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**CONSTITUTION AND RULES  
OF  
THE ANGLICAN SCHOOLS COMMISSION INCORPORATED**

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## **NAME**

1. The name of the association shall be 'The Anglican Schools Commission Incorporated' ('Association').

## **INTERPRETATION**

2. (1) In the interpretation of this Constitution except where inconsistent with the context or subject matter:
  - (a) words importing the singular number only shall include the plural number and words importing the plural number only shall include the singular number;

- (b) if any provision of this Constitution is construed as illegal or invalid, it shall be deemed deleted to the extent and effect as if it had never been incorporated into this Constitution and all other provisions shall continue in force;
- (c) unless the contrary intention appears a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (d) words importing the masculine gender shall include the feminine gender and vice versa;
- (e) '*Act*' means the *Associations Incorporation Act 2015*;
- (f) '*AGM*' means the annual general meeting of the Association convened under rule 61;
- (g) '*Archbishop*' has the same meaning of that term as in the Interpretation Statute 2007 of the Diocese;
- (h) '*Auditor*' means the auditor of the Association appointed pursuant to rule 81;
- (i) '*Board*' means the Board of Directors required by the Act which is the body responsible for the management of the affairs of the Association;
- (j) '*Board Meeting*' means a meeting referred to in rule 15;
- (k) '*Books of the Association*' has the meaning given to it in section 3 of the Act and includes:
  - (i) all of the registers;
  - (ii) financial records, financial statements or financial reports, as each of those terms is defined in section 62 of the Act, however compiled, stored or recorded;
  - (iii) minute books and documents; and
  - (iv) securities of the Association;
- (l) '*Chair*' means the chair of the Association appointed pursuant to rule 8(2);
- (m) '*Commissioner*' means the person designated as the "Commissioner" from time to time under the Act;
- (n) '*Constitution*' means all the Rules including the objects powers and by-laws of the Association;

- (o) '*Deputy Chair*' means any deputy chair of the Association appointed by the Board;
- (p) '*Diocesan Council*' means the Diocesan Council of the Diocese established under the Diocesan Council Statute 1888-2002;
- (q) '*Diocese*' means the Anglican Diocese of Perth;
- (r) '*Director*' means a director of the Association appointed under rule 8;
- (s) '*Financial Records*' has the meaning given to it in section 62 of the Act and includes:
  - (i) invoices, receipts, orders for the payment of money, bills of exchange, cheques, promissory notes and vouchers;
  - (ii) documents of prime entry; and
  - (iii) working papers and other documents needed to explain:
    - (A) the methods by which financial statements are prepared; and
    - (B) adjustments to be made in preparing financial statements;
- (t) '*Financial Report*' has the meaning given to it in sections 62 and 63 of the Act;
- (u) '*Financial Statements*' has the meaning given to it in section 62 of the Act;
- (v) '*Financial Year*' has the meaning given to it in rule 83;
- (w) '*General Meeting*' and '*Special General Meeting*' means a meeting of the Association which all Members (including Honorary Members appointed under rule 93) are invited to attend;
- (x) '*Member*' means a person (including a body corporate) who becomes a member of the Association under these Rules;
- (y) '*Ordinary Resolution*' means a resolution to decide a question, matter or resolution at a General Meeting that is not a Special Resolution;
- (z) '*Poll*' means voting conducted in written form which may include, but is not limited to a secret ballot (as opposed to general agreement or a show of hands);
- (z) '*Register*' means the register of Members specified in rule 7;

- (aa) '*Rules*' mean these rules of the Association as amended from time to time under rule 97;
  - (bb) '*Secretary*' means the secretary of the Association appointed under rule 79;
  - (cc) '*Special Resolution*' is a resolution of the Association passed in accordance with rule 47;
  - (dd) '*Surplus Property*' has the meaning given to it in the Act and means the property remaining when the Association is wound up or cancelled after satisfying:
    - (i) the debts and liabilities of the Association; and
    - (ii) the costs, charges and expenses of winding up the Association, but does not include books pertaining to the management of the Association;
  - (ee) '*Synod*' means the Synod of the Diocese;
  - (ff) '*The Perth Diocesan Trustees*' means the body corporate established by the *Anglican Church of Australia (Diocesan Trustees) Act 1888*;
  - (gg) '*Tier 1 Association* 'and '*Tier 2 Association*' each has the meaning given to it in section 64(1) and 64(2) respectively of the Act;
  - (hh) '*Tier 3 Association*' has the meaning given to it in section 64(3) of the Act; and
  - (ii) '*Treasurer*' means the treasurer of the Association appointed under rule 80;
- (2) Notices
- (a) A notice or other communication connected with these Rules has no legal effect unless it is in writing and given as follows:
    - (i) delivered by hand to the nominated address of the addressee;
    - (ii) sent by post to the nominated postal address of the addressee; or
    - (iii) sent by e-mail or any other method of electronic communication (including facsimile) to the nominated electronic address of the addressee.
  - (b) Any notice given to a Member under these Rules, must be sent to Member's address as set out in the Register referred to in Rule 7(1).

## OBJECTS

3. The objects of the Association are to:
- (a) supervise and support existing Association schools and to support any parish of the Diocese directly involved with an Association school;
  - (b) plan, establish, supervise and support new Anglican schools in the Diocese, and upon request in other Anglican Dioceses in Western Australia, giving priority to the establishment of low fee schools especially in developing areas to be accessible to children of people from a wide range of incomes and backgrounds, including students with special needs;
  - (c) plan, establish, supervise and support, upon request, such new schools in Anglican Dioceses outside Western Australia (with the prior written approval of The Perth Diocesan Trustees or by a Special Resolution), giving priority to the establishment of low fee schools especially in developing areas to be accessible to children of people from a wide range of incomes and backgrounds, including students with special needs;
  - (d) develop policies for the good governance of the Association and its schools;
  - (e) develop and promote Anglican religious studies and worship in Association schools;
  - (f) undertake all roles and responsibilities as the Anglican System in Western Australia (as defined by the Australian Government); and
  - (g) ensure that the property and income of the Association shall be applied solely to the promotion of its objects or purposes and no part of that property or income may be paid or otherwise distributed, directly or indirectly, to Members PROVIDED THAT nothing herein contained shall prevent the payment of:
    - (i) remuneration in good faith to any Member, officer, employee or agent of the Association or other person in return for services actually authorised and rendered to the Association in the promotion of its objects;
    - (ii) interest at a rate not exceeding that charged by the Association's principal Banker/Bank for the time being on overdraft accommodation of the same amount on any money lent by a Member to the Association;
    - (iii) reasonable and proper rent for premises leased or let by a Member to the Association; or
    - (iv) out-of-pocket expenses incurred by a Member or other authorised person on behalf of the Association.

