



APPLYING THE MODEL RULES

TO THE EXISTING RULES OF AN INCORPORATED ASSOCIATION

All incorporated associations are required by the *Associations Incorporation Act 2015* to provide for the Schedule 1 items in the rules (often called the constitution).

After 1 July 2019 if an association's rules fail to address a Schedule 1 matter, the relevant provision of the model rules will be deemed to apply.

The purpose of this guide is to identify the sections of the model rules that may apply if a Schedule 1 item is missing from an association's rules.

How to correct the rules

Where it is known that the rules do not comply with all of the Schedule 1 requirements the association should take steps to update the document. This will ensure that there is no confusion which rules are applicable to the organisation. Alterations to the rules may only be passed by a special resolution of members at a general meeting.

More information about the change of rules process is available at
www.dmirs.wa.gov.au/cp/changerules.

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Schedule 1, Item 1: The name of the incorporated association

The rules must include a clause that clearly states the legally registered name of the incorporated association. As each association name is unique there is **no default name clause in the Model Rules** related to this Schedule 1 requirement.

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Schedule 1, Item 2: The objects and purposes of the incorporated association

The rules must include a clause that outlines its objects and purposes. As each incorporated association has its own objects **there is no default objects clause in the Model Rules** related to this Schedule 1 requirement.

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Schedule 1, Item 3 - The qualifications (if any) for membership of the incorporated association and provision for when membership commences and when it ceases.

Qualifications for membership:

4. Eligibility for membership

- (1) *Any person who supports the objects or purposes of the Association is eligible to apply to become a member.*
- (2) *An individual who has not reached the age of 15 years is not eligible to apply for a class of membership that confers full voting rights.*

When membership commences:

7. Becoming a member

An applicant for membership of the Association becomes a member when —

- (a) *the committee accepts the application; and*
- (b) *the applicant pays any membership fees payable to the Association under rule 12.*

When membership ceases:

9. When membership ceases

- (1) *A person ceases to be a member when any of the following takes place —*
 - (a) *for a member who is an individual, the individual dies;*
 - (b) *for a member who is a body corporate, the body corporate is wound up;*
 - (c) *the person resigns from the Association under rule 10;*
 - (d) *the person is expelled from the Association under rule 15;*
 - (e) *the person ceases to be a member under rule 12(4).*
- (2) *The secretary must keep a record, for at least one year after a person ceases to be a member, of —*
 - (a) *the date on which the person ceased to be a member; and*
 - (b) *the reason why the person ceased to be a member.*

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Schedule 1, Item 4 - The register of members of the incorporated association.

13. Register of members

- (1) *The secretary, or another person authorised by the committee, is responsible for the requirements imposed on the Association under section 53 of the Act to maintain the register of members and record in that register any change in the membership of the Association.*
- (2) *In addition to the matters referred to in section 53(2) of the Act, the register of members must include the class of membership (if applicable) to which each member belongs and the date on which each member becomes a member.*
- (3) *The register of members must be kept at the secretary's place of residence, or at another place determined by the committee.*
- (4) *A member who wishes to inspect the register of members must contact the secretary to make the necessary arrangements.*
- (5) *If —*
 - (a) *a member inspecting the register of members wishes to make a copy of, or take an extract from, the register under section 54(2) of the Act; or*
 - (b) *a member makes a written request under section 56(1) of the Act to be provided with a copy of the register of members,*

the committee may require the member to provide a statutory declaration setting out the purpose for which the copy or extract is required and declaring that the purpose is connected with the affairs of the Association.

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Schedule 1, Item 5 – The entrance fees, subscriptions and other amounts (if any) to be paid by members of the incorporated association.

12. Membership fees

- (1) *The committee must determine the entrance fee (if any) and the annual membership fee (if any) to be paid for membership of the Association.*
- (2) *The fees determined under subrule (1) may be different for different classes of membership.*
- (3) *A member must pay the annual membership fee to the treasurer, or another person authorised by the committee to accept payments, by the date (the **due date**) determined by the committee.*
- (4) *If a member has not paid the annual membership fee within the period of 3 months after the due date, the member ceases to be a member on the expiry of that period.*
- (5) *If a person who has ceased to be a member under subrule (4) offers to pay the annual membership fee after the period referred to in that subrule has expired —*
 - (a) *the committee may, at its discretion, accept that payment; and*
 - (b) *if the payment is accepted, the person's membership is reinstated from the date the payment is accepted.*

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Schedule 1, Item 6 - The name, constitution, membership and powers of the management committee or other body having the management of the incorporated association (in this clause referred to as the committee) and provision for the following:

