212V: Incorporates alterations of 24 November 2022 [R2022/113]

(Replaces rulebook dated 20 July 2022 [R2022/62])

Please note this Rule book also contains Rule 52(d) which was erroneously deleted from the following Rule books:

R2019/160 (3 April 2020);

R2019/115 (9 December 2019);

R2019/81 (16 September 2019);

R2019/45 (25 July 2019);

R2017/208 (10 November 2017);

R2016/209 (23 January 2016);

R2016/77 (3 June 2016);

R2015/203 (29 October 2015);

R2015/85 (5 June 2015);

R2014/214 (10 February 2015);

R2013/504 (17 July 2014);

R2013/104, RE2013/290 and R2013/505 (10 January 2014);

D2010/5016 (20 May 2013);

R2012/145 and R2012/175 (18 October 2012);

R2011/163 (14 September 2011);

R2011/34 (12 April 2011);

R2010/104 (8 November 2010);

R2009/10087 (19 January 2010);

R2009/10041 and R2009/10042 (18 September 2009);

R2009/259 (20 April 2009);

R2008/360 (7 October 2008);

R2008/267 (3 July 2008);

R2007/393, R2008/204 and R2008/274 (18 June 2008);

R2007/376 (21 November 2007);

R2007/301 (30 August 2007);

R2007/228 (14 May 2007);

R2006/398 (10 January 2007);

R2006/353 (22 November 2006);

R2006/238 (1 August 2006);

R2006/200 (20 June 2006);

R2006/162 (29 May 2006);

D2006/65 (24 November 2006); and

R2005/297 (11 October 2005).

Please note that as a consequence of the reinsertion of Rule 52(d), Rule 52(d) in the abovementioned rulebooks has been renumbered as Rule 52(e) in the current rules.

I CERTIFY under section 161 of the *Fair Work (Registered Organisations) Act 2009*

that the pages herein numbered 1 to 49 both inclusive contain a true and correct copy of the registered rules of The Civil Air Operations Officers' Association of Australia.

GENERAL MANAGER

FAIR WORK COMMISSION

Rules of
THE CIVIL AIR OPERATIONS OFFICERS' ASSOCIATION OF AUSTRALIA

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## CONSTITUTION AND OBJECTS

## 1 - NAME

(a) The name of the Association shall be: - "The Civil Air Operations Officers' Association of Australia".

## 2 - REGISTERED OFFICE

(a) The Registered Office of the Association shall be at 214 Graham Street, Port Melbourne, Victoria, 3207; or at such other place as the National Executive may from time to time determine.

## 3 - DEFINITIONS

(a) "Adult" has the same meaning as in the Public Service Act (1920) as may be amended from time to time.

(b) "Act" shall mean the *Fair Work Act 2009* unless otherwise specified and as amended from time to time, or such other Act as replaces it.

(c) "Regulations" shall mean the Fair Work Regulations 2009 made pursuant to the Act.

(d) "Industrial Registrar" shall mean the Industrial Registrar appointed pursuant to the Act.

(e) Words importing the singular shall include the plural and vice versa.

(f) A "Division" shall be a sub group of the membership as defined by these Rules having an elected Divisional Delegate.

(g) A "Branch" shall be a sub group of a Division as defined from time to time by the National Executive.

(h) "Executive Secretary" shall mean the principal employee of the Association.

(i) “Divisional Meeting” shall mean a meeting of a “Division”.

(j) “Branch Meeting” shall mean a meeting of members of a “Branch”.

(k) “Geographically Dispersed Divisions” are the Air Traffic Services Management and Operational Support, Northern Towers, Southern Towers, Western Towers and FDC/SSO/ADT Divisions.

(l) “ADT” means Airways Data Team (previously known as the TAAATS Data Management Unit (TDMU)).

(m) board means a group of persons who supervise, govern or otherwise have oversight of a corporation, organisation, association or other like body including a Board of Directors.

(n) disclosure period For the purpose of these rules means the financial year unless a shorter period is specified.

(o) declared person or body A person is a declared person or body if:

 (i) an officer of the organisation has disclosed a material personal interest under [sup-rule 41B(a)]; and

 (ii) the interest relates to, or is in, the person or body; and

 (iii) the officer has not notified the organisation that the officer no longer has the interest.

(p) financial duties includes duties that relate to the financial management of the organisation.

(q) General Manager means the General Manager of the Fair Work Commission.

(r) non-cash benefit means property or services in any form other than money, but does not include a computer, mobile phone or other electronic device that is used only or mainly for work purposes.

(s) peak council has the same meaning as defined by section 12 of the *Fair Work Act 2009*.

(t) office has the same meaning as defined by section 9 of the *Fair Work (Registered Organisations) Act 2009*

(u) Officer has the same meaning as defined by section 6 of the *Fair Work (Registered Organisations) Act 2009*

(v) related party has the same meaning as defined by section 9B of the *Fair Work (Registered Organisations) Act 2009*.

(w) Relative in relation to a person, means:

 (i) parent, step parent, child, stepchild, grandparent, grandchild, brother or sister of the person; or

 (ii) the spouse of the first mentioned person.

(x) relevant remuneration in relation to an officer of the organisation for a disclosure period is the sum of the following:

 (i) any remuneration disclosed to the organisation by the officer under [sub-rule 41A(a)] during the disclosure period;

 (ii) any remuneration paid during the disclosure period, to the officer of the organisation;

 (y) relevant non-cash benefits in relation to an officer of the organisation for a disclosure period means the non-cash benefits provided to the officer, at any time during the disclosure period, in connection with the performance of the officer’s duties as an officer, by the organisation or by a related party of the organisation.

(z) Remuneraton (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 their duties.

## 4 - DESCRIPTION OF INDUSTRY

(a) The Association is formed in connection with the regulation, operation and function of civil and/or military aviation operations in the Commonwealth of Australia.

## 5 - OBJECTS

(a) The objects of the Association shall be:

 (1) to promote the interests of members by means consistent with these rules;

 (2) to take lawful actions deemed desirable for the benefit and advancement of members, and to improve the terms and conditions of their employment;

 (3) to effect legal assistance where deemed necessary in the defence of members' industrial and professional rights;

 (4) to take lawful actions deemed desirable to further the advancement of aviation within Australia or its territories;

 (5) to affiliate, merge or amalgamate with, or absorb, if so desired, any other organisation upon such terms and conditions as may be mutually agreed;

 (6) to purchase, take on lease or in exchange, hire or otherwise acquire any property, both real and personal, and in particular any land, buildings or easements for the purposes of housing the Association, administering its affairs and providing for the comfort and entertainment of its members;

 (7) to establish, maintain and discharge funds, as may from time to time be deemed desirable, to assist members and/or their dependants in distress through sickness or other causes;

 (8) to secure preference of employment for members of the Association in areas of the aviation employment environment covered by the Association;

 (9) to encourage esprit-de-corps amongst members by initiating and controlling schemes for their social, intellectual and general advancement;

 (10) to control, support or publish a journal in the interest of members;

(11) to do all other acts and things as are incidental or conducive to the proper functioning of the Association and the attainment of the above objects.

## 6 - CONSTITUTION

(A) The Association shall consist of an unlimited number of persons employed, or usually employed by the Civil Aviation Safety Authority and Airservices Australia, or of any agency or instrumentality of, or constituted under the laws or regulations of the Commonwealth of Australia, which may hereafter assume the administrative responsibilities of the Civil Aviation Safety Authority or Airservices Australia, or any successors, assignees or transmittees of the current employers, being persons whose duties include any of the following:

(1) the prescription of the functional requirements in relation to Aviation Regulation and air traffic control of:-

 (a) air routes and airways,

(b) aid to air navigation,

(c) aerodromes,

and the supervision of the application of the requirements so prescribed;

(2) the prescription of the procedures to be observed in:-

(a) the provision of an Air Traffic Control service,

(3) the study and investigation of air safety accidents and incidents and aircraft accidents and incidents insofar as such studies relate to matters specified in this Rule.

(B) Without limiting the generality of clause (A) hereof, the persons holding, either permanently or temporarily, any of the following positions in the Civil Aviation Safety Authority and Airservices Australia, or any position which may be substituted therefor, and the duties of which are not materially different therefrom, shall be eligible for membership of the Association:-

Air Traffic Controller (ATC), Air Traffic Control Manager (ATCM), Airways Data Systems Officer (ADSO), Flight Data Co-ordinator (FDC), Data Systems Specialists, Data Systems Assistants, Exercise Development (EXDEV) Officer, Systems Supervisor (SS), Air Traffic Services (ATS) Specialist, Air-Traffic-Controller-in-training, Trainee-Air-Traffic-Controller, Air Traffic Services Manager, Air Traffic Control Line Manager, Air Traffic Control Instructor, Simulator Support Officer (SSO), Target Generator Operator (TGO), Operations Support Manager,

and any of these positions held under contract or any positions which require a person to hold or have held an Air Traffic Control Licence.

(C) In addition to the persons identified in Clauses (A) and (B) hereof, civilian employees of the Department of Defence performing any function for which the holding of a licence as an air traffic controller, or having held such a licence within 5 years prior to appointment, is a requirement.

## 7 - ORGANISATION

(a) The National Executive shall be, subject to these rules and to the control of the members of the Association as provided in these rules, the supreme governing body of the Association.

(b) For the purpose solely of administration and representation, the Association shall have the following Divisions:-

 Melbourne Centre

 Brisbane Centre

 Air Traffic Services Management and Operational Support

 Sydney Towers and Terminal Control Units

 Melbourne Towers and Terminal Control Units

 Brisbane Towers and Terminal Control Units

 Perth Towers and Terminal Control Units

 FDC/SSO/ADT

 Northern Towers

 Southern Towers

 Western Towers

(c) Each Division shall consist of the members of the Association as follows:

 Melbourne Centre - All Melbourne based ATCs, who hold en-route and/or approach endorsements for en-route and/or approach sectors outside the Melbourne TMA.

 Brisbane Centre - All Brisbane based ATCs, who hold en-route and/or approach endorsements for the en-route and/or approach sectors outside the Brisbane TMA.

 Air Traffic Services Management and Operational Support - All members employed as Air Traffic Service Managers or ATC Line Managers or operational support staff at Head Office or at District Offices or at ATC unit locations. This Division does not include SSO, TGO, FDC, ADSO or ADT members.

Sydney Towers and TCU - ATC members based at Sydney TCU, Sydney Tower, Bankstown Tower and Camden Tower.

 Melbourne Towers and TCUs - Tower and TMA stream ATCs based at Melbourne TMA, Melbourne Tower, Essendon Tower, Moorabbin Tower and Avalon Tower. As well as all instructors and trainee members located at any Airservices Training College facility prior to commencement of final field training duties.

 Brisbane Towers and TCUs - Tower and TMA stream ATCs based at Brisbane TMA, Brisbane Tower, Archerfield Tower and Gold Coast Tower.

 Perth Towers and TCU - Tower and TMA stream ATCs based at Perth TCU, Perth Tower and Jandakot Tower.

 FDC/SSO/ADT - members at all locations who are classified as ADSO, FDC, SSO, TGO or ADT.

Northern Towers (NT) - Tower stream ATCs based at Cairns Tower, Hamilton Island Tower, Mackay Tower, Rockhampton Tower and Sunshine Coast Tower.

Southern Towers (ST) - Tower stream ATCs based at Albury Tower, Canberra Tower, Coffs Harbour Tower, Hobart Tower, Launceston Tower, Tamworth Tower and all Defence ATCs and ATCs at any other locations not otherwise mentioned in these rules.

Western Towers (WT) - Tower stream ATCs based at Adelaide Tower, Parafield Tower, Alice Springs Tower, Broome Tower, Karratha Tower and Port Hedland Tower.

(d) Where a member is in transit between duties and/or geographic locations, and such transit will result in a change of Divisional membership, the member shall be deemed to be a member of the "new" division as and from the time duties ceased in the "old" division.

 (e) Trainee members of the Association shall be members of the Melbourne Towers and TCUs division, and shall remain so for the duration of the course after which they shall become members of a division in which they are physically located.