## POWERS

4. Subject to the Act, the Association may do all things necessary or convenient for carrying out its objects or purposes in a lawful manner including (without limitation) to:
- (a) plan, establish, supervise and support new Anglican schools in the Diocese, and upon request in other Anglican Dioceses in Western Australia and, upon request, in Anglican Dioceses outside Western Australia with the prior written approval of The Perth Diocesan Trustees or pursuant to a Special Resolution, giving priority to the establishment of low fee schools especially in developing areas to be accessible to children of people from a wide range of incomes and backgrounds, including students with special needs;
  - (b) plan, establish and supervise a flexible system of management and control for new Anglican schools governed by councils of management with their constitutions approved by the Board;
  - (c) develop policies for the good governance of the Association and its schools;
  - (d) promote Anglican worship through Association schools;
  - (e) develop and promote Anglican religious studies programmes and policies in Association schools;
  - (f) establish and promote facilities and programs in Association schools for students with special needs or disadvantage;
  - (g) facilitate consultation and encourage communication and co-operation among Association schools, between such schools and the Association and between Association schools and other Anglican schools through the Western Australian Anglican Schools Association ('WAASA');
  - (h) advocate on behalf of the Association to the Federal, State and Local Governments and their agencies;
  - (i) liaise with Dioceses and other Anglican agencies in Western Australia;
  - (j) support WAASA;
  - (k) support Anglican Schools Australia;
  - (l) act as the Approved Authority (as defined by the Australian Government from time to time) for funding purposes for all Association schools;
  - (m) undertake all roles and responsibilities as the Anglican System in Western Australia (as defined by the Australian Government);
  - (n) collect and raise funds and to receive gifts, bequests and devises of real and personal property to be applied for the purposes of the Association;

- (o) purchase, take on lease, build, construct, erect or otherwise acquire maintain, repair and alter any buildings or other property for the purposes of the Association and to furnish, equip and improve the same;
- (p) sell, exchange, lease, mortgage, charge, hire, dispose of or turn to account or otherwise deal with all or any part of the property of the Association;
- (q) invest and deal with the monies of the Association not immediately required in such securities and in such manner as may from time to time be determined by the Board with power to consolidate, divide or alter any such investment;
- (r) borrow or raise or secure the payment of money in such manner as the Association thinks fit including (without limitation) the issuing of debentures or debenture stock, perpetual or otherwise, upon all or any of the Association's property both present and future and to redeem or pay off any such securities;
- (s) appoint, employ and pay officers, employees and agents of the Association and from time to time to suspend or dismiss the same;
- (t) give, donate or subscribe money or personal property of the Association and provide benefits in furtherance of the objects of the Association;
- (u) execute the fulfilment of any contracts or engagements entered into by the Association by mortgage or charge of all or any property of the Association in such manner as the Board may think fit;
- (v) execute in favour of any Member or other person who may incur or be about to incur any personal liability for the benefit of the Association, guarantees or indemnities and to secure the same by mortgage of the Association's property (present and future) in whatever manner the Association may think fit. Any mortgage may contain a power of sale and whatever other powers, covenants and provisions as may be agreed upon between that member or person and the Association;
- (w) enter into transactions with other entities whereby the goods and services of the Association are disposed of for consideration to one or more of such entities and to enter into all such negotiations and contracts and rescind and vary all such contracts and do all such acts deeds and things in the name of and on behalf of the Association as the Board may consider for or in relation to any of the objects of the Association;
- (x) hire out the services and facilities of the Association and to engage in such other activities as the Association deems fit on such terms and conditions as the Association deems fit;
- (y) undertake commercial activities to achieve and promote the objects of the Association including the acquisition of land for prospective establishment of new Anglican schools;



- (z) undertake and execute any trusts which may be deemed desirable or conducive to the objects of the Association;
- (aa) print and publish any information by any media including the printing and publication of newspapers, periodicals and books or leaflets as are prescribed for the promotion of the Association;
- (bb) appoint and make use of agents and attorneys and to delegate all or any of its powers to any person or persons who may or may not be Members;
- (cc) appoint the Auditor from time to time under rule 61;
- (dd) remain incorporated under the Act ;
- (ee) do all things as are necessary to carry out and exercise the objects and powers of the Association and also all things that are necessary to carry on the ordinary business of the Association; and
- (ff) do all other things as are, in the Board's opinion, incidental or conducive to the attainment of any object of the Association.

#### **THE VISITOR**

5. The Archbishop shall be the Visitor of the Association and as such shall have and may exercise the powers which customarily relate to that office and the powers conferred on the Visitor by this Constitution subject to any of those powers not contravening the Act and in addition shall have power to:
  - (a) grant at the Archbishop's sole discretion dispensation in all spiritual matters and to settle differences relating to questions of the doctrine and discipline of the Anglican Church of Australia that apply to the Association;
  - (b) inspect the Association and the accounts of the Association and report thereon to Synod, the Board or the Chair as the case may require; and
  - (c) make recommendations to Synod, the Board or the Chair as the Visitor deems fit.

#### **MEMBERS OF THE ASSOCIATION**

6. (1) The Members shall be each of the:
  - (a) Directors of the Board; and
  - (b) trustees of The Perth Diocesan Trustees,
 as appointed from time to time, unless the relevant trustee of The Perth Diocesan Trustees notifies the Chief Executive Officer of the Association appointed under rule 76 and the Visitor in writing at any time that they do not wish to be a Member.

- (2) There are no entrance fees, subscriptions or other amounts payable by the Members.
- (3) A Member is not liable, by reason of the person's membership, for the liabilities of the Association or the cost of winding up the Association.
- (4) Subject to rule 3(g), no portion of the income or property of the Association may be paid directly or indirectly, by way of dividend, bonus or otherwise to the Members.
- (5) Membership Entitlements not Transferable

A right, privilege or obligation that a person has because he or she is a Member:

- (a) is not capable of being transferred to any other person; and
- (b) ends when the person's membership ceases.

## **MEMBERSHIP REGISTER**

### 7. (1) Register of Members

- (a) The Secretary or a person authorised by the Board from time to time must:
  - (i) maintain a register of Members and make sure that the Register is up to date; and
  - (ii) provide the Commissioner with a copy of the Register within 14 days after a request is made.
- (b) The Register must contain:
  - (i) the full name of each Member;
  - (ii) a contact postal, residential or email address of each Member;
  - (iii) the class of membership held by the Member; and
  - (iv) the date on which the person became a Member;
- (c) Any change in membership of the Association must be recorded in the Register within 28 days after the change occurs.
- (d) The Register must be kept and maintained at such place as the Board decides.

### (2) Inspecting the Register

- (a) Any Member is able to inspect the Register free of charge, at such time and place as is mutually convenient to the Association and the Member.

- (b) A Member must contact the Secretary to request to inspect the Register.
  - (c) The Member may make a copy of details from the Register but has no right to remove the Register for that purpose.
- (3) Copy of the Register
- (a) A Member may make a request in writing for a copy of the Register.
  - (b) The Board may require a Member who requests a copy of the Register to provide a statutory declaration setting out the purpose of the request and declaring that the purpose is connected with the affairs of the Association.
  - (c) The Association may charge a reasonable fee to the Member for providing a copy of the Register, the amount to be determined by the Board from time to time.
  - (d) If the Board denies a Member's request for a copy of the Register, a Member may appeal the decision under rule 100(1)(a).
- (4) When Using the Information in the Register is Prohibited

A Member must not use or disclose the information on the Register:

- (a) to gain access to information that a Member has deliberately denied them (that is, in the case of social, family or legal differences or disputes);
- (b) to contact, send material to the Association or a Member for the purpose of advertising for political, religious, charitable or commercial purposes, or
- (c) for any other purpose unless the use of the information is approved by the Board and for a purpose that is:
  - (i) directly connected with the affairs of the Association; or
  - (ii) related to administering the Act.