Name and powers of committee:

26. Committee

- (1) *The committee members are the persons who, as the management committee of the Association, have the power to manage the affairs of the Association.*
- (2) *Subject to the Act, these rules, the by-laws (if any) and any resolution passed at a general meeting, the committee has power to do all things necessary or convenient to be done for the proper management of the affairs of the Association.*
- (3) *The committee must take all reasonable steps to ensure that the Association complies with the Act, these rules and the by-laws (if any).*

Constitution of the committee:

27. Committee members

- (1) *The committee members consist of —*
 - (a) *the office holders of the Association; and*
 - (b) *at least one ordinary committee member.*
- (2) *The committee must determine the maximum number of members who may be ordinary committee members.*
- (3) *The following are the office holders of the Association —*
 - (a) *the chairperson;*
 - (b) *the deputy chairperson;*
 - (c) *the secretary;*
 - (d) *the treasurer.*
- (4) *A person may be a committee member if the person is —*
 - (a) *an individual who has reached 18 years of age; and*
 - (b) *an ordinary member.*
- (5) *A person must not hold 2 or more of the offices mentioned in subrule (3) at the same time.*

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Schedule 1, Item 6(a) - The election or appointment of members of the committee;

33. Election of office holders

- (1) *At the annual general meeting, a separate election must be held for each position of office holder of the Association.*
- (2) *If there is no nomination for a position, the chairperson of the meeting may call for nominations from the ordinary members at the meeting.*
- (3) *If only one member has nominated for a position, the chairperson of the meeting must declare the Member elected to the position.*
- (4) *If more than one member has nominated for a position, the ordinary members at the meeting must vote in accordance with procedures that have been determined by the committee to decide who is to be elected to the position.*
- (5) *Each ordinary member present at the meeting may vote for one member who has nominated for the position.*
- (6) *A member who has nominated for the position may vote for himself or herself.*
- (7) *On the member's election, the new chairperson of the Association may take over as the chairperson of the meeting.*

34. Election of ordinary committee members

- (1) *At the annual general meeting, the Association must decide by resolution the number of ordinary committee members (if any) to hold office for the next year.*
- (2) *If the number of members nominating for the position of ordinary committee member is not greater than the number to be elected, the chairperson of the meeting —*
 - (a) *must declare each of those members to be elected to the position; and*
 - (b) *may call for further nominations from the ordinary members at the meeting to fill any positions remaining unfilled after the elections under paragraph (a).*
- (3) *If —*
 - (a) *the number of members nominating for the position of ordinary committee member is greater than the number to be elected; or*
 - (b) *the number of members nominating under subrule (2)(b) is greater than the number of positions remaining unfilled,*
the ordinary members at the meeting must vote in accordance with procedures that have been determined by the committee to decide the members who are to be elected to the position of ordinary committee member.
- (4) *A member who has nominated for the position of ordinary committee member may vote in accordance with that nomination.*

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Schedule 1, Item 6b – The terms of office of members of the committee

35. Term of office

- (1) *The term of office of a committee member begins when the member —*
 - (a) *is elected at an annual general meeting or under subrule 36(3)(b); or*
 - (b) *is appointed to fill a casual vacancy under rule 38.*
- (2) *Subject to rule 37, a committee member holds office until the positions on the committee are declared vacant at the next annual general meeting.*
- (3) *A committee member may be re-elected.*

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Schedule 1, Item 6(c) – The grounds on which, or reasons for which, the office of a member of the committee shall become vacant.

37. When membership of committee ceases

A person ceases to be a committee member if the person —

- a) *dies or otherwise ceases to be a member; or*
- b) *resigns from the committee or is removed from office under rule 36; or*
- c) *becomes ineligible to accept an appointment or act as a committee member under section 39 of the Act;*
- d) *becomes permanently unable to act as a committee member because of a mental or physical disability; or*
- e) *fails to attend 3 consecutive Committee meetings, of which the person has been given notice, without having notified the Committee that the person will be unable to attend.*

Note for this rule:

Section 41 of the Act imposes requirements, arising when a person ceases to be a member of the management committee of an incorporated association, that relate to returning documents and records.

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Schedule 1, Item 6(d) – The filling of casual vacancies occurring on the committee.

