[145N: Rules certified on 28 March 2024 (R2024/25)]

Replaces version of 7 March 2014 (R2013/317)

I CERTIFY under section 161 of the Fair Work (Registered Organisations) Act 2009 that the pages herein numbered 1 to 24 both inclusive contain a true and correct copy of the registered rules of the Building Services Contractors Association of Australia, New South Wales Division**.**

DELEGATE OF THE GENERAL MANAGER

FAIR WORK COMMISSION

Rules of the Building Services Contractors Association of Australia, New South Wales Division

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Rules of the Building Services Contractors Association of Australia, New South Wales Division

## 1. - NAME AND REGISTERED OFFICE

1.1 The name of the Association is “Building Service Contractors Association of Australia, New South Wales Division”.

1.2 The registered office of BSCAA NSW is located at 473 Darling Street, Balmain NSW 4041.

## 2. - DEFINITIONS

2.1 In these Rules, unless the context otherwise requires:-

“Act” means the Fair Work (Registered Organisations) Act 2009 or Industrial Relations Act (NSW) as is appropriate in the circumstances.

“AIA” means the Associations Incorporation Act, 2009 (NSW).

“Anniversary Date” means the date upon which the member first joined BSCAA NSW Division.

“Association Member” means a member of the Association.

“Association” means BSCAA NSW Division.

“Board” means the national executive committee of BSCAA National.

“BSCAA National” means Building Service Contractors Association of Australia Inc (ABN 30 881 326 071), an association incorporated under the AIA.

“BSCAA NSW member” means a member of BSCAA NSW.

“BSCAA NSW” means the Division.

“Division” means Building Service Contractors Association of Australia, New South Wales Division, being an industrial organisation registered under the Fair Work (Registered Organisations) Act 2009 (C’lth). “Executive Committee” means the committee of BSCAA NSW consisting of the Officers.

“Executive Director” means the person appointed pursuant to rule 15.4 to perform certain administrative functions of BSCAA NSW.

“Federal Registration Date” means the date on which BSCAA NSW obtains registration as an organisation under the Act.

“Financial duties” includes duties that relate to the financial management of the Division or a branch of the Division

“General Manager” means the General Manager of Fair Work Commission

“Member” means a BSCAA NSW member who has paid the subscriptions payable pursuant to Rule 7 of these Rules.

“National Office” means the national head office of the BSCAA National.

“Office” has the same meaning as defined by Section 9 of the *Fair Work (Registered Organisations) Act 2009* and for this purpose means one of the elected Offices of BSCAA NSW which Offices include:

• President

• Vice- President/Secretary

• Executive Committee Members

for the avoidance of any doubt, the Executive Director is not a position of Office. Having regard to the above, in these Rules “Officer” shall be construed accordingly.

“Officer” has the same meaning as defined by Section 6 of the *Fair Work (Registered Organisations) Act 2009*

“Operative Date” means the date the Association was incorporated under the AIA, being 21 June 2001.

“Registered Office” means the registered office of BSCAA NSW.

“Regulations” means the regulations made under the Act as in force from time to time.

“remuneration” (i) includes pay, wages, salary, fees, allowances, leave, benefits or other entitlements; but (ii) does not include a non-cash benefit; and (iii) does not include the reimbursement or payment of reasonable expenses for the costs incurred in the course of the Officer carrying out his or her duties

“Rules” means the rules pursuant to which BSCAA NSW is governed as constituted by this document

2.2 In these Rules, unless the context otherwise requires:-

(a) the singular number includes the plural number and vice versa;

(b) words importing one gender include the other genders;

(c) a reference to a “person” includes an individual, firm, company, corporation or unincorporated body of persons, association, organisation, group or any state or government or any agency thereof (in each case, whether or not having separate legal personality) and a reference to a “company” includes a reference to a “person”;

(d) headings are for convenience only and shall not affect interpretation;

(e) references to any statute or statutory provision shall include any statute or statutory provision which amends or replaces it, and vice versa, and shall include any subordinate legislation made under the relevant statute;

(f) a reference to a function includes a reference to a power, authority and duty; and

(g) a reference to the exercise of a function includes, if the function is a duty, a reference to the performance of the duty

(h) references to federal legislation and regulations can be construed as a reference to state legislation and regulations where it is necessary for the effective operation of BSCAA NSW as a state industrial organisation before the Federal Registration Date. References to sections or provisions of federal legislation may be construed as references to equivalent or corresponding state legislation where the context requires.

 **Operation of Rules and Alterations**

2.3 These Rules record that:

(a) On 11 September 2009 the Executive Committee passed a resolution in favour of BSCAA NSW making a formal application to Fair Work Australia to obtain federal registration as an organisation under the Act.

(b) On 20 November 2009 the Executive Committee passed a resolution to alter these Rules to enable BSCAA NSW to achieve federal registration by ensuring the Rules meet the relevant requirements of Rules of organisations under the Act.

2.4 References in certain clauses of these Rules to one or more particular sections of the Act are for the purposes of ease of interpretation and are not to be construed as excluding the operation of any other provision of the Act which may be relevant in the circumstances.

2.5 Provisions of these Rules that concern BSCAA National have no effect if at any time BSCAA National ceases to exist.

2.6 These Rules prevail over any rules of the Association subject to the Act or unless otherwise expressly stated in these Rules.

## 3. - OBJECTS

BSCAA NSW is formed for furthering and protecting the interests of BSCAA NSW members operating within the cleaning and security sectors in New South Wales. Amongst other things this involves or may involve the following:

3.1 Obtaining and maintaining registration as an organisation of employers under the Act.

3.2 Enhancing relations within workplaces between BSCAA NSW members and their employees and to reduce the adverse effects of industrial disputation.

3.3 Ensuring that BSCAA NSW is representative of and accountable to BSCAA NSW members and operates effectively.

3.4 Encouraging BSCAA NSW members to participate in the affairs of BSCAA NSW.

3.5 Providing for the democratic functioning and control of BSCAA NSW.

3.6 Representing and advocating the interests of BSCAA NSW members in matters before Fair Work Australia and any other relevant industrial tribunal or Court.

3.7 Assisting to resolve industrial relations disputes between BSCAA NSW members and their employees or representatives.

3.8 Representing and advocating the interests of BSCAA NSW members in matters involving the making, variation and termination of industrial instruments or on other employment and industrial relations matters.

3.9 Representing the interests of BSCAA NSW members in matters involving the interpretation of industrial instruments and any disputes that may arise in relation to industrial instruments that affects or may potentially affect the interests of BSCAA NSW members.

3.10 Providing an industrial relations, employment relations and human resource education, information and support service to BSCAA NSW members.

3.11 Promoting the economic interests of BSCAA NSW members.

3.12 Promoting ethics and good business practices among BSCAA NSW members that may involve developing Codes of Practice published by BSCAA NSW from time to time.

3.13 Working with or affiliating with other bodies in Australia or overseas in the interests of BSCAA NSW members.

3.14 Settling, prosecuting or defending any claims, suits, applications and proceedings before any Court, Fair Work Australia or other relevant tribunal in the interests of BSCAA NSW members.

3.15 Acquiring by purchase, taking on any lease or otherwise acquiring lands and buildings and all other property, real or personal, and any interest therein which the Executive Committee may from time to time think proper to acquire and to re-sell, lease or sub-let, surrender, turn to account or dispose of such property or any part thereof and to erect on any such property any buildings and to alter, add to and maintain any buildings erected upon such property.

3.16 Selling, improving, maintaining, managing, exchanging, leasing, mortgaging, disposing of, turning to account or otherwise dealing with any part of the property and rights of BSCAA NSW.

3.17 Raising and borrowing money in such manner and upon such security (if any) as the Executive Committee shall think fit and in particular upon the security of any mortgage or mortgages of all or any part of BSCAA NSW’s property and rights (both present and future) or by the issue of debentures charged or not upon all or any part of BSCAA NSW’s property and rights (both present and future) and generally with such rights and upon such terms and conditions in all respects as the Executive Committee shall consider fit and to purchase, redeem or pay off any such securities and re-issue same.

