to each member of the Executive Board.

(d) Written notice of each Executive Board meeting, specifying the general nature of the time, date and place of the Executive Board meeting and the business to be transacted, must be served on each member of the Executive Board by:

 (i) delivering it to that board member personally; or

 (ii) sending it in writing, by email or other means of electronic communication, in accordance with that Executive Board member’s last notified contact details.

(e) Notice may be given of more than one Executive Board meeting at the same time.

(f) In cases of urgency, a meeting can be held without notice being given in accordance with clause 23(c), provided that as much notice as practicable is given to each member of the Executive Board by the quickest means practicable.

(g) Any resolution made at an Executive Board meeting called in accordance with clause 23(f) must be passed by an absolute majority of the Executive Board.

(h) Five members of the Executive Board personally present will constitute a quorum for the transaction of the business of a meeting of the Executive Board.

(i) The President or Vice-President or Secretary while presiding as chairman will not have a casting vote.

(j) A person entitled to attend a meeting of the Executive Board may attend the meeting via Electronic Communication, in such manner as may be determined by the Executive Board from time to time.

(k) Where a person is permitted to participate in a meeting via Electronic Communication, the person’s attendance will be counted toward the quorum and the person will be permitted to participate in the meeting as if they were present at the place where the meeting was convened.

(l) The Executive Board will have the power to make circulating resolutions. A resolution in writing signed or assented to by Electronic Communication by all the voting members of the Executive Board, will be as valid and effectual as if it had been passed at a meeting of the Executive Board duly convened and held. Any such resolution may consist of several documents in like form each signed by one or more of the members of the Executive Board.

## 24 - DUTIES OF PRESIDENT, VICE PRESIDENT AND SECRETARY

(a) Subject to this Constitution, the President will be the Association’s executive and administrative head and will generally oversee its activities and policies.

 *Note: for particular powers and duties see clauses 10(w), 15(c), 24(a) and 25(b).*

(b) Where requested by the President or required by this Constitution, and under the general oversight of the President, the Vice-President will assist the President generally to oversee the Association’s activities and policies.

(c) Subject to this Constitution, the Secretary must ensure that all matters relating to the administration and finances of the Association are carried out as required by law and/or the requirements of this Constitution, especially the Association’s policies relating to its expenditure and all required statutory record-keeping and reporting requirements and/or as required by this Constitution.

 *Note: particular powers and duties include clauses 24(c), 24(e), and 38(a).*

(d) The Secretary must attend all meetings in connection with the Association to:

 (i) keep the records and minutes;

 (ii) receive all memorials, letters and applications;

 (iii) arrange all business for the consideration of the Executive Board;

 (iv) conduct the correspondence of the President or chairman (as the case may be);

 (v) give notice of all General Meetings;

 (vi) collect the funds, give receipts and deposit them in a bank in the name of the Association;

 (vii) collect and arrange all statistical information that may be deemed valuable;

 (viii) report to the President on all bills introduced into the Victorian and Commonwealth Parliament, or such other jurisdictions which may be determined from time to time, affecting the automotive industry or allied trades and services; and

 (ix) assist in all matters connected with the affairs of the Association as directed by the Executive Board.

(e) The Secretary may from time to time, delegate some of its above duties to the Chief Executive Officer.

# **PART V- INDUSTRY POLICY COUNCIL**

## 25 – COMPOSITION OF INDUSTRY POLICY COUNCIL

(a) The Association will have an Industry Policy Council consisting of:

 (i) two members from each Division and Affiliated Association in existence from time to time; and

 (ii) one member from the General Division.

all of whom may hold office as members of the Industry Policy Council for a term of two calendar years or until others are elected (IPC Representative).

(b) All past presidents of the Association are entitled to attend all meetings of the Industry Policy Council in accordance with clause 7(c).

(c) The Industry Policy Council may from time to time invite third parties to attend some or all meetings of the Industry Policy Council provided that those third parties are not entitled to vote.

## 26 – ELECTION OF INDUSTRY POLICY COUNCIL

(a) Members of an Executive Committee may nominate the IPC Representative(s) for their Division or Affiliated Association by filling out a nomination form and returning it to the Association Appointed Returning Officer within such timeframe as determined by the Executive Board from time to time. For the avoidance of doubt, members of the Executive Committee are not permitted to self-nominate for the position of IPC Representative.