(f) The criteria for the establishment of an additional Division shall be 40 members or more co-located at a specific geographical location which would normally be a part of Northern Towers, Southern Towers or Western Towers. This criteria shall apply equally to the co-location of Tower and Approach units.

## 8 - SPARE

## 9 - SPARE

## MEMBERSHIP

## 10 - TYPE AND CLASSIFICATION

(a) Membership of the Association shall be classified in the following terms:-

 (1) Member,

 (2) Associate member,

 (3) Life member,

 (4) Honorary member,

 (5) Trainee member.

(b) The Association may accept as an Associate Member any former member of the Association who has either retired or resigned from or otherwise ceased to be employed in, the industry in connection with which the Association is registered under the *Fair Work (Registered Organisations) Act 2009*.

 (1) An Associate member shall have all the rights and privileges of membership except the right to vote, and the right to nominate for or hold office in the Association.

 (2) An Associate member who is re-employed, such that they become eligible under rule 6, cannot remain an Associate member and as such may, subject to the normal admission process under these rules, become a full Civil Air member with all rights and privileges of membership.

 (3) An Associate member who is re-employed in a position or a function that is not covered under rule 6, may remain an Associate member of the Association rather than become a full Civil Air member.

(c) The National Executive may, at its discretion and by a two-thirds majority vote, confer Life membership upon any member who, in the opinion of the National Executive, has rendered outstanding service to the Association.

 (1) A Life member shall have all the rights and privileges of membership.

 (2) Life membership shall only be conferred with the consent of the conferee, who may relinquish it at any time upon written notice to the President.

 (3) The National Executive may, at its discretion and with sufficient cause, determined by a three-quarters majority vote of the National Executive, revoke any Life membership.

(d) The National Executive may, at its discretion and by a two-thirds majority vote of the National Executive, confer Honorary membership of the Association upon any person who, in the opinion of the National Executive, has rendered distinguished service to the aviation industry or the Association.

(1) An Honorary member shall be entitled to all the rights and privileges of membership except the right to vote and the right to nominate for, or hold office in the Association.

 (2) Honorary membership shall only be conferred with the consent of the conferee, who may relinquish it at any time upon written notice to the President.

 (3) The National Executive may, at its discretion and with sufficient cause, determined by a three-quarters majority vote of the National Executive, revoke any Honorary membership.

(e) The Association may accept as a Trainee member any person who is undergoing a course of training the object of which is to qualify such person for employment in any one or more callings which would render such person eligible for membership of the Association pursuant to Rule 6 of these Rules.

(1) A Trainee member shall have all the rights and privileges of membership except the right to vote and the right to nominate for or hold office in the Association.

## 11 - ADMISSION OR READMISSION

(a) An applicant for admission to membership of the Association shall forward, or cause to be forwarded to the President, a signed application on a form approved by the Committee of Management. An applicant shall be informed in writing of financial obligations arising from membership as well as the circumstances and the manner in which they may resign from the organisation.

(b) Subject always to clause (c) of this rule, an applicant shall satisfy the President as to eligibility for membership, and shall become a member as from the date upon which the President approves the application.

(c) Where the President refuses an application for membership, the President shall refer the application to the next ordinary meeting of the Committee of Management for consideration and decision.

 (1) In the case of a favourable decision by the Committee of Management, the applicant shall become a member as from the date upon which the Committee of Management approves the application.

 (2) In the case of the Committee of Management refusing the application, the applicant shall be informed in writing within fourteen (14) days of the refusal, and the reasons for it. The applicant so refused shall have the right of appeal to the National Executive, provided:-

(a) notice of such an appeal, in writing, is received by the President within twenty-eight (28) days of the applicant being informed of the Committee of Management's decision to refuse the application;

and the National Executive shall hear and determine the appeal at its next ordinary or special meeting, whichever arises first. Where the determination is in favour of the applicant, the applicant shall become a member as from the date upon which the National Executive approves the application. The applicant shall be informed of the success, or otherwise, of the appeal.

(d) Where an application for membership is rejected pursuant to clause (c) of this rule, the applicant shall have all monies paid by way of subscriptions or levies refunded, excepting where said amounts were payment of outstanding subscriptions or levies lawfully recovered.

(e) The re-admission to membership of any person who by any means has ceased to be a member of the Association shall be conditional upon the payment of such sum (if any) as the Committee of Management shall determine. In no case shall the sum fixed exceed the sum of the amount such a person would have been liable to pay had the person been eligible to be, and remained, a member during such a period of non-membership. The sum so fixed shall not exceed one year's membership subscription amount as at the date of application for re-admission.

## 12 - SUBSCRIPTIONS AND LEVIES

(a) All subscriptions or levies due and payable by members of the Association, shall be paid to, and collected by, the Vice President - Finance or the duly appointed agent of the Vice President - Finance.

(b) Notwithstanding anything contained elsewhere in these rules, the Association may make arrangements with any employer whereby, with the authority of any member of the Association, subscriptions payable to the Association are to be deducted on a regular basis, by the employer, from the salary of the member, and paid to the Association.

(c) (1) Membership subscription rates shall be determined from time to time by the National Executive of the Association.

 (2) A two-thirds majority vote of the National Executive shall be required to alter subscription rates.

 (3) The subscription rate set by the National Executive under rule 12(c)(1) shall be no more than the sum of:

(i) 1% of the annual salary of the top ATC salary scale, as at the date of the fixing of the subscription rate and

 (ii) a fixed amount determined by the National Executive, which will enable the Association to manage a Necessitous Circumstances (Loss of Licence) Fund, as defined in Rule 44.

 (4) The National Executive may set the subscription rate for a particular class of membership at differing levels, having identified particular and unusual circumstances that may apply within that group.

(d) A member who has authorised deductions pursuant to clause (b) of this rule, shall, subject to the provisions of clause (e) of this rule, be deemed to be a financial member of the Association as long as such authority remains in force, provided that such member owes no arrears of subscriptions, fines or levies.

(e) Where an authority issued by a member pursuant to clause (b) of this rule is terminated by the employer or the Association, the President shall notify, in writing, any member so affected, and thereafter, the member so affected shall become liable to, and shall within twenty eight (28) days from the date of receipt of the notification, pay to the Association, the balance of any monies owing for the relevant year, (which amount shall be specified in the notice), and shall thereafter be liable to pay subscriptions or levies to the Association by direct payment.

(f) Subscriptions may be paid by:-

 (1) the authorisation of payments, pursuant to clause (b) of this rule, of an amount fixed by the Vice President - Finance, being sufficient to expiate the annual subscription liability determined pursuant to clause (c) of this rule, or;

 (2) direct payment to the Vice President - Finance of the Association, or;

 (3) in the case of Associate members and trainee members, direct payment in full to the Association, of the relevant amount determined pursuant to clause (c) of this rule, such amount being due and payable on the first (1st) day of August each year.

(g) Life members, Honorary members and members for an unbroken period of 40 years shall not be liable for the payment of any subscriptions or levies determined under these rules.

(h) The National Executive may, upon receipt of a written application from a member detailing satisfactory evidence of special circumstances pertaining to the applicant, exempt such member from the payment of, either wholly or in part, any subscriptions or levies due from the applicant.

(i) Any member exempted pursuant to clause (h) of this rule, shall for the purposes of these rules, retain continuity of membership and be deemed financial, but shall not, during the period of exemption, be eligible to nominate for, nor hold office in, the Association, nor in any way participate in any ballot or election in connection with the Association.

(j) The National Executive shall have the power to impose any levy or levies upon all, or any one or more, groups or categories of members, provided that any levy or levies so imposed shall be only in respect of matters affecting the group or groups of members so levied.

## 13 - UNFINANCIAL MEMBERS

(a) A member owing subscriptions or levies properly determined under these rules, for a period in excess of twenty eight (28) days after such monies become due and payable, shall be deemed to be unfinancial.

(b) An unfinancial member shall not be entitled to:-

 (1) any of the rights and privileges of membership;

 (2) nominate for, nor hold office in the Association, nor participate in any way in any ballot or election held in connection with the Association;

 (3) attend, speak nor vote at any meeting of the Association; nor,

 (4) be a Branch Representative;

 until the amount due to the Association is paid in full.

(c) The President is authorised to proceed against any member, in the name of the Association, for the recovery of subscriptions or levies in arrears, and may instruct any other person to take such necessary action as is required to recover the said arrears.

(d) An unfinancial member, on being served with a written demand for payment of arrears issued under clause (c) of this rule, forwarded to the address of the member appearing on the Register of Members held by the Association, shall comply with the demand within fifty-six (56) days of such demand being delivered to that address, unless the member provides to the President, satisfactory reasons as to why the arrears have not been paid. If a mutually agreed scheme of arrangement in relation to the payment of outstanding monies is not then determined, the President is authorised to sue the member for recovery of outstanding monies.

(e) If at the expiration of the period specified in rule 13(d) an unfinancial member:

 (i) fails to provide reasons that the President finds satisfactory, as to why the arrears have not been paid in accordance with rule 13(d); or

 (ii) having provided to the President satisfactory reasons as to why the arrears have not been paid, a mutually agreed scheme of arrangement in relation to the payment of outstanding monies is not then determined; or

 (iii) defaults on a mutually agreed scheme of arrangement in relation to the payments of outstanding monies determined in accordance with rule 13(d),

 their membership will be automatically terminated.

(f) That members who are in excess of 56 days in arrears with their fees, may be charged an amount equivalent to 10% of the outstanding amount as penalty for the late payment, at the discretion of the Committee of Management.

## 14 - RESIGNATION, SUSPENSION AND TERMINATION

(a) A member may resign from membership by written notice addressed and delivered to the President.

(b) A Notice of resignation from membership takes effect:

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

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

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

 whichever is later; or

 (ii) in any other case;

 (a) at the end of 14 days after the notice is received by the Association; or

 (b) on the day specified in the notice;

 whichever is later.

(c) Any dues payable but not paid by a former member in relation to a period before the member's resignation took effect, may be sued for and recovered in the name of the Association, in a court of competent jurisdiction, as a debt due to the Association.

(d) A notice delivered to the President shall be taken to have been received by the Association when it was delivered.

(e) A notice of resignation that has been received by the Association is not invalid because it was not addressed and delivered in accordance with sub-rule (a).

(f) A resignation from membership is valid even if it is not effected in accordance with this rule if the member is informed in writing by or on behalf of the Association that the resignation has been accepted.

(g) Any member proceeding on a period of leave-without-pay from the employer remains eligible for membership of the Association, and (subject always to Rule 13 of the Rules relating to unfinancial membership) shall be entitled to all the rights and privileges of membership of the Association and be liable for payment of all sums fixed pursuant to these Rules.

 (h) Notwithstanding clause (c) of this Rule, any member wishing to suspend membership of the Association whilst on leave-without-pay shall notify the Association, in writing, of the dates of effect of the period of leave. Such suspension of membership shall be conditional upon the payment of all outstanding subscriptions, fines and levies owed up to the date of suspension applied for, and, upon payment, the member shall be deemed to be suspended from membership, and shall be exempt from payment of any amounts determined pursuant to these rules for the duration of the leave. Members suspended pursuant to this clause shall not be entitled to any of the rights and privileges of membership of the Association.

(1) Any suspension of membership pursuant to this clause shall be automatically revoked upon the resumption of paid employment.

(2) A member suspended from duties with the employer without payment of salary shall not be deemed to be on leave-without-pay for the purposes of these rules, and shall continue to hold all the rights and privileges of membership appropriate to the category of membership.

(i) Any member, except a Life or Honorary member who ceases to be eligible to become a member of the Association, shall therefore cease to be a member of the Association.