3.18 Making, drawing, accepting, endorsing, discounting, executing and issuing promissory notes, bills of exchange, drafts, debentures and all or any negotiable or transferable instruments.

3.19 Investing and dealing with all moneys coming into the hands of BSCAA NSW and not immediately required upon such securities or otherwise in such manner as may from time to time be determined by the Executive Committee subject to these Rules.

3.20 Engaging such persons (on an employment or contracted basis) from time to time to assist BSCAA NSW in the performance of its functions in furtherance of its objectives.

3.21 Accepting, undertaking and executing any trust or gift which may be deemed to be in accordance with or which may further the objects of BSCAA NSW.

3.22 Entering into contracts and agreements on behalf of BSCAA NSW and BSCAA NSW members in the interests of BSCAA NSW members.

3.23 Doing any act matter or thing which may appear to the Executive Committee to be in the interests of BSCAA NSW members or which is incidental to any of the other objects set out in the Rules.

## 4. - INCOME AND PROPERTY

4.1 The sources from which the funds of BSCAA NSW are to be, or may be, derived are subscriptions from BSCAA NSW members in accordance with these Rules, donations, payments made to BSCAA NSW for the provision of services, payments received from BSCAA National and payments made to BSCAA NSW to further the objects of BSCAA NSW and, subject to any resolution passed by BSCAA NSW in general meeting, such other sources as the Executive Committee determines from time to time.

4.2 The income and property of BSCAA NSW shall be applied solely towards the promotion of the objects of BSCAA NSW and no part thereof shall be paid or transferred directly or indirectly by way of dividend, bonus or otherwise howsoever by way of profit to BSCAA NSW members provided that nothing in these Rules shall prevent the payment in good faith or due to operation of law such remuneration to any Officer or employee of BSCAA NSW or to any person in return for any services provided or goods sold to BSCAA NSW nor prevent the payment of any expenses incurred on behalf of BSCAA NSW or interest on money borrowed from or lawfully due to any member of BSCAA NSW.

## 5. - MEMBERSHIP OF BSCAA NSW

The following Rules in relation to BSCAA NSW members are subject to the requirements of the Act and specifically Chapter 6 of said Act. These Rules recognise the effect of section 166(6) of the Act.

5.1 (a) The members of the Division shall consist of:

(i) persons who employ labour in the business, industry or calling of building services contracting, including but not limited to cleaning, security, ground maintenance, pest management and waste management; and

(ii) Consultants actively operating in the building services industry.

(b) Companies operating in more than one State or Territory may join other divisions of BSCAA National but shall not be required under these Rules to do so.

5.2 Every application for membership shall be in writing signed by or on behalf of the applicant and shall be lodged at the Registered Office. The application for membership of BSCAA NSW shall be in such form as approved by the Executive Committee from time to time.

5.6 All applicants for membership of BSCAA NSW must be informed in writing by BSCAA NSW:

(a) the financial obligations arising from membership of BSCAA NSW.

(b) the circumstances, and the manner, in which a member may resign from the membership of BSCAA NSW.

5.7 At the next Executive Committee meeting after the lodgement of an application for membership the Executive Committee shall either admit the applicant as a BSCAA NSW member, reject the application or hold an applicant's nomination for further consideration subject to any requirements of the Act.

5.8 As soon as practicable after the Executive Committee has made the determination referred to in rule 5.7, the Executive Director must:

(a) notify the applicant in writing that the Executive Committee approved or rejected the nomination or is holding the applicant’s nomination pending further consideration (whichever is applicable); and

(b) if the Executive Committee approved the application, request the applicant to pay (within the period of 28 days after receipt by the applicant of the notification) the sum payable under these Rules by a BSCAA NSW member as a subscription fee (in accordance with rule 7.1).

5.9 If and when the Executive Committee shall admit any applicant to membership the applicant shall become a member of BSCAA NSW upon paying the fees as directed by the Executive Committee in accordance with these Rules within the period referred to in rule 5.8(b).

5.10 The secretary shall, after the admission of a BSCAA NSW member pursuant to these Rules, update the register of members.

5.11 Having regard to the obligations under section 169 of the Act, BSCAA NSW shall, at the request of a person who is a BSCAA NSW member, give to the person, within 28 days after the request is made, a statement showing:

(a) that the person is a BSCAA NSW member;

(b) where there are categories of membership of BSCAA NSW – the category of the person’s membership; and

(c) if the person expressly requests – whether the person is a full financial member of BSCAA NSW.

## 6. - REPRESENTATION OF MEMBERS

6.1 A BSCAA NSW member who is not an individual may by notice in writing lodged at the Registered Office appoint a representative and an alternate representative to act for the member in general meetings and proceedings of BSCAA NSW and may by like notice from time to time remove any such representative or alternate representative and appoint another (or others) in his (or their) place.

6.2 Representatives and alternate representatives must be individuals but need not themselves be BSCAA NSW members.

6.3 A representative shall have all the rights and privileges of a BSCAA NSW member under these Rules (except the power of appointing a representative under this Rule) and shall be eligible to hold an Office in the same way as an individual BSCAA NSW member.

6.4 An alternate representative may exercise all the rights and privileges of a representative but may not do so if the representative wishes to exercise such rights. The Executive Committee may accept an oral or written representation of an alternate representative that he is entitled to exercise the rights and privileges of a representative when the representative has not given written notice to BSCAA NSW that he does not wish the alternate representative to take his place.

## 7. - SUBSCRIPTIONS

7.1 The annual subscriptions payable by BSCAA NSW members shall be as directed from time to time by the Executive Committee. Such amounts shall be payable to BSCAA NSW and forwarded to the Registered Office. The annual subscription fees shall not exceed $50,000 per annum.

7.2 Before admission to membership of BSCAA NSW a person shall pay the applicable first annual subscription fee.

7.3 All subsequent annual subscriptions (by way of renewal of membership) shall be due and payable on the anniversary date of the Member.

7.4 A Member is not regarded as a Member under these Rules where the Member fails to pay the annual subscriptions contemplated under these Rules by the Member’s Anniversary date.

## 8. - LEVIES

8.1 Subject to these Rules, should circumstances arise so affecting the common interests of members or a particular part of the membership that special funds are necessary to protect such interests the funds may be levied on the members in the following manner:

8.1.1 The Executive Committee may resolve to levy an amount not exceeding $1,000.00 or the amount of a member’s annual subscription, whichever is the lesser; and

8.1.2 a special general meeting may be convened to consider the matter with a view to determining what action shall be taken, including the imposition of a levy in accordance with rule

8.2 The special general meeting referred to in rule 8.1.2 may impose on members or any of them a levy not exceeding in any one year the amount of annual subscription payable respectively by each member.

8.3 Any resolution of the Executive Committee to impose a levy in accordance with rule 8.1.1 and any resolution of a special general meeting to impose a levy in accordance with rule 8.2 shall be binding upon all members affected thereby and the amount of such levy shall be recoverable by the Division as a debt due in accordance with these Rules.

8.4 Notwithstanding the provisions of this rule, no levy may be imposed for political objects and no donation or other payment for political objects is to be made out of amounts levied by the Division unless:

(a) a separate fund is established for the purpose of imposing such levies and the making of such donations or other payments; and

(b) contributions raised from members by any such levy are to be voluntary and no member may be required against his will to make any such contribution. No such contribution shall be accepted unless accompanied by a statement signed by the member which confirms that the contribution is being made for political objects and is being given voluntarily by the member. Contributions are to be applied only to the purpose for which they were raised, unless the members making the contributions agree to some other application; and

(c) the Executive Committee approves the imposing of each such levy and the making of each such donation or payment and satisfies itself that the imposing of each such levy and the making of each such donation or other payment out of the amounts levied is in accordance with the other rules.

The provisions of this rule 8.4 do not apply to donations or other payments made to a charity registered, capable of being registered or exempted from registration under the Charitable Fundraising Act, 1991 (NSW).