(b) The members of the Industrial Policy Council, will be elected by the members of the Executive Committee of their Divisions or Affiliated Associations as follows:

 (i) if the number of nominations received for the position of IPC Representative is equal to or less than the number of positions to be filled, then those nominated shall be declared elected;

 (ii) if there are insufficient nominations received to fill all vacancies for IPC Representative positions, the remaining positions will be deemed casual vacancies and filled as determined by the Executive Committee in its absolute discretion;

 (iii) if the number of nominations received for the position of IPC Representative is greater than the number of positions to be filled, a secret ballot shall be conducted to determine the IPC Representative(s). The voting of the secret ballot shall be conducted in such manner as may be determined by the Executive Board from time to time, including by electronic means.

 For the avoidance of doubt, the provisions of clause 32 do not apply to such an election.

(c) Any Division or Affiliated Association formed during the currency of any year may upon such formation elect one representative to the Industry Policy Council and such representatives may hold office until the next regular Industry Policy Council elections.

(d) To be eligible to be elected by their Division or Affiliated Association, the candidate must be a member of the Executive Committee of their Division or Affiliated Association.

(e) A member of a Division who already holds a position on the Executive Board may also represent the Division on the Industry Policy Council.

(f) No person may be a member of the Industry Policy Council in more than one capacity. A person will not be nominated by or elected to represent more than one Division, Affiliated Association and/or category of Membership. Where more than one Division, Affiliated Association or category of Membership nominates the same person as a candidate for a position on the Industry Policy Council, the Association Appointed Returning Officer must reject all nominations in respect of that person. For the avoidance of doubt, nothing in this clause restricts a person from nominating for a position on the Industry Policy Council in their capacity as a member of a separate Division, Affiliated Association or category of Membership.

(g) Whenever a casual vacancy occurs in the members of the Industry Policy Council, who are elected as representatives of a Division or Affiliated Association, such vacancy will be filled by the Division or Affiliated Association in accordance with clause 26(a) which appointed the outgoing member and notice of such appointment must be given to the Secretary.

## 27 - MEETINGS OF INDUSTRY POLICY COUNCIL

(a) The Industry Policy Council must meet at least four times in each calendar year but may meet more regularly as it sees fit. At least 21 days’ notice of a meeting must be given unless at least four members of the Industry Policy Council representing at least two Divisions or Affiliated Associations request a meeting at short notice.

(b) Where a meeting is called at short notice at least seven days’ notice must be given.

(c) A member of the Industry Policy Council may be represented by a proxy, provided the proxy is another member of the same Division or Affiliated Association.

(d) Seven members representing at least 30% of the Divisions and Affiliated Associations represented on the Industry Policy Council constitutes a quorum at a meeting of the Industry Policy Council.

(e) A person entitled to attend a meeting of the Industry Policy Council may attend the meeting via Electronic Communication, in such manner as may be determined by the Executive Board from time to time.

(f) Where a person is permitted to participate in a meeting via Electronic Communication, the person’s attendance will be counted toward the quorum and the person will be permitted to participate in the meeting as if they were present at the place where the meeting was convened.

## 28 – ROLE OF THE INDUSTRY POLICY COUNCIL

(a) The role of the Industry Policy Council is to develop the industry policy position for the Association and for the interests of Members. The members of the Industry Policy Council have a key role in bringing forward the industry policy positions from their various Divisions or Affiliated Associations for broader consultation and development through the Industry Policy Council.

(b) The Industry Policy Council may make decisions relating to industry policy development, the Association’s approach to policy advocacy and the development of policy materials.

(c) Any decisions that might impact on the governance of the Association (being the mechanisms, relations, and processes by which the Association is controlled and directed) must be referred to the Executive Board.

(d) The Industry Policy Council must work within the existing budgets and strategic planning of the Association as set by the Executive Board and may not work beyond these boundaries without the proper consent of the Executive Board.

(e) Where the Industry Policy Council requires resources that are beyond the annual budgeted expenses of the Association or the Association’s industry policy objectives, the Industry Policy Council may make submissions to the Executive Board to extend these resources or scope.

(f) Where the Industry Policy Council determines that an industry policy direction needs to extend beyond the existing strategic plans of the Association, the Industry Policy Council may resolve to make submissions to the Executive Board to go beyond this reach.