## 15 - MISCONDUCT

(a) Any member who:

 (1) contravenes or fails to observe any rule of this Association; or,

 (2) contravenes or fails to observe any lawful resolution, decision or direction carried by a vote of the Committee of Management or National Executive, of which the member had, or ought to have had notice; or,

 (3) misappropriates any funds or property of the Association or commits any unlawful or fraudulent act in regard thereto; or,

 (4) divulges the confidential business of the Association to any person not entitled to know that business; or,

 (5) makes a false charge against a fellow member; or,

 (6) violates, or attempts to violate the terms of any applicable Industrial Agreement or Award; or,

 (7) enters, or attempts to enter into any agreement with any employer contrary to the provisions of an applicable Award or Agreement secured by the Association; or,

 (8) obstructs the National Executive, Committee of Management or other lawful Association committee, officer or body in the performance of any duty or function; or,

 (9) wrongfully purports to be an occupant or holder of an Office or position in the Association, or to be entitled to represent the Association in any capacity; or,

 (10) behaves in a disorderly or offensive manner at a meeting held pursuant to these rules, or in the Registered Office of the Association; or,

 (11) aids or encourages a member in any matter in contravention of these rules;

 may be charged by any other member with an offence under these rules. A member charging another with such an offence shall give signed, written notice of such a charge, including supporting evidence of the charge alleged, to the President.

(b) (1) A member charged pursuant to clause (a) of this rule shall be summoned to appear before either the National Executive or the Committee of Management. The summons shall:-

 (a) be in writing,

 (b) detail the charge, and

 (c) set the time and place of the hearing of the charge.

 (2) The member shall be given such notice of the hearing as may be considered reasonable, having regard to all the circumstances, and, if required to attend at a place more than one hundred (100) kilometres from the member’s place of residence contained in the Association's Membership Register, shall be given fares to cover return transportation to and from the hearing.

 (3) The matter may be determined at the appointed time and place, (or such other time and place to which the matter is adjourned and of which the member has been notified), in the absence of the member charged, unless satisfactory explanation of the absence is received by the body hearing the charge.

 (4) The body hearing the charge shall, if the member charged is present at the hearing, inform the member of the source and substance of any adverse information concerning the member so charged, upon which it will rely whilst determining the matter. The member so charged shall be given an opportunity to respond and may, if desired, tender written submissions.

 (5) Pursuant to clause (a)(9) of this rule, it shall be a defence that the member so charged believed bona fide, and on reasonable grounds, that they were entitled so to act.

 (c) If a charge brought under this rule is proven, the body hearing the charge shall determine as a result, one or more of the following:-

 (1) impose no penalty;

 (2) fine the member an amount not exceeding one hundred (100) dollars;

 (3) suspend the member from membership, or deprive the member of any right or privilege of membership for a specified period, or until the performance of any specified act;

 (a) Suspension pursuant to this clause shall not relieve the member of any of the obligations of membership, and shall not exceed six (6) months.

 (4) dismiss the member from any office or position in the Association, pursuant to rule 36 of these rules;

 (5) expel the member from the Association.

(d) A member found guilty, by the Committee of Management, of an offence pursuant to this rule may appeal to the National Executive. Notice of appeal shall be given, in writing, to the President, within fourteen (14) days of the member being informed of the Committee of Management's decision.

 (1) The notice shall set forth any matters the appellant desires to be considered.

 (2) The appeal shall be dealt with, after the expiration of fourteen (14) days from the receipt of notice of appeal, at the next ordinary meeting of the National Executive.

(e) A member shall be notified, in writing within fourteen (14) days, of the outcome of any hearing conducted pursuant to this rule.

## 16 - REGISTER OF MEMBERS

(a) A Register of the name and, as far as is known, the postal address and employment location of each member shall be kept by the Association and held at the Registered Office thereof.

(b) The Membership Register shall, as far as is known, list the relevant Division of each member, and shall be revised and updated as is necessary, based on the information held at the Registered Office, at the end of each financial year.

## 17 - CHANGE OF EMPLOYMENT OR POSTAL ADDRESS

(a) Any member changing a postal address shall notify the Association's Registered Office within twenty-eight (28) days.

(b) Any member changing a place of employment which affects eligibility for membership of a particular Division shall notify the Association's Registered Office within twenty-eight (28) days.

## 18 - SPARE

## 19 - SPARE

## 20 - SPARE

## 21 - THE COMMITTEE OF MANAGEMENT - CONSTITUTION, DUTIES AND POWERS

(a) The Committee of Management shall consist of:-

 (1) the President, and

 (2) Five (5) Vice-Presidents (Administrative, Finance, Professional, Communication and Technical)

(b) The Committee of Management shall be elected pursuant to these rules.

(c) The Committee of Management, in addition to any other power conferred upon it by these rules, shall have the following powers:-

 (1) subject always to these rules, the decisions of the National Executive, and the control of members of the Association as hereinafter provided; to administer the affairs of the Association;

 (2) to employ any person whose services may be deemed necessary for pursuing the objects of the Association, and to suspend or discharge any such person, and to fix the terms and conditions of employment and the remuneration, if any, to be paid for the services of any such person;

 (3) to lease or otherwise acquire any office or building for the purposes of the Association;

 (4) to authorise payment of charges and expenses incurred by the Association;

 (5) to invest in securities approved upon a Trustee Act of the Commonwealth of Australia, or of a State of Australia, or to place at fixed deposit in a registered financial organisation, any monies of the Association not immediately required for the purpose thereof, in such a manner as it may think fit, and to vary or release such investments;

 (6) to authorise the Vice President - Finance to pay, lend or otherwise appropriate any of the funds of the Association to any member, cause or purpose;

 (7) to consider and determine any question submitted to it, pursuant to these rules, by any member of the Association;

 (8) to make, vary or repeal any Industrial Agreements on behalf of the Association, subject to the provisions of the Act;

 (9) to ratify industrial action proposed by the membership;

 (10) to submit any industrial or professional dispute for conciliation and/or arbitration, and determine the representatives of the Association at any hearings in relation thereto.

(d) The President shall:-

 (1) be the Chief Executive Officer of the Association, and in addition be the Registered Officer thereof, to sue and be sued on behalf of the Association;

 (2) attend and preside over all meetings of the Committee of Management and National Executive and any meetings of the Association held by decision of the Committee of Management or National Executive, unless excused by the relevant meeting, and shall preserve order thereat so that business may be conducted in due form and with propriety;

 (3) keep, or cause to be kept, correct minutes of the meetings of the Committee of Management and National Executive;

 (4) sign minutes of meetings attended pursuant to this clause upon the confirmation of those minutes;

 (5) attend to and/or arrange for the processing of all correspondence, and to the answering of such questions as may be asked in accordance with these rules, and ensure that records of all correspondence are kept at the Registered Office of the Association;

 (6) keep, or cause to be kept the records required to be kept by an organisation pursuant to the *Fair Work Act 2009* and the *Fair Work (Registered Organisations) Act 2009*;

 (7) lodge, file with and furnish to the Industrial Registrar, all such documents as are required by the *Fair Work Act 2009* and the *Fair Work (Registered Organisations) Act 2009* to be so lodged, filed or furnished, at the prescribed time and in the prescribed manner;

 (8) carry out the above duties, and such other duties as the National Executive may from time to time determine, and act at all times subject to, and in accordance with the directions of the National Executive and these rules;

 (9) delegate, pursuant to these rules and with the approval of the Committee of Management, any or all of the powers assigned to the President under these rules, to any other member of the Committee of Management by giving advice of such delegation, in writing, to the proposed holder of the delegation.

 (e) The Vice-Presidents shall:-

 (1) attend, unless excused, all meetings of the National Executive and Committee of Management;

 (2) assist the President in the execution of their duties, and, when requested by the President, carry out such functions of the Presidency, in the absence of the President, as the President authorises in writing;

 (3) in the absence of the President, preside over meetings of the National Executive, Committee of Management or other meetings held by decision of the National Executive or Committee of Management, and when so doing, shall exercise all the powers and functions of the President in addition to their own, including the voting rights thereof.

 (a) For the purposes of clause (d)(3) of this rule, where more than one Vice-President is in attendance, the most senior office holder shall take precedence.

 (1) Where no distinction can be made between the Vice-Presidents for the purposes of clause (d)(3)(a) of this rule, the members present and eligible to vote shall appoint one of the Vice-Presidents so to act.

(f) The Vice President - Finance shall:

 (1) be responsible for all monies belonging to the Association;

 (2) account for all monies received and expended by, or on behalf of the Association;

 (3) whenever so authorised by the National Executive or Committee of Management, pay, lend or otherwise appropriate any of the funds of the Association to any member, cause or purpose;

 (4) keep, or cause to be kept in appropriate books of account, a correct statement of all monies received and expended by, or on behalf of the Association;

 (5) prepare and submit to each meeting of the National Executive, and where so requested, to meetings of the Committee of Management, an up-to-date financial statement, and when called upon to do so by the President, National Executive or Committee of Management, produce all relevant books to support the statements provided;

 (6) prepare, draw up and sign an annual balance sheet and statement of accounts;

 (7) submit annually, to the Auditor, the books, accounts and receipts, or as often as may be required or directed by the National Executive or Committee of Management;

 (8) attend with the Auditor, if required, when the audit of books of account is being done, and provide such assistance as may be required;

 provided always that the Vice President-Finance may depute a member of a recognised Institute of Accountants, approved by the National Executive, to keep the books of the Association, in which case the Vice President - Finance shall remain responsible for the supervision of their preparation and their accuracy.

## 22 - NATIONAL EXECUTIVE - CONSTITUTION, DUTIES AND POWERS

(a) The National Executive shall consist of:

 (1) the Committee of Management committee of the Association; and,

 (2) representation of each administrative Division (herein termed Divisional Delegate) in accordance with rule 7 of these rules, elected pursuant to these rules.

(b) The National Executive, in addition to any other power conferred upon it by these rules, shall have the following powers:

 (1) to determine policy and direct the actions of the Association in matters pursuant to the objects of the Association;

 (2) pursuant to these rules, to repeal, alter, add to or otherwise amend the provisions of these rules or pass resolutions affecting these rules;

 (3) to employ any person whose services may be deemed necessary for the pursuit of the objects of the Association, and to suspend or discharge any such person, and to fix the terms and conditions of employment and the remuneration, if any, to be paid for the services of such a person;

 (4) to lease or otherwise acquire any office or building for the purposes of the Association;

 (5) to authorise payment of charges and expenses incurred by the Association;

 (6) to determine and ratify the form of any action deemed necessary in the general interests of the Association, provided that in all matters of industrial action it shall first determine, to the greatest extent possible, the wishes of the members;

 (7) to invest in securities approved upon a Trustee Act of the Commonwealth of Australia, or of a State of Australia, or to place at fixed deposit in a registered financial organisation, any monies of the Association not immediately required for the purpose thereof, in such a manner as it may determine, and to vary or release such investments;

 (8) to authorise the Vice President - Finance to pay, lend or otherwise appropriate any of the funds of the Association to any member, cause or purpose;

 (9) to make, vary or repeal any by-laws for the regulation of the affairs of the Association, its Officers, committees and servants;

 (10) to consider and determine any question submitted to it, pursuant to these rules, by any member of the Association;

 (11) to impose levies in accordance with these rules;

 (12) to exempt any member from payments for a period determined by the National Executive, pursuant to rule 12(h) of these rules;

 (13) to make, vary or repeal Industrial Agreements on behalf of the Association, subject to the provisions of the Act.

 (14) to establish any sub-committee of itself to further the objects and aims of the Association, to assist in the progressing and finalisation of policies of the Association, and to determine guidelines for the representation on, authority of, and the operating and reporting procedures for any sub-committee so established.

(c) Divisional Delegates shall:

 (1) carry out the decisions of the National Executive in accordance with these rules;

 (2) call and conduct such meetings of the Division they represent as may be necessary to inform themselves of the views of the Division's members;

 (3) advise members of the decisions of the National Executive and/or the Committee of Management as required;

 (4) report to the National Executive, or the Committee of Management, any breach of, or failure to comply with Association policy;

 (5) when authorised so to do by the President, and to the extent so authorised, act as the spokesperson for the Association in the area embraced by the Division they represent;

 (6) attend meetings with appropriate employer management representatives on behalf of the relevant Division for the purpose of representation or consultation on issues pertaining to the relevant Division;

 (7) liaise with such relevant Branch Representatives as may be appointed pursuant to these rules.