## **BOARD**

8. (1) The control and management of the Association and implementation of its powers for the attainment of the Association's objects, shall be vested in the Board. The Board shall consist of:
- (a) one (1) Director appointed by the Archbishop;
  - (b) eleven (11) Directors appointed by the Diocesan Council;

- (c) five (5) Directors appointed by the Board at least one of whom when co-opted must be the Chair of the governing council of an Association school and one of whom must be a Principal of a different Association school; and
  - (d) one (1) Director appointed by The Perth Diocesan Trustees.
- (2) The Board shall propose for the Archbishop's approval one of the Directors appointed under rule 8(1) to be Chair of the Board.
  - (3) With the exception of the Chair and Principal appointed under rule 8(1)(c) whose terms of appointment shall be for such period specified by the Board but not in excess of two consecutive years, and subject to rules 8(4) and 26, the term of appointment to the Board shall be no more than three (3) years for any one (1) term of appointment.
  - (4) A Director shall not hold office continuously for a period greater than three (3) consecutive terms of three (3) years provided that if any Director holds office as a member of the Board on the date when this Constitution becomes operative, their prior service as member of the Board shall not be taken into account in calculating the three (3) consecutive terms of three (3) years. Notwithstanding the above, in exceptional circumstances a Director may be permitted to serve a further consecutive term of three (3) years at the end of the three (3) consecutive periods of three (3) years if written approval to do so is given by the Archbishop and all other Directors.
  - (5) Any casual vacancy under rule 39 for the position of Director on the Board shall be filled by the body which initially appointed that person pursuant to any of rules 8(1)(a) to 8(1)(d) inclusive. The Director so appointed shall remain a Director for the balance of the term of appointment of the replaced Director.
  - (6) All Directors shall be eligible for re-appointment, subject to rules 8(3) and 8(4).
  - (7) No person shall be entitled to be a Director if the person has been convicted of, or imprisoned in the previous five years for:
    - (a) an indictable offence in relation to the promotion, formation or management of a body corporate;
    - (b) an offence involving fraud or dishonesty punishable by imprisonment for a period of not less than three months;
    - (c) an offence under Division 3 or section 27 of the Act,
 unless the person has obtained the consent of the Commissioner.
  - (8) No person shall be entitled to be a Director if the person is, according to the Interpretation Act section 13D, a bankrupt or a person whose affairs are under insolvency laws unless the person has obtained the consent of the Commissioner.

## **POWERS AND DUTIES OF THE BOARD**

9. (1) Subject to the Act, these Rules and any by-law or lawful resolution passed by the Association in General Meeting, the Board:
  - (a) may exercise all powers and functions as may be exercised by the Association, other than those powers and functions that are required by these Rules to be exercised by General Meetings; and
  - (b) has power to perform all acts and do all things as appear to the Board to be necessary or desirable for the proper management of the business and affairs of the Association.
10. The Board shall manage the affairs of the Association and shall submit an annual report of its activities to the Members, Diocesan Council and Synod.
11. The Board may delegate any of its powers and duties to:
  - (a) the Chief Executive Officer appointed under rule 76;
  - (b) any other officer or employee of the Association; and
  - (c) the council of management of any school owned, operated or managed by the Association, to manage the relevant school in accordance with the terms of a school constitution which has been approved by a resolution of the Board.

## **ROLE AND RESPONSIBILITIES OF DIRECTORS**

12. (1) The Board must take all reasonable steps to ensure the Association complies with its obligations under the Act and these Rules.
- (2) A Director must exercise his or her powers and discharge his or her duties with a degree of care and diligence that a reasonable person would exercise in the circumstances.
- (3) A Director must exercise his or her powers and discharge his or her duties in good faith in the best interests of the Association and for a proper purpose.
- (4) A Director or former Director must not improperly use information obtained because he or she is a Director to:
  - (a) gain an advantage for himself or herself or another person; or
  - (b) cause detriment to the Association.
- (5) A Director or former Director must not improperly use his or her position to:
  - (a) gain an advantage for himself or herself or another person; or
  - (b) cause detriment to the Association.

- (6) A Director having any material personal interest in a matter being considered at a Board Meeting must:
- (a) as soon as he or she becomes aware of that interest, disclose the nature and extent of his or her interest to the Board;
  - (b) disclose the nature and extent of the interest at the next General Meeting; and
  - (c) must not be present while the matter is being considered at the Board Meeting or vote on the matter.
- (7) Rule 12(6) does not apply in respect of a material personal interest that:
- (a) exists only because the Director belongs to a class of persons for whose benefit the Association is established; or
  - (b) that the Director has in common with all, or a substantial proportion of, the members of the Association.
- (8) The Secretary must record every disclosure made by a Director under rule 12(6) in the minutes of the Board Meeting at which the disclosure is made.
- (9) No Director shall make any public statement or comment or cause to be published any words or article concerning the conduct of the Association unless the person is authorised by the Board to do so and such authority is recorded in the minutes of the Board Meeting.
- (10) A Director must exercise his or her powers and discharge his or her duties to ensure that the Association does not incur a debt and:
- (a) the Association is insolvent at the time the debt is incurred or becomes insolvent by incurring that debt or by incurring at that time debts including that debt; and
  - (b) immediately before the debt is incurred there are reasonable grounds to expect that:
    - (i) the Association is insolvent; or
    - (ii) if the Association incurs the debt the Association will become insolvent.

## **RULES, REGULATIONS AND BY-LAWS**

13. The Board may from time to time make, amend and repeal rules and regulations relating to:
- (a) the management of the affairs of the Association; and
  - (b) any school owned, operated or managed by the Association,

provided that no rules or regulations may contravene any of the provisions of this Constitution, or be ultra vires the objects and powers of the Association.

14. The Board may from time to time make, amend and repeal by-laws regarding:

- (a) the management of the affairs of the Association; and
- (b) any school owned, operated or managed by the Association,

provided that no such by-laws shall contravene any of the provisions of this Constitution or be ultra vires the objects of the Association.

## **BOARD MEETINGS**

15. Board Meetings shall be held at least six (6) times a year at such time and place as shall be determined by the Board.

16. A Board Meeting shall be held at any time upon the request of the Chair, of any three (3) Directors, or of the Visitor.

17. The notice convening a Board Meeting shall specify the purpose for which the meeting is called and the business to be transacted thereat.

18. At least three (3) days' written notice of every Board Meeting shall be given or such shorter notice, provided three quarters ( $\frac{3}{4}$ ) of the Directors agree.

19. At any Board Meeting, half the number of Directors shall constitute a quorum and each Director shall have one vote. If there is an uneven number of Directors, their number shall be deemed to be the next highest number.

20. Subject to anything provided in this Constitution to the contrary, all questions at Board Meetings shall be determined by a majority of Directors present and voting.

21. The Chair, or in the Chair's absence, the Deputy Chair or in the Deputy Chair's absence, any Director appointed by the Board shall chair the Board meeting.

