

# Home Education Association Incorporated

## Constitution



**HEA**

Home Education Association, Inc.

Committed to Good  
Governance

[www.hea.edu.au](http://www.hea.edu.au)



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INC9875957

# **The Constitution and Objects of the Home Education Association, Incorporated**

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## Definitions

- **Annual General Meeting** - (AGM) The annual meeting of the members is required by law and must be held within 6 months of the end of the Association's financial year.
- **Applicant** - an individual or organisation who has applied for membership, but whose membership has not yet been approved or rejected by the Association.
- **Associate Member** - an individual or organisation who holds membership with the Association, but with partial rights and privileges as set by the Association.
- **Committee Member** - an ordinary voting member of the Association who has been elected or appointed to the Committee.
- **Committee Meeting** - a meeting of the Committee members of which there is a quorum. Meetings are held to set policy and direction of the Association and to discuss major decisions as to the Association's future actions. It is at Committee meetings that the Committee members decide or ratify action taken or to be taken on behalf of Association.
- **Deductible Gift Recipient** - (DGR) is an entity or fund that can receive tax deductible gifts.
- **Dispute** - A disagreement or argument, which often needs a mediator or court of law to help resolve.
- **General Meeting** - a meeting of the members, which could be referred to as *annual, special, ordinary, or extraordinary* meetings. These general meetings are convened in accordance with an Association's constitution and are held to deal with any matters that should not wait until the next AGM.
- **Instrument of Writing** - formally executed written document that records and expresses a binding enforceable act, process, contractual duty, obligation, or right, and therefore evidences that act, process, or agreement. Examples: Terms of References for Volunteers and/or Subcommittees, or for third party contractors.
- **Office of Fair Trading** - (OFT) or "NSW Fair Trading's Registry Services" administers the laws for incorporated Associations. The Association laws provide for the registration of Associations engaged in small-scale, non-profit and non-commercial activities and to provide for corporate governance and financial accountability of Associations registered under the

legislation. The active laws at the time of this constitution are:

- Associations Incorporation Act 2009 (“**the Act**”)
- Associations Incorporation Regulation 2016

- **Ordinary Member** - a member of the Association who holds full rights and privileges, including voting rights.
- **Provisional Member** - an applicant who has paid fees to join the association but whose membership status is yet to be determined by the Committee. Provisional members may have access to some member benefits in the interim, but do not have voting rights.
- **Public Fund** - it is the account to which the public can contribute under the Association’s DGR status for charitable purposes.
- **Public Officer** - a public officer is both the official point of contact for an incorporated Association and one of the authorised signatories for the Association.
- **Quorum** - the minimum number of members of an assembly that must be present at any of its meetings to make the proceedings of that meeting valid.
- **Resolution** - a formal decision passed by the Association in accordance with its constitution.
  - **Committee resolutions** - are made by the Committee members at Committee meetings.
  - **Member resolutions** - are passed at a general meeting or in a postal ballot or an electronic ballot. There are two types of member resolutions: *ordinary* and *special*.
  - **An ordinary resolution** is passed if more than half of the formal votes cast support it. Most decisions at a general meeting are made by ordinary resolution.
  - **A special resolution** is passed if it is supported by at least three-quarters of the eligible votes cast. The Association's constitution indicates the situations that require a special resolution.
- **Rules** - the governing documents of the Association, which include but are not limited to, the Constitution, any codes, policies, procedures and by-laws. The Constitution is the primary governing document, being a contract between the members and the Association.
- **Special General Meeting** - is a meeting of the Association called by the Committee or by the members as outlined in the Association’s constitution. If the constitution provides for an SGM it is also to provide the procedures to be followed by members if the Committee fails to convene a special general meeting as requested.

## Part 1 - Name

1. The name of the association shall be the Home Education Association Incorporated (referred to in these rules as “the Association”).

## Part 2 - Objects

2. The Objects of the Association shall be:
  - 2.1. To uphold the principle that parents are primarily responsible for the education of their children.
  - 2.2. To promote and increase the profile of and confidence in home education throughout Australia.
  - 2.3. To maintain a respect for the diversity of philosophies and methods used by home educators.
  - 2.4. To endeavour to build community in the home education sector through coordinating and running events and conferences, fostering networks and support groups, and connecting to organisations and suppliers in the sector.
  - 2.5. Provide and facilitate services and resources for our members.
  - 2.6. Advocate in the interests of home education and endeavour to support and advocate for home educators.
  - 2.7. To establish and maintain a public fund which can receive gifts of money or property for the specific purpose of providing assistance to home educators in necessitous circumstances.