38. Filling casual vacancies

- (1) *The committee may appoint a member who is eligible under rule 27(4) to fill a position on the committee that —*
 - (a) *has become vacant under rule 37; or*
 - (b) *was not filled by election at the most recent annual general meeting or under rule 36(3)(b).*
- (2) *If the position of secretary becomes vacant, the committee must appoint a member who is eligible under rule 27(4) to fill the position within 14 days after the vacancy arises.*
- (3) *Subject to the requirement for a quorum under rule 45, the committee may continue to act despite any vacancy in its membership.*
- (4) *If there are fewer committee members than required for a quorum under rule 45, the committee may act only for the purpose of —*
 - (a) *appointing committee members under this rule; or*
 - (b) *convening a general meeting.*

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Schedule 1, Item 6(e) – The quorum and procedure at meetings of the committee.

Quorum:

The quorum is the minimum number of members required to be present for a meeting to be legally effective. Incorporated associations and clubs are required to set their own quorums for committee meetings and **there is no default quorum provided in the model rules.**

If the rules do not include a quorum for a committee meeting the association should see if the quorum has been provided for in another document such as the by-laws, internal policies or was agreed at a past meeting. Under the common law it may be possible that the majority of committee members present in person at a meeting could form a quorum.

These options should only be treated as short term solutions and steps should be taken to correct this deficiency in the rules as soon as possible. This will ensure there are no doubts about the validity of the decisions made by the committee.

Procedure at committee meetings:

43. Procedure and order of business

- (1) *The chairperson or, in the chairperson's absence, the deputy-chairperson must preside as chairperson of each committee meeting.*
- (2) *If the chairperson and deputy chairperson are absent or are unwilling to act as chairperson of a meeting, the committee members at the meeting must choose one of them to act as chairperson of the meeting.*
- (3) *The procedure to be followed at a committee meeting must be determined from time to time by the committee.*
- (4) *The order of business at a committee meeting may be determined by the committee members at the meeting.*
- (5) *A member or other person who is not a committee member may attend a committee meeting if invited to do so by the committee.*
- (6) *A person invited under subrule (5) to attend a committee meeting —*
 - (a) *has no right to any agenda, minutes or other document circulated at the meeting; and*
 - (b) *must not comment about any matter discussed at the meeting unless invited by the committee to do so; and*
 - (c) *cannot vote on any matter that is to be decided at the meeting.*

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Schedule 1, Item 6(f) – The making and keeping of records of the proceedings at meetings

47. Minutes of committee meetings

- (1) *The committee must ensure that minutes are taken and kept of each committee meeting.*
- (2) *The minutes must record the following —*
 - (a) *the names of the committee members present at the meeting;*
 - (b) *the name of any person attending the meeting under rule 43(5);*
 - (c) *the business considered at the meeting;*
 - (d) *any motion on which a vote is taken at the meeting and the result of the vote.*

- (3) *The minutes of a committee meeting must be entered in the Association's minute book within 30 days after the meeting is held.*
- (4) *The chairperson must ensure that the minutes of a committee meeting are reviewed and signed as correct by —*
 - (a) *the chairperson of the meeting; or*
 - (b) *the chairperson of the next committee meeting.*
- (5) *When the minutes of a committee meeting have been signed as correct they are, until the contrary is proved, evidence that —*
 - (a) *the meeting to which the minutes relate was duly convened and held; and*
 - (b) *the matters recorded as having taken place at the meeting took place as recorded; and*
 - (c) *any appointment purportedly made at the meeting was validly made.*

Note for this rule:

Section 42(6) of the Act requires details relating to the disclosure of a committee member's material personal interest in a matter being considered at a committee meeting to be recorded in the minutes of the meeting.

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Schedule 1, Item 6(g) – The circumstances (if any) in which payment may be made to a member of the committee out of the funds of the association.

40. Payments to committee members

- (1) *In this rule —*
committee member *includes a member of a subcommittee;*
committee meeting *includes a meeting of a subcommittee.*
- (2) *A committee member is entitled to be paid out of the funds of the Association for any out-of-pocket expenses for travel and accommodation properly incurred —*
 - (a) *in attending a committee meeting or*
 - (b) *in attending a general meeting; or*
 - (c) *otherwise in connection with the Association's business.*

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Schedule 1, Item 7 – The quorum and procedure at general meetings of the incorporated association

Quorum:

The quorum is the minimum number of members required to be present for a meeting to be legally effective. Incorporated associations and clubs are required to set their own quorum for general meetings and **there is no default quorum provided in the model rules.**

If the rules do not include a quorum for a general meeting the association should see if the quorum has been provided for in another document such as the by-laws, internal policies or was agreed at a past meeting. Under the common law it may be possible that the majority of members present in person at a meeting could form a quorum.