22. The Director chairing each Board Meeting shall have a deliberative but no casting vote.

23. If no quorum is present, a Board Meeting shall stand adjourned to a date to be fixed by the Director chairing the meeting and in the absence of such a person shall stand adjourned to a date to be fixed by the Chair.

24. The Director chairing any Board Meeting shall determine all questions raised at any Board Meeting relating to the interpretation of this Constitution.

25. A minute book shall be kept by the Secretary and proper entries shall be made therein of all business transacted at every Board Meeting.

## REMOVAL FROM BOARD

26. (1) Subject to rule 39, a Director may only be removed from his or her position on the Board by resolution at a General Meeting if a majority of the Members present and eligible to vote at the meeting vote in favour of the removal.
- (2) The Director who faces removal from the Board must be given a full and fair opportunity at the General Meeting to decide the proposed resolution, to state his or her case as to why the Member should not be removed from his or her position on the Board.
- (3) If all Directors are removed by resolution at a General Meeting, the Members must, at the same General Meeting, elect an interim Board. The interim Board must, within two months, convene a General Meeting for the purpose of electing a new Board.
- (4) A Director must return all relevant documents and records (as defined in section 41(1) of the Act) of the Association to the Secretary as soon as practicable after the Director:
- (a) dies; or
  - (b) ceases to be a member of the Board.

## PROCEDURE OF BOARD MEETINGS

27. (1) Subject to these Rules, the Directors present at the Board Meeting are to determine the procedure and order of business to be followed at a Board Meeting.
- (2) All Members, or other guests, may attend Board Meetings if invited by the Board but the person shall not have any right to comment without invitation, or any right to vote, or to be provided with copies of any agenda, minutes of meetings, or documents presented to such meetings.
- (3) The Secretary or a person authorised by the Board from time to time must keep minutes of the resolutions and proceedings of all Board Meetings together with a record of the names of persons present at each meeting.

## REMUNERATION OF DIRECTORS

28. (1) The Association may pay a Director's authorised or approved travelling and other expenses properly incurred in:
- (a) attending Board Meetings or sub-board meetings;
  - (b) attending any General Meetings; and
  - (c) connection with the Association's business.



- (2) Directors must not receive any remuneration for their services as Directors other than as described at rules 3(g) and 28(1).

## **TECHNOLOGY**

29. (1) The Board may hold a meeting at two (2) or more venues using any technology that gives all the Directors an opportunity to participate.
- (2) A Director participating in a meeting held at two (2) or more venues using technology is deemed to be present in person at that meeting.

## **WRITTEN RESOLUTIONS OF THE BOARD**

30. (1) The Directors may pass a resolution without a meeting of the Board being held if a majority of the Directors entitled to vote on the resolution sign a statement that they are in favour of the resolution provided that the Directors were given a written copy of the proposed resolution at least twenty four (24) hours prior to considering the proposed resolution.
- (2) For the purposes of sub-rule (1) above:
- (a) separate copies of a document containing a statement may be used for signing by the Directors if the wording of the resolution and the statement are identical; and
- (b) a facsimile or an electronic transmission may be used.
- (3) At the next Board Meeting the resolution must be put to the Directors for ratification and minuting.
- (4) Subject to this Constitution the Board may in all other respects regulate its own meetings and procedures.

## **COMMITTEES**

31. The Board may appoint committees of the Board, comprising any persons it may determine. Each committee and its members may be re-appointed annually.
32. The Board may delegate to any committee whatever powers and duties that the Board thinks fit and may at any time revoke that delegation in whole or in part.
33. The Chair and the Chief Executive Officer appointed under rule 76 shall be ex-officio members of each committee, unless the Board otherwise decides.
34. Every committee established by the Board shall conform to all requirements imposed upon it from time to time by the Board.
35. Subject to these Rules, the committee members present at the committee meeting are to determine the procedure and order of business to be followed at the committee meeting.

36. Despite any delegation under this rule, the Board may continue to exercise all its functions, including any function that has been delegated to a committee and remains responsible for the exercise of those functions at all times.

### **DELEGATION TO SUBSIDIARY OFFICES**

37. (1) The Board may create and fill such subsidiary office as may be necessary for the proper and efficient management of the Association's affairs.
- (2) The Board may delegate, in writing, to any person holding a subsidiary office any authority, power or functions and may cancel any authority, powers or functions, as the Board sees fit from time to time.
- (3) Despite any delegation under this rule, the Board may continue to exercise all its functions, including any function that has been delegated to a subsidiary office and remains responsible for the exercise of those functions at all times.

### **INTERESTS**

38. (1) A Director who the Board has decided has a material personal interest in a matter that is being considered by a Board Meeting or General Meeting must not:
- (a) be present while the matter is being considered at the meeting; and
- (b) vote on the matter.
- (2) Each Director must declare any interest relating to the affairs of the Association, including direct or indirect pecuniary interest, at the beginning of each meeting or as soon as any conflict becomes apparent or in relation to a resolution before the Board.

### **CASUAL VACANCIES**

39. A casual vacancy occurs for the position of Director on the Board and that office becomes vacant if a Director:
- (a) dies;
- (b) resigns by notice in writing delivered to the Chair or, if the Director is the Chair, to the Deputy Chair and that resignation is accepted by resolution of the Board;
- (c) is convicted of an offence under the Act;
- (d) is permanently incapacitated by mental or physical ill health;
- (e) is absent from more than three (3):
- (i) consecutive Board Meetings or

- (ii) Board Meetings in the same financial year without tendering an apology to the person chairing each of those Board Meetings,
  - of which meetings the member received notice and after which meetings the Board resolves to declare the office vacant;
- (f) ceases to be a Member; or
- (g) is the subject of an Ordinary Resolution passed by a General Meeting terminating his or her appointment as a Director.

## **GENERAL MEETINGS OF THE ASSOCIATION**

### 40. The Board:

- (a) may at any time convene a General Meeting;
- (b) must convene an AGM during every calendar year within six (6) months after the end of the Association's Financial Year or such longer period as may in a particular case be allowed by under the Act; and
- (c) must, within twenty eight (28) days of receiving a request in writing to do so from at least twenty percent (20%) of the total number of Members, convene a General Meeting for the purpose specified in that request.

### 41. (1) Request for Special General Meeting

A request by the Members for a Special General Meeting must:

- (a) state the purpose of the meeting;
- (b) be signed by the required number of Members making the request as specified in rule 40(c); and
- (c) be lodged with the Secretary.

### (2) Failure to Convene Special General Meeting

- (a) If the Secretary fails to convene a Special General Meeting within the 28 days referred to in rule 40(c), the Members who made the request may convene a Special General Meeting within 3 months after the original request was lodged as if the Members were the Board.
- (b) A Special General Meeting must be convened in the same or substantially the same manner as General Meetings are convened by the Board and the Association must pay the reasonable expenses of convening and holding the Special General Meeting.

