[014Q: Incorporates alterations of 8 August 2017 [R2017/43]

(replaces 24 January 2014 (D2013/116) version)

**Queensland Real Estate Industrial Organisation of Employers**

I CERTIFY under section 161 of the Fair Work (Registered Organisations) Act 2009 that the pages herein numbered 1 to 27 both inclusive contain a true and correct copy of the registered rules of the Queensland Real Estate Industrial Organisation of Employers.

DELEGATE OF THE GENERAL MANAGER

FAIR WORK COMMISSION

Rules of the

Queensland Real Estate Industrial Organisation of Employers

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## 1. NAME:

The name of the Association is Queensland Real Estate Industrial Organisation of Employers.

## 2. OFFICE:

The office of the Association shall be at 3 Jenee Street Jindalee, Brisbane, in the State of Queensland, or such other place as the Committee of Management may from time to time determine.

## 3. OBJECTS:

The objects of the Association shall be:

(a). To function as an organisation of employers and/or as a union of employers in and under any Act of any State and/or the Commonwealth of Australia.

(b). To co operate, join or affiliate with any other employers’ organisation or union of employers.

(c). To promote, protect, preserve and represent by any lawful means the industrial interests of members and of the Association and the industry (as defined in Rule 4) in which it is formed.

(d). To assist any member who shall in any industrial matter or dispute or otherwise merits in the consideration of the Committee of Management the assistance of the Association.

(e). To raise and maintain funds by means of subscription from members and/or levies on members or otherwise as the Association may in General Meeting determine, such funds to be applied and used for the purpose of carrying out the objects of the Association.

(f). To promote the mutual interests of members by holding meetings at such times and such places as may be decided upon by the Committee of Management of the Association.

(g). To take such other action and to do such other things as the Committee of Management may consider desirable in the interests of members.

(h). To do all such things as are incidental or conducive to the attainment of the above objects.

(i). To adopt any additional objects and to abandon or vary objects from time to time.

## 4. INTERPRETATION:

In the interpretation of these Rules and this Constitution the following words and expressions shall have the meaning hereinafter specified unless the context requires otherwise.

“Association” shall mean the Queensland Real Estate Industrial Organisation of Employers.

“Authorised Representative” means a proprietor, director, partner, officer or employee of a Member provided that in no case shall a person who is a member of an organisation of employees or of an industrial union of employees be an authorised representative.

“Employer” means a person, firm, company or corporation engaged in, or employing persons working in the industry.

“Industry” means and includes auctioneering, real estate agencies, land developing, project building, stock and station agencies, business agencies and business broking and all allied industries.

“In writing” or “written” includes printing, typewriting and other modes of representing or reproducing words in a visible form.

“Industrial Instrument” means any award or agreement, however styled, made or entered into under any relevant industrial legislation.

“Industrial Tribunal” means any court, commission or tribunal however styled constituted or recognised under any relevant industrial legislation.

“Member” means a Member of the Association admitted under these rules.

“Month” means a calendar month.

“President” means the duly elected President of the Association or in the President’s absence or inability to act, the Vice President of the Association.

“Secretary/Treasurer” means the Secretary/Treasurer of the Association who shall be elected in accordance with these rules.

“State” means the State of Queensland.

“Industrial legislation” means any relevant industrial law made by any State or Territory or the Commonwealth of Australia dealing with industrial and employment matters.

Words importing the singular number also include the plural and vice versa words importing persons shall include firms, partnerships, companies, corporations (statutory or otherwise) and unincorporated bodies and vice versa.

Words importing the masculine gender shall include the feminine and neuter gender and vice versa.

The Chairperson shall have authority to interpret the meaning of any clause if questioned and shall determine any matter relating to the Association on which the Rules are silent providing the meeting does not dissent.

## 5. RULES NOT CONTRARY TO RELEVANT INDUSTRIAL LEGISLATION

(a). These rules shall be read and construed as if all provisions required by any relevant industrial legislation to be contained therein are in fact contained therein.

(b). These rules shall not be construed so as to prevent or hinder Members from or in –

(i) observing the law, the provisions of any industrial instrument or decision of any relevant tribunal; or

(ii) entering into written agreements under an award or decision of a relevant industrial tribunal;

(c). These rules shall not be construed so as to impose on applicants for membership, or on Members, conditions, obligations or restrictions that are oppressive, unreasonable or unjust.

## 6. MEMBERSHIP:

The Association shall consist of an unlimited number of employers carrying on business in the industry in the State of Queensland together with any person deemed to be a member by these rules. Any Company or firm engaged in the industry may apply for membership under the registered name of the company or firm.

Provided that persons, firms or companies appearing from the records of the Association to be Members as at the date of adoption of these rules shall be deemed to be Members of the Association.

Subject to the provisions of this rule any person, firm or company desirous of becoming a Member may apply at any time as follows:–

(a) All applications for membership shall be in writing in a form prescribed by the Committee of Management from time to time.

(b) The form, duly completed and accompanied by the prescribed admission fee and subscription shall be lodged with the Secretary/Treasurer who shall submit it to the Committee of Management. The Committee of Management having duly satisfied itself as to the eligibility of the applicant, shall admit the applicant to membership of the Association. Such membership shall date from the date of receipt of the application.

(c) Upon admission the Member is entitled to remain a Member thereof, and enjoy all advantages of membership for as long as the person complies with the rules of the Association.

Upon ceasing to be an employer carrying on business in the industry the Member automatically ceases to be a Member of the Association.