## Part 3 - Membership

3. Subject to these rules the members of the Association shall be the members of the Association immediately prior to incorporation together with such other people and organisations as the Committee admits to membership.

### Eligibility

4. Membership is open to all individuals and organisations who accept the objects and rules of the Association.
  - 4.1. A person is eligible to be a member of the Association if:

- 4.1.1. the person is a natural person, and
- 4.1.2. is at least 18 years of age, and
- 4.1.3. is an Australian citizen or resident, and
- 4.1.4. the person has applied and been approved for membership of the Association in accordance with clauses (5) and (6) from this constitution.

4.2. An organisation is only eligible to be an associate member of the Association.

4.3. A life member has all the rights of an ordinary or associate member, as determined by the Committee, without the annual fee.

4.4. A member's partner and children who are listed on the same membership are considered to be non-voting members of the Association.

4.5. A person can only hold one membership with the Association at a time.

## **Application for Membership**

**5.** Individuals and organisations wishing to become members of the Association shall apply to the Committee for membership.

5.1. An application for membership of the Association is to be lodged with the secretary of the Association in whatever form and manner the Committee determines.

5.2. Upon payment of fees with the application, the applicant is granted provisional membership on an associate basis pending the determination by the Committee as to whether or not to grant full membership to the applicant.

**6.** As soon as practicable after receiving an application for membership, the secretary must refer the application to the Committee which is to determine whether to approve or to reject the application. The Committee is not required to supply reasons for accepting or rejecting an application for membership.

6.1. As soon as practicable after the Committee makes a determination, the secretary must notify the applicant in writing (by email or other electronic means, if the Committee so determines) that the Committee:

- 6.1.1. approved or rejected the applicant as a member (whichever is applicable), and
- 6.1.2. if approved, whether ordinary or associate membership was granted; and
- 6.1.3. upon approval of membership, the secretary must enter, or cause to be entered, the applicant's name in the register of members and, on the name being so entered, the applicant

becomes a member of the Association.

7. The Committee shall determine whether an applicant who has been granted membership shall be granted ordinary membership or associate membership. The Committee is not required to supply reasons for its decision to grant either membership.

### **Membership Entitlements**

8. Ordinary members shall have the right to attend and vote at general meetings. Associate members shall not have the right to attend and vote at general meetings.

- 8.1. Ordinary members, with the exception of life members, do not have voting entitlements if they are not current financial members.

9. An ordinary member shall have one vote.

10. Named family members can be included as part of the household of an ordinary member's membership in accordance with subclause (4.4).

### **Membership Cessation**

11. Membership by an individual or organisation shall cease if:

- 11.1. the individual dies or the organisation closes its business; or

- 11.2. they resign their membership in a statement; or

- 11.3. they are expelled from the Association; or

- 11.4. they fail to pay their membership fees within three weeks after the fee is due.

12. Membership is not transferable. A right, privilege or obligation which a person has by reason of being a member of the Association:

- 12.1. is not capable of being transferred or transmitted to another person, and

- 12.2. terminates on cessation of the person's membership.

### **The Register of Members**

13. A register of members shall be kept by the Association showing at a minimum:

- 13.1. the legal name, postal address, email address and date of commencement of membership for each member.
- 13.2. Each member is also to include the full name of any adult partner they wish on the membership, as well as the first name of children and the year of their birth in order to be included on the membership for benefits.
- 13.3. Provision for noting the date of cessation of membership shall also be contained in the register.

**14. The Committee will only disclose the register when**

- 14.1. required for the work of the Association and when authorised by the Committee by an instrument in writing; or
- 14.2. required by the Public Officer under the terms of clause (66).

**Fees and Subscriptions**

- 15.** Members shall pay such fees as are determined by the Committee.
- 16.** Membership fees shall fall due on the day after the expiry date of granted membership.

**Members' Liabilities**

- 17.** The members of the Association shall have no liability to contribute towards the payment of debts and liabilities of the Association or the costs, charges and expenses of the winding up of the Association except to the amount of any unpaid membership fees.