## 23 - MEETINGS - COMMITTEE OF MANAGEMENT

(a) A meeting shall be held when required by the President, or when requested by three (3) members of the Committee of Management.

(b) The President shall, wherever possible, give each member of the Committee of Management forty-eight (48) hours notice of any meeting.

(c) A quorum shall be four (4) members attending in person, or in cases of brief absences of members of the Committee of Management overseas, it shall be three (3) members attending in person.

(d) In the event of any member of the Committee of Management being unable to attend, they may appoint, in writing, a proxy.

 (e) Subject to these Rules, the Committee of Management may determine procedures for the summoning, holding, conduct, deferral or adjournment of its meetings, and the transaction of business thereat. These meetings include those convened in accordance with Rule 23(a) and Rule 23(f) as notified by the President from time to time.

(f) Notwithstanding any other provision of these Rules, these meetings may be conducted in person, by telephone or by videoconference, or by a combination of these forms of meeting or communication. Where any such Meeting is conducted other than by way of all of the participants being present in person, such meeting shall be as valid as if all participants had met in person provided that:

(1) any such meeting is convened and conducted in accordance with the requirements of the Rules applicable to the meeting concerned, including (without limitation) the relevant rules relating to notice of and quorum for the meeting; and

(2) each of the members participating in the meeting must be able to hear each of the other members present at the meeting.

## 24 - MEETINGS - NATIONAL EXECUTIVE

(a) Subject to these rules, the National Executive shall meet at least twice in each calendar year, and at such other times as the President may determine, or when a written request from a majority of members of the National Executive is received by the President.

(b) The President shall, wherever possible, give each member of the National Executive fourteen (14) days written notice of the date, place and time of any meeting.

(c) A quorum shall be ten (10) members attending in person. Where the two delegates from the Melbourne or Brisbane Centre divisions attend, this shall only count for one member per division for the purposes of determining the total numbers in the quorum count.

(d) In the event of any member of the National Executive being unable to attend, they may appoint, in writing, a proxy.

(e) Subject to these Rules, the National Executive may determine procedures for the summoning, holding, conduct, deferral or adjournment of its meetings, and the transaction of business thereat. These meetings include those convened in accordance with Rule 24(a) and Rule 24(f) as notified by the President from time to time.

(f) Notwithstanding any other provision of these Rules, these meetings may be conducted in person, by telephone or by videoconference, or by a combination of these forms of meeting or communication. Where any such Meeting is conducted other than by way of all of the participants being present in person, such meeting shall be as valid as if all participants had met in person provided that:

(1) any such meeting is convened and conducted in accordance with the requirements of the Rules applicable to the meeting concerned, including (without limitation) the relevant rules relating to notice of and quorum for the meeting; and

(2) each of the members participating in the meeting must be able to hear each of the other members present at the meeting.

## 25 - PROXIES

(a) A proxy appointed pursuant to rule 23 of these rules shall:

 (1) be a member of the National Executive;

 (2) be entitled to attend any meetings in place of the absent member for the duration of the proxy notice;

 (3) be entitled to exercise all the rights and privileges of the absent member except as these may be limited by the proxy notice pursuant to these rules, including the voting rights of the absent member, in addition to any of their own as they may apply to the meeting attended as a proxy.

(b) A proxy appointed pursuant to rule 24 of these rules shall:

 (1) if being appointed by an absent Committee of Management member, satisfy all the provisions and exercise all the rights and privileges pursuant to clause (a) of this rule; or

 (2) if being appointed by an absent Divisional Delegate,

(a) be a member of the National Executive, or of the Division normally represented by the absent Delegate, as the Delegate determines;

(b) be entitled to attend any meetings in place of the absent Delegate for the duration of the proxy notice;

(c) be entitled to exercise all the rights and privileges of the absent Delegate except as they may be limited by the proxy notice pursuant to these rules, including the voting rights of that Delegate, in addition to any of their own as they may apply to the meeting attended as a proxy.

(c) A proxy appointed pursuant to rule 29 of these rules shall be entitled to exercise all of the rights and privileges of the absent member except as they may be limited by the proxy notice pursuant to these rules, including the voting rights of that member, in addition to any of their own as they may apply to the meeting attended as a proxy.

## 26 - VOTING AT MEETINGS

(a) Where there are two delegates representing a division in attendance at meetings, they must consult each other prior to the meeting to determine which of the attendees will exercise the voting rights of that division.

(b) Voting at meetings shall be by a show of hands, or by such other method as the meeting may determine.

(c) Unless otherwise required by these rules, matters shall be determined by a simple majority of the votes cast by those entitled to be present and to vote on the matter being decided.

(d) In the event of an equality of votes being cast on a matter, the chairperson shall have a casting vote. This clause shall not apply at Divisional meetings for votes on matters that will be considered at a National Executive meeting.

 (e) (1) Divisional Delegates shall, where and when practicable, ascertain the views of the membership of the Division they represent, and shall be bound by their views.

(2) When voting at National Executive meetings Divisional Delegates shall split the Divisional vote YES/NO in accordance with the direct proportion of YES/NO votes, on the particular matter, at the relevant Divisional meeting. Abstentions shall not be considered in calculating the proportion of YES/NO votes in a split vote, however a Delegate is permitted to abstain completely if that was the view of the Division.

 (3) Where it is not practicable to ascertain the views of members on a particular matter due to unforeseen circumstances, or when the rapid progress of events of which members were unaware at the time a view was determined previously indicates a counter course of action to the Delegate, then the Delegate shall exercise the Divisional voting rights in the best interests of the Division or Association as a whole, as applicable to the circumstances, and as best perceived by the Delegate at the time. Under these circumstances split voting is not permitted - the Delegate must vote YES, NO or ABSTENTION.

(f) Within Geographically Dispersed Divisions voting may take place outside a meeting via email in accordance with the following procedure:

(1) Notice of email votes must be given by the Divisional Delegate to all members of the Division concerned.

(2) Notice of email votes must specify the voting period, which must automatically expire upon the receipt of votes from all eligible members of the Division.

(3) Votes must be received within the voting period from at least as many members of the meeting as would have been needed to form a quorum at a Divisional meeting.

(4) Following the expiry of the voting period, the Divisional Delegate must circulate a further email within 24 hours to all members of the Division confirming the result of the vote.

(5) The date of a vote will be the date of the email from the Divisional Delegate confirming the result of the vote. The result of any such vote must be included in the minutes of the next meeting of the Division.

(6) Motions of reconsideration will be dealt with in accordance with the provisions of Rule 56 (c).

## 27 - VOTING RIGHTS AT NATIONAL EXECUTIVE AND COMMITTEE OF MANAGEMENT MEETINGS - DETERMINATION AND ALLOCATION

(a) Each member of the Committee of Management shall have one (1) vote, excepting that the President, in the event of an equality of votes cast on any matter and except where otherwise provided for in these rules, shall have a casting vote in addition to a deliberative vote.

(b) Each Divisional Delegate shall be entitled to exercise one (1) vote for every ten (10) financial members, or part thereof, of the Division they represent.

 (1) The number of members so apportioned shall be determined on the first (1st) day of July each year, and shall be the number of financial members of the Division appearing on the Membership Register, kept pursuant to these rules, as at the thirtieth (30th) day of June of the preceding financial year.

 (2) The number of votes so determined shall be applicable to all voting by the Delegate for the ensuing twelve (12) months.

## 28 - COMMON SEAL OF THE ASSOCIATION

(a) The Association shall have a common seal which shall be kept in the exclusive custody of the President.

(b) Any Industrial Agreement or other document required by law to be under seal shall be executed on behalf of the Association by fixing the seal of the Association thereto, and by the signing of the document by the President and any one (1) other member of the Committee of Management, acting under the authority of a resolution of National Executive.

(c) Any document or agreement not required by law to be under seal may be executed on behalf of the Association by any two (2) members of the Committee of Management acting under the authority of a resolution of the National Executive.

## 29 - MEETINGS - DIVISIONS

(a) A meeting of a Division shall be held when required by the Divisional Delegate or upon direction of the National Executive.

(b) The Divisional Delegate shall, wherever possible, give each member of the Division forty-eight (48) hours notice of the meeting.

(c) A quorum shall be ten (10) percent of the members of the Division entitled to be present and entitled to vote at the meeting.

(d) In the event of any member of the Division being unable to attend, the member may appoint, in writing, a proxy.

(e) Notwithstanding any other provision of these Rules, these meetings may be conducted in person, by telephone or by videoconference, or by a combination of these forms of meeting or communication. Where any such Meeting is conducted other than by way of all of the participants being present in person, such meeting shall be as valid as if all participants had met in person provided that:

1. any such meeting is convened and conducted in accordance with the requirements of the Rules applicable to the meeting concerned, including (without limitation) the relevant rules relating to notice of and quorum for the meeting; and
2. each of the members participating in the meeting must be able to hear each of the other members present at the meeting.

## 30 - MEANS OF ALTERNATIVE VOTING

(a) Between National Executive meetings, the President or Executive Secretary may, and when requested by a Committee of Management member shall, submit in writing a motion for decision by members of the National Executive.

(b) Motions under this Rule shall be in writing and sent by email, letter, facsimile or any similar mode.

(c) A vote under this Rule shall be provided to the Executive Secretary in writing by either email, letter, facsimile or any similar mode within 7 days of the date the motion is sent to a member of the National Executive or such lesser time as the Executive Secretary determines.

(d) A motion shall be carried under this Rule, if a simple majority of the members of the National Executive entitled to vote, vote in favour of it.

(e) The Executive Secretary shall be entitled to count the votes as they are received and shall notify the result of a vote under this Rule to the members of the body involved.

(f) Such vote has the same effect as a decision of the National Executive made in a properly constituted meeting.

(g) The National Executive may only deal under this rule with a matter which requires a decision by simple majority.

## ELECTIONS

## 31 - RETURNING OFFICERS - APPOINTMENT, DUTIES AND POWERS

(a) At its ordinary Spring meeting in each even-numbered year, the National Executive shall appoint a Returning Officer for the next two (2) years.

(b) Any Returning Officer appointed pursuant to this rule:

 (1) may or may not be a member of the Association, as the National Executive so determines;

 (2) shall not be the holder of any Office in, nor an employee of the Association or Division of the Association;

 (3) shall not be a candidate for any position in the Association for the period of duty as a Returning Officer;

 (4) shall conduct any election, ballot or plebiscite held pursuant to these rules;

 (5) shall have final determination, subject to rule 35 of these rules, as to the acceptability or otherwise of any votes cast;

 (6) shall report the result of all ballots to the President and submit a report of the ballot indicating the number of ballot papers printed, distributed, the number on hand and any other matter deemed relevant to the ballot.

(c) In the event of a Returning Officer being unable, or unwilling to act as and when required, whether during the conduct of any election, ballot or plebiscite or not, the National Executive shall thereupon appoint another person to act as Returning Officer for the remainder of the unexpired term referred to in clause (a) of this rule.

## 32 - SCRUTINEERS - APPOINTMENT, DUTIES AND POWERS

(a) Any candidate in an election conducted pursuant to these rules may, if so desired, appoint a scrutineer to represent the candidate at the ballot, and shall notify the returning officer, not later than one week after the closing date for nominations, of the name of the scrutineer so appointed.

(b) A scrutineer appointed pursuant to this rule:

 (1) shall be entitled to be present at the ballot for which they were appointed as a scrutineer;

 (2) shall be a member of the Association;

 (3) shall not be a candidate for any position for which they are appointed as a scrutineer;

 (4) may query the Returning Officer about any vote's inclusion in, or exclusion from the count;

 (5) shall not remove, mark, alter or deface any ballot paper or other document used in connection with the election;

(6) shall not interfere with, nor attempt to influence the vote of any member at the time the member is casting a vote.