These options should only be treated as short term solutions and steps should be taken to correct this deficiency in the rules as soon as possible. This will ensure there are no doubts about the validity of any general meetings held or decisions made by the members.

Procedure:

55. Presiding member and quorum for general meetings

- (1) *The chairperson or, in the chairperson's absence, the deputy chairperson must preside as chairperson of each general meeting.*
- (2) *If the chairperson and deputy chairperson are absent or are unwilling to act as chairperson of a general meeting, the committee members at the meeting must choose one of them to act as chairperson of the meeting.*
- (3) *No business is to be conducted at a general meeting unless a quorum is present.*
- (4) *If a quorum is not present within 30 minutes after the notified commencement time of a general meeting —*
 - (a) *in the case of a special general meeting — the meeting lapses; or*
 - (b) *in the case of the annual general meeting — the meeting is adjourned to —*
 - (i) *the same time and day in the following week; and*
 - (ii) *the same place, unless the chairperson specifies another place at the time of the adjournment or written notice of another place is given to the members before the day to which the meeting is adjourned.*
- (5) *If —*
 - (a) *a quorum is not present within 30 minutes after the commencement time of an annual general meeting held under subrule (4)(b); and*
 - (b) *at least 2 ordinary members are present at the meeting,*

those members present are taken to constitute a quorum.

Note for this rule:

If these model rules are adopted, the quorum for a general meeting is as notified to the Commissioner under section 7(4)(c) or 29(5)(c) of the Act.

56. Adjournment of general meeting

- (1) *The chairperson of a general meeting at which a quorum is present may, with the consent of a majority of the ordinary members present at the meeting, adjourn the meeting to another time at the same place or at another place.*
- (2) *Without limiting subrule (1), a meeting may be adjourned —*
 - (a) *if there is insufficient time to deal with the business at hand; or*
 - (b) *to give the members more time to consider an item of business.*
- (3) *No business may be conducted on the resumption of an adjourned meeting other than the business that remained unfinished when the meeting was adjourned.*
- (4) *Notice of the adjournment of a meeting under this rule is not required unless the meeting is adjourned for 14 days or more, in which case notice of the meeting must be given in accordance with rule 52.*

57. Voting at general meeting

- (1) *On any question arising at a general meeting —*
 - (a) *subject to subrule (6), each ordinary member has one vote unless the member may also vote on behalf of a body corporate under subrule (2); and*
 - (b) *ordinary members may vote personally or by proxy.*

- (2) *An ordinary member that is a body corporate may, in writing, appoint an individual, whether or not the individual is a member, to vote on behalf of the body corporate on any question at a particular general meeting or at any general meeting, as specified in the document by which the appointment is made.*
- (3) *A copy of the document by which the appointment is made must be given to the secretary before any general meeting to which the appointment applies.*
- (4) *The appointment has effect until —*
 - (a) *the end of any general meeting to which the appointment applies; or*
 - (b) *the appointment is revoked by the body corporate and written notice of the revocation is given to the secretary.*
- (5) *Except in the case of a special resolution, a motion is carried if a majority of the ordinary members present at a general meeting vote in favour of the motion.*
- (6) *If votes are divided equally on a question, the chairperson of the meeting has a second or casting vote.*
- (7) *If the question is whether or not to confirm the minutes of a previous general meeting, only members who were present at that meeting may vote.*
- (8) *For a person to be eligible to vote at a general meeting as an ordinary member, or on behalf of an ordinary member that is a body corporate under subrule (2), the ordinary member —*
 - (a) *must have been an ordinary member at the time notice of the meeting was given under rule 52; and*
 - (b) *must have paid any fee or other money payable to the Association by the member.*

59. Determining whether resolution carried

- (1) *In this rule —*
poll means the process of voting in relation to a matter that is conducted in writing.
- (2) *Subject to subrule (4), the chairperson of a general meeting may, on the basis of general agreement or disagreement or by a show of hands, declare that a resolution has been —*
 - (a) *carried; or*
 - (b) *carried unanimously; or*
 - (c) *carried by a particular majority; or*
 - (d) *lost.*
- (3) *If the resolution is a special resolution, the declaration under subrule (2) must identify the resolution as a special resolution.*
- (4) *If a poll is demanded on any question by the chairperson of the meeting or by at least 3 other ordinary members present in person or by proxy —*
 - (a) *the poll must be taken at the meeting in the manner determined by the chairperson;*
 - (b) *the chairperson must declare the determination of the resolution on the basis of the poll.*
- (5) *If a poll is demanded on the election of the chairperson or on a question of an adjournment, the poll must be taken immediately.*
- (6) *If a poll is demanded on any other question, the poll must be taken before the close of the meeting at a time determined by the chairperson.*

- (7) A declaration under subrule (2) or (4) must be entered in the minutes of the meeting, and the entry is, without proof of the voting in relation to the resolution, evidence of how the resolution was determined.