(d) The Secretary/Treasurer shall inform the applicant in writing of the financial obligations arising from membership; and the circumstances and manner in which a Member may resign from the Association.

If the Secretary/Treasurer is not already a member of the Association then upon election the Secretary/Treasurer will be deemed to be a member of the Association while holding that office.

## 7. REGISTER OF MEMBERS AND OFFICERS:

The Secretary/Treasurer shall keep in respect of each year a register of the Association’s Members and of its Officers and such registers shall be in such form as is prescribed by any relevant industrial legislation.

## 8. MEMBERS NOT PARTNERS:

The Members of the Association are not partners.

## 9. ADMISSION FEES AND SUBSCRIPTIONS:

(a) Every applicant for membership shall lodge with the application form:-

(i) An admission fee if any, as may be fixed from time to time by the Association's Committee of Management.

(ii) An annual subscription of such amount as may be fixed from time to time by the Association's Committee of Management.

(b) Every member of the Association shall pay to the Association the annual subscription as may be fixed from time to time by the Association's Committee of Management.

## 10. LEVIES:

On the recommendation of the Committee of Management the Members may in general meeting, due notice of which and the business to be discussed has been given, make a levy upon Members for contribution to the funds of the Association in addition to the subscriptions of Members provided by these rules and any such levy shall be due and payable within one month immediately after notice of the resolution for making of the same shall have been given to members.

## 11. TERMINATION OF MEMBERSHIP:

A Member may resign from membership of the Association:

(a) if the Member ceases to carry on business in the industry; or

(b) on giving notification in writing of the Member’s resignation from the Association; or

(c) a notification of resignation is taken to be duly given if –

(i) it is left at the registered office of the Association; or

(ii) it is addressed to the Association or any Officer thereof, and sent to the registered office of the Association.

## 12. TERMINATION OF MEMBERSHIP OTHER THAN BY RESIGNATION:

(a). If any member shall wilfully infringe against the Constitution of the Association, or in the opinion of the Committee of Management be guilty of conduct prejudicial to the Association, the Committee of Management shall call upon such Member to explain the Member’s conduct, and if found guilty shall have power to suspend, expel or otherwise deal with the Member as prescribed by these Rules

(b). A Special Meeting of the Committee of Management shall be convened to enquire into such conduct and if two-thirds of the Members present vote for the expulsion of the Member, the Member shall be notified accordingly and shall forthwith forfeit all claims upon the Association and its property and funds; and shall cease to be a Member from the date of such meeting.

(c). In the case of a Member whose subscription is more than 3 months in arrears the Secretary/Treasurer shall notify such Member accordingly and failing payment of such amount as is in arrears, the Committee of Management may determine that the membership be terminated from the date of such determination.

## 13. TRANSFER OR DEATH

In the event of the sale or transfer of the business of a Member of the Association such membership may be transferred to the purchaser or transferee without payment of a further entrance fee and/or additional subscription. In the event of the death of any proprietor or partner of the firm (being a Member of the Association), membership may, without payment of an entrance fee and/or additional subscription, be transferred to the executor of such proprietor or partner, but only whilst such executor is carrying on the business of the deceased proprietor or partner. In any event the Committee of Management may decline such transfer of membership if it is not satisfied as to the eligibility of such transferee.

## 14. ASSIGNABLE INTEREST

No Member shall by reason of membership have any transferable or assignable interest in the funds of the Association, and upon any person ceasing by death, resignation, or otherwise to be a Member, that Member’s interest shall accrue and belong to the other Members of the Association for the time being.

This clause shall not apply to any Special Fund which may be created under this Constitution, and to which the Member concerned is a contributor.

## 15. COMMITTEE OF MANAGEMENT

(a) The management and control of the affairs of the Association shall be vested in the Committee of Management which may exercise all such powers and do all such acts and things as the Association is legally competent to exercise and do. Any decision or action by the Committee of Management shall be reviewable by the members at the Annual General Meeting, or in accordance with the provisions of Rule 26 of these Rules.

(b) The Management Committee shall meet on such day and at such place as the President may from time to time determine and may otherwise meet for the despatch of business and may adjourn and otherwise regulate all meetings and proceedings. All meetings of the Committee of Management shall be notified to the Members thereof by the Secretary/Treasurer, specifying the time, date and place of the meeting and the nature of the business to be conducted thereat.

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

(i) The officers of the Association comprising the President, Vice-President, Secretary/Treasurer; and

(ii) two (2) other members.

(d) The Officers and other members of the Committee of Management shall be elected biennially in accordance with these Rules.

Provided that the members of the Committee of Management elected immediately prior to the adoption of this Rule shall remain in the offices as prescribed under the former Rule until the next election of the Committee of Management."

(e) A quorum for any meeting of the Committee of Management shall by formed by at least two (2) members of the Committee being present.

## 15A. CASUAL VACANCIES IN THE COMMITTEE OF MANAGEMENT

(a) Where any casual vacancy occurs in the membership of the Committee of Management including but not limited to the offices of President, Vice President and Secretary/Treasurer and the unexpired part of the term of the office does not exceed 12 months or three quarters of the term of the office whichever is the greater then the Committee of Management may fill that casual vacancy by appointing thereto a person who is eligible to nominate for and hold the office in question provided that no person can hold more than one office in the Committee of Management;

(b) Notwithstanding sub rule (a) of this rule the Committee of Management may determine that the vacancy referred to in sub rule (a) of this rule shall be filled by an election which election shall be conducted as far as practicable according to the provisions of these rules applying to the election for the office in question;

(c) Where the unexpired term of the office in which the casual vacancy has arisen exceeds that specified in sub rule (a) of this rule that vacancy must be filled by an election conducted as soon as possible and as far as practicable in accordance with the provisions of these rules relating to the election for the office in question.