## 33 - NOMINATIONS - OFFICERS

(a) Nominations for positions of the National Executive of the Association shall be in writing, on a form compiled by the Returning Officer.

(b) No person shall be entitled to nominate for more than one position at any one simultaneous election.

(c) Nominations for a position on the Committee of Management, as defined in rule 21 of these rules, shall be signed by the nominee and two others signing as nominators, all of whom shall be financial members of the Association.

(d) Nominations for the position of Divisional Delegate, as defined in rule 22 of these rules, shall be signed by the nominee and two others signing as nominators, all of whom shall be financial members of the Division for which the nominee is proposed as a candidate for Delegate.

(e) All nominations for elections, of the position of Divisional Delegate as defined in rule 22 of these rules, conducted pursuant to these rules shall be received by the returning officer no later than the fourteenth (14th) day of May in the year in which the position becomes vacant.

(f) (i) Nominations for elections of the Vice-Presidents of the Association as defined in rule 21 of these rules, conducted pursuant to these rules shall be received by the returning officer no later than the twelfth (12th) day of March in the year in which the position becomes vacant.

 (ii) Nominations for the election of the President of the Association, conducted pursuant to these rules shall be received by the returning officer no later than the twelfth (12th) day of June in the year in which the position becomes vacant.

## 34 - HOLDING OF OFFICE - DIVISIONAL DELEGATE QUALIFICATIONS AND TENURE

(a) No person shall be eligible to hold or continue to hold a position as a Divisional Delegate or Branch Representative of the Association if:

 (1) they cease to be a financial member of the Association; or,

 (2) they are of unsound mind.

(b) No person shall be eligible to be elected to more than one position on the National Executive.

 (1) In the event of a member of the Committee of Management successfully contesting an election for another position on the National Executive, they shall resign the position originally held upon taking office from the declaration of the poll or from the first (1st) day of July in the same year, whichever is the later, at which time an extraordinary or casual vacancy shall be declared pursuant to these rules.

(c) No person shall be eligible to hold or continue to hold the position of Divisional Delegate or Branch Representative if they are not, or cease to be, employed in Branch unit or one of the units embraced by the Division as defined in rule 7 of these rules.

(d) Divisional Delegates shall take Office from the first day of July following the declaration of their election. All members of the National Executive, shall hold office for a period of two years, except for the case of extraordinary or casual vacancies, in which event the temporary office-holder shall hold office, pursuant to rule 37, for the remainder of the unexpired term of the extraordinary or casual vacancy.

(e) Elections for Delegates representing the following divisions shall be conducted each even numbered year:

 Melbourne Centre

 Sydney Towers and TCU

 Brisbane Towers and TCU

 Perth Towers and TCU

 Brisbane Centre - Alternate

 Southern Towers

(f) Elections for Delegates representing the following divisions shall be conducted each odd numbered year:

 Air Traffic Services Management and Operational Support

 Brisbane Centre

 Melbourne Towers and TCU

 FDC/SSO/ADT

 Melbourne Centre – Alternate

 Northern Towers

 Western Towers

(g) The Divisional Delegates of the Association shall be elected by and from the financial members of the appropriate Division.

## 35 - CONDUCT OF BALLOTS

(a) The Returning Officer shall conduct all ballots held pursuant to these rules.

(b) The system of voting in any election conducted pursuant to these rules shall be the preferential system of voting.

(c) Elections for the positions of members of the National Executive shall be conducted by a secret postal ballot. Provision is made for absent voting as follows: where a member considers that they will be absent from their regular address during the conduct of a ballot, that member may provide to the Returning Officer before the commencement of the ballot any new or temporary address to which the member wishes their ballot paper to be sent and the Returning Officer shall send the ballot paper to the specified address.

(d) The returning officer shall:

 (1) (a) not later than the first day of May in any year, call for nominations for the Divisional Delegate positions becoming vacant, pursuant to rule 34 of these rules, on the thirtieth (30th) day of June in that year; by insertion of notices in journals and/or circulars to members' employment facilities, as the returning officer deems appropriate;

 (2) check all nominations received for compliance with these rules, and reject any that do not so comply, provided that:

 (a) in the event of finding a defect, the returning officer shall, before rejecting the nomination, notify the nominee of the defect, and give an opportunity to remedy the said defect, where practicable, within seven (7) days of the nominee having been so notified;

(b) not later than the nineteenth day of February in any year, call for nominations for the Vice-Presidents of the Association positions becoming vacant, pursuant to rule 38 of these rules, on the last day of April in that year; by insertion of notices in journals and/or circulars to members’ employment facilities, as the returning officer deems appropriate;

(c) not later than the nineteenth day of May in any year, call for nominations for the President of the Association position becoming vacant, pursuant to rule 38 of these rules, on the last day of July in that year; by insertion of notices in journals and/or circulars to members’ employment facilities, as the returning officer deems appropriate;

 (3) (a) where there is only one nomination accepted for any Divisional Delegate position, declare that, as from the first (1st) day of July next, the nominee is elected to the position;

 (b) where there is only one nomination accepted for any Vice-President of the Association position, declare that, as from the first (1st) day of May next, the nominee is elected to the position;

(c) where there is only one nomination accepted for the President of the Association, declare that, as from the first (1st) day of August next, the nominee is elected to the position;

 (4) where two (2) or more nominations are accepted for any position,

 (a) have ballot papers printed and delivered to themself:

 (1) containing the names of the candidates for each position in an order chosen by ballot,

 (2) indicating the number to be elected to each position and the manner in which votes shall be recorded, and the date and time of closing of the ballot, which date shall be not later than the twenty-first (21st) day of June for that year for Divisional Delegate positions or the thirtieth (30th) day of April for that year for Vice-Presidents’ positions or the thirty-first (31st) day of July in the even numbered year for the President’s position,

 (b) be responsible for the safe custody of ballot papers;

 (c) obtain from the printer, a certificate of the number of ballot papers printed;

 (d) initial each of the ballot papers prior to distribution;

 (e) forward by pre-paid post, a ballot paper, a declaration envelope and a prepaid envelope in the form prescribed by the regulations made under the *Fair Work (Registered Organisations) Act 2009*, addressed to the returning officer, to each member entitled to receive a ballot paper, at the address held for the member in the Membership Register;

 (f) permit every candidate for election to have a typed or printed sheet of their own composition limited to five hundred (500) words reproduced and distributed to members eligible to vote in the election. Non-receipt of such a sheet by any member shall not invalidate the ballot. Provided however that such composition shall be submitted to the Returning Officer, not later than one week after the closing date for nominations, who shall ensure that they are mailed no later than the issue of ballot papers;

 (g) arrange for the use of a post office box or other receptacle to which ballot papers shall be returned, and after the closing date of the ballot, collect the papers so returned;

(h) count, in the presence of such scrutineers as may be entitled to be present pursuant to these rules, all the votes cast and declare the result of the ballot; except that, in the event of a tie occurring, determine the result by drawing lots, provided that there are only two candidates. In the event of a tie occurring and there are more than two candidates, the candidate receiving the majority of first preference votes shall be declared elected.

(e) A ballot paper shall be rejected if it is not marked in a manner prescribed or allowed by these rules; but except as otherwise provided by these rules, a ballot paper shall be accepted and effect shall be given to the voter's intention insofar as the intention is clear to the returning officer.

(f) The roll of voters for any ballot is to be closed on the seventh day before the day on which nominations for the election open.

## 36 - REMOVAL OF ELECTED REPRESENTATIVES

(a) A member of the National Executive may be removed from office if the National Executive, by a two-thirds majority vote of eligible members finds the person guilty, pursuant to these rules, of:

 (1) misappropriation of the funds of the Association;

 (2) a substantial breach of these rules;

 (3) gross misbehaviour or gross neglect of duty; or

 finds the person has ceased to be eligible, pursuant to these rules, to hold their position on the National Executive.

(b) A member of the National Executive charged pursuant to these rules shall be entitled to be present at the meeting of the relevant body hearing the charge, and shall be provided with a written copy of the charge at least fourteen (14) days prior to such a hearing and shall be entitled to be heard and make written submissions as desired, but shall not be entitled to exercise a vote at the meeting.

(c) Notwithstanding clause (b) of this rule, the President may, at their discretion, suspend from office, a member of the National Executive charged pursuant to these rules pending the determination of the charge, but in no event shall the suspension so determined by the President exceed twenty-eight (28) days, nor shall the person so suspended be again suspended pursuant to the same charge.

 (1) A member suspended pursuant to this rule shall relinquish all rights and privileges, other than those expressly provided for in this rule, as are normally due to a member of National Executive, for the duration of the suspension.

## 37 EXTRAORDINARY OR CASUAL VACANCIES

(a) An extraordinary or casual vacancy shall arise in any office or position of the Association elected pursuant to these rules where an office is vacant or the office has been vacated by the Officer holder. This shall include a vacancy arising as a result of no nomination or no valid nomination having been received for the relevant position/s prior to the close of nominations for that position/s.

(b) Such a vacancy shall be filled as soon as is practicable following the occurrence of such a vacancy, by either of the following methods:

 (1) where the unexpired term of the office in which the vacancy occurs does not exceed twelve (12) months, the National Executive may fill the position by:

 (a) the appointment of a member of the Association who is eligible, pursuant to these rules, to hold the vacant position, the National Executive being at all times cognisant of the wishes of the membership, if known or expressed; or,

 (b) the conduct of a secret postal ballot of all members of the Association eligible to vote for the position being declared vacant.

 (2) Where the unexpired term of the office in which the vacancy occurs exceeds twelve (12) months, the National Executive shall fill the position by:

 (a) the appointment of a member of the Association who is eligible, pursuant to these rules, to temporarily hold the vacant position, the National Executive being at all times cognisant of the wishes of the membership if known or expressed, and such an appointment shall be for no more than three (3) months. A secret postal ballot to replace the temporary office-holder so appointed shall be conducted within three (3) months of the declaration of the extraordinary or casual vacancy.

(c) Where a postal ballot is conducted pursuant to this rule, the returning officer shall determine the timing of nominations, and the opening and closing dates of the ballot, and in all other matters the ballot shall be conducted pursuant to these rules and the returning officer shall report the result of the ballot so conducted to the President in accordance with the duties of the returning officer specified in rule 31 of these rules.

## 38 - HOLDING OF OFFICE - COMMITTEE OF MANAGEMENT QUALIFICATIONS AND TENURE

(a) No person shall be eligible to hold or continue to hold a position on the Committee of Management if:

 (1) they cease to be a financial member of the Association; or,

 (2) they are of unsound mind.

(b) No person shall be eligible to be elected to more than one position on the National Executive.

 (1) In the event of a Delegate of a Division successfully contesting an election for a Committee of Management position, they shall resign the position originally held upon taking office from the declaration of the poll in the same year, at which time an extraordinary or casual vacancy shall be declared pursuant to these rules.

(c) (1) Vice-Presidents of the Association shall take Office from the first day of May following the declaration of their election in that year. They shall hold office for a period of two years.

(2) The President of the Association shall take Office from the first day of August, following the declaration of their election in that year. The President shall hold office for a period of two years.

(d) Committee of Management Elections as defined in rule 21 of the rules shall be conducted each even numbered year for the following positions:

 President

 Two (2) Vice-Presidents (Administrative and Technical).

(e) Committee of Management Elections as defined in rule 21 of the rules shall be conducted each odd numbered year for the following positions:

 Three (3) Vice-Presidents (Finance, Communication and Professional).

(f) The Committee of Management of the Association shall be elected by and from all the financial members of the Association.

## 39 – EXCEPTIONAL CIRCUMSTANCES ELECTIONS

(a) For the avoidance of doubt (and notwithstanding anything else contained in these rules), where the Australian Electoral Commission is unable to conduct an election, including in circumstances relating to the COVID-19 pandemic, all current officers shall hold over in office until their successor is declared elected. The successful candidate(s) will take up office immediately on the declaration of the election and hold office until the next normal election.