(g) Submissions to the Executive Board for resourcing, beyond that which has been budgeted for, or for significant changes to Association’s industry policy direction, may be made, subject to a resolution of the Industry Policy Council, through the Chief Executive Officer or the chairman of the Industry Policy Council at a meeting of the Executive Board.

(h) The Industry Policy Council has no power to establish sub-committees.

(i) For the avoidance of doubt:

 (i) the Executive Board is not bound by any decisions of the Industry Policy Council;

 (ii) the Industry Policy Council does not determine the Association’s operational policy; and

 (iii) the Industry Policy Council is not a committee of management.

## 29 – STRUCTURAL RELATIONSHIPS

(a) The Industry Policy Council is an advisory council to the Executive Board and will report its minutes to the Executive Board and the Executive Committee of each Division and Affiliated Association.

(b) The Chief Executive Officer will report the actions of the Industry Policy Council to the Executive Board.

# **PART VI – EMPLOYEES AND COMMITTEES**

## 30 – CHIEF EXECUTIVE OFFICER AND INDUSTRIAL OFFICER

(a) It will be the duty of the Executive Board to appoint a Chief Executive Officer and an Industrial Officer.

(b) Both of the Chief Executive Officer and the Industrial Officer will be employees of the Association and will report to the Executive Board.

(c) The Chief Executive Officer will subject to the direction of the Executive Board be authorised to engage and manage the Association’s staff.

(d) The duties of the Industrial Officer include but are not limited to representation of the Association in proceedings before any court or tribunal, in negotiations with other organisations and in the making of industrial agreements.

## 31 – SPECIAL CAPITAL FUND AND INVESTMENT COMMITTEE

(a) The Executive Board is responsible for the investment of the Special Capital Fund which must be retained in a separate account and may only be used on a specific motion of the Executive Board.

(b) The Executive Board may delegate the day to day management of the Special Capital Fund to the Investment Committee subject to the following requirements:

 (i) the Investment Committee must provide to the Executive Board as required and not less than quarterly, a statement of the fund and income therefrom; and

 (ii) the Investment Committee must not make any investment decision contrary to the unanimous advice of the Investment Advisors.

(c) The Investment Committee will comprise three members of the Executive Board appointed by the Executive Board as required for terms not exceeding four years, but may be re-appointed provided that a person so appointed or re-appointed will cease to be a member of the Investment Committee on ceasing to be a member of the Executive Board. The Investment Committee may as required appoint one of its members to be chairman of the Investment Committee. Subject to clause 31(f), a decision of the Investment Committee must be passed by no less than two of its three members.

(d) The chairman must give the Chief Executive Officer notice of meetings of the Investment Committee and the Chief Executive Officer is entitled to attend such meetings but is not entitled to vote or otherwise exercise any function of a member of the Investment Committee.

(e) A person entitled to attend a meeting of the Investment Committee may attend the meeting via Electronic Communication, in such matter as may be determined by the Executive Board from time to time.

(f) Where a person is permitted to participate in a meeting via Electronic Communication, the person’s attendance will be counted toward the quorum and the person will be permitted to participate in the meeting as if they were present at the place where the meeting was convened.

(g) Upon appointment, the Investment Committee must as soon as reasonably practicable submit to the Executive Board a list of persons not Members of the Association who have commercial or financial experience and investment expertise. The Executive Board will select from that list, two to be the Investment Advisors for purposes of this clause for a period specified by the Executive Board but not exceeding four years or until that person dies, resigns or is removed in accordance with procedures which are as close as is reasonably practicable to those of clause 20(a). Persons who have served as Investment Advisors may be re-appointed as Investment Advisors in accordance with this clause 31(g).

(h) A decision of the Investment Committee involving any matter relating to investment of the Special Capital Fund shall not be implemented before advice is received from both Investment Advisors.

(i) Subject to this clause 31, and any general directions from time to time given to them by the Executive Board the Investment Committee shall manage the investment of the Special Capital Fund and may engage, brokers, bankers, agents and consultants to act as advisors, dealers and generally on their behalf in relation to the Special Capital Fund on such terms and conditions as are negotiated.