(d) In this rule term has the same meaning as that provided for in s 433(4) of the *Industrial Relations Act* 1999*.*

## 16. CHAIRPERSON:

The President, or in The President’s absence, the Vice President shall at all times take the chair, but in the event of both of them being absent the meeting shall elect a chairperson.

## 17. POWERS AND DUTIES OF OFFICE BEARERS:

(a). **PRESIDENT**

The President shall have the following powers and duties including those specified elsewhere in these rules:–

i. Power to determine the place of General Meetings;

ii. Act as Chairperson of all meetings of Members and the Committee of Management;

iii. All powers and duties as a Member of the Committee of Management;

iv. Power to determine the dates of meetings of the Committee of Management;

v. Power to submit questions to a vote of the Committee of Management;

vi. (Power to carry out the powers and duties of the Secretary/Treasurer set out in these rules including in particular but without limitation, power to determine what claims, matters or actions whether on behalf of the Association or any Member thereof, may be referred to industrial advocates by the Association.

(b). **VICE PRESIDENT**

The Vice President shall exercise the power of the President in the absence of the President.

(c). **SECRETARY/TREASURER**

The Secretary/Treasurer shall be the Chief Executive Officer of the Association and may be remunerated by the Association.

The Secretary/Treasurer shall be subject to the direction of the President in all matters relating to the conduct of the affairs of the Association. Subject to the proviso in Rule 15 of these rules the Secretary/Treasurer shall be elected in accordance with Rule 30 of these Rules and remuneration payable to the Secretary/Treasurer shall be decided by the Committee of Management.

The Secretary/Treasurer shall record minutes of meetings, conduct correspondence under the direction of the Association and generally perform all duties usually connected with the office of Secretary/Treasurer. The Secretary/Treasurer shall also keep a register of the names and addresses of all members of the Association. The Secretary/Treasurer shall also receive all moneys due to the Association and pay all debts contracted by it when duly authorised by the Association, keeping a correct account thereof in books supplied for such purpose, furnish a financial statement at each General Meeting of the Association and submit duly audited accounts to the Annual General Meeting.

The Secretary/Treasurer is authorised to represent and appear on behalf of the Association in any court or Industrial Commission or any tribunal, committee or Board of Reference on any proceedings concerning the Association or any member thereof or in which it or the member is interested. The Secretary/Treasurer is authorised to notify any relevant industrial tribunal about an industrial dispute in the manner required by any relevant industrial legislation applicable to the industrial dispute.

In the event of the Secretary/Treasurer dying or resigning that post or being dismissed the refrom by the Committee of Management, the President shall have the power to act as Secretary/Treasurer for all purposes under these Rules.

(d). **COMMITTEE PERSONS**

The Committee Persons in addition to duties elsewhere specified in these rules shall ensure that the Office Bearers carry out their duties and powers and in addition, as a body shall have the powers set out in rule 15.

(e). An elected officer, being any of the office holders mentioned in (a) to (d) above may be removed from office only on the ground that the officer has ceased to be eligible to hold the office or has been found guilty under the rules of

i. misappropriation of the association’s property; or

ii. a substantial contravention of the rules; or

iii. gross misbehaviour or gross neglect of duty in the office.

(f). The Committee of Management may, on a ground mentioned in paragraph (e), remove the officer from office on a vote carried by two-thirds of the total number of the Committee of Management.

(g). When the Committee of Management has removed an officer from office, it shall, at the request of the removed officer, and notwithstanding Rule 26, convene a special general meeting of the members of the Association to be held within 28 days after the removal. The meeting shall either confirm or rescind the Committee of Management decision after allowing the officer, who may appear in person, to state a case as to why the decision should not be confirmed.

(h). Notice of the special general meeting will be in the same manner as the notice mentioned in rule 26.

## 18. FINANCE:

All monies shall be deposited in a Bank selected by the Association in the name of the Association.

Signatories to operate on the account of the Association shall be any two of the President, Vice President and Secretary/Treasure. The financial period of the Association will, unless altered by decision of a General Meeting, be the period ended 30 June in each year.

All expenditure on behalf of the Association shall be approved by the Committee of Management.

## 19. LOANS, GRANTS OR DONATIONS:

Expenditure by way of loan, grant or donation to any recipient of an amount exceeding, or in the aggregate exceeding $1,000 shall not be made by the Association unless the Committee of Management has approved the making of the loan, grant or donation; and has satisfied itself that the making of the loan, grant or donation is in accordance with the Association’s rules; and in the case of a loan, that 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.

## 20. INVESTMENTS:

So much of the funds of the Association as may not be required to meet accruing liabilities may be invested in such form of investment as the Committee of Management may determine from time to time.

## 21. EXECUTION OF DOCUMENTS

(a). Execution of documents on behalf of the Association, other than as provided for in Rule 18 of these rules, shall be under the hand of the President and/or Secretary/Treasurer; or agent duly appointed in writing in accordance with any relevant industrial legislation, all of whom shall be so authorised by the Committee of Management.

(b). The Association shall have a common seal which shall be kept in safe custody by the Secretary/Treasurer.