**Disciplining of Members**

- 18.** A member may be expelled from membership of the Association (or otherwise disciplined) by the Committee if, in the opinion of the Committee after affording the member an opportunity of offering an explanation of his/her conduct, the conduct is regarded as being detrimental to the interests of the Association.
  - 18.1. Complaints regarding members of the Association can be made to the Committee, that a member of the Association:
    - 18.1.1. has refused or neglected to comply with a provision or provisions of this constitution, or
    - 18.1.2. has refused to comply with by-laws of the Association, or

18.1.3. has wilfully acted in a manner prejudicial to the interests of the Association.

18.2. The Committee may refuse to deal with a complaint if it considers the complaint to be trivial or vexatious in nature.

**19.** If the Committee decides to deal with the complaint, the Committee:

19.1. must cause notice of the complaint to be served on the member concerned, and

19.2. must give the member at least 14 days from the time the notice is served within which to make submissions to the Committee in connection with the complaint, and

19.3. must take into consideration any submissions made by the member in connection with the complaint, and

19.4. may then, by resolution, expel or suspend the member from membership of the Association (or otherwise discipline) if, after considering the complaint and any submissions made in connection with the complaint, it is satisfied that the facts alleged in the complaint have been proved and the expulsion or suspension or discipline is warranted in the circumstances.

**20.** If the Committee does take disciplinary action against a member,

20.1. the secretary must, within 7 days after the resolution is made, cause written notice to be given to the member of the action taken, of the reasons given by the Committee for having taken that action and of the member's right of appeal under clause (21).

20.2. The discipline action does not take effect:

until the expiration of the period within which the member is entitled to appeal against the resolution concerned, or

if within that period the member exercises the right of appeal, unless and until the Association confirms the resolution under clause (21), whichever is later.

**21.** A member may make an appeal to the Association in a general meeting of the members against a resolution of the Committee under clause (18), by :

21.1. lodging a written appeals notice with the secretary within 7 days after notice of the Committee's resolution is served on the member.

21.2. The member's appeal notice may, but need not, be accompanied by

a statement of the grounds on which the member intends to rely for the purposes of the appeal.

- 21.3. On receipt of an appeals notice from a member under this clause (21), the secretary must notify the Committee, which is to then call and convene a general meeting of the Association members to be held within 28 days after the date on which the secretary received the notice.

**22. At a general meeting of the Association convened under subclause (21.3):**

- 22.1. The Public Officer shall chair the meeting or if the Public Officer is absent from the meeting, or unwilling to act, the members present at the meeting shall elect one of their number to act as chairperson.
- 22.2. No business other than the question of the appeal is to be transacted, and
- 22.3. the Committee and the member must be given the opportunity to state their respective cases orally or in writing, or both.
- 22.4. The members present at the meeting, after listening to both sides, will vote on the question of whether the Committee's resolution of discipline should be confirmed or revoked.
- 22.5. The appeal is to be determined by a simple majority of votes cast by members of the Association present at the general meeting, with the chairperson overseeing the counting of the votes.

**Disputes between Members**

**23. In the event of a dispute arising between members (in their capacity as members) or between a member(s) and the Association, the following procedure shall apply:**

- 23.1. Each side of the dispute shall nominate a representative who is not directly involved in the dispute. Those representatives shall then attempt to settle the dispute by negotiation.
- 23.2. In the event that no resolution is achieved through the nominated representatives within 14 days, the matter may be referred by one or both parties to the Community Justice Centre for mediation.

## Part 4 - The Committee

### Management by the Committee

- 24.** The Association shall have its affairs controlled and managed by the office bearers and other members known as the Committee.
- 24.1. The Committee may exercise all the functions that may be exercised by the Association, other than those functions that are required by this constitution to be exercised by a general meeting of members of the Association, and
- 24.2. has power to perform all the acts and do all things that appear to the Committee to be necessary or desirable for the proper management of the affairs of the Association.

### Membership of the Committee

- 25.** The office bearer roles shall be President, Vice President, Secretary and Treasurer. Other members of the Committee are known as ordinary members of the Committee. There shall be up to seven members on the Committee.
- 26.** A Committee member may hold up to two offices if there are less than four members on the Committee (other than both the offices of president and vice-president, and/or both treasurer and secretary).
- 27.** Committee members shall serve as members of the Committee from the date of their election or appointment until the end of their term at the corresponding annual general meeting, unless removed from Committee by any of the means outlined in clause 38.