# **PART VII – EXECUTIVE BOARD ELECTIONS**

## 32 – EXECUTIVE BOARD ELECTION RULES

(a) Unless otherwise provided, the following provisions shall apply to elections of the Executive Board only:

 (i) All elections shall be by secret postal ballot and the result ascertained on the basis of preferential voting. The roll of voters for any ballot is to be closed seven days before the day on which nominations for the election open. The only persons eligible to appear on the roll of voters are those Members who, on the date that the roll of voters closes, are financial Members and whose Subscriptions are not in arrears.

 (ii) Except as otherwise provided in clauses 18(a), 19(c) and 21(b), all nominations shall be in the hands of the appropriate Returning Officer at least five weeks prior to the date of the Annual General Meeting of the Association in an election year. All such nominations shall be signed by a proposer, seconder and nominee who shall be Members of the Association on the roll of voters. The Returning Officer shall check all nominations received to see that they comply with the rules, including that any seconder or proposer signing a nomination is on the roll of voters, and reject any that do not so comply, provided that if they find a nomination to be defective they shall before rejecting the nomination, notify the person concerned of the defect and, where it is practicable to do so, give them the opportunity of remedying the defect within a period of not less than seven days of receipt of their notice.

(b) A person must not be nominated to fill a position on the Executive Board by more than one Division or Affiliated Association:-

 (i) Where more than one Division, Affiliated Association or category of Membership nominates the same person as a candidate in an Executive Board election, the Returning Officer must reject all nominations in respect of that person.

 (ii) For the avoidance of doubt, nothing in this clause restricts a person from nominating for membership on the Executive Board in their capacity as a member of one Division, Affiliated Association or category of Membership.

(c) Where a ballot is required, the Returning Officer shall declare the successful candidates at the Annual General Meeting when all results are known, that is, at the completion of any ballot or ballots, where one or more is necessary.

(d) If the candidates nominated are more in number to the positions to be elected, the election of Members to fill the vacancies shall be conducted by ballot as provided in this clause.

(e) If the candidates nominated are more in number than the number of Members to be elected, the Returning Officer shall, subject to clause 18(g) as soon as reasonably practicable but not later than four weeks before the date of the Annual General Meeting send ballot material by prepaid post to every Member of the Association who is on the roll of voters.

(f) The ballot material shall include one or more ballot papers, a declaration envelope and a prepaid envelope, both in the form prescribed by the Regulations.

(g) The ballot paper shall be in such form as the Executive Board from time to time directs and shall contain the following particulars:

 (i) The names of the candidates nominated shall be arranged in random order determined by lot.

 (ii) A short biography (or ‘pen picture’) not exceeding 100 words for each candidate.

 (iii) The number of vacancies to be filled from the candidates in the list.

 (iv) The day and hour on or previous to which the ballot paper must be returned to the Returning Officer.

 (v) A notice that the election of candidates shall be by preferential voting.

(h) A Member who is entitled to vote, who will be absent during the period of the election may apply for an absentee vote by lodging with the Returning Officer prior to the distribution of the ballot papers, a written request for an absentee vote together with an address at which the Member can receive communications. The Returning Officer shall forward a ballot paper to the address as specified and shall notify the Member of the closing date for an absentee vote to be lodged.

(i) No ballot paper shall be counted unless the Member returns it in the declaration envelope sent to them having first filled in the Member’s name and address and duly signed the envelope where provided on the flap of the envelope. The envelope containing the ballot paper must be placed in a prepaid envelope in the form prescribed by the Regulations.

(j) Members may send their ballot paper by hand or by post to the Returning Officer or deliver it to the Returning Officer by placing it in the ballot box provided at any time up to the hour appointed by the Returning Officer for the closing of the ballot at the place appointed for the taking of the ballot on the day fixed by the Returning Officer for the taking of the ballot.

(k) No ballot paper shall be received after the hour appointed by the Returning Officer on the day fixed for the taking of the ballot.

(l) The Returning Officer shall fix the closing time for the ballot and the date for the taking of the ballot.

(m) Any Member present at the ballot and entitled to vote who has not returned their ballot paper to the Returning Officer may obtain another ballot paper from the Returning Officer upon satisfying the Returning Officer that the original ballot paper sent to the Member has not been acted upon and the Member may record their vote upon the ballot paper so obtained.