(c). Notification to the Industrial Commission in the prescribed manner of the existence or likelihood of industrial disputes shall be under the hand of the President, Vice President or Secretary/Treasurer

## 22. AUDITORS:

An auditor, who shall be a registered company auditor and not otherwise an employee or officer of the Industrial Organisation, who shall conduct an annual audit of the accounts of the Association shall be appointed for the ensuing year at each Annual General Meeting. Any vacancy occurring shall be filled by the Committee of Management.

## 23. INSPECTION OF BOOKS:

Any member or person having an interest in the funds of the Association may inspect the books of the Association or the list of names of the Members thereof at all reasonable hours at the Registered Office of the Association, or at any other place where the same are kept.

## 24. FUNDS FOR SPECIAL PURPOSES:

The Association may from time to time create special funds whether by levy or otherwise for particular purposes. Such funds shall be accounted for separately in the books of the Association.

Provided that at all times the management expenses of the Association shall be recorded separately as will all contributions on account thereof and the accounts presented to the members at the Annual General Meeting shall be kept and presented so as to clearly distinguish the expenses of management of the Association from other funds.

## 25. ORDINARY GENERAL MEETING:

Ordinary General Meetings of the Association shall be held at such time and place as may be determined by the Committee of Management from time to time. The Secretary/Treasurer shall forward a notice paper to members at least five days before each such Ordinary General Meeting.

## 26. SPECIAL GENERAL MEETING:

Special General Meetings of the Association shall be called by the Secretary/Treasurer at the request of the President or upon a requisition, stating the business for which the requisitionists require a meeting to be called, in writing signed by three Members.

At least seven (7) days written notice shall be given to each Member, specifying the place, day and hour, and stating clearly the objects of calling such a meeting.

If for twenty-eight days after a requisition for a Special General Meeting has been delivered to the Secretary/Treasurer such a meeting has not been called then the requisitionists themselves may convene the meeting but such meetings shall not be held later than two calendar months after the delivery of the requisition to the Secretary/Treasurer .

## 27. ANNUAL GENERAL MEETING:

There shall be an Annual General Meeting of the Association in each year between 1 September and the last day of December or on any other date as may be determined by the Committee of Management, when the President’s and the Secretary/Treasurer’s reports shall be read, and the annual accounts shall be presented. The meeting shall be called by written notice to the members, specifying the date, time and place for the meeting, such notice to be issued providing no less than 14 days notice of the meeting.

## 28. QUORUM:

A Quorum for any General Meeting of the Association shall be formed by ten (10) members except in the case of a Special General Meeting called by requisition as specified in rule 26 hereof, where fifteen (15) members shall be required to form a quorum.

## 29. VOTING AT MEETINGS:

Each Member or authorised representative shall have one vote on a show of hands or on a poll. Questions submitted at any General Meeting shall be decided in the first instance on a show of hands but a poll shall be taken if demanded by any Member or authorised representative during a meeting and shall be taken at once unless two-thirds of those present and entitled to vote decide otherwise.

Any director of a company or any partner of a firm which company or firm is a Member shall be deemed to be an authorised representative of such company or firm and shall require no appointment.

Instruments appointing a proxy shall be in writing under the hand of the appointer or his attorney or if such appointer is a corporation under its Common Seal. Only a financial Member shall be permitted to appoint a proxy at any meeting. The person so appointed also must be a financial Member or an authorised representative of a financial Member.

Any Power of Attorney or instrument appointing a proxy and any Power of Attorney under which such instrument is signed shall be deposited with the Secretary/Treasurer not less than 24 hours prior to the meeting at which the Attorney or proxy proposes to vote.

Any instrument appointing a proxy may bind the proxy as to the nature of any vote or votes cast thereunder.

A proxy shall be in or to the effect of the following form:

**QUEENSLAND REAL ESTATE INDUSTRIAL ORGANISATION OF EMPLOYERS**

**FORM OF PROXY**

I, being a member of the Queensland Real Estate Industrial Organisation of Employers do hereby appoint of     as my proxy to vote for me and on my behalf at the Ordinary/Special/Annual General Meeting of the Association to be held on the day of 20 and at any adjournment thereof.

As witness my hand this day of 20 .

Signature:

Witness:

## 30. CONDUCT OF ELECTIONS:

**PART 1 - DEFINITIONS**

1 In these rules -

"ballot box" means a ballot box kept under section 15

"candidate", for an election means a person -

(a) who has nominated as a candidate for the office the election is about; and

(b) whose nomination has been accepted under section 6 (3); and

(c) whose nomination has not been withdrawn.

"eligible member" means a person who was a financial member of the organisation on the stated day.

"higher office" means -

(a) for the office of management committee member - any other office; or

(b) for the office of secretary/treasurer - the office of vice-president or president; or

(c) for the office of vice-president - the office of president.

"initialled" by the manager of an election includes being marked with a facsimile of the manager's initials.

"member" means a member of the organisation.

"return envelope" see section 14 (1) (b).

"roll", for an election, means the roll of voters prepared for the election under section 10.

"scrutineer" means -

(a) a candidate who acts personally as a scrutineer; or

(b) a person appointed as a scrutineer for a candidate under section 21.

"secretary" means -

(a) the person holding office as the organisation's secretary; or

(b) another officer of the organisation, however described, who has the functions of the organisation's secretary.

“stated day” means the day which is 30 days before the opening time for nominations.

"trustee" means the office of a person holding, whether as trustee or otherwise, property –

(a) of the organisation; or

(b) that the organisation has a beneficial interest in.