### Staggered Terms

- 28.** Committee member elections shall take place every year as part of the annual general meeting to fill vacancies for the positions on the Committee.
- 28.1. Committee members are elected for two year terms by staggered elections - i.e. approximately half of the committee members are intended to be elected each year.
- 28.2. If at any time all of the positions on the Committee become vacant, the newly elected Office Bearers are taken to be elected for a two year term and the ordinary Committee members are taken to be elected for a one year term

28.3. After each annual general meeting, the Committee members shall appoint, by majority vote from amongst themselves, those to be the office bearers of the Association.

28.4. Members of the Committee shall serve a maximum of four consecutive years as an office bearer and then must have at least a two year break before they can serve as an office bearer again.

28.4.1. If the positions of the four office bearers cannot be filled by the members of the elected committee, the elected committee may reappoint an office bearer otherwise disallowed by this provision.

### **Casual Vacancies**

**29.** If insufficient nominations for the Committee are received to fill all vacant positions, these positions remaining on the Committee are taken to be casual vacancies for the first two months after an annual general meeting.

**30.** A casual vacancy on the Committee may also occur if a Committee member:

30.1. dies, or

30.2. ceases to be a member of the Association, or

30.3. is removed from office under clause (18) or (38), or

30.4. becomes a mentally incapacitated person, or

30.5. is convicted of an offence involving fraud or dishonesty for which the maximum penalty on conviction is imprisonment for not less than three months, or

30.6. becomes insolvent under administration within the meaning of the Corporations Act 2001 (Cth) of the Commonwealth, or

30.7. is prohibited from being a director of a company under Part 2D.6 (disqualification from managing corporations) of the Corporations Act 2001(Cth) of the Commonwealth.

**31.** Any casual vacancy occurring in the Committee may be filled by a voting member appointed by the Committee subject to the following conditions:

31.1. the members appointed into casual vacancies will become voting members of the Committee, but

31.2. they will only be considered quorum members after six weeks or attending at least three Committee meetings whichever is longer, and

- 31.3. their appointment to the Committee is to continue, subject to this constitution, until the annual general meeting next following the date of the appointment.

## **Eligibility**

- 32.** Membership of the Committee is open to all voting members of the Association who are eligible to nominate per clause (34).
- 33.** Retiring Committee members are eligible for re-election subject to clause (34).
- 34.** A member is only eligible to nominate for the Committee if:
- 34.1. that person is a voting member, and has been a voting member of the Association for at least the past 3 months; and
- 34.2. that person does not run a homeschool business which supplies goods or services in conflict or competition with goods and services of the Association or its objects; and
- 34.3. that person does not hold another board position which is in conflict or competition with the objects of this Association; and
- 34.4. that person does not hold a board position for another homeschool related organisation; and
- 34.5. that person does not have an immediate relative currently up for nomination or on the Association's Committee,
- 34.6. that person is not the Association's current public officer; and
- 34.7. that person agrees to abide by the rules, policies, by-laws, and charters of the Association which are provided to them as part of the nomination process; and
- 34.8. that person has not held a Committee position for more than four consecutive terms without at least a one term break before nominating again.

## **Nominations**

- 35.** Nominations of candidates for election as Committee members may be made in such ways as may be determined by the Committee, subject to, that during the nomination process, the secretary must ensure that each

nominee receives a copy of this constitution and the Committee Charter outlining the expectations, duties and responsibilities of Committee members upon election to the Committee, as well as any other current rules, by-laws and policies relevant to nominating.

36. If the number of nominations received is equal to or less than the number of vacancies to be filled, the eligible persons nominated are taken to be elected at the annual general meeting.
37. If the number of eligible nominations received exceeds the number of vacancies to be filled, a vote by ballot is to be held.