### 42. Procedure For General Meetings

- (1) General Meetings may take place:
  - (a) where the Members are physically present together; or

- (b) where the Members are able to communicate by using any technology that reasonably allows the Member to participate fully in discussions as they happen in the General Meeting and in making any decisions, provided that the participation of the Member in the General Meeting must be made known to all other Members.
- (2) A Member who participates in a meeting as set out in rule 42(1)(b):
  - (a) is deemed to be present at the General Meeting; and
  - (b) continues to be present at the meeting for the purposes of establishing a quorum, until the Member notifies the other Members that he or she is no longer taking part in the General Meeting.
- 43. Subject to rules 46 and 48, the Board must give all Members not less than fourteen (14) days notice of a General Meeting and that notice must specify:
  - (a) when and where the General Meeting concerned is to be held; and
  - (b) particulars of the business to be transacted at the General Meeting concerned and of the order in which that business is to be transacted.
- 44. Subject to rules 46 and 48, the Chair of the Board must give all Members not less than twenty one (21) days notice of an AGM or Special General Meeting and that notice must specify:
  - (a) when and where the AGM or Special General Meeting is to be held; and
  - (b) the particulars and order in which business is to be transacted, as follows:
    - (i) the consideration of the accounts and reports of the Board; and
    - (ii) any other business requiring consideration by the Association at the General Meeting.

### **SPECIAL RESOLUTIONS**

- 45. A Special Resolution may be moved either at a General Meeting or at an AGM. A Special Resolution is required to be passed by a majority of not less than three-fourths of the Members who are entitled under this Constitution to vote and vote in person or by proxy at a General Meeting of which notice has been given in accordance with rule 47(3).
- 46. The Chair must give all Members not less than twenty one (21) days notice of the meeting at which a Special Resolution is to be proposed in accordance with rule 45. The notice of the meeting shall not be sent to Members until after the Board has obtained the Visitor's written approval thereto.
- 47. (1) A Special Resolution must be moved at a General Meeting where notice of the Special Resolution has been given under rule 47(3).

- (2) A Special Resolution is required to:
- (a) amend the name of the Association;
  - (b) amend the Rules, under rule 97(4);
  - (c) affiliate the Association with another body;
  - (d) transfer the incorporation of the Association;
  - (e) amalgamate the Association with one or more other incorporated associations;
  - (f) voluntarily wind up the association;
  - (g) cancel incorporation; or
  - (h) request that a statutory manager be appointed.
- (3) Notice of a Special Resolution must:
- (a) be in writing;
  - (b) include the place, date and time of the meeting;
  - (c) include the intention to propose a Special Resolution;
  - (d) set out the wording of the proposed Special Resolution; and
  - (e) be given in accordance with rule 2(2).
- (4) If notice is not given in accordance with rule 47(3), the Special Resolution will have no effect.
- (5) A Special Resolution must be passed at a General Meeting at which there is a quorum and be supported by the votes of not less than three-fourths of the Members present, in person or by proxy, and eligible to cast a vote at the meeting.
48. The Chair must give a notice under rules 43, 44, 45 or 46 by one of the methods specified in rule 2(2).
49. When a notice is sent by post under rule 2(2), the notice shall be deemed to be properly effected if it is sufficiently addressed and posted to the relevant Members by ordinary prepaid mail.

### **QUORUM AND PROCEEDINGS AT GENERAL MEETINGS OF THE ASSOCIATION**

50. At a general meeting ten (10) Members present in person shall constitute a quorum.

51. If within thirty (30) minutes after the time specified for the holding of a General Meeting in a notice given under rules 43, 44, 45 or 46:
- (a) as a result of a request or notice referred to in rule 40(c) or as a result of action taken under rule 41(2) a quorum is not present, the General Meeting lapses; or
  - (b) otherwise than as a result of a request, notice or action referred to in rule 51(a), the General Meeting stands adjourned to the same time on the same day in the following week and to the same venue.
52. If within thirty (30) minutes of the time appointed by rule 51(b) for the resumption of an adjourned General Meeting a quorum is not present, the Members who are present in person or by proxy may nevertheless proceed with the business of that General Meeting as if a quorum were present.
53. The chair of the meeting may, with the consent of a General Meeting at which a quorum is present, and must, if so directed by the General Meeting, adjourn that General Meeting from time to time and from place to place.
54. There must not be transacted at an adjourned General Meeting any business other than business left unfinished or on the agenda at the time when the General Meeting was adjourned.
55. When a General Meeting is adjourned for a period of thirty (30) days or more, the Chair must give notice under rules 40 to 49 of the adjourned General Meeting as if that General Meeting were a fresh General Meeting.
56. At a General Meeting:
- (a) an Ordinary Resolution put to the vote will be decided by a majority of votes cast on a show of hands, subject to rules 58, 59 and 60; and
  - (b) a Special Resolution put to the vote will be passed by a majority of not less than three-fourths of the Members who are entitled under this Constitution to vote and vote in person or by proxy, at a General Meeting of which notice has been given in accordance with rule 47(3) and if a poll is demanded, in accordance with rules 58, 59 and 60.
57. (1) Unless a poll is demanded under rule 58, if a question arising at a General Meeting is determined by general agreement or a show of hands, a declaration must be made by the chair of the General Meeting that the resolution has been:
- (a) carried unanimously;
  - (b) carried by a particular majority; or
  - (c) lost.
- (2) If the declaration relates to a Special Resolution, then subject to rule 47(3), the declaration should state that a Special Resolution has been determined.

- (3) The declaration made under rule 57(1) must be entered into the minute book of the Association.
  - (4) The entry in the minute book of the Association under rule 57(3) is evidence of the fact that the resolution has been determined, without proof of the number or proportion of the votes recorded in favour of or against that resolution.
58. At a General Meeting, a poll may be demanded by the chair of the General Meeting or by five (5) or more Members present in person or by proxy and, if so demanded, must be taken in such manner as the chair of the General Meeting directs.
59. If a poll is demanded and taken under rule 58 in respect of an Ordinary Resolution, a declaration by the chair of the General Meeting of the result of the poll is evidence of the matter so declared.
60. A poll demanded under rule 58 must be taken immediately on that demand being made.

### **ANNUAL GENERAL MEETINGS**

61. (1) Annual General Meeting
- (a) Subject to rules 61(1)(b) and (c), the Association must convene an AGM each calendar year:
    - (i) within 6 months after the end of the Association's Financial Year; or
    - (ii) within a longer period as the Commissioner may allow.
  - (b) If the Association requires the approval from the Commissioner to hold its AGM within a longer period under rule 61(1)(a)(ii), the Secretary must apply to the Commissioner no later than four months after the end of the Association's Financial Year.
- (2) Notice of AGM
- The notice convening an AGM must specify that it is the AGM of the Association and otherwise must comply with rules 2(2), 43 and 44 (as applicable).
- (3) Business to be Conducted at AGM
- (a) Subject to rule 61(1), the AGM of the Association is to be convened on a date, time and place as the Board decides.

- (b) At each AGM, the Association:
- (i) must confirm the minutes of the last preceding AGM and of any Special General Meeting held since that meeting if the minutes of that Special General Meeting have not yet been confirmed;
  - (ii) as the Association is a Tier 3 Association, must receive the Financial Report of the Association for the preceding Financial Year;
  - (iii) if applicable, must appoint or remove an Auditor in accordance with the Act;
  - (iv) if applicable, must present a copy of the Auditor's report to the Association; and
  - (v) must elect or appoint an Auditor in accordance with the Act.

### **VOTING RIGHTS OF MEMBERS OF THE ASSOCIATION**

62. Subject to these Rules, each Member present in person or by proxy at a General Meeting is entitled to one deliberative vote.