## FINANCE

## 40 - FUNDS - DEFINITION AND OWNERSHIP

(A) The funds and property of the Association shall consist of:-

 (1) any real or personal property of which the National Executive or the Committee of Management of the Association, by these rules or by any established practice not inconsistent with these rules, has or, in the absence of any limited-term lease, bailment or arrangement, would have the right of custody, control or management;

 (2) the amounts collected by or on behalf of the Association by way of subscriptions, levies and/or fines;

 (3) any interest, rents, dividends or other such income derived from the investment or use of such funds and property;

 (4) any superannuation, long service leave or other fund operated or controlled by the Association as a whole in accordance with these rules for the benefit of its employees;

 (5) any special fund operated by the Association as a whole in accordance with these rules for the purposes of sick-pay, accident-pay, funeral expenses or the like, for the benefit of its members;

 (6) any property acquired wholly or mainly by expenditure of the monies of such funds and property, or derived from other assets of such funds and property; and

 (7) the proceeds of any disposal of parts of such funds and property.

## 41 - CONTROL AND DISBURSEMENT OF FUNDS

(a) The funds and property of the Association shall be controlled by the National Executive and the Committee of Management, both of which shall have the power to expend the funds for the purpose of carrying out the objects of the Association.

(b) All transactions that draw on the funds of the Association shall require a minimum of two members of the Committee of Management to authorise the transaction. The preference is for the Association to use electronic funds transfer that use secure token technology for authorising transactions. The Committee of Management shall decide which members of its Committee of Management are authorised to approve transactions. Should a cheque be required then it shall be signed by two members of its Committee of Management. Where only one member of its Committee of Management is available to authorise transactions or sign cheques and a financial obligation exists for the Association, then the occupant of the position of Executive Secretary is approved to be the second authoriser or signatory.

(c) Prior approval of the National Executive or Committee of Management shall not be required for accounts to be paid either electronically or by signed cheque, drawing from the funds of the Association for the general administration of the Association and for purposes reasonably incidental to the general administration of the Association.

(d) Subject always to clauses (e), (f) and (g) in this Rule, but notwithstanding anything elsewhere contained in these Rules, the Association shall not make any loan, grant or donation of any amount exceeding $1,000 unless the National Executive or the Committee of Management of the Association -

 (i) has satisfied itself -

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

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

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

(e) The Federal President may, out of the funds of the Association, make a loan, grant or donation of an amount not exceeding $3,000 to a member of the Association if such loan, grant or donation -

 (i) is for the purpose of relieving the member or any of their dependants from severe financial hardship, and,

 (ii) is subject to a condition to the effect that, if the Committee of Management at its next meeting does not approve the loan, grant or donation, it shall be repaid to the Association as determined by the Committee of Management.

(f) In considering whether to approve a loan, grant or donation made under clause (e) of this Rule, the Committee of Management shall have regard to -

 (i) whether the loan, grant or donation was made in accordance with the Rules of the Association, and,

 (ii) in the case of a loan -

 (a) whether the security, if any given for the repayment of the loan is satisfactory, and,

 (b) whether the arrangements for the repayment of the loan are satisfactory.

(g) The provisions of clause (d) of this Rule shall not apply to or in relation to payments made by the Association by way of provision for, or reimbursement of, out of pocket expenses incurred by persons for the benefit of the Association.

## 42 - REIMBURSEMENTS

(a) Any member who forgoes salary or allowances as a result of acting on the business of the Association under instructions from the National Executive or Committee of Management, shall be entitled to claim all such loss from the Association funds. For the purposes of this paragraph, "salary and allowances" includes all salary and allowances in respect of a rostered shift that would have reasonably been paid to a member had the member not acted on the business of the Association.

When a member acts on the business of the Association, at the direction of the National Executive or Committee of Management, and as a result becomes unavailable for Emergency Duty call-out, or Overtime (rostered or otherwise) as commonly defined within the Association's applicable Work Practice agreements, no payment shall be claimable against the Association pursuant to this Rule as compensation for the forgone salary or allowances which would have accrued to the member had the Emergency Duty or Overtime been performed.

(b) Reimbursement of reasonable out-of-pocket expenses, as determined by the Vice President - Finance, shall be allowed members and employees engaged on Association business at the direction of the National Executive or Committee of Management.

(c) Payments made as provision for, or reimbursement of out-of-pocket expenses incurred by persons for the benefit of the Association shall be made pursuant to rule 41 (c) of these rules.

(d) The National Executive is authorised to establish and amend a Payment Policy:

 (1) in respect of a member who necessarily represents the Association during rostered time off, and/or

 (2) for any other purpose not provided for elsewhere in this Rule.

(e) A member of the Association may, by written application to the Vice President - Finance, request a summary of the method of computing any payment made under this Rule. The Vice President - Finance shall provide the member with the information requested within twenty-eight (28) days of receiving the request.

## 43 - AUDIT

(a) The financial year of the Association shall commence on the first day of July of any year, and shall cease on the last day of June in the subsequent calendar year.

(b) An Auditor shall be appointed by the National Executive to audit the accounts of the Association, for a period of up to three (3) years, and shall:-

 (1) be a competent person within the meaning of the Act and its Regulations;

 (2) perform such functions and duties as are prescribed by the Act and Regulations, and such other functions and duties not inconsistent with the Act and Regulations as are required by the National Executive or Committee of Management;

 (3) have access to, and examine if desired, all books, papers, deeds, documents and accounts of the National Executive and Committee of Management, and be empowered to question any Office-bearer or same, and to obtain from any bank or other institution at which the funds of the Association are deposited or invested, such information as they may require; and

 (4) have the power to place before the National Executive and/or the Committee of Management any suggestions concerning the financial affairs of the Association.

## 44 - NECESSITOUS CIRCUMSTANCES FUND (LOSS OF LICENCE)

(1) **Definitions**

In this Rule, unless the context otherwise requires, the following expressions have the meanings ascribed to them respectively:-

“**Act of terrorism**” means any act or event involving the use of force or violence or the threat thereof which from its nature or context is done or occurs for, or in connection with, political, religious, ideological or similar purposes or reasons (including criminal purposes) with the actual or reasonably inferred intention of influencing or putting in fear any government, government agency or section of the public.

“**Airservices Australia**” means the body corporate of that name established pursuant to the Air Services Act 1995 (C’th), or any agency or instrumentality of, or constituted under, the laws or regulations of the Commonwealth of Australia which may hereafter assume the functions, powers and responsibilities of Airservices Australia, or any successors, assignees or transmitees of the business of Airservices Australia.

“**Air Traffic Controller**” means a person who has been granted, and who holds a current ATC licence in accordance with the Civil Aviation Safety Regulations 1998 (C’th) and who is employed in this role by either Airservices Australia or the Department of Defence.

“**Bodily Injury**” means bodily injury sustained by a Member caused directly, solely and independently of any other cause by violent accidental external and visible means and includes:

(a) illness solely and directly caused by such bodily injury and

(b) the results of involuntary exposure to the elements after any accident or mishap.

“**Cancellation**” means in relation to a Licence that:

(a) The Licence of a Member is:

(i) cancelled, or

(ii) suspended for a continuous period and such continuous suspension results in its cancellation while the Member is a Member, or

(iii) suspended for a continuous period that commences while the Member was a Member and such continuous suspension results in its cancellation after the Member ceases to be a Member, provided that the Member has applied in writing for a benefit from the Fund within twelve (12) months from the date of commencement of the period of suspension.

OR

(b) The Member:

(i) is refused renewal of a Licence, or

(ii) has their medical certificate suspended or medical qualification withdrawn, and such suspension or withdrawal results in the cancellation of the Licence, either while the Member remains a Member or after the Member has ceased to be a Member, provided that such cancellation occurs within twelve (12) months from the date of suspension or withdrawal and that the Member was a Member at the date of suspension or withdrawal.

“**Civil Aviation Safety Authority**” means the body corporate of that name established pursuant to the Civil Aviation Act 1998 (C’th), or any agency or instrumentality of, or constituted under, the laws or regulations of the Commonwealth of Australia, which may hereafter assume the functions, powers and responsibilities of the Civil Aviation Safety Authority, or any successors, assignees or transmitees of the business of the Civil Aviation Safety Authority.

“**Date of Commencement**”

means the date referred to in Sub-Rule (4).

“**Department of Defence**” also referred to as the Australian Defence Organisation or Defence Australian Public Service (APS) is the government department that employs air traffic controllers under the Public Service Act 1999 (C’th) or any statutory or regulatory provisions with which they, or either of them, may subsequently be replaced. This definition does not cover air traffic controllers who are permanent members of the Australian Defence Force.

“**Illness**” includes:

(a) psychiatric illness,

(b) diseases,

(c) premature senile degenerative change.

“**Licence**” means an Air Traffic Controllers Licence (including a rating, endorsement or qualification), issued by the Civil Aviation Safety Authority, Airservices Australia**,** the Department of Defence or their predecessors, together with a class 3 medical certificate, within the meaning of, and in accordance with, the Civil Aviation Safety Regulations 1998 (C’th), the Civil Aviation Regulations 1998 (C’th) or any statutory or regulatory provisions with which they, or either of them, may subsequently be replaced.

**“Lump Sum Payment”** is a single payment of a benefit, made at a particular time. It is not a series of payments made over time or in instalments.

“**Member**” means a person who is a financial member of the Association. A Life member of the Association, an Honorary member of the Association or a member with an unbroken period of 40 years membership with the Association is taken to be a financial member of the Association for the purposes of this rule.

“**Post-commencement date membership subscriptions actually collected**” means all membership subscriptions and renewal fees received by the Association for or in respect of any period of membership occurring on or after the commencement date.

“**Pre-Existing Condition**” means a condition which a Member has been treated for, or seen a doctor about, prior to becoming a Member, irrespective of the outcome of the treatment received regarding such condition whether or not the Member has been completely cured or healed. For the removal of doubt, Bodily Injury to a Member that occurs as a result of a specific separate and distinct accident by violent, accident, external and visible means, and which causes damage to a previously healed injury does not constitute a Pre-Existing Condition.

“**the Auditor**” means the person appointed from time to time by the Association to carry out audit and accounting functions in relation to the Fund in accordance with these Rules, being an approved auditor as defined by the *Fair Work (Registered Organisations) Act 2009*. An approved auditor is a person who is a member of CPA Australia, the National Institute of Chartered Accountants in Australia or the National Institute of Accountants and holds a current Public Practice Certificate.

“**the Fund**” means the Necessitous Circumstances (Loss of Licence) Fund established for the benefit of Members pursuant to this Rule.

(2) **Establishment of Fund**

There shall be a separate fund of the Association known as the Necessitous Circumstances (Loss of Licence) Fund. It shall consist of the funds that are allocated to it from time to time by resolution of the National Executive in accordance with these Rules.

(3) **Objects of Fund**

The sole purpose of the Fund is to provide benefits to individual members to overcome hardships associated with the loss of their Air Traffic Control position upon cancellation of the Member’s Licence (as defined under this Rule) as the direct result of an inability by the Member to satisfy the medical requirements of the Licence.

The benefits associated with the Fund are payable subject to the terms, conditions, provisos and exclusions set forth in this Rule.

Without any way limiting the terms, conditions, provisos and exclusions set forth in this Rule, no payment or benefit is payable where the member fails to take all reasonable steps to satisfy the medical requirements of the Licence or where the member resigns or retires from their Air Traffic Control position at their own volition or where their employment is terminated for non-medical reasons.

(4) **Commencement**

This Rule 44 comes into effect on 1 July 2006.

(5) **Governance**

(a) The Committee of Management of the Association shall have the responsibility for the proper administration, management and control of the Fund subject to the objects of the Fund as set out in this Rule.

(b) The Rules of the Association as to the funds and property of the Association will apply to the Fund PROVIDED THAT, in the event of any inconsistency between the provisions of this Rule and the other Rules of the Association insofar as they may apply to the Fund, the provisions of this Rule shall prevail to the extent of the inconsistency.

(c) The Committee of Management of the Association shall present an annual report to members of all contributions received by the Fund during the period of the report and all benefits paid to Members during that period, together with such other financial information as the Auditor may deem relevant in order to keep Members properly informed about the Fund.