(n) The Executive Board shall appoint a Returning Officer and an Assistant Returning Officer to conduct and assist in the conduct of elections of the Executive Board (including receiving nominations for a position on the Executive Board in accordance with clause 18(a) and for the positions of President, Vice President and Secretary. The Returning Officer and Assistant Returning Officer may not be any Office holder, a Member or an employee of the Association.

(o) Each of the candidates for election may appoint one scrutineer to represent them at the ballot. Notice of appointment of the scrutineer shall be given in writing to the Returning Officer twenty-four hours before the opening of the ballot, which notice shall be signed by the candidate and shall give the name and address of the scrutineer.

(p) A scrutineer shall not be a candidate for any position which is also included in a ballot in the election. Failure of a scrutineer to attend any scheduled event shall not delay any step in the election.

(q) All postal votes shall be checked by the Returning Officer and Assistant Returning Officer. The Returning Officer may commence the preliminary scrutiny prior to the close of the ballot. The Returning Officer and Assistant Returning Officer shall satisfy themselves that the Member whose signature appears on the flap of the outer envelope is on the roll of voters and shall place the inner envelope in the ballot box.

(r) The Returning Officer and Assistant Returning Officer shall satisfy themselves that any seconder or proposer signing a nomination is on the roll of voters.

(s) On the Returning Officer and Assistant Returning Officer admitting a ballot paper the name of the Member submitting such ballot paper shall be crossed off the list held by the Returning Officer and Assistant Returning Officer.

(t) A ballot box similar to that used at elections for Members of the Parliament of the Commonwealth of Australia shall be used for the ballot.

(u) Before any ballot paper is received by the Returning Officer, the Returning Officer shall exhibit to the Assistant Returning Officer and the scrutineers, the ballot box empty, and shall then in the presence of the Assistant Returning Officer and the scrutineers securely fasten the box. The ballot box shall not be opened until the close of the poll, other than for purposes of receiving ballot papers.

(v) No Member shall be entitled to vote after the time fixed for the close of the poll.

(w) The result of the poll shall be ascertained by scrutiny.

(x) The scrutiny shall be conducted as follows:

 (i) It shall commence as soon as practicable after the close of the poll.

 (ii) The Returning Officer and Assistant Returning Officer shall be present and the scrutineers may be present if they so desire.

 (iii) All the proceedings at the scrutiny shall be open to the inspection of the scrutineers if they exercise their right to be present at the scrutiny.

 (iv) The scrutiny may be adjourned from time to time until the counting of the votes is complete. Provided that the scrutiny shall be completed before the close of the Annual General Meeting.

(y) If a scrutineer objects to a ballot paper as being informal, the Returning Officer shall mark the ballot paper admitted or rejected according to their decision to admit or reject the ballot paper.

(z) The Returning Officer may reject any ballot paper as being informal although it is not objected to by the scrutineers.

(aa) A ballot paper shall be informal if it does not indicate the voter’s first preference for one candidate and the order of their preference for all the remaining candidates.

(bb) The scrutiny shall be conducted in the following manner:

 (i) The Returning Officer shall in the presence of the Assistant Returning Officer and also the scrutineer if they exercise their right to be present at the scrutiny:

 (A) open the ballot box or ballot boxes and open the envelopes containing the ballot papers;

 (B) reject all informal ballot papers; and

 (C) count first preference votes given for each candidate on all unrejected ballot papers.

(cc) The candidate who has received the largest number of first preference votes shall, if the number constitutes an absolute majority of votes, be elected.

(dd) If no candidate has received an absolute majority of first preference votes the Returning Officer shall proceed with the scrutiny as follows:

 (i) The candidate who has received the fewest preference votes shall be excluded and each ballot paper counted to them shall be counted to the candidate next in order of the Member's preference.

 (ii) If no candidate then has an absolute majority of votes the process of excluding the candidate who has the fewest votes and counting each of their ballot papers to the unexcluded candidate next in the order of the Member's preference shall be repeated until one candidate has received an absolute majority of votes.

 (iii) The candidate who has received an absolute majority of votes shall be elected.

(ee) If more than one vacancy has to be filled the second vacancy shall be filled in the following manner:

 (i) The Returning Officer shall rearrange the ballot papers under the names of the respective candidates in accordance with the first preference indicated thereon except that each ballot paper on which a first preference for the elected candidate is indicated shall be placed in the parcel of the candidate next in order of the voter’s preference.