### **PROXIES OF MEMBERS OF THE ASSOCIATION**

63. A Member who is entitled to attend and vote at a General Meeting may appoint another Member as that Member's proxy to attend and vote for the Member at that meeting.
64. A proxy appointed on behalf of a Member shall have the same number of votes that the Member would be permitted to exercise.
65. A proxy appointed to attend and vote for a Member has the same rights as the Member to speak at the meeting and vote, but only to the extent allowed by the appointment.
66. A proxy's right to speak or vote at a meeting is suspended if the Member who appointed the proxy is present at the meeting.
67. A Member's appointment of a proxy is valid only if the appointment is made in writing and signed and dated by the Member making the appointment and contains the:
- (a) Member's name and address;
  - (b) proxy's name; and
  - (c) date of the meeting at which the proxy is to be appointed.



68. The appointment may specify the way the proxy is to vote on a particular resolution, and if it does:
- (a) the proxy need not vote on a show of hands, but if the proxy does so, the proxy must vote in that way;
  - (b) if the proxy has two or more appointments that specify different ways to vote on the resolution, the proxy must vote on a show of hands;
  - (c) if the proxy is the chair of the meeting, the proxy must vote on a poll, and must vote that way; and
  - (d) if the proxy is not the chair of the meeting, the proxy need not vote on a poll, but if the proxy does so, the proxy must vote that way.
69. The voting by a proxy does not affect the way that the person can vote as a Member in their own right.
70. For the appointment of a proxy for a General Meeting to be effective, the appointment instrument must be received by the Association at its principal place of business at least twenty four (24) hours before the meeting.

#### **MINUTES OF MEETINGS OF THE ASSOCIATION**

71. The Secretary or a person authorised by the Board from time to time must keep minutes of all resolutions and proceedings of all General Meetings and Board Meetings to be taken (together with a record of the names of persons present at each meeting) and then to be entered after the holding of each General Meeting or Board Meeting, as the case requires, in a minute book kept for that purpose.
72. The Chair must ensure that the minutes taken of a General Meeting or Board Meeting under rule 71 are checked and then tabled at the next General Meeting or Board Meeting as the case requires, for approval.
73. (1) The minutes are to be taken and then to be entered within 30 days after the holding of each meeting, into a minute book kept for that purpose.
- (2) The Chair must ensure that the minutes of a General Meeting or Board Meeting under rule 71 are reviewed and signed as correct by:
- (a) the chair of the General Meeting or Board Meeting to which those minutes relate; or
  - (b) the chair of the next succeeding General Meeting or Board Meeting.
- (3) When minutes have been entered and signed as correct under this rule, they are, until the contrary is proved, evidence that:
- (a) the General Meeting or Board Meeting to which they relate was duly convened and held;

- (b) all proceedings recorded as having taken place at the General Meeting or Board Meeting did in fact take place at the meeting; and
  - (c) all appointments or elections purporting to have been made at the meeting have been validly made.
- (4) The minutes of General Meetings may be inspected by a Member under rule 75(2).
- (5) The minutes of Board Meetings may be inspected by a Member under rule 75(2) unless the Board determines that the minutes of Board Meetings generally, or the minutes of a specific Board Meeting are not to be available for inspection.

### **RESIGNATION OF A MEMBER OF THE ASSOCIATION**

74. A Member who delivers to the Chair notice in writing of his or her resignation from the Association, shall upon the delivery of that notice to the Chair, cease to be a Member.

### **BOOKS AND RECORDS OF THE ASSOCIATION**

#### 75. (1) Custody of the Books of the Association

- (a) Except as otherwise decided by the Board from time to time, the Secretary must keep in his or her custody or under his or her control all of the Books of the Association with the exception of the Financial Records which, except as otherwise directed by the Board from time to time, are to be kept under the custody or control of the Treasurer.
- (b) The Books of the Association must be retained for at least 7 years.

#### (2) Inspecting the Books of the Association

- (a) Subject to these rules, and in particular rule 73(5), a Member is able to inspect the Books of the Association free of charge at such time and place as is mutually convenient to the Association and the Member.
- (b) A Member must contact the Secretary to request to inspect the Books of the Association.
- (c) The Member may copy details from the Books of the Association but has no right to remove the Books of the Association for that purpose.

#### (3) Prohibition on Use of Information in the Books of the Association

A Member must not use or disclose information in the Books of the Association except for a purpose that:

- (a) is directly connected with the affairs of the Association; or

(b) is related to administering the Act.

(4) Returning the Books of the Association

Outgoing Directors are responsible for transferring all relevant assets and Books of the Association to the new Board within 14 days of ceasing to be a Director.

### **CHIEF EXECUTIVE OFFICER**

76. (1) The Association shall from time to time appoint a Chief Executive Officer subject to the prior approval of the Archbishop both of the appointment and the terms and conditions of the same.
- (2) The Chief Executive Officer shall:
- (a) co-ordinate the correspondence of the Association;
  - (b) perform such other duties as are imposed by this Constitution and/or delegated by the Board from time to time; and
  - (c) be responsible for the administration of the Association and shall undertake such other duties and responsibilities as shall be determined by the Board from time to time.

### **ATTENDANCE OF CHIEF EXECUTIVE OFFICER AT BOARD MEETINGS**

77. The Chief Executive Officer and other members of the executive staff (as designated from time to time by the Board) may attend Board Meetings and will attend Board Meetings when specifically required to do so by the Board but without the power to vote.

### **DEPUTY CHAIR**

78. The Board shall elect annually a Deputy Chair from amongst the Directors to perform whatever duties and exercise whatever powers are vested in the Chair by this Constitution from time to time. The Deputy Chair may only exercise those powers and duties in the absence of the Chair.

### **SECRETARY**

79. (1) The Board shall appoint a person to act for a term to be determined from time to time by the Board as the Secretary of the Association. The Chief Executive Officer may be appointed as the Secretary.
- (2) The Secretary shall:
- (a) co-ordinate the correspondence of the Association;
  - (b) convene General Meetings and Board Meetings, including preparing the notices of meetings of the business to be conducted at each meeting in consultation with the chairperson;

- (c) keep and maintain in an up to date condition the Rules as required by rule 97(1) and any by-laws of the Association made in accordance with rule 14;
- (d) maintain the Register referred to in rule 7;
- (e) maintain the record of office holders of the Association, referred to in rule 79(3);
- (f) ensure the safe custody of the Books (with the exception of the Financial Records) of the Association under rule 75(1);
- (g) keep full and correct minutes of Board Meetings and General Meetings;
- (h) perform any other duties as are imposed by these Rules or the Association on the Secretary; and
- (i) notify the Commissioner in writing within 28 days of any change of address of the Association.

(3) Record Of Office Holders

- (a) The Secretary or a person authorised by the Board from time to time must maintain a record of office holders.
- (b) The record of office holders must include:
  - (i) the full name of each office holder;
  - (ii) the office held and the dates of appointment and (if applicable) cessation of the appointment;
  - (iii) a contact postal, residential or email address of each office holder; and
  - (iv) the name and address of any person appointed by the Board to act as trustee on behalf of the Association.
- (c) The record of office holders must be kept and maintained at such place as the Board decides.