## 9. - RESIGNATION OF MEMBERSHIP

9.1 A BSCAA NSW member may resign from membership by written notice addressed and delivered to the Executive Director.

9.2 Where a BSCAA NSW member ceases to be eligible to become a member of BSCAA NSW a notice of resignation of membership takes effect on whichever of the following is later:

(a) on the day the notice is received by BSCAA NSW; or

(b) on the day specified in the notice of resignation, which is a day not earlier than the day when the BSCAA NSW member ceases to be eligible to become a BSCAA NSW member.

9.3 Where a BSCAA NSW member resigns membership for reasons other than set out in Rule 9.2 notice of resignation takes effect on whichever of the following is later:

(a) at the end of 2 weeks after the notice is received by BSCAA NSW; or

(b) on the day specified in the notice.

9.4 Any dues payable but not paid by a former BSCAA NSW member in relation to a period before that former BSCAA NSW member’s resignation from BSCAA NSW took effect, may be sued for and recovered in the name of BSCAA NSW in a court of competent jurisdiction, as a debt due to BSCAA NSW.

9.5 A notice delivered to the Executive Director is taken to have been received by BSCAA NSW when it was delivered.

9.6 A notice of resignation that has been received by BSCAA NSW is not invalid because it was not addressed and delivered in accordance with Rule 9.1.

9.7 A resignation from membership of BSCAA NSW is valid even if it is not effected in accordance with these Rules if the BSCAA NSW member is informed in writing by or on behalf of BSCAA NSW that the resignation has been accepted.

## 10. - DISCIPLINE OF MEMBERS

10.1 If it is alleged by any person that any of the following circumstances do or may apply to a member then the Executive Committee shall have the powers stated in this rule:-

(a) bankruptcy, insolvency, making an assignment for the benefit of its creditors, attempting to take the benefit of any statutory provision relating to the administration, receivership or liquidation of part or all of its business, the appointment of a receiver or administrator over part or all of its business, liquidation, whether voluntary or compulsory;

(b) conviction of a criminal offence punishable by imprisonment (otherwise than in default of payment of a fine);

(c) infringement of any of these Rules, breach of any Code of Practice of BSCAA NSW or any by-law or order of the Executive Committee;

(d) failure to pay any fee, subscription, levy or other amount payable to BSCAA NSW including, without limitation, for services rendered by BSCAA NSW, within 1 month after it is due subject to any other agreed arrangements;

(e) commission of any act, proceeding or practice which the Executive Committee considers to be dishonourable or to be inconsistent with its position as a member or which brings discredit on BSCAA NSW or is otherwise contrary to its interests or if, in the opinion of the Executive Committee, the interests of BSCAA NSW require that a BSCAA NSW member should no longer be a member.

10.2 The Executive Committee shall have authority to require that BSCAA NSW member to submit a written explanation of the relevant circumstances. Such a requirement shall be notified to that BSCAA member in writing and shall detail the relevant circumstances and the latest date by which a response is required. The Executive Committee, at a meeting of which at least 7 days’ notice in writing shall have been given to that BSCAA NSW member, shall further give that member a full and reasonable opportunity to submit an explanation of its alleged relevant circumstances and to correct or contradict any relevant allegations involving that BSCAA NSW member.

10.3 The Executive Committee shall, at or following the meeting referred to in rule 10.2, have the power to reject the allegations against the BSCAA NSW member, reprimand, suspend on such terms as to reinstatement of membership as may be determined by the Executive Committee or expel the member. The Executive Committee shall give reasons for its decision if requested by the BSCAA NSW member.

10.4 A decision to expel a BSCAA NSW member must be agreed to by a majority vote of the Executive Committee at a duly convened meeting of the Executive Committee.

10.5 The decision of the Executive Committee is final and there is no right of a BSCAA NSW member to an appeal under these Rules. The Executive Committee may, but is under no obligation to, review its decision at a later date and may amend it. For the avoidance of doubt this rule 10.5 does not seek to interfere with the operation of section 167 of the Act in relation to applications to the Federal Court.

10.6 If a BSCAA NSW member subject to this disciplinary procedure is an Officer or has a representative or alternate representative who is an Officer that Officer shall not take part in any discussions on, shall not vote on and shall not be counted in the quorum in respect of that matter.

10.7 An expelled (former) BSCAA NSW member shall be eligible for re-admission to BSCAA NSW at the discretion of the Executive Committee or by a resolution of members in general meeting.

10.8 The suspension or expulsion of a BSCAA NSW member shall not relieve them from any accrued liability, subject to the Act.

## 11. - CESSATION OF MEMBERSHIP

11.1 A persons ceases to be a BSCAA NSW member if the person:

(a) dies;

(b) resigns their membership;

(c) is expelled from BSCAA NSW;

(d) otherwise ceases to be a BSCAA NSW member.

11.2 Subject to the Act, the resignation of a BSCAA NSW member or the suspension or expulsion of a BSCAA NSW member does not affect the right of BSCAA NSW to recover any fees, subscriptions, levies or other amounts due from the member, nor does it relieve the BSCAA NSW member of any accrued liabilities and does not entitle the BSCAA NSW member to any refund of any fees, subscriptions, levies or other amounts paid by the BSCAA NSW member to BSCAA NSW.

11.3 For the avoidance of doubt resignation of a BSCAA NSW member from the Association (if the BSCAA NSW member is also a member of the Association) shall not constitute a resignation under these Rules of BSCAA NSW, which resignation can only be effected in accordance with these Rules subject to the Act.

11.4 Following the cessation of a BSCAA NSW member’s membership under these Rules:

(a) the register of BSCAA NSW members shall be updated;

(b) the Executive Director shall where requested by the former BSCAA NSW member, notify the Association’s executive officer of the cessation of membership.

11.5 Within 28 days after:

(a) the business, or part of the business, of a member is assigned or transferred to a person who is not a member; or

(b) such a person succeeds to the business, or part of the business, of a member, the member is required to notify BSCAA NSW of the assignment, transfer or succession.

11.6 After receiving a notification under rule 11.5, the secretary shall cause the register of members to be updated and the Executive Committee shall take whatever action it deems necessary in respect of the changed membership position.

## 12. - MEMBERSHIP ENTITLEMENTS NOT TRANSFERABLE

A right, privilege or obligation which a person has by reason of being a BSCAA NSW member:

(a) is not capable of being transferred or transmitted to another person; and

(b) terminates on cessation of the person’s membership.

## 13. - GENERAL MEETINGS

13.1 General meetings of BSCAA NSW members other than the annual general meeting shall be called special general meetings which shall be held from time to time as may be directed by the Executive Committee or the President, or the Secretary shall convene a meeting of the members of the organisation within 28 days upon receipt of a written request signed by no less than 5% of the membership calling for a General Meeting for the purposes of considering the auditor’s report, the general purpose financial report and the operating report, or for the purpose of reviewing decisions of the Executive Committee.

13.2 The annual general meeting shall be held in each year during such month as the Executive Committee may direct, but the interval between annual general meetings shall be no longer than 15 months, at which meeting a report from the Executive Committee and the financial statements of BSCAA NSW duly audited shall be laid before the meeting. The annual general meeting shall transact any business of which due notice shall have been given. If any elections for Officers have been concluded since the previous annual general meeting, the successful candidates will be reported to the annual general meeting.

13.3 At least 14 days' notice of the annual general meeting shall be given to BSCAA NSW members and at least 7 days' notice of special general meetings shall be given to BSCAA NSW members.

13.4 The notice of a general meeting shall specify the place, the day and the hour of the meeting and shall state the general nature of the business to be transacted at the meeting but the meeting may by resolution agree to discuss any other matter it wishes.

13.5 The accidental omission to give notice of a meeting or the non-receipt of notice of a meeting by any BSCAA NSW member shall not invalidate the proceedings at any meeting.

## 14. - PROCEEDINGS AT GENERAL MEETINGS

14.1 No business shall be transacted at any general meeting unless a quorum of BSCAA NSW members entitled under these Rules to vote is present at the time when the meeting proceeds to business.