"voter" means a person -

(a) who is an eligible member; and

(b) whose name is on the roll under section 10.

"voting material" see section 14 (1).

**PART 2 - MANAGER OF ELECTION**

**Functions and powers:**

2 (1) The manager of an election -

(a) must not influence or attempt to influence, the outcome of the election; and

(b) must conduct the election under these rules; and

(c) may take the action, and give the directions, the manager considers reasonably necessary to ensure that the processes under which the election is conducted are transparent; and

(d) must ensure suitable arrangements are made with Australia Post for the return of ballot papers to a box or locked bag at a post office.

(e) must ensure the election is conducted by a way of secret postal ballot.

(f) must not be an office holder in the Association.

(2) The manager of an election other than an electoral officer may take the action, and give the directions, the manager considers reasonably necessary -

(a) to ensure no irregularities happen in the election; or

(b) to remedy a procedural defect that appears to the manager to exist about the election.

(3) To ensure the integrity of an election, the address for return of ballot papers must not be the organisation's usual postal address.

(4) Must ensure that any eligible members who will be absent during the period in which the ballot is to be conducted may apply to him or her to vote in absentia and must comply with any acceptable request.

**PART 3 - PRE-ELECTION PROCEDURES:**

**Closing day and time for nominations**

3 (1) The manager of the election must fix the opening day and closing day for nominations for office.

(2) The closing day must be at least 28 days after notice is given under section 5.

(3) Nominations open at midday on the opening day and close at midday on the closing day.

**Starting and finishing days of ballot**

4 (1) If a ballot becomes necessary under section 8, the manager of the election must fix the start and finish days for the ballot to decide the result of the election.

(2) The start day must not be before the closing day for nominations for the offices to be filled at the election.

**Calling for nominations**

5 (1) The manager of the election must call for nominations for the offices to be filled by notice given to members in 1 of the following ways –

(a) by post to each member at the address recorded in the members register;

(b) if the organisation publishes a journal or newsletter that it gives to its members free of charge, by advertisement in the journal or newsletter;

(c) in a daily newspaper circulating in the area where the organisation's members live or work.

(2) The notice must state -

(a) the opening day for nominations; and

(b) the closing day for nominations; and

(c) that nominations for office -

i. open at midday on the opening day; and

ii. close at midday on the closing day; and

(d) who may nominate as a candidate in the election; and

(e) that nominations for office must be written, signed by the nominee and given to the manager before nominations close; and

(f) the starting and finishing days for a ballot to decide the result of the election if a ballot becomes necessary under section 8; and

(g) that only a person who was financial member 30 days before the opening time for nominations may vote in the election; and

(h) that the ballot will be decided by a first-past-the-post system of voting.

**Nomination procedure**

6 (1) A nomination for office must be written, signed by the nominee and given to the manager of the election before nominations close.

(2) A person may nominate for more than one office.

(3) The manager must accept a nomination if -

(a) it complies with subsection (1); and

(b) the nominee is an eligible member except where the nominee has nominated to be elected to the office of Secretary/Treasurer only in which case the nominee need not be an eligible member.

(4) A candidate may withdraw the candidate's nomination by written notice given to the manager no later than 7 days after nominations close.

**Defective Nominations**

7 (1) The manager of the election must reject a nomination given to the manager of the election after nominations have closed.

(2) If a nomination for an office is defective, other than because the nominee is not qualified to hold the office or because the nomination was made after the closing time, the manager must -

(a) reject it; and

(b) give the nominee notice of the defect; and

(c) if practicable, give the nominee an opportunity to remedy the defect.

(3) If practicable, the notice must be given before nominations close.

(4) Failure to give the notice does not invalidate the election.

**When a ballot must be held**

8 If there are more candidates for election to an office than the number to be elected, the manager must conduct a secret ballot under part

**4.Election without ballot**

9 The manager of the election must declare a candidate elected to an office if -

(a) nominations have closed; and

(b) the candidate does not hold another office; and

(c) the candidate has -

i. not nominated for a higher office; or

ii. nominated for a higher office and is not elected to the higher office; and

(d) if the election is for president or secretary - the candidate is the only candidate; or

(e) if the election is for another type of office - the number of candidates for the office is not more than the number of offices of the same type to be elected at the same time.

**PART 4 - CONDUCTING BALLOTS:**

**Roll – preparation**

10 (1) A roll for a ballot must be prepared at the direction of the manager of the election.

(2) The manager must ensure the roll -

(a) states -

i. the name of each person who is an eligible member of the organisation in alphabetical order; and

ii. each eligible member's address, opposite their name; and

(b) is completed when nominations for the election close.

(3) The organisation must give the manager -

(a) a copy of its members register; and

(b) access to the organisation's records reasonably necessary for the manager to ensure the roll is accurate.

**Roll – inspection**

11 (1) The manager of the election must make the roll for the election available for inspection -

(a) in the period that -

i. starts on the day after the roll must be completed under section 10; and

ii. ends 30 days after the result of the election is declared; and

(2) A candidate, member or person authorised by the manager may inspect the roll, free of charge.

(3) If, during the period stated in subsection (1), a candidate or member asks for a copy of the roll or a stated part of the roll, the manager must give the person the copy, free of charge.

**Claiming a right to vote**

12 (1) Despite section 10 (2), if an eligible member's name does not appear on the roll, the member may apply to the manager of the election to have the member's name included on the roll.

(2) If the manager is satisfied the applicant is an eligible member, the manager must include the applicant's name on the roll.