(d) Notwithstanding anything else contained in these Rules, the deliberations and the records of any kind relating to applications for the payment of benefits, and the consideration for such applications, shall be absolutely privileged and shall be kept secret and shall not be divulged to any person not necessarily connected with the processing of the application and the payment of any benefit.

(e) The National Executive may in its absolute discretion by ordinary resolution allocate such further sum or sums of money from its funds and property for the purposes of the Fund and assign to it such part or parts of the Association’s income as the National Executive deems appropriate.

(f) The Committee of Management may invest the funds of the Fund in such manner as is provided in these Rules for the investment of the general funds of the Association together with such other investments as the Auditor may from time to time authorise.

(g) In connection with the administration, management and control of the Fund, the Committee of Management may engage a lawyer, accountant, auditor, actuary, broker or agent or any other person to transact any business or do any act required to be done in connection with the Fund and may pay all proper fees, charges, commissions and disbursements in connection with or incidental to any such engagement. The Committee of Management may appoint a group of persons to advise them in administration, management and control of the Fund however the Committee of Management maintains and cannot delegate its responsibilities under this Rule.

(h) The Members of the Committee of Management and National Executive shall as regards any power, authority or discretion vested in them or anyone of them with respect to the Fund, be in no way responsible for any loss, costs, damages or inconvenience regarding the exercise thereof.

(6) **Contributions to the Fund**

(a) Out of all post-commencement date membership subscriptions actually collected, the National Executive or Committee of Management (as the case may be) shall by resolution allocate sufficient moneys to the Fund to enable the Fund to meet the payment of benefits to members in accordance with this Rule.

(b) Subject to these Rules, before determining the quantum of moneys that will be sufficient to meet the payment of benefits to members in accordance with this Rule, the National Executive or Committee of Management will seek the advice of the Auditor and, in making such determination, will follow that advice.

(7) **Benefits**

If a Member’s Licence is cancelled on or after the commencement date as the direct result of an inability by the Member to satisfy the medical requirements of the Licence, then the Member will, subject to the terms, conditions, provisos and exclusions set forth in these Rules, become entitled to payment by the Association of a benefit calculated in accordance with the following Table of Benefits:

|  |  |
| --- | --- |
| **Age at Date of Cancellation of Licence** | **Benefit Amount** |
| 21-30 | $281,259 |
| 31-35 | $241,520 |
| 36-40 | $210,914 |
| 41-45 | $177,508 |
| 46-50 | $152,942 |
| 51-55 | $115,537 |
| 56-59 | $110,403 |

PROVIDED THAT:

(a) The date for determining the age category to which a Member making a claim belongs for the purpose of calculating the Member’s benefit will be the first date upon which there was a cancellation of the Member’s Licence.

(b) No more than one claim for a benefit from the Fund may be made by or on behalf of a Member, regardless of the number of times that a Member may suffer a cancellation of the Member’s Licence.

(c) No benefit will be payable under any circumstances to any Member who has previously received a lump sum payment of a benefit under any Loss of Licence Insurance policy, prior to 1 July 2006. No benefit will be payable under any circumstances to any Member who has previously received a payment of a benefit from the Necessitous Circumstances Fund since its inception on 1 July 2006.

(d) A Member ceases to be eligible for the payment of benefits pursuant to this Rule if that Member:

(i) permanently ceases to be employed as an Air Traffic Controller or in a position requiring the Member to retain a Class 3 Medical by Airservices Australia or the Department of Defence, other than where this cessation of employment is caused by the cancellation of the Member’s Licence as the direct result of an inability by the Member to satisfy the medical requirements of the Licence; or

(ii) reaches their 60th birthday;

(iii) ceases to meet any other criteria or eligibility for the payment of benefits pursuant to these Rules.

(e) In the event that the cancellation of a Member’s Licence results from or is predominantly caused by stress, depression, anxiety or any psychosomatic, psychological, psychotic, mental or nervous disorder including alcoholism or drug abuse, the maximum benefit payable will be $75,000.

(f) Where a cancellation of a Member’s licence results from, a Pre-Existing Condition or from a condition that is related to, or a side effect of, the Pre-existing condition the maximum benefit payable to a Member will be 50% of the benefit that would otherwise be payable under the Table of Benefits referred to in this Rule.

(g) No benefit is payable if the Member has reasonable prospects of obtaining restoration of the Licence.

(h) No benefit is payable if, in view of the Committee of Management, the facts of the claim are incomplete.

(i) No benefit is payable if:

In the event of suspension of the Licence resulting in cancellation, the Member was not a financial member of the Association for a continuous period of not less than 12 months both at the time that the suspension first came into effect and at the time that the Member first became aware of the suspension; or

In the event of a cancellation that does not follow suspension of the Licence, the Member was not a financial member of the Association for a continuous period of not less than 12 months both at the time that the cancellation took effect and at the time when the Member first became aware of the cancellation,

PROVIDED FURTHER THAT, in respect of any claim for benefits, the Committee of Management may in its absolute discretion reduce the required period of financial membership having regard to all the circumstances relating to that claim, including (but not limited to) the length of time during which the claimant has been contributing, and was in a position to contribute, to the Fund.

(j) Notwithstanding any other provision of these Rules, if in the opinion of the Auditor the total benefits that are likely to be payable pursuant to this Rule during any period exceed in value the total funds likely to be available from the Fund during that period to pay such benefits, each benefit that falls due for payment to any Member during that period will be reduced proportionately to such amount that, in the opinion of the Auditor, will limit the total benefits payable during that period to the total funds available from the Fund during that period.

(8) **Exclusions**

No benefit will be payable for any loss of Licence which results from:

(a) Any consequence of war, invasion or civil war.

(b) A deliberately self-inflicted Bodily Injury, or attempted suicide, by the Member.

(c) The death of a Member.

(d) A criminal or felonious act of a Member.

(e) The inability of a Member to attend their occupation due to any changes in medical standards imposed by Airservices Australia or the Civil Aviation Safety Authority orthe Department of Defenceor any other competent authority (including any government).

(f) Losses arising from any use of nuclear, chemical or biological weapons or act of terrorism.

(9) **Conditions Precedent for the Payment of Benefits**

(a) It will be condition precedent to any liability of the Association to pay a benefit pursuant to this Rule for the Member to comply with the terms and conditions of this Rule. However, in any particular case, strict compliance may be waived by the National Executive in its absolute discretion.

(b) The Member shall advise the Association in writing, of any occurrence or event that might reasonably be expected to give rise to a claim against the Fund as soon as practicable upon the occurrence or event taking place.

(c) Notwithstanding sub-rule 9(b) written notice of any claim for benefits under this Rule must be given to the Association by the Member, or anyone acting on the Member’s behalf, within 60 days of the Member being unable to perform the duties of an Air Traffic Controller for a continuous period exceeding 30 days.

(d) If a claim for benefits is in any respect fraudulent, or if any fraudulent means or devices have been used by a Member, or anyone acting on behalf of a member, to obtain any benefit pursuant to this Rule, any such benefit that would otherwise be payable in respect of such claim will be forfeited.

(e) Any person who becomes a Member of the Association on or after the commencement date will, at the time of becoming a Member, provide the Association with a Statutory Declaration in such form as the Committee of Management shall from time to time prescribe:

(i) disclosing full particulars of any claim previously made by the Member under any Loss of Licence Insurance Policy or pursuant to this Rule; and

(ii) disclosing any past, ongoing, chronic or currently existing medical or psychological condition of the Member that may impact upon the Member’s ability to continue to satisfy the medical requirements of the Licence.

(f) If any information provided by a Member in the Declaration referred to in paragraph (d) is false, misleading or incomplete in any respect, any benefit that would otherwise be payable to the Member pursuant to this Rule will be forfeited.

(g) To obtain any benefit pursuant to this Rule a Member must demonstrate that they have taken all reasonable steps to satisfy the medical requirements of the Licence prior to the Licence being cancelled.

(h) As a condition precedent to any liability of the Association to pay a benefit pursuant to this Rule any member who has joined the Association after 1 June 2008 will

(i) in the event of a cancellation following suspension, be required to be a financial member of the Association for a continuous period of not less than 12 months both at the time that the suspension first came into effect and at the time that the Member first became aware of the suspension; or

(ii) in the event of a cancellation that does not follow suspension of the Licence, be required to be a financial member for a continuous period of not less than 12 months both at the time that the cancellation took effect and at the time when the Member first became aware of the cancellation.

(10) **Claims Procedure**

In addition to the Notice of Claim referred to in sub-Rule (9)(c), a member, or any person on behalf of a Member, making a claim for a benefit pursuant to this Rule will promptly furnish the Committee of Management of the Association with such documents and information as it may reasonably require to ensure that payment of the benefit claimed would be in accordance with this Rule.

At all stages throughout the process of reviewing the claim a Member will promptly respond to requests for information from the Committee of Management. Delays in responding to these requests may result in a refusal of the claim.

(11) **Medical Information**

(a) Each member in respect of whom a claim is made for benefits pursuant to this Rule irrevocably authorises the Association to obtain the opinion of an appropriate Medical Practitioner, Treating Specialist or Designated Aviation Medical Examiner (DAME) as to the likelihood of the Member becoming medically capable of obtaining a restoration of the Licence and the Member further irrevocably authorises such medical officer to express and communicate such opinion to the Association and shall give further written consent to the supply of medical information concerning the Member to the Association as may from time to time be reasonably required by the Association.

(b) The Director of Medicine, Civil Aviation Safety Authority, or their nominee, being a medical practitioner with relevant experience and expertise, shall be the sole determiner of whether or not a Member making a claim for the payment of a benefit pursuant to this Rule meets the medical requirements for the holding of the Member’s Licence and whether their Licence shall be cancelled on medical grounds.

(c) A Member who lodges a claim shall submit to independent medical examinations, as and when reasonably required to do so by and at the expense of the Association.

(d) All notices, declarations and communications required to be given to the Association will be addressed to the Executive Secretary at 214 Graham Street, Port Melbourne Victoria.

(12) **Privacy**

(a) The Association will not collect, use, store or destroy any information in relation to a Member that has been furnished to the Association pursuant to this Rule for any purpose other than the evaluation of an actual or possible future claim for the payment of a benefit pursuant to this Rule, the calculation of the amount of such benefit, and any other purpose that the Auditor may reasonably deem appropriate for the prudent and efficient management and administration of the Fund.

(b) No such information concerning a Member will be disclosed to any third party, not being a Member of the National Executive or Committee of Management or any committee or individual appointed to assist the Committee of Management in accordance with this Rule, other than the Auditor, except for the purpose of obtaining a confidential legal opinion or in the event of a dispute arising under sub-rule 44(13) in order to facilitate the resolution of this dispute.

(c) A Member has the right to access personal information held by the Association in relation to that Member pursuant to this Rule. Such application should be directed to the President in writing. If a Member can demonstrate that information held by the Association in respect of that Member is incorrect or inaccurate, the Association will correct it.

(13) **Dispute Resolution**

(a) A Member will not start arbitration or court proceedings (except proceedings seeking interlocutory relief) in respect of a dispute arising out of this Rule (“dispute”) unless the Member has complied with this sub-Rule.

(b) A Member claiming that a dispute has arisen must notify the Committee of Management, giving full details of the dispute. The member must raise this dispute as soon as practicable upon it arising. Where the dispute arises following the denial of a claim the dispute must be lodged within 60 days of the written notification that the claim has been denied.

(c) During the 21 day period after a notice is given under paragraph (b) (or longer period agreed in writing by the Association in its absolute discretion) (“initial period”) the Member and the Association must each use their best efforts to resolve the dispute.

(d) If the Member and the Association are unable to resolve the dispute within the initial period, the dispute must be referred for mediation in accordance with the Institute of Arbitrators & Mediators Australia Mediation (LEADR & IAMA) Rules, at the request of either the Member or the Association to:

(i) a mediator agreed on by the Member and the Association; or

(ii) if the Member and the Association are unable to agree on a mediator within seven days after the end of the initial period, a mediator nominated by The Institute of Arbitrators & Mediators Australia (LEADR & IAMA).