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Schedule 1, Item 8 – The notification of members or classes of members of general meetings of the incorporated association and their rights to attend and vote at those meetings.

Notification of members:

52. Notice of general meetings

- (1) The secretary or, in the case of a special general meeting convened under rule 51(5), the members convening the meeting, must give to each member —
- (a) at least 21 days' notice of a general meeting if a special resolution is to be proposed at the meeting; or
 - (b) at least 14 days' notice of a general meeting in any other case.
- (2) The notice must —
- (a) specify the date, time and place of the meeting; and
 - (b) indicate the general nature of each item of business to be considered at the meeting; and
 - (c) if the meeting is the annual general meeting, include the names of the members who have nominated for election to the committee under rule 32(2); and
 - (d) if a special resolution is proposed —
 - (i) set out the wording of the proposed resolution as required by section 51(4) of the Act; and
 - (ii) state that the resolution is intended to be proposed as a special resolution; and
 - (iii) comply with rule 53(7).

Note for this paragraph:

Section 51(1) of the Act states that a resolution is a special resolution if it is passed —

- (a) at a general meeting of an incorporated association; and
- (b) by the votes of not less than three-fourths of the members of the association who cast a vote at the meeting.

66. Giving notices to members

- (1) In this rule —
recorded means recorded in the register of members.
- (2) A notice or other document that is to be given to a member under these rules is taken not to have been given to the member unless it is in writing and —
- (a) delivered by hand to the recorded address of the member; or
 - (b) sent by prepaid post to the recorded postal address of the member; or
 - (c) sent by facsimile or electronic transmission to an appropriate recorded number or recorded electronic address of the member.

Voting rights:

8. Classes of membership

- (5) An ordinary member has full voting rights and any other rights conferred on members by these rules or approved by resolution at a general meeting or determined by the committee.

57. Voting at general meeting

- (1) *On any question arising at a general meeting —*
 - (a) *subject to subrule (6), each ordinary member has one vote unless the member may also vote on behalf of a body corporate under subrule (2); and*
 - (b) *ordinary members may vote personally or by proxy.*
- (2) *An ordinary member that is a body corporate may, in writing, appoint an individual, whether or not the individual is a member, to vote on behalf of the body corporate on any question at a particular general meeting or at any general meeting, as specified in the document by which the appointment is made.*
- (3) *A copy of the document by which the appointment is made must be given to the secretary before any general meeting to which the appointment applies.*
- (4) *The appointment has effect until —*
 - (a) *the end of any general meeting to which the appointment applies; or*
 - (b) *the appointment is revoked by the body corporate and written notice of the revocation is given to the secretary.*
- (5) *Except in the case of a special resolution, a motion is carried if a majority of the ordinary members present at a general meeting vote in favour of the motion.*
- (6) *If votes are divided equally on a question, the chairperson of the meeting has a second or casting vote.*
- (7) *If the question is whether or not to confirm the minutes of a previous general meeting, only members who were present at that meeting may vote.*
- (8) *For a person to be eligible to vote at a general meeting as an ordinary member, or on behalf of an ordinary member that is a body corporate under subrule (2), the ordinary member —*
 - (a) *must have been an ordinary member at the time notice of the meeting was given under rule 52; and*
 - (b) *must have paid any fee or other money payable to the Association by the member.*

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Schedule 1, Item 9 – The time within which, and manner in which notices of general meetings and notices of motion are to be given, published or circulated.

Time in which notice is given:

52. Notice of general meetings

- (1) *The secretary or, in the case of a special general meeting convened under rule 51(5), the members convening the meeting, must give to each member —*
 - (a) *at least 21 days' notice of a general meeting if a special resolution is to be proposed at the meeting; or*
 - (b) *at least 14 days' notice of a general meeting in any other case.*

- (2) *The notice must —*
- (a) *specify the date, time and place of the meeting; and*
 - (b) *indicate the general nature of each item of business to be considered at the meeting; and*
 - (c) *if the meeting is the annual general meeting, include the names of the members who have nominated for election to the committee under rule 32(2); and*
 - (d) *if a special resolution is proposed —*
 - (i) *set out the wording of the proposed resolution as required by section 51(4) of the Act; and*
 - (ii) *state that the resolution is intended to be proposed as a special resolution; and*
 - (iii) *comply with rule 53(7).*