 (ii) If a candidate has an absolute majority of votes that candidate shall be elected but if no candidate has an absolute majority of votes the scrutiny shall proceed as provided in paragraph 32(ee)(i), 32(ee)(ii) and 32(ee)(iii) until one candidate has received an absolute majority of votes.

 (iii) The candidate who has then received an absolute majority of votes shall be elected.

 (iv) Further vacancies shall be filled one by one in the manner provided in paragraph 32(ff)(i), 32(ff)(ii) and 32(ff)(iii) above as regards the filling of the second vacancy.

(ff) If on any count two or more candidates have an equal number of votes and one of them has to be excluded, the Returning Officer shall decide which shall be excluded, and if on the final count two candidates have an equal number of votes, the Returning Officer shall decide which candidate shall be elected. The method for deciding shall be one of chance, for example by the flip of a coin.

(gg) An absolute majority of votes means a greater number than one half of the whole number of ballot papers other than informal ballot papers and rejected ballot papers.

(hh) The Returning Officer shall sign and deliver a report of the result of the election to the chairman of the Annual General Meeting who shall at the Annual General Meeting declare the names of the candidate or candidates elected.

(ii) The declaration of an election at any meeting other than an Annual General Meeting shall take place when the Returning Officer delivers a signed report to the chairman of a meeting which takes place four weeks after the closure of nominations for the appropriate vacant position or positions.

# **PART VIII – MISCELLANEOUS**

## 33 – EXECUTION OF DOCUMENTS

(a) Subject to clause 33(c) and (d), any document is validly executed by the Association if the document is signed by two members of the Executive Board.

(b) A member of the Executive Board may not sign a document if that Office holder is interested in the contract or arrangement to which the document relates.

(c) The Executive Board may from time to time delegate execution authority for certain types of documents as it sees fit.

(d) Any document related to the Fair Work Commission is validly executed if the application is executed by the Industrial Officer or a member of the Executive Board, or as directed by the Industrial Officer, except as otherwise provided for in the Act.

## 34 – LEGAL REPRESENTATION

(a) The Executive Board may from time to time authorise and appoint any Officer or Member of the Association to represent the Association or any Member of the Association in any proceedings before any Court or Commission or other legal conciliation or arbitration tribunal or authority if such proceedings shall appear to be of concern to the Association.

(b) The solicitor of the Association may from time to time be appointed and changed by the Executive Board.

## 35 – EXPENDITURE AND CONTRIBUTIONS

(a) The Executive Board must develop policies relating to the expenditure of the Association and will direct the Chief Executive Officer to implement those policies.

(b) Before any expenditure of the funds of the Association is incurred, the Chief Executive Officer must give an estimate of the proposed expenditure to the Executive Board for authorisation, and afterwards submit financial reports that reflect expenditure.

## 36 – FINANCIAL MANAGEMENT

(a) Except for the Special Capital Fund which is governed by clause 31, the control of the funds of the Association shall is vested in the Executive Board or in such trustees or officers as the Executive Board may direct.

(b) The Executive Board shall cause true accounts to be kept of all sums of money received and expended by the Association, and of the matters in respect of which such receipts and expenditure takes place, and of all the property, credits and liabilities of the Association.

(c) All funds shall be deposited to the credit of the Association at such bank as may be approved by the Executive Board.

(d) Official receipts for subscriptions, donations, or other payments to the Association shall be given by the Secretary or person delegated by them, on request from the Member or person making the payment.

(e) Once at least in every year the accounts of the Association shall be examined and a certificate of correctness shall be given by an Auditor, who shall have at all reasonable times access to all books, papers and documents of the Association.

(f) At the Annual General Meeting an Auditor shall be appointed by the Members, and in the event of any vacancy occurring, the Executive Board shall appoint an Auditor, who shall hold office until the next Annual General Meeting.

(g) The Executive Board may from time to time authorise the opening of bank accounts in the name and on behalf of the Association and all withdrawals from any such bank accounts shall be made only in such manner as the Executive Board may from time to time determine and all cheques or other negotiable instruments paid to the Association’s banker for collection and requiring endorsement by the Association, may be endorsed on its behalf by the Chief Executive Officer or such other officers as the Executive Board may from time to time appoint.