(e) The role of any mediator is to assist in negotiating a resolution of the dispute. A mediator may not make a decision that is binding on the Member or the Association unless the party to be bound has so agreed in writing.

(f) Any information or documents disclosed by a Member or the Association under this sub-Rule:

(i) must be kept confidential; and

(ii) may not be used except to attempt to resolve the dispute.

(g) The Association must bear the costs of complying with this clause and must bear the costs of any mediator engaged.

(h) After the initial period, a Member who has complied with paragraphs (a), (b), (c) and (d) may terminate the dispute resolution process by giving notice to the Association.

(i) If in relation to a dispute a Member breaches any provision of this sub-Rule, the Association need not comply with this sub-Rule in relation to that dispute.

## 45 – ORGANISATION POLICIES AND PROCEDURES

(a) The organisation shall develop and implement policies and procedures relating to the expenditure of the organisation.

## GENERAL

## 46 - ARBITRATION PROCEEDINGS

(a) The National Executive or the Committee of Management shall have the authority to initiate consent agreements and submissions to the Fair Work Commission.

## 47 - KEEPING AND INSPECTION OF ASSOCIATION RECORDS

(a) All Association books, records and documents required to be kept pursuant to the *Fair Work Act 2009* and the *Fair Work (Registered Organisations) Act 2009* shall be kept at the Registered Office of the Association.

(b) The Association shall provide information regarding the affairs of the Association to members at such times and in such a manner as is required in order to comply with relevant provisions of the *Fair Work Act 2009* and the *Fair Work (Registered Organisations) Act 2009* and the regulations made under the *Fair Work Act 2009* concerning the provision of information regarding the Association to its members.

## 48 - AFFILIATIONS

(a) The National Executive may, by resolution carried by a two-thirds majority vote, affiliate the Association, pursuant to these rules, with another organisation provided at all times that such an affiliation will advance the objects of the Association.

 (1) Where an affiliation has been so effected, the National Executive may disaffiliate the Association in the same manner.

## 49 - ALTERATIONS TO THE RULES AND BY-LAWS

(a) The rules of the Association may only be altered by resolution of the National Executive, as hereinafter provided:

 (1) to repeal, alter or add to these rules, or otherwise amend the provisions of these rules, a written notice-of-motion detailing the proposed change(s) shall be provided to each member of the National Executive giving twenty-eight (28) days notice of the proposal to so amend;

 (2) after the expiration of the notice period, the National Executive shall consider the motion, and shall require a two-thirds majority vote in favour of the motion for the motion to be passed;

 (3) should the resolution of the National Executive not be accepted by the General Manager of the Fair Work Commission (or their Delegate) for incorporation into the rules of the Association, the National Executive may take such administrative actions as are necessary to satisfy the requirements of the General Manager of the Fair Work Commission (or their Delegate), without altering the meaning and spirit of the resolution passed by the National Executive. If such changes are still unacceptable to the General Manager of the Fair Work Commission (or their Delegate), then the resolution for the proposed rule change shall automatically lapse.

(b) The National Executive may pass by-laws affecting the daily administration of its powers pursuant to these rules.

(c) By-laws shall be listed as an addendum to these rules, and may be altered, repealed or added to by a simple majority vote of the National Executive, except that where a proposal to alter a by-law is put within six (6) months of the by-law being ratified, a two-thirds majority vote shall be required to pass the amendment.

## 50 - DISPUTES - SETTLEMENT PROCEDURES

(a) Any member having a grievance in connection with their employment shall abide by the settlement procedures contained in the relevant Industrial Award or Agreement.

## 51 - PLEBISCITES

(a) Notwithstanding anything contained elsewhere in these rules, a plebiscite of all financial members of the Association shall be held:

 (1) for any purpose as determined by the National Executive, at the discretion of National Executive; or

 (2) upon delivery to the President or the Registered Office of the Association, a written requisition for a plebiscite signed by members of at least three Divisions of the Association. The number of signatories of the requisition shall:

 (a) comprise not less than fifteen (15) per cent of the individual membership of at least three of the Divisions of the Association represented in the requisition, and

(b) aggregate at least fifteen (15) per cent of all the financial members of the Association.

(b) Any plebiscite shall be conducted by the returning officer of the Association, in accordance with the powers conferred upon the returning officer by these rules, at the earliest date possible after notification by the National Executive of the requirement to conduct the plebiscite, having regard to the convenience of the voters, and shall be conducted by secret postal ballot in the following manner:

 (1) ballot papers prepared for the plebiscite shall contain the question to be voted upon;

 (2) the procedures for the preparation, issuance and receipt of ballot papers shall be in accordance with rule 35 of these rules;

 (3) a simple majority decision of the eligible members voting shall determine the outcome and shall be final, and shall prevail over any prior contrary decision of the National Executive or Committee of Management; except that:-

(a) any matter being put for consideration by the membership within two (2) years of the determination of a previous relevant plebiscite shall require a two-thirds majority vote for the matter to be carried.

## 52 - SPECIAL MEETINGS

(a) The President shall convene special meetings of all members of the Association whenever requested in writing by not less than 15% of the financial members of the Association.

(b) A Divisional Delegate shall convene a special meeting of their Division whenever requested by fifteen (15) per cent of the financial members of the Division.

(c) Requests pursuant to this rule shall give notice of the business to be transacted. At such special meetings, no other business may be considered other than the business notified at the time of the request for the special meeting.

(d) The President shall convene a special meeting of all members of the Association whenever such a meeting is requested in writing by 25 members or 5% of registered members, whichever is the lesser, for the purpose of considering the financial reports.

(e) Subject to any direction which may be given by a plebiscite conducted under Rule 51, a resolution passed by a Special Meeting of the members conducted pursuant to this Rule shall be binding on the National Executive and Committee of Management, or the Divisional Meeting as the case may be.

## 53 - SUBMISSION OF PROPOSALS

(a) Subject to the provisions of these rules, any financial member of the Association may submit motions, amendments to motions or proposals for decision by the National Executive, in the following manner:

 (1) a copy of the proposed action shall be forwarded to the Divisional Delegate representing the member;

 (2) the proposal shall be set out as a motion, and shall be accompanied by a brief outline of the reasons for the proposal.

(b) After consideration of the matter and decision by the National Executive, the appropriate Divisional Delegate shall inform the member, in writing, of the result of the National Executive's deliberation.

## 54 - RULE BOOK

(a) One (1) copy of the current rules of the Association shall be forwarded to any financial member upon receipt of a written request for such a copy. Additional copies as requested shall be supplied upon payment of a fee, the amount of which shall be determined by the Committee of Management.

## 55 – LOCAL POINT OF CONTACT

(a) A Local Point of Contact (historically known as Branch or Area Representatives) shall act as the Association’s contact in their work location or area.

(b) In conjunction with the elected Officers of the Association, the duty of a Local Point of Contact is to advance and protect the interests of the Association by the following means:

 (1) Promoting the Association, its activities and the benefits of membership;

 (2) Identify any disputes, grievances or breaches of industrial instruments or Association policy or regulation applying at the workplace and if necessary seek assistance from the relevant official of the Association;

 (3) Identifying occupational health and safety issues in the workplace;

 (4) Distributing or disseminating all notices, newsletters, documents and messages sent by the Association;

 (5) Attend Association Divisional meetings;

 (6) Advising the Association if local members have changed their work location or contact details or left employment;

 (7) Reporting any local matter that concerns the Association or its members; and

 (8) Complying with any reasonable request of an Officer of the Association.

(c) The role of Local Point of Contact is a voluntary role. They are not elected officials, do not ‘hold office’ and are not ‘officers’ of the Association for any purpose.

(d) If more than one person is interested in the Local Point of Contact role, the relevant Divisional Delegate will decide who will hold the role. The Divisional Delegate may also decide to have more than one Local Point of Contact.

## 56 - RULES OF DEBATE AND STANDING ORDERS

(a) The ordinary rules of debate shall be observed at meetings of members held in accordance with these rules.

(b) Resolutions passed at a meeting may be reconsidered at the same meeting upon a motion so to do being put by a member who voted with the majority, and the motion being carried by a two-thirds majority vote.

(c) It shall be competent for a member who voted with the majority to move the reconsideration of a resolution passed at a previous meeting, provided the member has given notice at a previous meeting.

 (1) Where the resolution thus being reconsidered has been in place for less than twelve (12) calendar months, it shall require a two-thirds majority vote for that resolution to be overturned, unless a greater majority is specifically provided for in these rules due to the nature of the resolution being reconsidered.

 (2) Where the resolution thus being reconsidered has been in place for twelve (12) calendar months or more, it shall require a simple majority vote for that resolution to be overturned, unless a greater majority is specifically provided for in these rules due to the nature of the resolution being reconsidered.

(d) The following procedures shall be adhered to as far as is practicable at all meetings of members of the Association:

 (1) the Chairman shall occupy the chair at the hour appointed for the meeting, and upon determining a quorum being present, shall declare the meeting open. In the event of a quorum not being present at the expiration of thirty (30) minutes from the time fixed for commencement, the meeting shall be adjourned for not less than seven days. Members shall be given at least two clear days' notice of the date, time and place to which the meeting has been adjourned. If no quorum still be present, those present shall be deemed a quorum for the purpose of business to be determined.

(a) A quorum shall be ten (10) per cent of the membership entitled to vote at the meeting, unless specifically otherwise provided for in these rules.

(b) A quorum for a Branch meeting shall be ten (10) per cent of the membership entitled to vote at the meeting, but never less than two (2) members.

 (2) Apologies and proxies shall be called.

 (3) Except as otherwise provided for in these rules, at meetings of a Division, only those members of the Association who are members of the particular Division may vote, and other members of the Association who are not members of the particular Division may attend and speak only with the agreement of the meeting.

 (a) Except as otherwise provided for in these rules, a member being unable to attend a Divisional meeting shall be entitled to nominate, in writing, a proxy, who shall be a person entitled to attend the meeting. Such proxies shall nominate the extent of the voting powers conferred upon the person holding the proxy.

 (4) The minutes of the previous meeting shall be presented for confirmation, but no discussion shall be allowed except as to their accuracy as a record of the proceedings.

 (5) Business arising from the minutes shall be dealt with, unless the matters appear as agenda items.

 (6) The agenda shall be proceeded with in order, unless a different order is set by the meeting.

 (7) General business not appearing on the agenda shall be dealt with at the conclusion of all other listed matters, unless determined otherwise by the meeting.

(e) Standing orders and rules of debate contained herein may be suspended by a majority vote of the members present and entitled to vote.

## 57 - TRANSITIONAL PROVISIONS

(a) A person holding an elected position in the Association pursuant to the former rules, as at the date of certification of these rules, shall continue to hold such office or position and shall be entitled to exercise all the powers and privileges of the position held, for the balance of the term for which they were elected pursuant to the former rules, or until they are otherwise replaced in accordance with these rules.

 (b) For the purposes of this rule, "the former rules" shall mean the registered rules of the Association in force on the day preceding the date upon which these rules are certified by the Industrial Registrar.

(c) The provisions of this rule shall apply notwithstanding anything contained elsewhere in these rules.

## 58 - DISSOLUTION OF THE ASSOCIATION

(a) The Association shall not be dissolved while at least one hundred (100) financial members are in favour of the continuance of the Association.

(b) Subject to clause (a) of this rule, the National Executive may submit the matter of dissolution of the Association to the members in the form of a plebiscite, and a two-thirds majority vote of all members eligible to vote shall be required to carry the plebiscite proposal.

(c) Upon dissolution, all liabilities shall be discharged, and all funds remaining shall be divided equally amongst the financial members of the Association registered as such on the date of Dissolution.

(d) The provisions of this rule shall not apply in the case of the Association merging or amalgamating with any other organisation pursuant to these rules.

## 59 - SPARE

## 60 - SPARE

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