(4) Inspecting the Record of Office Holders

- (a) Any Member is able to inspect the record of office holders free of charge, at such time and place as is mutually convenient to the Association and the Member.
- (b) The Member may make a copy of details from the record of office holders but has no right to remove the record for that purpose.

- (5) A Member must not use or disclose the information in the record of office holders unless the use of the information is approved by the Board and is for a purpose that is:
- (a) directly connected with the affairs of the Association; or
  - (b) related to administering the Act.

## **TREASURER**

80. (1) The Board shall elect annually from amongst the Directors, a Treasurer.
- (2) The Treasurer shall:
- (a) ensure all moneys payable to the Association are collected, and that receipts are issued for those moneys in the name of the Association;
  - (b) ensure the payment of all moneys referred to in rule 80(2)(a) into the account or accounts of the Association as the Board may from time to time direct;
  - (c) ensure timely payments from the funds of the Association with the authority of a General Meeting or of the Board;
  - (d) ensure that the Association complies with the account keeping requirements in Part 5 of the Act;
  - (e) ensure the safe custody of the Financial Records and any other relevant records of the Association;
  - (f) as the Association is a Tier 3 Association, coordinate the preparation of the Financial Report of the Association prior to its submission to the AGM;
  - (g) assist the Auditor in performing their functions; and
  - (h) perform any other duties as are imposed by these Rules or the Association on the Treasurer.

## **AUDITOR**

81. There shall be an auditor of the Association. The Auditor shall be a registered company auditor that is appointed at each AGM and who shall hold office at the pleasure of the Members. The Board shall pay the Auditor remuneration mutually agreed upon between the Board and the Auditor. The Auditor shall audit the Financial Statements and shall report thereon annually to the Board and to Diocesan Council for presentation to Synod. The Auditor's report shall include comment as to whether the accounts and records of the Association have been properly kept and an opinion in accordance with generally accepted auditing standards on the Financial Statements.

## ACCOUNTS

82. The Board shall cause true accounts to be kept of all moneys received and expended by or for the Association and proper books of account shall be kept at the Association's registered office or at such other place as the Board may determine.
83. At a Board Meeting following the end of each Financial Year (which financial year shall, unless otherwise directed by the Board, conclude on 31 December in each year) and prior to the AGM Financial Statements shall be submitted to the Board.
84. A copy of the Financial Statements shall be sent to all Directors not less than seven (7) days before the date of the Board Meeting to which they are to be presented.
85. At the end of each Financial Year or as soon as possible thereafter, the Board shall prepare a written report on the operations of the Association during that Financial Year and a copy of that report shall be delivered to the Members, Diocesan Council and Synod.
86. A bank account or accounts for the Association and its schools shall be kept at whatever financial institution that the Board may determine and all funds transferred on any account shall be approved by any two persons that the Board may from time to time designate.

## CONTROL OF FUNDS

87. (1) Control of Funds
  - (a) The funds of the Association are to be used in pursuance of the objects of the Association.
  - (b) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments of the Association must be signed by such persons authorised by the Board from time to time.
  - (c) All expenditure above the maximum amount set by the Board from time to time must be approved or ratified at a Board Meeting.
- (2) Source of Association Funds
  - (a) The funds of the Association may be derived from donations, fund raising activities, grants, interest, and any other sources approved by the Board.
  - (b) The Association must, as soon as practicable:
    - (i) deposit all money received by the Association, to the credit of the Association's bank account, without deduction; and
    - (ii) after receiving any money, issue an appropriate receipt.

(3) Financial Records

- (a) The Association must keep Financial Records that:
  - (i) correctly record and explain its transactions, financial position and performance; and
  - (ii) enable true and fair financial statements to be prepared in accordance with Part 5 of the Act.
- (b) The Association must retain its Financial Records for at least 7 years after the transactions covered by the records are completed.

(4) Financial Reports

- (a) For each financial year, the Association must ensure that the requirements under Part 5 of the Act are met.
- (b) Without limiting subrule (a), those requirements include—
  - (i) as the Association is a Tier 3 Association, the preparation of the Financial Report;
  - (ii) the auditing of the Financial Report;
  - (iii) as the Association is a Tier 3 Association, the presentation of the Financial Report to the AGM (and a copy of the Auditor's report); and
  - (iv) if required by the regulations made under the Act, the lodgement of the annual return with the Commissioner.

(5) Audit of Financial Report

The Association must ensure that an audit is undertaken of the Financial Report as the Association is a Tier 3 Association or if:

- (a) the by-laws of the Association require an audit;
- (b) the Members require an audit by resolution at a General Meeting;
- (c) an audit is directed by the Commissioner; or
- (d) an audit is required as a condition of a funding arrangement; or holding of a charitable collections licence.

**SEAL**

88. The Association shall have a Common Seal which shall be kept in the custody of the Chief Executive Officer appointed under rule 76. The sealing clause of the Association shall be:

**The Common Seal of The Anglican Schools Commission (Inc.)  
ABN 85 336 233 269** was affixed to this document in the presence of:

---

Director

---

(Print Full Name)

---

Director

---

(Print Full Name)

---

Secretary

---

(Print Full Name)

89. The Common Seal shall only be affixed by resolution of the Board and every document to which the Common Seal shall have been affixed shall be countersigned by any two Directors who shall have been appointed by the Board to be the seal signatories of the Association from time to time and countersigned by the Secretary.
90. A true and correct record shall be kept of all instruments deeds agreements contracts and documents to which the Common Seal is affixed and shall be maintained by the Secretary in a Seal Register.
91. (1) Executing Documents
- The Association may execute a document without using a common seal if the document is signed by:
- (a) any two Directors; or
  - (b) persons authorised by the Board from time to time.



(2) Use of the Common Seal

If the Association has a common seal on which its corporate name appears in legible characters:

- (a) the Secretary or any other person as the Board from time to time decides must provide for its safe custody; and
- (b) it must only be used under resolution of the Board.

**PATRON**

92. The Board may, from time to time, appoint a Patron and Vice Patrons of the Association and may at any time remove any such appointee.

**HONORARY MEMBERS**

93. The Board may elect and appoint (on terms and conditions as may from time to time be determined by the Board) any person as an Honorary Member in recognition of the Honorary Member's services to the Association PROVIDED that there shall not be more than 7 Honorary Members at any one time. An Honorary Member shall have no rights or duties but may advise or consult the Board on any occasion upon which the Board shall invite the Honorary Member so to do.

**HONORARY OFFICERS**

94. The Association may appoint honorary officers for such periods and on such terms and conditions as may from time to time be determined by the Association.

**INDEMNITY**

95. (1) Every office bearer, Director, committee member and employee of the Association shall be indemnified out of the funds of the Association against losses and expenses which he or she may incur or become liable for by reason of any contract or agreement entered into, or any personal injury or property damage done or caused by him or her in his or her capacity as an office bearer, Director, committee member or employee of the Association in the proper discharge of his or her duties.
- (2) No office bearer, Director, committee member or employee of the Association shall be liable for the acts, neglects or defaults of any other office bearer, Director, committee member, employee of the Association or any other person or legal entity, or for the joining in any receipt or act of conformity, or for any loss or expense happening to the Association through the insufficiency of or deficiency of title to any property acquired for or on account of the Association, or for the insufficiency or deficiency of any securities in or upon which any of the money of the Association is invested, or for any loss or damage arising from bankruptcy, insolvency or tortious act of any person with whom any money, security or effects shall be deposited, or for any other loss, damage or misfortune whatsoever that happens in the execution of his or her duties, or in

relation thereto unless the same happens from his or her own fraudulent act or omission.