14.2 For the purpose of determining whether a quorum is present, a person attending as a proxy, representative, alternate representative or attorney shall be deemed to be a BSCAA NSW member.

14.3 If a quorum is not present within half an hour from the time appointed for the meeting:

(a) where the meeting was convened upon the requisition of BSCAA NSW members — the meeting shall be dissolved; or

(b) in any other case, the meeting stands adjourned to such day, and at such time and place, as the Executive Committee determines and if at the adjourned meeting a quorum is not present the meeting shall be dissolved.

14.4 The quorum at any general meeting is 6 members (being BSCAA NSW members entitled under these Rules to vote at a general meeting) present in person or by proxy, representative, alternate representative or attorney.

14.5 The chairman may with the consent of any meeting at which a quorum is present adjourn the meeting from time to time and from place to place. Unless a meeting is adjourned for 30 days or more, it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting. If such notice is given then the notice shall be given as in the case of an original meeting. No business is to be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.

14.6 At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded:

(a) by the chairman; or

(b) by at least 5 BSCAA NSW members present in person or by representative, alternate representative, attorney or proxy.

14.7 Unless a poll is so demanded, a declaration by the chairman that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of BSCAA NSW, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution. Subject to the Act and these Rules, resolutions of BSCAA NSW in general meeting shall be made by a simple majority of those voting.

14.8 The demand for a poll may be withdrawn.

14.9 If a poll is duly demanded, it shall be taken in such manner and either at once or after an interval or adjournment or otherwise as the chairman directs, and the result of the poll shall be the resolution of the meeting at which the poll was demanded, provided that a poll demanded on the election of a chairman or on a question of adjournment shall be taken forthwith.

14.10 At meetings of members each member entitled to vote may vote in person or by proxy or attorney and in the case of BSCAA NSW members who are not individuals, representative, alternate representative, proxy or attorney. On a show of hands and on a poll every person present who is a BSCAA NSW member (whether present in person or by representative, alternate representative, attorney or proxy) has 1 vote. In the case of an equality of votes on any question at a general meeting, the chairman shall have a second or casting vote.

14.11 A BSCAA NSW member is not entitled to attend or vote (whether personally or by proxy, attorney, representative or alternate representative) at a general meeting unless all sums presently due and payable by it to BSCAA NSW.

14.12 An objection may be raised to the qualification of a voter only at the meeting or adjourned meeting at which the vote objected to is given or tendered. Any such objection shall be referred to the chairman of the meeting, whose decision is final. A vote not disallowed pursuant to such an objection is valid for all purposes.

14.13 Each BSCAA NSW member is entitled to appoint another member or – where that other BSCAA NSW member is not an individual – an individual representative of that other member entity, as proxy in accordance with the following provisions.

14.14 An instrument appointing a proxy shall be in writing under the hand of the appointer or of his attorney duly authorised in writing or, if the appointer is a body corporate, either under seal or under the hand of an officer or attorney duly authorised (or as otherwise permitted by the Corporations Act, 2001).

14.15 An instrument appointing a proxy may specify the manner in which the proxy is to vote in respect of a particular resolution and, where an instrument of proxy so provides, the proxy is not entitled to vote on the resolution except as specified in the instrument. An instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.

14.16 An instrument appointing a proxy shall be in the form set out in Appendix 1 to these Rules or in such other form that is approved by the Executive Committee from time to time.

14.17 An instrument appointing an attorney or proxy shall not be treated as valid unless the instrument and the power of attorney or other authority (if any) under which the instrument is signed or a notarially certified copy of that power of attorney or other authority (if any) is or are deposited (including, in addition to mail, courier and hand delivery, by such further means as may be specified in the instrument appointing a proxy) - no later than 5.00 p.m. on the day before the meeting or adjourned meeting at which the person named in the instrument proposes to vote - at the Registered Office or at such other place in New South Wales as is specified for that purpose in the notice convening the meeting.

14.18 A vote given in accordance with the terms of an instrument of proxy or a power of attorney is valid notwithstanding the previous death or unsoundness of mind of the principal, the revocation of the instrument (or of the authority under which the instrument was executed) or of the power, if no intimation in writing of the death, unsoundness of mind, or revocation has been received by BSCAA NSW at the Registered Office before the commencement of the meeting or adjourned meeting at which the instrument is used or the power is exercised.

14.19 At the discretion of the Executive Committee or the members at a general meeting a postal vote may be conducted amongst members on any issue. Ballot papers shall be mailed to all members and not less than 14 days shall be allowed for the return of ballot papers. The Executive Director shall prepare and have circulated to all members a statement of the facts relating to the question to be put to the vote and shall set down the motion calling for the vote together with a statement by the mover in favour of the motion and a statement from an opponent against the motion, if any, each being of reasonable length.

## 15. - ELIGIBILITY OF PERSONS FOR OFFICE

15.1 Subject to these Rules and the Act, individual members, representatives and alternate representatives shall be eligible to hold an Office.

15.2 Neither individual members, representatives nor alternative representatives shall be eligible to hold the Office of President unless such person has served as an Officer for at least one year in the preceding five years.

15.3 Neither individual members, representatives nor alternate representatives shall be eligible, and shall cease to be eligible, to hold any Office:

(a) if such person is or becomes bankrupt or enters into any composition with his creditors or becomes an insolvent under administration within the meaning of the Corporations Act, 2001;

(b) if such person is or becomes a mental patient, a lunatic or of unsound mind;

(c) if such person has been or is convicted of any criminal offence punishable by imprisonment (other than imprisonment in default of payment of a fine);

(d) if such person is absent without leave of absence from 3 consecutive Executive Committee meetings and the Executive Committee resolves that such person cease to hold Office;

(e) if such person, being an individual member, ceases to be a BSCAA NSW member, or the BSCAA NSW member in respect of which the Officer is a representative or an alternate representative ceases to be a BSCAA NSW member, or such individual ceases to be the representative or alternate representative of a BSCAA NSW member, and fails within 1 month to be appointed as the representative or alternate representative of another BSCAA NSW member; or

(f) if such person is employed by, represents or is an officer of, the same company or group as a person already holding an Office and rule 15.5 would be breached as a result.

15.4 Notwithstanding the provisions of this clause, the Executive Director shall be appointed by the Executive Committee for such term and on such conditions as are determined by agreement between the Executive Committee and the Executive Director from time to time. The Executive Director shall be an individual but need not be a BSCAA NSW member, a representative or an alternate representative.

15.5 Under no circumstances can more than 2 individuals, whether Executive Committee Members or other Officers, who are employed by, are officers of or represent, the same company or group, hold a position on the Executive Committee.

## 16. - ELECTION OF OFFICERS

16.1 The Rules in relation to elections of Officers are intended to reflect and meet the requirements of the Act and Regulations.

**Timing of elections**

16.2 Elections for the Offices are to be held biennially.

16.3 The returning officer shall not be a holder of any Office in, or an employee of BSCAA NSW (or any branch, section or division of BSCAA NSW).

16.4 Elections for each Office shall be conducted by the Australian Electoral Commission (AEC) in accordance with the (federal) Act and these Rules. This Rule is intended to reflect the relevant provisions in the Federal legislation at section 182. Where elections are to be conducted prior to the Federal Registration Date the elections are to be conducted in accordance with the relevant State legislative provisions.

16.5 If the Association obtains an exemption from the conduct of election for any Office by the AEC, the Executive Committee shall appoint a returning officer to conduct the election for the exempted Offices at least 10 weeks prior to the annual general meeting in an election year.

**Voting method**

16.6 Officers are all to be elected by secret postal ballot by the members using the “first past the post” system, which is a direct voting system within the meaning of the Act.

**Eligibility of BSCAA NSW members to vote**

16.7 In spite of anything else contained in these Rules, a person is eligible to vote in a ballot if they are, on Close of Roll Day, a financial BSCAA NSW member.

**Duties of returning officer**

16.8 The returning officer may, in spite of anything in the Rules but subject to the Act, take such action and give such directions as the returning officer considers necessary to ensure that no irregularities occur in or in relation to the election, to remedy any procedural defects that appear to the returning officer to exist in the rules, or to ensure the security of ballot papers and envelopes used in the election.