Note for this paragraph:

Section 51(1) of the Act states that a resolution is a special resolution if it is passed

- (a) *at a general meeting of an incorporated association; and*
- (b) *by the votes of not less than three-fourths of the members of the association who cast a vote at the meeting.*

Manner in which notice is given:

66. Giving notices to members

- (1) *In this rule —*
recorded means recorded in the register of members.
- (2) *A notice or other document that is to be given to a member under these rules is taken not to have been given to the member unless it is in writing and —*
- (a) *delivered by hand to the recorded address of the member; or*
 - (b) *sent by prepaid post to the recorded postal address of the member; or*
 - (c) *sent by facsimile or electronic transmission to an appropriate recorded number or recorded electronic address of the member.*

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Schedule 1, Item 10 – The number of members expressed as a percentage of membership, who may at any time require that a general meeting of the incorporated association be convened.

51. Special general meetings

- (2) *The committee must convene a special general meeting if at least 20% of the members require a special general meeting to be convened.*

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Schedule 1, Item 11- The manner in which the funds of the association are controlled.

62. Control of funds

- (1) *The Association must open an account in the name of the Association with a financial institution from which all expenditure of the Association is made and into which all funds received by the Association are deposited.*
- (2) *Subject to any restrictions imposed at a general meeting, the committee may approve expenditure on behalf of the Association.*

- (3) *The committee may authorise the treasurer to expend funds on behalf of the Association up to a specified limit without requiring approval from the committee for each item on which the funds are expended.*
- (4) *All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments of the Association must be signed by —*
 - (a) *2 committee members; or*
 - (b) *one committee member and a person authorised by the committee.*
- (5) *All funds of the Association must be deposited into the Association's account within 5 working days after their receipt.*

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Schedule 1, Item 12 – The day in each year on which the financial year of the incorporated association commences

Incorporated associations and clubs are required to set their own financial year which will determine when the Annual General Meeting is held, financial reports prepared and information statements lodged with Consumer Protection.

There is no default financial year included in the model rules.

If there is no financial year recorded in the rules but the association operates using a consistent 12 month period it can continue to use this financial year and should take steps to update the rules as soon as possible to include this information.

If the association does not operate on any consistent financial year it is suggested that it adopt 1 July to 30 June as its default until a decision can be made what financial year will be used and the rules are updated accordingly.

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Schedule 1, Item 13 – The interval between general meetings of members of the incorporated association and the manner of calling general meetings.

51. Special general meetings

- (1) *The committee may convene a special general meeting.*
- (2) *The committee must convene a special general meeting if at least 20% of the members require a special general meeting to be convened.*
- (3) *The members requiring a special general meeting to be convened must —*
 - (a) *make the requirement by written notice given to the secretary; and*
 - (b) *state in the notice the business to be considered at the meeting; and*
 - (c) *each sign the notice.*
- (4) *The special general meeting must be convened within 28 days after notice is given under subrule (3)(a).*
- (5) *If the committee does not convene a special general meeting within that 28 day period, the members making the requirement (or any of them) may convene the special general meeting.*

- (6) *A special general meeting convened by members under subrule (5) —*
 - (a) *must be held within 3 months after the date the original requirement was made; and*
 - (b) *may only consider the business stated in the notice by which the requirement was made.*
- (7) *The Association must reimburse any reasonable expenses incurred by the members convening a special general meeting under subrule (5).*

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Schedule 1, Item 14 – The manner of altering and rescinding the rules and of making additional rules of the incorporated association.

72. Alteration of rules

If the Association wants to alter or rescind any of these rules, or to make additional rules, the Association may do so only by special resolution and by otherwise complying with Part 3 Division 2 of the Act.

Note for this rule:

Section 31 of the Act requires an incorporated association to obtain the Commissioner's approval if the alteration of its rules has effect to change the name of the association.

Section 33 of the Act requires an incorporated association to obtain the Commissioner's approval if the alteration of its rules has effect to alter the objects or purposes of the association or the manner in which surplus property of the association must be distributed or dealt with if the association is wound up or its incorporation is cancelled.

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Schedule 1, Item 15 – Provisions for the custody and use of the common seal of the incorporated association, if it has one.