### **Removal of a Committee Member**

38. A member of the Committee shall cease to hold office upon:
  - 38.1. resignation in writing to the the office bearers; or
  - 38.2. removal as a member of the Association; or
  - 38.3. absence from three successive Committee meetings without approval by the Committee; or
  - 38.4. a majority resolution (vote) of the members of the Association present at a general meeting called for the purpose of removing the member from the Committee.
    - 38.4.1. A general meeting for the purposes of subclause (38.4) can only be called by resolution of the Committee after the Committee member in question has had an opportunity to respond to the Committee's concerns, and
    - 38.4.2. only if the Committee has determined by resolution that the Committee member in question has failed to adhere to this constitution and the rules, policies, by-laws and charters which were provided to them when nominating, as per clauses (34.7) and (35).
    - 38.4.3. No business other than the question of the removal of the Committee member is to be transacted at the meeting, and
    - 38.4.4. the Committee and the Committee member in question must be given opportunity to state their respective cases orally or in writing, or both.
    - 38.4.5. After the members have heard the respective cases, the voting members present at the general meeting are to vote on the question of whether the resolution of removal should be

confirmed or revoked.

38.4.6. The decision is to be determined by a simple majority of votes cast by members present at the general meeting, with the chairperson overseeing the counting of the votes.

38.4.7. A general meeting that has been called for the purposes of subclause (38.4) shall be chaired by the Public Officer. If the Public Officer is absent from the meeting, or unwilling to act, the members present at the meeting shall elect one of their number to act as chairperson.

### **Committee Meetings and Quorum**

**39.** The Committee shall meet as often as necessary to conduct the business of the Association and not less than 12 meetings from AGM to AGM.

**40.** The quorum for meetings of the Committee shall be three Committee members subject to this constitution's casual vacancy clause (31.2).

**41.** The Committee may function validly provided its number is not reduced below the quorum.

41.1. Should Committee members fall below the quorum the remaining Committee members may act only to appoint casual vacancies.

41.2. In the event that no quorum can otherwise be formed, the Public Officer may act as a third quorum member for the purpose of the Committee to be able to call and convene a general meeting of the members.

**42.** Notice of Committee meetings shall be given at the previous Committee meeting or by such other means as the Committee may decide upon.

**43.** Additional meetings of the Committee may be convened by the President or any two members of the Committee. All Committee members must be notified of all meetings.

**44.** If within half an hour of the time appointed for a Committee meeting a quorum is not present the meeting shall be dissolved.

### **Delegation by Committee to Subcommittee**

**45.** The Committee may, by instrument in writing, delegate to one or more

Subcommittees (consisting of such member or members of the Association as the Committee thinks fit) the exercise of such of the functions of the Committee as are specified in the instrument, other than: (a) this power of delegation, and (b) a function which is a duty imposed on the Committee by the Act or by any other law.

- 46. A function, the exercise of which has been delegated to a Subcommittee under this rule may, while the delegation remains unrevoked, be exercised from time to time by the Subcommittee in accordance with the terms of the delegation.
- 47. A delegation under this section may be made subject to such conditions or limitations as to the exercise of any function, or as to time or circumstances, as may be specified in the instrument of delegation.
- 48. Despite any delegation under this rule, the Committee may continue to exercise any function delegated.
- 49. Any act or thing done or suffered by a Subcommittee acting in the exercise of a delegation under this rule has the same force and effect as it would have if it had been done or suffered by the Committee.
- 50. The Committee may, by instrument in writing, revoke wholly or in part any delegation under this rule.

### **Voting and Decisions by the Committee**

- 51. Questions arising at any meeting of the Committee or Subcommittee appointed by the Committee are to be determined by a majority of the votes of members of the Committee or Subcommittee present at the meeting. In case of an equality of votes the person appointed to chair the meeting shall have a second or casting vote.

## **Part 5 - Office Bearers**

- 52. At least two Office Bearers shall be signatories to the Association along with the Public Officer.
- 53. The names of the Office Bearers and the Ordinary Committee members shall be listed on the Association's public platform of the website and will include for each member:

- 53.1. First and last name
  - 53.2. State or Territory of residence
  - 53.3. HEA contact email address
  - 53.4. Date elected or appointed to the Committee
  - 53.5. Date ceased to be a member of the Committee
- 54.** The President or, in the President's absence, the Vice-president, shall act as chairperson at each general meeting and Committee meeting of the Association.
- 55.** If the President and Vice-president are absent from a meeting, or unwilling to act, the members present at the meeting shall elect one of their number to act as chairperson.
- 56.** The Secretary shall ensure that the records of the business of the Association including the rules, policies, by-laws, charters, terms of references, the register of members, the register of the Committee, minutes of all general and Committee and Subcommittee meetings are kept and records of correspondence are kept and held in the Secretary's custody. All records and minutes are to be kept in accordance with the Act or by any other law, and no less than 5 years.
- 56.1. Such records shall be made available to the other Committee members, Subcommittee members and Public Officer, as required for their work for the Association.
  - 56.2. Rules, policies, by-laws, charters and minutes of general meetings and Committee minutes shall be available for inspection by any voting member of the Association.
- 57.** The Treasurer shall oversee the financial records and accounts of the Association and ensure that all money received by the Association is paid into an account in the Association's name. The Treasurer shall be a signatory on the Association's financial accounts. All outgoing payments shall be made through a petty cash system or by approval of at least two account signatories authorised by the Committee. Major or unusual expenditures shall be authorised in advance by the Committee or a general meeting.
- 58.** The Treasurer shall ensure that correct financial records and accounts are kept showing the financial affairs of the Association in accordance with the Act and any other law, and for no less than 5 years. The Treasurer shall submit any and all annual financial reports required for the Association

under the Act, including a financial report for the members at the annual general meeting. Once a month the Treasurer shall provide a profit and loss report, as well as a balance sheet to be included in the minutes for the members

59. The financial year for the Association is each period of 12 months after the expiration of the previous financial year of the Association, commencing on 1 January and ending on 31 December of that same year.

## **Part 6 - General Meeting of Members**

### **Annual General Meetings - holding, calling, and business**

60. The annual general meeting of the Association is to be convened, subject to the Act and to clause (28), on the date and at the place and time that the Committee determines, but shall be held:
  - 60.1. within 6 months after the close of the Association's financial year, or
  - 60.2. within any later time that may be allowed or prescribed under section 37 (2.b) of the Act
61. An annual general meeting must be specified as that type of meeting in the notice convening it.
62. In addition to any other business which may be transacted at an annual general meeting, the business of an annual general meeting is to include the following:
  - 62.1. to confirm the minutes of the last preceding annual general meeting and of any special general meeting held since that meeting, and
  - 62.2. to receive from the Committee reports on the activities of the Association during the last preceding financial year, and
  - 62.3. the election or appointment of the new Committee members, and
  - 62.4. to receive a financial report from the Committee which is not misleading and gives a true and fair view of the last financial year of the Association's income and expenditure, assets and liabilities, mortgages, charges and other securities, any trust properties and the HEA Public Fund, and

- 62.5. to determine by member vote whether a financial audit is to be undertaken and presented at the following AGM, and
- 62.6. to transact any other business to which sufficient notice in writing has been given to the members.
- 62.7. Members who have items of business they wish to be considered at a general meeting shall give written notice of such business to the Secretary at least one month prior to the meeting. The Secretary shall include such business as is appropriate and relevant to the Association in the notice of the next general meeting.

### **Special General Meetings - holding, calling, and business**

- 63. The Committee may, whenever it thinks fit, convene a special general meeting of the Association.
- 64. A special general meeting must be convened by the Committee within two months of receiving a written requisition to do so from at least five percent of the voting membership of the Association, and
  - 64.1. the Committee must provide the total number of voting members in the Association upon the request of a voting member;
  - 64.2. the five percent will be calculated from the total number of voting members at midnight prior to receipt of the requisition.
- 65. Where a requisition is made by the members for a Special General Meeting to be called, the members bringing the requisition must:
  - 65.1. put their request in writing, and
  - 65.2. state the purpose or purposes of the meeting, and
  - 65.3. ensure that the requisition is signed by the voting members making the requisition, and includes their membership number, expiry date, email address, and actual signature (either by hand or digital), and
  - 65.4. lodge the requisition with the secretary and with the Public Officer.
  - 65.5. Where the requisition consists of several documents in a similar form, each page must be signed by one or more of the members making the requisition.
  - 65.6. The agenda will be based on the points of the requisition; no other

business will be conducted at the meeting.

- 66.** If the Committee fails to convene a special general meeting within two months of the date on which a valid requisition of members for the meeting is lodged with the secretary, then five members who signed the requisition may call upon the Public Officer to convene the special general meeting.

66.1. After receiving the request, the Public Officer shall, within 7 days, verify the validity of the requisition as described in clause (65) and if valid, send a notice to all voting members calling the special general meeting.

66.2. The special general meeting is to be convened no later than one month after the Public Officer received notice from the members that the Committee failed to convene a valid requisitioned special general meeting.