16.9 The returning officer’s duties shall include:

(a) Conducting the election in accordance with the Rules and the Act.

(b) Preparing and circulating a notice advising BSCAA NSW members of the election and calling for nominations. This notice shall:

(i) state that the election is being conducted by the returning officer.

(ii) list the Offices for which nominations are sought;

(iii) invite nomination for election from all eligible persons;

(iv) fix the time and date for the opening and closing of nominations;

(v) fix the time and date for the opening and closing of the ballot;(vi) specify the place at or manner in which nomination forms may be obtained;

(vii) specify the place at or manner in which nominations must be lodged;

(viii) specify the accepted method/s of lodgement;

(ix) fix a time and date for withdrawal of nominations;

(x) if applicable, specify other documentation required to be submitted with the nomination;

xi) specify the qualifications (if any) needed by candidates in the election and by a person nominating a candidate;

xii) fix the time and date for the close of the roll in the election.

(c) Arranging for the nomination of candidates (including considering the nominations after the nomination period has closed and accepting nominations that satisfy the Rules and rejecting nominations that do not satisfy the Rules).

**Scrutineers**

16.10 Each candidate may appoint, in writing, one person as scrutineer to represent the candidate’s interests in the conduct of the ballot. A scrutineer shall not be a candidate for any position which is also included in a ballot in the election. The candidate may appoint one or more substitute scrutineers, if required. A scrutineer may be present at any stage in the ballot.

**Nominations**

16.11 Each BSCAA NSW member’s eligibility to participate as a nominee or nominator shall be determined as at the close of nominations.

16.12 A nominee for any Office must be a financial member.

16.13 A nominee must be nominated by one (1) nominator.

**Holding more than one office**

16.14 No person may hold simultaneously more than one of the Offices of BSCAA NSW. Where in any election a person nominates for more than one office that cannot be held simultaneously, the person shall, before the closing time for the receipt of nominations withdraw all necessary nominations so that only one such nomination remains with the returning officer.

16.15 Where a BSCAA NSW member holding any Office is elected to an Office the BSCAA NSW member cannot hold simultaneously with the Office currently held, then the BSCAA NSW member is deemed to have relinquished the Office already held. The ensuing vacancy shall be filled by appointment or election in accordance with the rules concerning casual vacancies.

**Defective nominations**

16.16 If the returning officer conducting the election finds a nomination to be defective the returning officer must, before rejecting the nomination, notify the person concerned of the defect and, where practicable, give the person the opportunity of remedying the defect within a period of 7 days after the person is notified (where practicable). This Rule does not apply in circumstances in which a returning officer has found a nomination to be defective for reason that the nominated person is not qualified to hold the Office to which the nomination relates.

**Withdrawal of nominations**

16.17 A member nominating for any office may withdraw the nomination by notice in writing to the returning officer at any time before the closing time for the receipt of nominations.

**Uncontested elections**

16.18 If, after the close of nominations, the number of valid nominations received for an Office does not exceed the number of positions to be filled, the returning officer shall declare elected the person or persons nominated.

**Roll of Voters**

16.19 The only persons eligible to appear on the roll of voters in a ballot are those persons who, on Close of Roll Day, are financial members of BSCAA NSW. Close of Roll Day shall be 7 days before the day on which nominations for the election open.

16.20 The returning officer shall request the prescribed officer to supply the name and postal address of every BSCAA NSW member eligible to vote at an election, and where applicable legislation requires, residential addresses. The returning officer may also request the prescribed officer to supply additional information which does not form the roll of voters but is to be used to ensure no irregularity occurs, and to supply the information in electronic form. The prescribed officer shall comply with such a request.

16.21 The prescribed officer must take all reasonable steps to ensure the listings supplied to the returning officer contain, where practicable, each eligible member’s residential or other postal address rather than workplace address.

**Absent Voting**

16.22 Any member who is entitled to vote at any election held under these rules and who will be absent from their usual address during the period in which the ballot is to be conducted, may apply to the returning officer for ballot material to be sent to another address that the member so nominates.

16.23 Notification to the returning officer shall be in a form acceptable to the returning officer and shall set out the member’s name and usual address and the address to which the member elects to have ballot material sent.

16.24 Where a returning officer receives a request for an absent vote made in the form described in this rule, the returning officer shall comply with that request.

**Ballots**

16.25 The returning officer shall conduct a secret postal ballot of members entitled to vote. The returning officer may include a number of ballots on the same ballot paper.

16.26 The following features shall appear on all ballot papers prepared in respect of a secret postal ballot for an election for office:

(a) the name of the organisation

(b) the initials of the returning officer or other authenticating mark

(c) the name and number of Office/s to be filled

(d) instructions for marking the ballot paper

(e) the names of the candidates in the format and order required by these rules

(f) instructions for returning the ballot paper

(g) name of the returning officer

(h) any other instruction considered necessary by the returning officer

16.27 The returning officer shall arrange for the printing of ballot papers and distribution to members eligible to vote.

16.28 The ballot papers shall contain the names of the candidates with the surname first followed by the given name or names (as applicable legislation requires). No other candidate information will be printed on the ballot paper.

16.29 The order of names in each ballot on the ballot paper shall be determined by lot drawn by the returning officer.

**Postal facilities for ballot material**

16.30 The returning officer shall, for the purpose of receiving ballot material in respect of a ballot, use a private box or other secure postal facility at a post office or mail centre. Access to the private box mentioned in this rule shall be limited to

(a) persons authorised by Australia Post,

(b) the returning officer, and

(c) persons authorised in writing by the returning officer.

**Issue of ballot material**

16.31 On or before the opening day of the ballot the returning officer shall forward ballot material in a sealed envelope by prepaid post to each person on the roll of voters at the address shown on the roll of voters.

16.32 Ballot material shall include:

(a) one or more ballot papers showing the time and date of the close of the ballot,

(b) a Reply Paid envelope addressed to the private box referred to in this rule, being an envelope that may be posted without expense to the voter,

(c) an inner ‘Declaration Envelope’ as prescribed by the Act, suitable for containing the ballot paper/s.

**Replacement ballot material**

16.33 Where a member whose name is on the roll of voters claims that the ballot material has not been received or has been lost, destroyed or spoilt, the member may make an application to the returning officer for the issue of replacement ballot material. Scrutiny

16.34 During the course of the ballot the returning officer may collect returned envelopes from the private post box and keep them in safe custody until the commencement of the scrutiny. The returning officer shall make a final clearance of returned envelopes so that all envelopes received by the returning officer prior to the closing time for the ballot are admitted to the scrutiny. No envelopes returned after the close of the ballot shall be admitted to the scrutiny.

**Preliminary scrutiny of envelopes**

16.35 The returning officer shall conduct a preliminary scrutiny of returned declaration envelopes.

**Scrutiny of ballot papers**

16.36 When the returning officer has determined which declaration envelopes are accepted for the count, the declaration section of each envelope is detached and removed so that the envelope can no longer be identified. Each envelope shall then be opened and the ballot papers extracted to be counted. The returning officer may determine which ballot papers are informal.

**Declaration of results**

16.37 The returning officer shall declare the result of the election within fourteen days of the closing day of the ballot by giving notice of the result in writing to the President. The returning officer shall declare other information as determined by the returning officer.

## 17. - TERMS OF OFFICE

17.1 The Offices of President, Vice-President, and Executive Committee Members are each to be elected for a two year term which expires when their successors are elected and take Office. The term of Office for successful candidates will commence from the date of the declaration of the result of the election.

17.2 There shall not be an Office of Past-President. This Rule takes effect on the Federal Registration Date and reflects the requirement under the (Federal) Act that Officers are to be democratically elected.

17.3 A person holding an Office shall be eligible for re-election to that Office or for election to another Office at the expiry of his term in Office. A person holding an Office at the end of the term in Office shall be required to submit a nomination to the returning officer conducting the election and the returning officer shall deal with that nomination in the same way as any other nomination (subject to these Rules and the Act).