**VOTING MATERIAL**

**Ballot papers**

13 (1) A ballot paper for the election must –

(a) have a watermark or other distinctive pattern that prevents it from being reproduced other than by the manager or a person authorised by the manager; and

(b) be of paper that will hide a vote marked on it from view when it is folded once; and

(c) be a different colour from the colour used for ballot papers at the 2 previous elections held for the organisation; and

(d) list the names of each candidate once only for each office the election is for, with the surname first, followed by the candidate's other names; and

(e) state how the voter may vote; and

(f) state that the voter must fill in and sign the voting declaration or the vote will not be counted; and

(g) state that the voter must return the ballot paper to the manager so that it is received on or before the finish day of the ballot.

(2) The order of names on the ballot paper must be decided by lot.\

(3) If 2 or more candidates have the same surname and first names, the candidates must be distinguished in an appropriate way.

**Distributing the voting material**

14 (1) The manager of the election must post the following things to each voter –

(a) a ballot paper initialled by the manager;

(b) an unsealed reply paid envelope addressed to the manager that conforms with the relevant industrial legislation;

(c) a ballot envelope and a voting declaration that conforms with relevant industrial legislation;

(d) other material the manager considers appropriate for the ballot including, for example, directions or notes to help the eligible member to comply with these rules and cast a valid vote.

(2) Voting material must be posted to each voter -

(a) in a sealed envelope to the voter's address on the roll; and

(b) as soon as practicable, but no later than 2 days before the starting date of the ballot.

(3) The voting declaration must state "I certify that I am the person whose name appears on this envelope and I have voted on the ballot paper enclosed."

(4) If a voter gives the manager a notice that the voter will be at an address other than the address stated on the roll when voting material is to be given, the manager must post the material to the other address.

(5) Before posting voting material to a voter, the manager must mark a different ballot number for each voter on -

(a) the roll against the voter's name; and

(b) the declaration form.

(6) The ballot numbers must start with a number chosen by the manager.

(7) A ballot paper or ballot envelope must not be marked in a way that could identify the voter.

(8) If the voter is voting in absentia then the manager must ensure that a procedure is followed that complies as far as is practicable with the procedure contained in this rule so as to enable the voter to participate in the ballot in secret.

**Manager must keep a ballot box**

15 The manager must get a ballot box and -

(a) keep the box in a safe place; and

(b) seal the box in a way that -

(i) allows voting material to be put in it until the ballot finishes; and

(ii) prevents voting material from being taken from it until votes for the ballot are to be counted.

**Duplicate voting material**

16 (1) This section applies if voting material posted to a voter –

(a) has not been received by the voter; or

(b) has been lost or destroyed; or

(c) if the document is a ballot paper - has been spoilt.

(2) The voter may apply to the manager of the election for a duplicate of the document.

(3) The application must -

(a) be received by the manager on or before the finish day of the ballot; and

(b) state the grounds on which it is made; and

(c) if practicable, be substantiated by evidence verifying or tending to verify the grounds; and

(d) state that the voter has not voted at the ballot; and

(e) if the document is a spoilt ballot paper - be accompanied by the ballot paper.

(4) If the application complies with subsection (3), the manager must –

(a) if the document is a spoilt ballot paper -

(i) mark 'spoilt' on the ballot paper; and

(iii) initial the paper beside that marking and keep the paper; and

(iv) give a fresh ballot paper to the voter; or

(b) otherwise - give a duplicate of the document to the voter.

**Voting**

**How long ballot is open**

17 A ballot must remain open for -

(a) at least 21 days; and

(b) no longer than 49 days.

**How to vote**

18 A voter may vote only by completing the following steps -

(a) completing a ballot paper by –

i. writing a tick or cross in the square opposite the name or names of the number of candidates the voter may vote for under section 19; and

ii. complying with the instructions on the paper about how to vote;

(b) putting the paper in a ballot envelope;

(c) sealing the ballot envelope;

(d) filling in and signing the voting declaration for the ballot paper;

(e) putting the voting declaration and the ballot envelope in the return envelope;

(f) sealing the return envelope;

(g) complying with any direction given under section 14(1) (d);

(h) returning the return envelope to the manager of the election so that the envelope is received on or before the finish day for the ballot.

**How many votes may be cast**

19 A voter may vote for only the following number of candidates on a ballot paper -

(a) for an election for president or secretary - 1 candidate;

(b) for an election for another type of office - the number of candidates that is not more than the number of offices of the same type to be elected at the same time.

**Counting and scrutiny of votes**

**How manager must deal with voting material**

20 (1) The manager of the election must put all voting material returned to the manager in the ballot box until voting has ended.

(2) If, after the finishing day for the election, the manager receives a return envelope apparently containing a ballot paper for the election, the manager must -

(a) keep the envelope sealed; and

(b) mark the envelope ''Received by the manager after the finishing day for the ballot”; and

(c) keep the envelope in safe custody, but separately from return envelopes received before or on the finishing day.

**Scrutineers – appointment**

21 (1) A candidate may –

(a) act personally as a scrutineer; or

(b) appoint another person (an" appointee") as a scrutineer for the candidate.

(2) An appointment must be in writing and signed by the candidate.

(3) A candidate must notify the manager of the election of the name of the candidate's appointee as soon as possible after the appointee is appointed.

(4) The manager may refuse to allow an appointee to act as a scrutineer if -

(c) the manager asks to inspect the appointment as a scrutineer; and

(d) the appointee does not produce it.