### **Notices of all general meetings**

- 67.** The Committee shall set and send the notice, agenda and any notice of motion for all general meetings, at least 14 days prior to the date set for the general meeting.
- 68.** The Notice shall include the nature of business of the meeting, the date and time of the meeting, and the physical location and/or identify the electronic conferencing platform to be used for the meeting.
- 69.** In the case of general meetings where a special resolution is to be proposed, notice of the resolution shall be given to members at least 21 days before the meeting.
- 70.** Written notice and agenda of all general meetings shall be sent to members electronically via the email address they have provided to the Association.

### **Procedure for all General Meetings**

- 71.** Five members present (being members entitled under this constitution to vote at a general meeting) constitute a quorum for the transaction of the business of a General Meeting. A General Meeting is to meet via electronic internet/phone conferencing, or at a physical location, or both.
- 72.** If within half an hour after the appointed time for the commencement of a general meeting a quorum is not present, the meeting:

- 72.1. if convened on the requisition of members—is to be dissolved, or
- 72.2. in any other case—is to stand adjourned to the same day in the following week at the same time and at the same place, with “place” being the same physical venue (if possible) as well as “place” being the same internet/communication platform used for the original general meeting. If a new electronic login connection is necessary, this is to be sent to the members for the adjourned meeting either by the Committee or by the public officer.
- 72.3. If at the adjourned meeting a quorum is not present within half an hour after the time appointed for the commencement of the meeting, the members present (being at least three) are to constitute a quorum.

### **Voting by Members**

- 73. Voting by the members, including a ballot vote for an election or special resolution or other matter, can be carried out in advance electronically or at a general meeting, or both, as determined by the Committee in compliance with the Act and any other laws.
- 74. A member is not entitled to vote at any general meeting of the association unless all money due and payable by the member to the association has been paid.
- 75. Voting at a general meeting will be done in the manner directed by the chairperson.
- 76. Decisions shall be made by a simple majority vote except for those matters which must be decided by special resolution where a three quarter majority is required.
- 77. In the case of an equality of votes the person appointed to chair the general meeting shall have a second or casting vote.
- 78. Proxy voting is not permitted.
- 79. A special resolution must be passed by a general meeting of the Association to effect the following changes:
  - 79.1. a change of the Association’s name
  - 79.2. a change of the Association’s constitution

- 79.3. a change of the Association's objects
- 79.4. an amalgamation with another incorporated Association
- 79.5. to voluntarily wind up the Association and distribute its property
- 79.6. to apply for registration as a company or a co-operative
- 80.** A special resolution shall be passed in the following manner:
  - 80.1. a notice must be given to all members advising that a general meeting is to be held to consider a special resolution
  - 80.2. the notice must give details of the proposed special resolution and give at least 21 days' notice of the meeting
  - 80.3. a quorum must be present at the meeting; and
  - 80.4. at least three-quarters of the valid vote must be in favour of the resolution.
- 81.** In situations where it is not possible or practicable for a resolution to be passed as described above, and the impact is such that the Association does not have a functioning Committee, the Public Officer is to facilitate fresh elections to form a new Committee.

## **Part 7 - The Public Officer**

### **Appointment and Removal**

- 82.** The Committee shall ensure that they appoint a person as the Public Officer and that person is at least 18 years of age, a resident of NSW and is a current voting member of the Association.
- 83.** The first Public Officer shall be the person who completed the application for incorporation of the Association.
- 84.** The Committee may at any time resolve to remove the Public Officer so long as another Public Officer is appointed within 14 days..
- 85.** When a vacancy occurs in the position of Public Officer, the Committee shall within 14 days notify the Department of Fair Trading by the prescribed form and appoint a new Public Officer.