## 18. - ROLE OF OFFICERS AND EXECUTIVE DIRECTOR

**President and Vice President**

18.1 The President shall take precedence over all other BSCAA NSW members in all official dealings on behalf of BSCAA NSW. The President shall be entitled to take the chair when present at any meeting of BSCAA NSW members or meeting of the Executive Committee and shall have a casting vote in addition to his own in all cases of equality of voting on any question. He shall be ex-officio a member of any committees of BSCAA NSW during his term in Office.

18.2 Subject to these Rules, the President shall be responsible for administering the day-to-day affairs of BSCAA NSW.

18.3 The Vice-President, if the President is not present within 10 minutes after the time appointed for the holding of a meeting or if at any such meeting the President although present does not desire to act as chairman, shall be entitled to take the chair but should the Vice-President not be present at such time then the meeting shall elect a chairman from one of the persons present. The Vice-President or other chairman of a meeting shall in such circumstances be entitled to have a casting vote in addition to his own in all cases of equality of voting on any question.

18.4 The Vice-President shall also be the secretary of BSCAA NSW and shall be entitled to sign all documentation on behalf of BSCAA NSW as either Vice-President or secretary, but shall not be allowed to sign any documentation in both such capacities.

18.5 The secretary shall have the custody of all books (including the register of members), documents and securities of BSCAA NSW and shall be responsible for their safe custody. The secretary shall keep or shall cause to be kept minutes of all Executive Committee and other meetings. The secretary shall be responsible for keeping the registers prescribed by the Act and shall keep proper accounting records to enable the audit of BSCAA NSW’s accounts by the auditors.

18.6 Subject to these Rules, the additional or specific roles of all Officers shall be determined by the Executive Committee from time to time.

18.7 Minutes of proceedings at a meeting must be signed by the chairman of the meeting or by the chairman of the next succeeding meeting.

**Executive Director**

18.8 The Executive Director shall only be entitled to participate in the management of the financial or other affairs of BSCAA NSW, the enforcement of these Rules or the performance of functions in relation to the enforcement of these Rules in accordance with directions given by the Executive Committee or an Officer for the purpose of implementing existing policy or decisions concerning BSCAA NSW. The Executive Director shall be entitled to attend and speak at all Executive Committee or other committee meetings (but shall not be entitled to vote at such meetings) and shall be entitled to appoint staff and engage with such contractors as the Executive Director considers necessary for the effective functioning of BSCAA NSW and the furtherance of BSCAA NSW’s objects. The Executive Director shall be entitled to appoint staff and/or consultants to BSCAA NSW, with the remuneration and/or other conditions of appointment of such persons to be approved by the Executive Committee.

18.9 The Executive Director will be responsible to the President for day-to-day administration regarding membership and financial matters.

18.10 The Executive Director shall forward to BSCAA NSW members such notices or communications as the Executive Director considers necessary having regard to these Rules and the Act.

18.11 Within 7 days of holding of any meeting of BSCAA NSW or any committee thereof, the Executive Director shall forward to the President a copy of the minutes of such meeting.

## 18A. - FINANCIAL MANAGEMENT TRAINING

Within six months after beginning to hold an office, each Officer of the Division whose duties include financial duties must complete training that:

a) has been approved by the General Manager under section 154C of the *Fair Work (Registered Organisations) Act 2009*; and

b) covers each of the Officer’s financial duties.

## 19. - POWERS OF THE EXECUTIVE COMMITTEE

19.1 From the conclusion of the scheduled election in 2024 the Executive Committee shall consist of the President, the Vice-President, and 4Executive Committee Members elected pursuant to these Rules. Members elected or appointed to the Executive Committee in 2023 will continue to hold office until the conclusion of the scheduled election in 2024.

19.2 Subject to the Act and to any other provision of these Rules, the affairs of BSCAA NSW shall be managed by the Executive Committee which may exercise all such powers of BSCAA NSW as are not, by the Act or by these Rules, required to be exercised by BSCAA NSW in general meeting, subject to any regulation or direction which is made by BSCAA NSW in general meeting.

19.3 Subject to these Rules and the Act, the powers of the Executive Committee shall include but is not limited to the following:

(a) the power to control all of the property BSCAA NSW and the investment of its funds;

(b) the power to prescribe the conditions under which BSCAA NSW funds may be spent;

(c) the power to manage BSCAA NSW’s funds, including the power to authorise which persons may be signatories to cheques drawn on behalf of BSCAA NSW provided that at least 2 persons shall be required to sign all such cheques;

(d) the power to appoint, suspend or remove the Executive Director, the auditor or any employee of BSCAA NSW and to prescribe the duties and to agree the remuneration of such persons;

(e) the power to form branches of BSCAA NSW in the cities and towns of New South Wales;

(f) the power to invest any monies not immediately required (including monies paid to BSCAA NSW for specific purposes) in such investments as the Executive Committee shall determine and the power to vary such investments from time to time at its discretion;

 (g) the power to make, alter and rescind by-laws and regulations which are not inconsistent with these Rules for the good management and effective working of BSCAA NSW, provided that such by-laws and regulations, and alterations or rescissions to by-laws and regulations, shall become effective on the date appointed by the Executive Committee which shall be no earlier than the date that this power is exercised subject to these Rules and to a resolution of the Executive Committee to the contrary. The Executive Director shall circulate to all BSCAA NSW members within 28 days following the date of the Executive Committee resolution which makes, alters or rescinds by-laws or regulations, a notification of the new by-laws and regulations, the alteration or rescission and a brief summary of its material effect;

(h) the power to establish committees of BSCAA NSW consisting of such persons as the Executive Committee shall propose, provided that such committees shall only have the powers which the Executive Committee has delegated and a power so exercised shall be deemed to have been exercised by the Executive Committee.

(i) the power to alter or rescind these Rules in accordance with rule 36 and subject to any requirements in relation to alteration or amendment of Rules set out in the Act.

19.4 A resolution in writing signed by all the Officers for the time being in Australia (not being less than a quorum) shall be as valid and effectual as if it had been passed at a meeting of the Executive Committee duly called and constituted on the day on which, and at the time at which, the document was last signed by an Officer. Two or more separate documents containing statements in identical terms each of which is signed by one or more Officers shall together be deemed to constitute one document containing a statement in those terms signed by those Officers on the respective days on which they signed the separate documents.

19.5 All acts and resolutions of the Executive Committee or of another committee of BSCAA NSW, notwithstanding that it is afterwards discovered that there was some defect in the appointment of an Officer or a member of a committee, or that a person so appointed was disqualified, shall be as valid and effectual for all purposes as if all Officers and members of such committee had been duly appointed and were qualified to act, subject to the Act.

## 20. - LOANS, GRANTS AND DONATIONS

20.1 The Executive Committee has the power to make loans, grants or donations provided that such power may not be exercised (except where the amount involved is $1,000 or less) unless the Executive Committee has approved of the loan, grant or donation and has satisfied itself:

(a) that the making of the loan, grant or donation would be in accordance with the other Rules; and

(b) in the case of a loan - that, in the circumstances, the security proposed to be given for repayment of the loan is adequate and the proposed arrangements for the repayment of the loan are satisfactory.

20.2 Notwithstanding rule 20.1, the President may make a loan, grant or donation on behalf of BSCAA NSW using BSCAA NSW funds, up to a maximum of $3,000, to a member if the loan, grant or donation:

(a) is for the purpose of relieving the BSCAA NSW member or any of the BSCAA NSW member's dependants from severe financial hardship; and

 (b) is subject to a condition to the effect that if the Executive Committee, at the next meeting of the Executive Committee, does not approve the loan, grant or donation, it must be repaid as determined by the Executive Committee.

20.3 In considering whether to approve a loan, grant or donation made under this rule 20, the Executive Committee shall consider the matters referred to in section 149 (3) of the Act.

20.4 Nothing in this rule 20 applies to the provision of a loan, grant or donation in relation to payments made by BSCAA NSW by way of provision for, or reimbursement of, out-of-pocket expenses incurred by persons for the benefit of BSCAA NSW.