(h) A loan, grant or donation of an amount exceeding $1,000 shall not be made by the Association unless the Executive Board:

 (i) has satisfied itself:

 (A) that the making of the loan, grant or donation would be in accordance with the Constitution; and

 (B) in relation to a loan – that, in the circumstances, the security proposed to be given for the repayment of the loan is adequate and the proposed arrangements for the repayment of the loan are satisfactory; and

 (ii) has approved the making of the loan, grant or donation.

## 37 – REMUNERATION AND MEMBER LIABILITY

(a) The income and property of the Association, however derived, will be applied solely towards the promotion of the Principal Objects and no portion will be paid or transferred directly or indirectly by way of dividends, bonus or otherwise howsoever by way of profit to the Members of the Association.

(b) Provided that nothing here shall prevent the payment in good faith of remuneration to any Officers or servants of the Association, or to any Members of the Association, or other person in return for any services actually rendered to the Association or the reimbursement to any Member of moneys actually expended by them in respect of such services rendered by them to the Association.

## 38 – RECORDS

(a) All books, documents, records and papers shall be in the charge of the Secretary and kept at the offices of the Association and shall not be removed without the permission of the Executive Board.

(b) Minute books in which are recorded proceedings and resolutions of meetings of committees of the Association (being for the purposes of this Constitution the Executive Board and the Industry Policy Council) shall be kept.

(c) The Executive Board shall, from time to time, determine whether and to what extent and what time and places, and under what conditions and regulations the accounts and books of the Association or any of them shall be open to the inspection of Members, and no Member shall have the right of inspecting any account book or documents of the Association except as conferred by statute or authorised by the Executive Board.

## 39 – NOTICES

(a) Notice may be served upon a Member:

 (i) personally;

 (ii) by post addressed to the Member at the address advised in writing to the Association by the Member; or

 (iii) by email to the address advised in writing to the Association by the Member.

(b) Service of a notice shall be deemed to have been effected upon the Member when:

 (i) if posted, the same would have been delivered in the ordinary course of mail; or

 (ii) if sent by email, the transmitting computer produces a written report that the notice has been effectively sent to the Member.

## 40 – COMMITTEES

(a) The Executive Board may delegate any of its powers to Committees, consisting of those persons it thinks fit (including members of the Executive Board and other individuals) with such limitations it thinks fit, and may vary or revoke any delegation.

(b) A Committee must exercise the powers delegated to it according to the terms of the delegation and any directions of the Executive Board.

(c) Powers delegated to and exercised by a Committee are taken to have been exercised by the Executive Board.

(d) Unless otherwise determined by the Executive Board, committee meetings are governed by the provisions of this Constitution dealing with Executive Board meetings, as far as they are capable of application.

## 42 – TRANSITIONAL ARRANGEMENTS

(a) All by-laws and regulations of the Association in force at the date of the approval of this Constitution insofar as such by-laws and regulations are not inconsistent with, or have been replaced by this Constitution, shall remain as by-laws and regulations of the Association.

(b) All individuals who are, prior to the approval of this Constitution, members of the Association shall be deemed Members of the Association from the time of approval of this Constitution under the Act.

## 43 – WINDING UP

(a) The Association may be wound up and dissolved on a resolution agreed to by not less than two-thirds of the Members present, to that effect passed at the General Meeting of the Association convened for that purpose.

(b) If upon the winding up or dissolution of the Association there remains after the satisfaction of all its debts and liabilities any property whatsoever, the same shall not be paid to or distributed among the Members of the Association, but shall be given or transferred to some other institution or institutions having objects similar to the Principal Objects to be determined by the Members of the Association at or before the time of dissolution, or in default by such authority as may have or acquire jurisdiction in the matter.

## 44 – CONSTITUTION

(a) All Members shall be considered to have assented to and agreed to be bound by this Constitution.

(b) This Constitution may be altered, added to or rescinded and a new Constitution may be made at a General Meeting of the Association, provided that such alterations, additions or rescissions or new Constitution is agreed to by not less than two-thirds of the Members present in person, by Nominated Chamber Representative or by proxy at such meeting.

\*\*\*END OF RULES\*\*\*