**Scrutineers' rights**

22 Subject to section 23, a scrutineer may be present when -

(a) ballot papers or other voting material for a ballot are prepared and given to voters; and

(b) voting material is received and put in safe custody under section 20; and

(c) votes are counted.

**Scrutineers - numbers attending**

23 (1) Each candidate may have only 1 scrutineer exercising a right under section 22 for each official present when the ballot is being conducted.

(2) In subsection (1) -

"official" means -

(a) if the ballot is being conducted by the electoral commission - an electoral officer; or

(b) if the ballot is not being conducted by the electoral commission -

i. the manager of the election; or

ii. any other person appointed by the manager to exercise the manager's powers for the election.

**Initial scrutiny of voting material**

24 (1) As soon as possible after the ballot finishes, the manager of the ballot must -

(a) seal the ballot box in a way that prevents voting material from being put in it; and

(b) take the ballot box to the place where votes are to be counted.

(2) The manager must then -

(a) unseal the ballot box; and

(b) take out the return envelopes; and

(c) open each return envelope and take out the ballot envelope and the voting declaration; and

(d) examine the declaration and mark off the voter's name on the roll; and

(e) check the ballot number on the declaration against the ballot number marked against the voter's name on the roll; and

(f) ensure the declaration is signed.

(3) After complying with subsection (2), the manager must put the ballot envelopes in a container and the declarations into another container if satisfied -

(a) each declaration is signed; and

(b) the ballot number on each declaration corresponds with the ballot number marked beside the voter's name on the roll.

(4) However, the manager must not put a ballot envelope or declaration into the containers mentioned in subclause (3) if -

(a) the manager reasonably believes the voter to whom it was sent did not sign the declaration; or

(b) the person named on the declaration is not the person to whom it was sent.

(5) Subsection (4) does not apply if the manager is satisfied the person who filled in and signed the declaration -

(a) is the voter; and

(b) has not previously voted in the ballot; and

(c) has a reasonable explanation for using someone else's ballot material.

(6) The manager must keep ballot envelopes and declarations excluded under subsection (4) separate from other ballot envelopes and declarations.

(7) A declaration is valid only if -

(a) it complies with subsection (3) (a) and (b); and

(b) subsection (4) does not apply.

(8) A valid declaration must be accepted as valid, and an invalid declaration must be rejected by the manager.

(9) If a declaration is accepted as valid by the manager the manager must -

(a) note the acceptance of validity on the declaration; and

(b) record the correct ballot number on the roll against the name of the voter who signed the declaration.

(10) After separating the ballot envelopes and declarations, the manager must, in the following order, -

(a) seal the container holding declarations;

(b) open the ballot envelopes not excluded under subsection (4) and take out the ballot papers;

(c) if a ballot envelope contains more than 1 ballot paper for each office the election is for - mark each of the ballot papers from the envelope 'informal under section 25 (2) (e);

(d) put all of the ballot papers in the ballot box.

**Counting votes**

25 (1) To count votes the manager of the election must -

(a) admit the formal votes and reject the informal votes; and

(b) count the formal votes, and record the number for each candidate; and

(c) count the formal votes.

(2) A vote is informal only if -

(a) the ballot paper is not initialled by the manager and the manager is not satisfied the paper is authentic; or

(b) the ballot paper is marked in a way that allows the voter to be identified; or

(c) the ballot paper is not marked in a way that makes it clear how the voter meant to vote; or

(d) the ballot paper does not comply with a direction given under section 14 (1) (d); or

(e) the ballot paper was taken from a ballot envelope that contained another ballot paper for the office the election is for.

**Scrutineer' objections**

26 (1) Before votes are counted, a scrutineer may advise the manager that the scrutineer considers an error has been made in conducting the ballot.

(2) When votes are counted, a scrutineer may -

(a) object to a ballot paper being admitted as formal or rejected as informal by the manager of the election; or

(b) advise the manager of the election that the scrutineer considers an error has been made in conducting the ballot or counting votes.

(3) If a scrutineer advises the manager under subsection (1) or (2) (b), the manager must -

(a) decide whether the error has been made; and

(b) if appropriate - direct action to correct or mitigate the error.

(4) If a scrutineer objects under subsection (2) (a), the manager must -

(a) decide whether the ballot paper is to be admitted or rejected; and

(b) note the decision on the ballot paper and initial the note.

**Direction by manager to leave count**

27 The manager of the election may direct a person to leave the place where votes are being counted if the person -

(a) does not have the right to be present at the count; or

(b) interrupts the count, other than to exercise a scrutineer's right.

**Election result**

**How result is decided**

28 (1) The method of deciding the result of a ballot is by a first-past-the-post system.

(2) If only 1 office of the same type is to be filled in an election, the candidate with the most formal votes is elected.

(3) If more than 1 office of the same type is to be filled, that number of candidates corresponding with the number of offices to be filled who have the most formal votes are elected.

(4) This section is subject to sections 29 and 30.

**What happens if votes for 2 or more candidates are equal**

29 (1) If the manager can not decide which candidate is elected to an office because the votes cast for 2 or more candidates are equal, the manager of the election must decide which candidate is elected by drawing lots.

(2) A decision under subsection (1) must be made in the presence of any scrutineer who wishes to attend.

**What happens if multiple nominee elected**

30 If a candidate is elected to an office, other than as a trustee, and the candidate is also elected to a higher office, the manager of the election may only declare the candidate elected to the higher office.

## 31. ALTERATIONS TO RULES:

Any new rule may be made, and any part of the constitution or any of the rules herein contained or hereinafter to be made, altered or rescinded, by decision of the Committee of Management.