65. Executing documents and common seal

- (1) *The Association may execute a document without using a common seal if the document is signed by —*
 - (a) *2 committee members; or*
 - (b) *one committee member and a person authorised by the committee.*
- (2) *If the Association has a common seal —*
 - (a) *the name of the Association must appear in legible characters on the common seal; and*
 - (b) *a document may only be sealed with the common seal by the authority of the committee and in the presence of —*
 - (i) *2 committee members; or*
 - (ii) *one committee member and a person authorised by the committee,*
and each of them is to sign the document to attest that the document was sealed in their presence.
- (3) *The secretary must make a written record of each use of the common seal.*
- (4) *The common seal must be kept in the custody of the secretary or another committee member authorised by the committee.*

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Schedule 1, Item 16 – The custody of books and securities of the incorporated association.

67. Custody of books and securities

- (1) *Subject to subrule (2), the books and any securities of the Association must be kept in the secretary's custody or under the secretary's control.*
- (2) *The financial records and, as applicable, the financial statements or financial reports of the Association must be kept in the treasurer's custody or under the treasurer's control.*
- (3) *Subrules (1) and (2) have effect except as otherwise decided by the committee.*
- (4) *The books of the Association must be retained for at least 7 years.*

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Schedule 1, Item 17 – The inspection by members of the incorporated association of records and documents of the incorporated association

69. Inspection of records and documents

- (1) *Subrule (2) applies to a member who wants to inspect —*
 - (a) *the register of members under section 54(1) of the Act; or*
 - (b) *the record of the names and addresses of committee members, and other persons authorised to act on behalf of the Association, under section 58(3) of the Act; or*
 - (c) *any other record or document of the association.*
- (2) *The member must contact the secretary to make the necessary arrangements for the inspection.*
- (3) *The inspection must be free of charge.*
- (4) *If the member wants to inspect a document that records the minutes of a committee meeting, the right to inspect that document is subject to any decision the committee has made about minutes of committee meetings generally, or the minutes of a specific committee meeting, being available for inspection by members.*
- (5) *The member may make a copy of or take an extract from a record or document referred to in subrule (1)(c) but does not have a right to remove the record or document for that purpose.*

Note for this subrule:

Sections 54(2) and 58(4) of the Act provide for the making of copies of, or the taking of extracts from, the register referred to in subrule (1)(a) and the record referred to in subrule (1)(b).

- (6) *The member must not use or disclose information in a record or document referred to in subrule (1)(c) except for a purpose —*
- (a) *that is directly connected with the affairs of the Association; or*
 - (b) *that is related to complying with a requirement of the Act.*

Note for this subrule:

Sections 57(1) and 58(5) of the Act impose restrictions on the use or disclosure of information in the register referred to in subrule (1)(a) and the record referred to in subrule (1)(b).

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Schedule 1, Item 18 – A procedure for dealing with any dispute under or relating to the rules:

- a) between members; or**
- b) between members and the incorporated association.**

Division 3 — Resolving disputes

17. Terms used

In this Division —

grievance procedure means the procedures set out in this Division;

party to a dispute includes a person –

- (a) *who is a party to the dispute; and*
- (b) *who ceases to be a member within 6 months before the dispute has come to the attention of each party to the dispute.*

18. Application of Division

The procedure set out in this Division (the grievance procedure) applies to disputes —

- (a) *between members; or*
- (b) *between one or more members and the Association.*

19. Parties to attempt to resolve dispute

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

20. How grievance procedure is started

- (1) *If the parties to a dispute are unable to resolve the dispute between themselves within the time required by rule 19, any party to the dispute may start the grievance procedure by giving written notice to the secretary of —*
 - (a) *the parties to the dispute; and*
 - (b) *the matters that are the subject of the dispute.*
- (2) *Within 28 days after the secretary is given the notice, a committee meeting must be convened to consider and determine the dispute.*
- (3) *The secretary must give each party to the dispute written notice of the committee meeting at which the dispute is to be considered and determined at least 7 days before the meeting is held.*
- (4) *The notice given to each party to the dispute must state —*
 - (a) *when and where the committee meeting is to be held; and*

- (b) *that the party, or the party's representative, may attend the meeting and will be given a reasonable opportunity to make written or oral (or both written and oral) submissions to the committee about the dispute.*
- (5) *If —*
 - (a) *the dispute is between one or more members and the Association; and*
 - (b) *any party to the dispute gives written notice to the secretary stating that the party —*
 - (i) *does not agree to the dispute being determined by the committee; and*
 - (ii) *requests the appointment of a mediator under rule 23,**the committee must not determine the dispute.*