## 21. - VACATION OF OFFICE AND FILLING CASUAL VACANCIES

21.1 For the purposes of these Rules, a casual vacancy in an Office occurs and an Office shall be declared vacant by the Executive Committee if:

(a) the Officer resigns from Office in writing or dies;

(b) the Officer ceases to be eligible to hold Office in accordance with these Rules; or

(c) the Executive Committee duly resolves to remove the Officer from Office in circumstances where the Officer has been found guilty, under these Rules, of misappropriation of BSCAA NSW’s funds, a substantial breach of these Rules or gross misbehaviour or gross neglect of duty.

21.2 The Executive Committee may only exercise the power contained in rule 21.1(c) at a meeting convened to consider such a resolution. The Officer whose removal is being considered shall be given at least 7 days' written notice of the time and place of the meeting and the grounds upon which it is proposed to consider his removal. Such Officer shall be given the opportunity to attend and speak at such meeting provided that the meeting may consider the proposal in the absence of the Officer.

21.3 Subject to the provisions of the Act, a casual vacancy in an Office may be filled by ordinary election or in the circumstances set out at rule 21.4 by appointment by the Executive Committee.

21.4 A casual vacancy may only be filled by appointment of the Executive Committee if the unexpired term of the Office is 18 months or less (being three-quarters of the term of Office). If the period of the unexpired term is more than 18 months the Executive Committee shall cause an ordinary election to be held in respect of that vacant Office and that ordinary election shall be conducted by a returning officer in accordance with these Rules and the Act.

21.5 The Executive Committee may only appoint a person to fill a casual vacancy for the period of the unexpired term and the Executive Committee can only appoint a person to fill a casual vacancy if that person is eligible to hold Office under these Rules. Any person appointed by the Executive Committee to fill a casual vacancy shall be eligible for re-election subject to these Rules and the Act. Where a person is appointed to fill a casual vacancy the person shall take up that Office at the close of the meeting in which the Executive Committee passed the applicable resolution.

21.6 Where the Executive Committee appoints a person to fill a casual vacancy the person filling the vacancy shall be taken for the purpose of the Rules to have been elected to the Office.

21.7 Where a person has been elected to fill a casual vacancy the person shall take up Office immediately following the declaration of the results of the election.

## 22. - EXECUTIVE COMMITTEE PROCEEDINGS

22.1 The Officers may meet together as the Executive Committee for the dispatch of business and adjourn and otherwise regulate their meetings as they think fit including the conduct of meetings by telephone or video link.

22.2 The President, Vice-President or the Executive Director (on the requisition of 3 Officers), may convene an Executive Committee meeting.

22.3 The Executive Committee shall meet at least 6 times in each calendar year.

22.4 Subject to these Rules, questions arising at an Executive Committee meeting shall be decided by a majority of votes of Officers present and voting and any such decision shall for all purposes be deemed a decision of the Executive Committee. In the case of an equality of votes the chairman shall have a second or casting vote. Voting may be conducted by postal or electronic means if the Committee so agrees. Decisions of the Executive Committee are subject to review and overturning by the members in general meeting.

22.5 Unless otherwise required under these Rules, the quorum for an Executive Committee meeting is the number that is a majority of the Officers currently in office.

22.6 Each Officer shall make such disclosures of interest in relation to contracts or proposed contracts, and conflicts of interests with BSCAA NSW in accordance with the Act at Executive Committee meetings. An Officer shall be entitled to vote on any resolution where he has made a disclosure pursuant to this clause and the failure of an Officer to make a disclosure shall not invalidate a resolution of the Executive Committee.

22.7 In the event of a vacancy in an Office the remaining Officers may act but, if the number of remaining Officers is not sufficient to constitute a quorum at an Executive Committee meeting, they may act only for the purpose of increasing the number of Officers to a number sufficient to constitute such a quorum.

22.8 Subject to these Rules, each Officer shall have 1 vote at Executive Committee meetings.

22.9 No business is to be transacted by the Executive Committee unless a quorum is present.

22.10 The President may, at his or her discretion from time to time, invite person or persons he or she deems appropriate to attend any meeting of the Executive Committee or of any other committee or branch of BSCAA NSW.

22.11 For the avoidance of doubt an Officer that is not able to attend a meeting in person will be considered to be in attendance at the meeting if teleconferencing arrangements are in place. For the purposes of rule 22.4 an Officer can cast a valid vote where that vote is cast by means of teleconferencing or using similar technology.

## 23. - NOTICES

23.1 For the purposes of these Rules, a notice may be served on or given by BSCAA NSW to any BSCAA NSW member by personal service, by post, by facsimile or by email.

23.2 Unless the contrary is proved:

(a) notices sent by post shall be deemed to have been served on the following business day

(b) notices sent by facsimile shall be deemed to have been effected upon successful transmission.

(c) notices sent electronically shall be deemed to have been effected upon being sent.

23.3 A signature on any notice to be given by BSCAA NSW may be written or printed.

23.4 Where a given number of days' notice or notice extending over any other period is required to be given, the day of service shall be counted in such number of days or other period.

## 24. - PERSONS AFFILIATED

24.1 The Executive Committee may from time to time make such arrangements as it shall in its discretion determine, with respect to persons who seek to become affiliated with BSCAA NSW (but are not eligible to become members).

## 25. - INTERPRETATION

25.1 In the event of any question arising as to the interpretation or application of any of these Rules, such question shall be decided by the President who shall report his decision to the next meeting of the Executive Committee which shall have power of confirmation or revision.

25.2 The decision of the Executive Committee under rule 25.1 shall be final.

## 26. - BRANCHES

26.1 The Executive Committee shall have power to authorise the establishment and/or carrying on of branches, sub-branches or groups of branches for advisory purposes only on such terms and conditions as the Executive Committee may from time to time determine.

26.2 The constitution and rules of any branch, sub-branch or group of branches shall be approved by the Executive Committee before the branch, sub-branch or group of branches is formed and such constitution and rules shall not be altered, added to, rescinded or varied in any manner without the authority of the Executive Committee.

26.3 The Executive Committee shall have power at all times to take whatever action it considers advisable with respect to any branch, sub-branch or group of branches that takes any action or commits any deed in contravention of its own rules or these Rules.

26.4 Any dispute on any subject arising within any branch, sub-branch or group of branches or between any two branches, sub-branches or groups of branches shall be submitted to the Executive Committee for determination and the decision of the Executive Committee on any such matter shall be final.

26.5 The Executive Committee shall have full and complete control of the finances of any branch, sub-branch or group of branches and may dissolve any such branch, sub-branch or group of branches by resolution.

## 27. - SEAL

27.1 The Executive Committee shall adopt from time to time one or more official seals to be used for the execution of documents by BSCAA NSW where a seal is required.

27.2 The President shall have the safe custody of all of the seals.

27.3 The seal shall only be affixed to a document in the presence of at least 2 Officers and with the attestation by the signatures of those Officers of the fact of the affixing of the seal.

## 28. - INSPECTION OF RECORDS

28.1 A member has the right to inspect any books or documents of BSCAA NSW, free of charge, at any reasonable hour except those books and documents which the Executive Committee determines are of a confidential nature (other than the financial records of BSCAA NSW or as provided by the Act or authorised by the Executive Committee or by BSCAA NSW in general meeting).

## 29. - ADMINISTRATION OF BSCAA NSW FUNDS

29.1 The financial year of BSCAA NSW shall commence on 1 January in each year and end on the 31 December following.

29.2 BSCAA NSW shall:

(a) keep such accounting records as correctly record and explain the transactions and financial position of BSCAA NSW;

(b) keep its accounting records in such a manner as will enable accounts and statements to be prepared from them; and

(c) keep its accounting records in such a manner as will enable the accounts of BSCAA NSW to be conveniently and properly audited in accordance with these Rules.

29.3 As soon as practicable after the end of each financial year, BSCAA NSW shall:

(a) cause to be prepared from the accounting records kept under rule 29.2 in relation to the financial year, such accounts and other statements (in relation to the financial year) as the Executive Committee shall determine be prepared from time to time or which are otherwise required by the Act; and

(b) include in the accounts the relevant figures from the accounts prepared by BSCAA NSW in relation to the preceding financial year.