- 86.** The Public Officer must be regarded as suitable for the position by the Committee.
- 87.** With the exception of circumstances under subclause (41.2) of this constitution, the Public Officer shall not be a Committee member.
- 88.** The Public Officer shall be deemed to have vacated their position in the following circumstances:
  - 88.1. death
  - 88.2. resignation
  - 88.3. removal by the Committee or at a general meeting
  - 88.4. removal as a member
  - 88.5. bankruptcy or financial insolvency; or
  - 88.6. mental illness
- 89.** The Public Officer is required to notify the Department of Fair Trading by the prescribed form in the following circumstances:
  - 89.1. appointment (within 14 days)
  - 89.2. a change of residential address (within 14 days)
  - 89.3. a change in the Association's objects or rules (within one month)
  - 89.4. a change in the Association's financial affairs (within one month after the annual general meeting)
  - 89.5. a change in the Association's name (within one month)
- 90.** The Public Officer shall keep a register of members of the Committee which must:
  - 90.1. be compliant with the rules of the Office of Fair Trading and the Act; and
  - 90.2. be updated within 14 days of any changes taking place.
  - 90.3. Basic Committee information from the Committee register shall be made available to the members and public as outlined in clause (53).
- 91.** The Public Officer shall also hold additional responsibilities as outlined in this constitution, including full administrative access to all systems in the event that the Committee fails in its duty.

## **Part 8 - The Public Fund**

### **Purpose**

- 92.** While the Association holds DGR status, it shall hold a charity public fund account into which the public can make charitable gift contributions of money or property.
- 93.** The purpose of the fund is to support home educating families who are in necessitous circumstances. Members of the public are to be invited to make gifts of money or property to the fund.

### **Committee management of the Public Fund**

- 94.** A Committee of management of no fewer than three persons will administer the fund. The Committee of management for the fund will be appointed by the Committee of the Association.
- 95.** Money from interest on donations, income derived from donated property, and money from the realisation of such property is to be deposited into the fund.
- 96.** A separate bank account is to be opened to deposit money donated to the fund, including interest accruing thereon, and gifts to it are to be kept separate from other funds of the Association.
- 97.** Receipts are to be issued in the name of the fund and proper accounting records and procedures are to be kept and used for the fund.
- 98.** The fund will be operated on a not-for-profit basis.
- 99.** The Association will action audits as required by the Act and any other law, or by resolution at an annual general meeting, including for the HEA Public Fund. Financial reports on the HEA Public Fund will be part of the Committee reporting at each annual general meeting.
- 100.** In the event of the fund being wound up or dissolved, any surplus assets remaining after the payment of the fund's liabilities shall be transferred to another fund, authority or institution which has similar objects and to which income tax deductible gifts can be made.

## **Part 9 - Miscellaneous**

### **Insurance**

- 101.** The Association shall effect and maintain insurance as is required under the Associations Incorporation Act, together with any other insurance which may be required by law or regarded as necessary by the Association.

### **Funds - Source**

- 102.** The funds of the Association shall be derived from membership fees, donations, grants and such other sources as may be approved by the Association.

### **Funds - Management**

- 103.** The income and property of the Association shall be used only for promotion of the objects and pillars of the Association and for the interests of the Association.
- 104.** Monies, property and assets shall not be paid or transferred to members by way of dividends, bonus or profits except as bona fide compensation for services rendered or expenses incurred on behalf of the Association.
- 105.** In the event that the Association should be wound up or have its incorporation cancelled, any surplus property shall be distributed in accordance with the provisions of the Associations Incorporation Act.
- 106.** In the event of the Association being dissolved, the amount which remains after such dissolution and the satisfaction of all debts and liabilities shall be transferred to any organisation which has similar objects and which is exempt from income tax.
- 107.** Where it furthers the objects of the Association to amalgamate with any one or more other organisations having similar objects, the other organisations must have rules prohibiting the distribution of their assets and income to members; and must be exempt from income tax.

### **The Common Seal**

- 108.** The Association may have a common seal.

- 108.1. The Association may execute a document without using a common seal if the document is signed by 2 of its authorised signatories.
- 108.2. With a common seal the Association may execute a document if the seal is fixed to the document and the fixing of the seal is witnessed by 2 of its authorised signatories.
- 108.3. An Association may execute a document as a deed if the document is expressed to be executed as a deed and is executed in accordance with subclause (108.1) or (108.2).
- 108.4. This section does not limit the ways in which an Association may execute a document (including a deed). Section 23 Associations Incorporation Act 2009 No 7 Part 3 Basic features of Associations
- 108.5. This section does not authorise an Association to execute a document contrary to the provisions of its constitution.

### **Service of Notices**

- 109.** Service of legal notices and documents upon the Association is effected by serving them on the Public Officer or on two office bearers of the Association.
- 110.** Legal notices sent by post shall be deemed to have been received five days after the date of posting.