21. Determination of dispute by committee

- (1) *At the committee meeting at which a dispute is to be considered and determined, the committee must —*
 - (a) *give each party to the dispute, or the party's representative, a reasonable opportunity to make written or oral (or both written and oral) submissions to the committee about the dispute; and*
 - (b) *give due consideration to any submissions so made; and*
 - (c) *determine the dispute.*
- (2) *The committee must give each party to the dispute written notice of the committee's determination, and the reasons for the determination, within 7 days after the committee meeting at which the determination is made.*
- (3) *A party to the dispute may, within 14 days after receiving notice of the committee's determination under subrule (1)(c), give written notice to the secretary requesting the appointment of a mediator under rule 23.*
- (4) *If notice is given under subrule (3), each party to the dispute is a party to the mediation.*

Division 4 – Mediation

22. Application of Division

- (1) *This Division applies if written notice has been given to the secretary requesting the appointment of a mediator —*
 - (a) *by a member under rule 15(7); or*
 - (b) *by a party to a dispute under rule 20(5)(b)(ii) or 21(3).*
- (2) *If this Division applies, a mediator must be chosen or appointed under rule 23.*

23. Appointment of mediator

- (1) *The mediator must be a person chosen —*
 - (a) *if the appointment of a mediator was requested by a member under rule 15(7) — by agreement between the Member and the committee; or*
 - (b) *if the appointment of a mediator was requested by a party to a dispute under rule 20(5)(b)(ii) or 21(3) — by agreement between the parties to the dispute.*
- (2) *If there is no agreement for the purposes of subrule (1)(a) or (b), then, subject to subrules (3) and (4), the committee must appoint the mediator.*
- (3) *The person appointed as mediator by the committee must be a person who acts as a mediator for another not-for-profit body, such as a community legal centre, if the appointment of a mediator was requested by —*
 - (a) *a member under rule 15(7); or*
 - (b) *a party to a dispute under rule 20(5)(b)(ii); or*

(c) *a party to a dispute under rule 21(3) and the dispute is between one or more members and the Association.*

- (4) *The person appointed as mediator by the committee may be a member or former member of the Association but must not —*
- (a) *have a personal interest in the matter that is the subject of the mediation; or*
 - (b) *be biased in favour of or against any party to the mediation.*

24. Mediation process

- (1) *The parties to the mediation must attempt in good faith to settle the matter that is the subject of the mediation.*
- (2) *Each party to the mediation must give the mediator a written statement of the issues that need to be considered at the mediation at least 5 days before the mediation takes place.*
- (3) *In conducting the mediation, the mediator must —*
- (a) *give each party to the mediation every opportunity to be heard; and*
 - (b) *allow each party to the mediation to give due consideration to any written statement given by another party; and*
 - (c) *ensure that natural justice is given to the parties to the mediation throughout the mediation process.*
- (4) *The mediator cannot determine the matter that is the subject of the mediation.*
- (5) *The mediation must be confidential, and any information given at the mediation cannot be used in any other proceedings that take place in relation to the matter that is the subject of the mediation.*
- (6) *The costs of the mediation are to be paid by the party or parties to the mediation that requested the appointment of the mediator.*

Note for this rule:

Section 182(1) of the Act provides that an application may be made to the State Administrative Tribunal to have a dispute determined if the dispute has not been resolved under the procedure provided for in the incorporated association's rules.

25. If mediation results in decision to suspend or expel being revoked

If —

- (a) *mediation takes place because a member whose membership is suspended or who is expelled from the Association gives notice under rule 15(7); and*
- (b) *as the result of the mediation, the decision to suspend the member's membership or expel the member is revoked,*

that revocation does not affect the validity of any decision made at a committee meeting or general meeting during the period of suspension or expulsion.

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Schedule 1, Item 19 – The manner in which surplus property of the incorporated association must be distributed or dealt with if the association is wound up or its incorporation cancelled.

71. Distribution of surplus property on cancellation of incorporation or winding up

- (1) *In this rule —*
surplus property, in relation to the Association, means property remaining after satisfaction of —
- (a) *the debts and liabilities of the Association; and*
 - (b) *the costs, charges and expenses of winding up or cancelling the incorporation of the Association,*
- but does not include books relating to the management of the Association.*
- (2) *On the cancellation of the incorporation or the winding up of the Association, its surplus property must be distributed as determined by special resolution by reference to the persons mentioned in section 24(1) of the Act.*

Note for this rule:

Section 24(1) of the Act sets out a provision that is implied in these rules describing the entities to which the surplus property of an incorporated association may be distributed on the cancellation of the incorporation or the winding up of the association. Part 9 of the Act deals with the winding up of incorporated associations, and Part 10 of the Act deals with the cancellation of the incorporation of incorporated associations.

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