29.4 The accounts prepared pursuant to rule 29.3 will be audited annually in respect of each financial year by an auditor appointed by the Executive Committee for that purpose from time to time.

29.5 The auditor shall conduct an audit of BSCAA NSW’s books and records and shall prepare reports in accordance with the Act.

29.6 Subject to the contract between the auditor and BSCAA NSW the Executive Committee may dismiss the auditor for breach of contract or duty or for excessive cost at which time the position of auditor shall become vacant.

29.7 In the event of a vacancy occurring for any reason in the position of auditor, such vacancy shall be filled by an appointee of the Executive Committee.

29.8 The auditor shall, for audit purposes only, at all reasonable times have access to the books, minutes and accounts of BSCAA NSW. The Executive Director shall provide every reasonable assistance in connection with the provision of information, books and records to enable the audit to be conducted. The auditor shall be entitled to examine the Officers and employees of BSCAA NSW in connection with the audit and such persons shall provide such information or explanation to the auditor as may be necessary or proper.

29.9 Subject to rule 29.10, BSCAA NSW, by the Executive Committee, shall provide free of charge to BSCAA NSW members, upon request:

(a) a copy of the report of the auditor in relation to the inspection and audit of the accounting records kept by BSCAA NSW in relation to a financial year; and

(b) a copy of the accounts and statements prepared to which the report relates,

 within 8 weeks of the later of the relevant auditor’s report having been provided to BSCAA NSW and receipt of the BSCAA NSW member’s request.

29.10 The Executive Committee may resolve to instead provide BSCAA NSW members, upon request, with a summary of the report, accounts and statements referred to in rule 29.9 upon the same timing as set out in that clause.

29.11 The President and Executive Director shall prepare an annual budget for BSCAA NSW prior to each January 1st.

29.12 BSCAA NSW may contribute such amount as is determined by the Executive Committee from time to time at its absolute discretion towards the administrative expenses of the National Office. For the avoidance of doubt this Rule 29.12 does not require any contribution to be made.

## 29A. - FINANCIAL POLICIES AND PROCEDURES

The Division shall develop and implement policies and procedures relating to the expenditure of the Division.

## 30. - RECORDS TO BE KEPT

30.1 BSCAA NSW shall keep the following records at the Registered Office or such other place subject to the Act:

(a) a register of its members, showing the name, address (residential and postal), facsimile and/or electronic address (if any), dates of membership and industry classification of each member;

(b) a list of the names, addresses (residential and postal), facsimile and/or electronic address (if any) and occupations of the Officers and their Offices together with the dates on which they were elected and the dates they ceased to hold Office; and

(c) such other records as are prescribed by the Act and Regulations from time to time.

30.2 BSCAA NSW, by the secretary, shall:

(a) enter in the register the name, address (residential and postal), facsimile and/or electronic address (if any), date of membership and industry classification of each person who becomes a member, within 28 days after the person becomes a member;

(b) enter in the register the date of cessation of membership of each person who ceases to be a member, within 28 days after the person ceases to be a member; and

(c) enter in the register any change in the particulars shown on the register within 28 days after the matters necessitating the change become known to BSCAA NSW.

## 31. - EXECUTION OF DOCUMENTATION

31.1 Subject to the Act and these Rules, documentation may be executed by or on behalf of BSCAA NSW under seal or under the hand of a duly authorised Officer.

## 32. - INDEMNITY OF BSCAA NSW MEMBERS, OFFICERS AND EMPLOYEES

32.1 Every BSCAA NSW member, Officer and employee of BSCAA NSW shall be indemnified out of BSCAA NSW’s funds against any costs, losses, charges and expenses which any such member, Officer or employee may incur or become liable for by reason of any contract entered into or act or deed done by him in the discharge of any duty in accordance with these Rules.

## 33.- DISSOLUTION OF THE DIVISION

33.1 The liability of members to contribute, in the event of the affairs of BSCAA NSW being wound up or dissolved, towards the payment of the debts and liabilities of BSCAA NSW or the costs, charges and expenses of the winding up or dissolution of BSCAA NSW, shall be limited to the equivalent of the amounts for the time being due from such member pursuant to these Rules and being unpaid.

33.2 Subject to the Act, BSCAA NSW may be dissolved by a resolution of BSCAA NSW members in a general meeting convened for that purpose and upon any such dissolution the funds of BSCAA NSW shall not be distributed to the BSCAA NSW members but surplus assets must be given to a body that has similar objectives to the BSCAA NSW and whoses constitution requires it to apply its income in promoting those objectives and prohibits it from making distributions to its members to at least the same extent as sub-rule 4.2.

## 34. - LEGAL EFFECT OF RULES AND DIVISION’S RULES

34.1 These Rules are governed by and are to be construed in accordance with the laws of the relevant jurisdiction depending on the subject matter. Each member is deemed to have knowledge of the terms of these Rules.

34.2 Unless otherwise expressly stated in these Rules, these Rules shall not be construed as binding BSCAA NSW and BSCAA NSW members to the rules of the Association.

## 35. - MANNER OF NOTIFYING FAIR WORK COMMISSION OF INDUSTRIAL DISPUTES

35.1 Where BSCAA NSW becomes aware of an industrial dispute involving a BSCAA NSW member or where an industrial dispute has arisen that involves BSCAA NSW, the Executive Director shall immediately contact Fair Work Commission or if required under State legislation prior to the Federal Registration Date, the NSW Industrial Relations Commission or Registrar as applicable, and advise them of the industrial dispute referred to in this Rule 35. The Executive Director may take such additional steps as may be necessary to ensure Fair Work Commission and the General Manager (or if applicable prior to the Federal Registration Date, the NSW Industrial Registrar or NSW Industrial Relations Commission) are made aware of the industrial dispute which may include preparing or causing to be prepared written correspondence that may be sent by post, facsimile or electronic mail or any combination of these methods of communication. For the avoidance of doubt this Rule 35 is intended to satisfy the requirements of section 141(1)(vi) of the Act and any applicable State legislation prior to the Federal Registration Date.

## 36. - ALTERATION OR RESCISSION OF RULES

36.1 Subject to rules 36.2 and 36.3, these Rules may be altered or rescinded in either of the following ways:

36.1.1 by resolution at a meeting of the members;

36.1.2 by resolution of the Executive Committee.

36.2 The Executive Committee shall have no power under these Rules to amend rules 8.1, 8.2 or this clause. The Executive Director shall circulate to all members within 28 days following the date of the Executive Committee resolution which alters or rescinds these Rules, a notification of the alteration or rescission and a brief summary of its material effect.

36.3 The name of the Association and rule 1.1 can be altered pursuant to rule 36.1, subject to the Act. Until the alteration of this clause, the name and rule 1.1 shall be altered at the time at which BSCAA National alters its name so that the Association shall be and remain called BSCAA National (by whatever name then called), New South Wales Division. At such time all references in these Rules to BSCAA National shall become references to that association under its new name.

**Appendix 1**

**Proxy Form**

**Rule 14.6**

**FORM OR APPOINTMENT OF PROXY**

I/We……………………………………………………………………………………………………………

 (full name (including ABN if applicable)

of………………………………………………………………………………………………………………

 (registered office / residential address)

being a member of the Building Service Contractors Association of Australia, NSW Division

hereby appoint……………………………………….. of ……………………………………………………

 (full name of proxy and must be an individual address)

being a member / appointed representative of a member (state identity) (*delete as appropriate*) of that Division, or in the absence of that person, the Chairman of the meeting as my/our proxy to vote for me/us on my/our behalf at the general meeting of the BSCAA NSW Division to be

 held on the ………………………… day of ……………………………………………………

My/our proxy is authorised to vote in favour of the resolution(s).

The proxy may vote for us on our behalf on any other matters discussed.

……………………………………………………………………….. ……………………….

Signature of member appointing proxy/authorised officer Date

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