### **VALIDATION OF ACTS**

96. All acts and proceedings of the Board and any committee or any member thereof or of any employee of the Association shall be deemed valid notwithstanding that it may afterwards be discovered that:
- (a) some defect existed in the appointment of the Board, the committee or any member thereof or of the employee in question; or
  - (b) a Director, a committee member or a person holding a subsidiary office was disqualified from being a member.

### **CONSTITUTION AND RULES**

97. (1) These Rules bind every Member and the Association and each Member agrees to comply with these Rules.
- (2) The Association must provide, free of charge, a copy of the Rules in force, at the time membership commences, to each person who becomes a Member under rule 6(1).
  - (3) The Association must keep a current copy of the Rules.
  - (4) This Constitution may be altered, added to, or repealed by a Special Resolution passed by a majority of not less than three-fourths of the Members who are entitled under this Constitution to vote and vote in person or by proxy or by postal vote, at a General Meeting of which notice has been given in accordance with rule 47(3).
  - (5) If any amendments are made to this Constitution the Association may consolidate this Constitution into one document and notice of any resolution amending this Constitution will be given to the Commissioner as required by the Act.
  - (6) The accidental omission to give or the accidental non-receipt of any notice of any amendments by any Member shall not necessarily invalidate any amendment duly passed at a General Meeting.
  - (7) When a Special Resolution amending the Rules is passed, the required documents must be lodged with the Commissioner within:
    - (a) one month after the Special Resolution is passed; or
    - (b) a longer period as the Commissioner may allow.
  - (8) Subject to rule 97(9), an amendment to the Rules does not take effect until the required documents are lodged with the Commissioner under rule 97(7).

(9) An amendment to the Rules that changes or has the effect of changing:

- (a) the name of the Association; or
- (b) the objects or purposes of the Association,

does not take effect until the required documents are lodged with the Commissioner under rule 97(7) and the Commissioner's approval is given in writing.

(10) In this rule 97 the term '*required documents*' has the meaning given to it in section 30(4) of the Act.

## **DISSOLUTION**

98. If the Association is solvent it may be dissolved by a Special Resolution passed by a majority of not less than three-fourths of the Members who are entitled under this Constitution to vote and vote in person, or by proxy, at a General Meeting called for that purpose of which notice has been given in accordance with this rule 47(3).

99. If on the winding up or dissolution of the Association there remains, after the satisfaction of all the debts and liabilities of the Association, any property whatsoever, that property shall not be paid or distributed among the Members or former Members but shall be given or transferred to The Perth Diocesan Trustees to be held and applied by The Perth Diocesan Trustees for another association incorporated under the Act, or other entity, which association or entity has similar objects to the Association, and which association or entity shall be one previously approved by the Visitor and one to which income tax deductible gifts may be made and approved by the Deputy Commissioner of Taxation.

## **RESOLVING DISPUTES**

100. (1) Disputes Arising under the Rules

- (a) This rule applies to disputes between:
  - (i) Members; and
  - (ii) the Association and one or more Members that arise under the Rules or relate to the Rules.
- (b) In this rule "Member" includes any former Member whose membership ceased not more than six months before the dispute occurred.
- (c) The parties to a dispute must attempt to resolve the dispute between themselves within 14 days of the dispute coming to the attention of each party.

- (d) If the parties are unable to resolve the dispute, any party to the dispute may initiate a procedure under this rule by giving written notice to the Secretary of the parties to, and details of, the dispute.
- (e) The Secretary must convene a Board Meeting within 28 days after the Secretary receives notice of the dispute under rule 100(1)(d) for the Board to determine the dispute.
- (f) At the Board Meeting to determine the dispute, all parties to the dispute must be given a full and fair opportunity to state their respective cases orally, in writing or both.
- (g) The Secretary must inform the parties to the dispute of the Board's decision within 7 days after the Board Meeting referred to in rule 100(1)(e).
- (h) If any party to the dispute is dissatisfied with the decision of the Board they may elect to initiate further dispute resolution procedures as set out in the Rules.

(2) Mediation

- (a) This rule applies:
  - (i) where a person is dissatisfied with a decision made by the Board under rule 100(1); or
  - (ii) where a dispute arises between a Member or more than one Member and the Association and any party to the dispute elects not to have the matter determined by the Board.
- (b) If the parties to a dispute are unable to resolve the dispute between themselves within the time required by rule 100(1)(c), or a party to the dispute is dissatisfied with a decision made by the Committee under rule 100(1)(g) a party to a dispute may:
  - (i) provide written notice to the Secretary of the parties to, and the details of, the dispute;
  - (ii) agree to, or request the appointment of, a mediator.
- (c) The party, or parties requesting the mediation must pay the costs of the mediation.
- (d) The mediator must be:
  - (i) a person chosen by agreement between the parties; or
  - (ii) in the absence of agreement if the dispute is between a Member:
    - A. and another Member – a person appointed by the Board;
    - or

- B. or more than one Member and the Association, the Board or a Director - an independent person who is a mediator appointed to, or employed with, a not for profit organisation.
- (e) A Member can be a mediator, but the mediator cannot be a Member who is a party to the dispute.
- (f) The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.
- (g) The parties are to exchange written statements of the issues that are in dispute between them and supply copies to the mediator at least 5 days before the mediation session.
- (h) The mediator, in conducting the mediation, must:
  - (i) give the parties to the mediation process every opportunity to be heard;
  - (ii) allow all parties to consider any written statement submitted by any party; and
  - (iii) ensure that natural justice is accorded to the parties to the dispute throughout the mediation process.
- (i) The mediator must not determine the dispute and the mediation must be confidential. Information provided by the parties in the course of the mediation cannot be used in any other legal proceedings that may take place in relation to the dispute.
- (3) Inability to Resolve Disputes

If a dispute cannot be resolved under the procedures set out in the Rules, any party to the dispute may apply to the State Administrative Tribunal to determine the dispute in accordance with the Act or otherwise at law.

## **CANCELLATION AND DISTRIBUTION OF SURPLUS PROPERTY**

101. (1) The Association may cease its activities and have its incorporation cancelled in accordance with the Act if the Members resolve by Special Resolution that the Association will:
- (a) apply to the Commissioner for cancellation of its incorporation; or
  - (b) appoint a liquidator to wind up its affairs.
- (2) The Association must be wound up under rule 101(1)(b) and Part 9 of the Act before cancellation can take place if it has outstanding debts or any other outstanding legal obligations, or is a party to any current legal proceedings.

- (3) Upon cancellation of the Association's incorporation, the Surplus Property must only be distributed to The Perth Diocesan Trustees to be held and applied by The Perth Diocesan Trustees for another association incorporated under the Act, or other entity, which association or entity has similar objects to the Association, and which association or entity shall be one previously approved by the Visitor and one to which income tax deductible gifts may be made and approved by the Deputy Commissioner of Taxation.