## 32. DISSOLUTION:

The Association shall be dissolved if a resolution to that effect is carried by a three-fourth majority of the members present at a general meeting convened to consider the question. The property and other assets of the Association remaining after payment of all expenses and other liabilities shall be handed over to some other non-profit organisation or organisations as the majority of members present at such general meeting by resolution may decide.

## 33. DISCLOSURE BY OFFICERS OF RELEVANT REMUNERATION AND NON-CASH BENEFITS.

A. Each office holder referred to in rule 17 of these rules shall disclose to the association any remuneration paid to the officer:

(a) because the officer is a member of a board, if:

(i) the officer is a member of the board only because the officer is an officer of the association; or

(ii) the officer was nominated for the position as a member of the board by the association; or

(b) by any related party of the association in connection with the performance of the officer’s duties as an officer.

B. The disclosure required by sub rule (A) shall be to the association:

(a) as soon as practicable after the remuneration is paid to the officer; and

(b) in writing;

C. The association shall disclose to the members of the association:

(a) the identity of the officers who are the five highest paid in terms of relevant remuneration for the disclosure period, and

(b) for each of those officers:-

(i) the actual amount of the officer’s relevant remuneration for the disclosure period; and

(ii) Either the value of the officer’s relevant non-cash benefits, or the form of the officer’s relevant non-cash benefits, for the disclosure period.

D. For the purposes of sub rule (C), the disclosure shall be made:

(a) in relation to each financial year;

(b) within six months after the end of the financial year; and in writing.

E. Interpretation

(a) For the purposes of this rule the following definitions apply:-

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;

Disclosure period means the financial year unless a shorter period is specified;

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;

Relevant remuneration means in relation to an officer of the association for a disclosure period the sum of the following:

(i) any remuneration disclosed to the association by the officer under rule 33 during the disclosure period;

(ii) any remuneration paid during the disclosure period to the officer by the association.

Relevant non-cash benefits in relation to an officer of the association 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 association or by a related party of the association

Related party means an entity controlled by the association unless the entity is a branch, sub branch, division or sub division of the association or the entity is an association of employers or employees registered under a state or territory industrial law and the association is a federal counter part of the association. Further the following persons are related parties of the association namely officers of the association and the spouses of those persons. Relatives of the officers and their spouses are also related parties of the association. An entity controlled by a related party as defined is a related party of the association unless the entity is controlled by the association. An entity is a related party of the association at a particular time if the entity was a related party of the association entity at anytime within the previous six months. An entity is a related party of the association at a particular time if the entity believes or has reasonable grounds to believe that it is likely to become a related party of the association of a kind referred to above at any time in the future. An entity is a related party of the association if the entity acts in concert with the related party of the association on the understanding that the related party will receive a financial benefit if the association gives the entity a financial benefit.

Remuneration includes pay, wages, salary, fees, allowances, leave, benefits or other entitlements but does not include a non-cash benefit and does not include the reimbursement or payment of reasonable expenses for the costs incurred in the course of the officer carrying out his or her duties.

Relevant non-cash benefits in relation to an officer of the association 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 association or by a related party of the association.

Relative has the same meaning as that given to the word person in Rule 34

## 34. DISCLOSURE OF AN OFFICER’S MATERIAL PERSONAL INTERESTS

A. Each officer of the association shall disclose to the association any material personal interest in a matter that:

(a) the officer has or acquires; or

(b) a relative of the officer has or acquires that relates to the affairs of the association.

B. The disclosure required by sub rule (A) shall be made to the association:

(a) as soon as practicable after the interest is acquired; and

(b) in writing

C. The association shall disclose to the members of the association any interests disclosed to the association pursuant to sub rule (A);

(a) For the purposes of sub rule (C), the disclosure shall be:

(b) in relation to each financial year;

(c) within six months after the end of the financial year; and

(d) in writing.

D. Interpretation

(a) For the purposes of this rule a person means a parent, step parent, child, step child, grandparent, grandchild, brother or sister of the person or the spouse of the first mentioned person.

## 35. DISCLOSURE BY ASSOCIATION OF PAYMENTS

A. The association shall disclose to the members of the association either:

(a) each payment made by the association during the disclosure period:

(i) to a related party of the association; or

(ii) to a declared person or body of the association; or

(b) The total of the payments made by the association during the disclosure period:

(i) to each related party of the association; or

(ii) to each declared person or body of the association.

B. Sub rule (A) does not apply to a payment made to a related party if:

(a) the payment consists of amounts deducted by the association from remuneration payable to officers or employees of the association; or

(b) the related party is an officer of the association and the payment:

(i) consists of remuneration paid to the officer by the association; or

(ii) is reimbursement for expenses reasonably occurred by the officer in performing the officer’s duties as an officer.

C. For the purpose of sub rule (A) the disclosures shall be made:

(a) in relation to each financial year;

(b) within six months after the end of the financial year; and

(c) in writing.

D. For the purpose of this rule the words declared person or body means:

(i) an officer of the association that has disclosed a material personal interest under Rule 33; and

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

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

E. The word “relative” has the same meaning as that set out for the word person in rule 34. “Related party” has the same meaning as that given in rule 33 and “remuneration” has the same meaning as that given in rule 33.

## 36. FINANCIAL TRAINING

Each office holder referred to in rule 17 whose duties include duties that relate to the financial management of the association must undertake the training required by any relevant industrial legislation.

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