

I CERTIFY under section 161 of the Fair Work  
(Registered Organisations) Act 2009 that the pages  
herein numbered 1 to 73 both inclusive contain a true  
and correct copy of the registered rules of the Motor  
Traders' Association of New South Wales.

THE GENERAL MANAGER  
FAIR WORK COMMISSION

[IMPORTANT: Enquiries about these rules or other rules relating to this organisation which are currently in force may be directed to any office of the Fair Work Commission.]

Rules of  
the Motor Traders' Association of  
New South Wales

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**RULES OF  
MOTOR TRADERS' ASSOCIATION OF NEW SOUTH WALES**

**1 NAME OF ASSOCIATION**

The name of the Association is "Motor Traders' Association of New South Wales".

**2 INTERPRETATION**

- (1) **Definitions.** In the interpretation of these Rules the following words and expressions shall have the meanings specified unless the context otherwise requires:
- (a) "the **Act**" means the *Fair Work (Registered Organisations) Act 2009* (Cth) as amended from time to time;
  - (b) "**affiliate**" means a company, corporation, unincorporated body, organisation, institution, society or association which is for the time being affiliated with the Association;
  - (c) "**affiliate member**" means a member of an affiliate whose name is for the time being entered in the Register as an affiliate member of the Association;
  - (d) "the **Association**" means Motor Traders' Association of New South Wales;
  - (e) "**Association Member**" means a member, life member, or affiliate member of the Association for the time being and "**Association Members**" means all the Association Members;
  - (f) "the **auditor**" means the auditor or auditors of the Association for the time being;
  - (g) "**Board of Enquiry**" means the Board of Enquiry constituted under Rule 21;
  - (h) "**Code of Ethics**" means the Code of Ethics for the time being of the Association referred to in Rule 5;
  - (i) "the **Council**" or "the **Advisory Council**" means the Advisory Council for the time being of the Association referred to in Rule 30;
  - (j) "**Councillor**" means a member of the Council for the time being and "**Councillors**" means all members of the Council for the time being;
  - (k) "**Division**" means one of the Divisions constituted pursuant to Rule 11;
  - (l) "**Election Rules**" means the rules contained in Schedule – Rules for the Conduct of Elections of Statutory Officers;
  - (m) "the **Executive Board**" means the Executive Board for the time being of the Association constituted pursuant to Rule 32;
  - (n) "**FWC General Manager**" means the General Manager of the Fair Work Commission or any other person who has the authority to require any alterations of the Rules under the Act;
  - (o) "**individual**" means a natural person;
  - (p) "**life member**" means a life member of the Association whose name is for the time being entered in the Register as such;

## RULES OF THE MOTOR TRADERS' ASSOCIATION OF NEW SOUTH WALES

- (q) "**member**" means a member of the Association whose name is for the time being entered in the Register as such;
  - (r) "**Nominated Representative**" means an individual whose name is for the time being entered in the Register as the nominated representative of a member or affiliate member that is not an individual;
  - (s) "the **nomination closing time**" means the time and date of the close of the period fixed by the returning officer for lodging a nomination or nominations of a candidate or candidates for an election pursuant to the Election Rules;
  - (t) "**Officer**" means a member of the Executive Board, the President, the Vice President, any other Statutory Officer (if any) or a Councillor, and "**Office**" has a corresponding meaning;
  - (u) "**ordinary resolution**" means a resolution decided by a majority of votes cast by persons present in person or by proxy at a meeting and entitled to vote;
  - (v) "the **President**" means the President for the time being of the Association elected pursuant to the Election Rules;
  - (w) "the **Register**" means the register of members kept pursuant to Rule 37;
  - (x) "the **Registered Office**" means the registered office for the time being of the Association;
  - (y) "the **returning officer**" has the meaning given to this term in the Election Rules;
  - (z) "the **State**" means the State of New South Wales;
  - (aa) "**Statutory Office**" means an office of the Association for the purposes of the Act, and "**Statutory Officer**" means the holder of a Statutory Office (for the avoidance of doubt, a Councillor is not a Statutory Officer);
  - (bb) "**Unfinancial Member**" means a member or an affiliate member whose annual subscription or any levy or other sum payable to the Association has been due for payment for more than one (1) month but has not been paid;
  - (cc) "the **Vice President**" means the Vice President for the time being of the Association elected pursuant to the Election Rules; and
  - (dd) "**year**" means a calendar year.
- (2) **Interpretation.** In the interpretation of these Rules the following rules of interpretation apply unless the context otherwise requires:
- (a) Expressions referring to writing, will, unless the contrary intention appears, be interpreted as including references to typewriting, printing, lithography, photography, digital or other modes of representing or reproducing words in visible form.
  - (b) References to persons will include individuals, firms, partnerships, companies, corporations and unincorporated bodies.
  - (c) Words importing the singular number include the plural number and vice versa.
  - (d) Headings and subheadings are for convenience only and do not affect the interpretation of these Rules.
  - (e) References to Rules are references to these Rules.
- (3) **Financial year.** Each financial year of the Association begins on the first day of January and end on the next following thirty-first day of December.

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- (4) **Decision of Executive Board final.** If any doubt will arise as to the interpretation or construction of these Rules or of any regulation of the Association, the decision of the Executive Board thereon shall be conclusive and binding on all Association Members.

### 3 REGISTERED OFFICE

The registered office of the Association shall be at 214 Parramatta Road Burwood, New South Wales or at such other place in the State as the Executive Board may from time to time determine.

### 4 INDUSTRY AND OBJECTS

- (1) **Industry.** The industry in connection with which the Association is formed is the motor trade or business or any allied or associated trade or business which, without limiting the generality of the foregoing, shall include every operation, business, undertaking, work, service, handicraft, employment or occupation wholly or partly concerned or carried on or connected with or incidental to importing, manufacturing, assembling, altering, distributing, selling, leasing, letting, hiring, financing, repairing, reconditioning, maintaining, servicing, towing, wrecking, dismantling, garaging and/or parking or otherwise dealing with vehicles of all kinds, tractors, agricultural machinery, caravans, trailers, boat-trailer combinations and the like and engines, transmissions, equipment, parts and components thereof and accessories therefor and the provisioning thereof and the supply of operating and running requirements therefor.
- (2) **Objects.** The objects for which the Association is established are:
- (a) By every available means to promote protect and conserve the interests of Association Members and to secure to Association Members all the advantages of unity of action and to safeguard the interests of Association Members in any lawful manner in all matters relating to those trades or businesses;
  - (b) To effect and maintain a thorough and efficient organisation of employers in the motor trade or business or allied or associated trades or businesses with a view to improving the condition of those trades or businesses in every proper and lawful manner;
  - (c) To promote the motor trade or business or any allied or associated trade or business throughout the Commonwealth of Australia and its Territories;
  - (d) To take an active part in assisting or opposing such public movements as may appear likely to affect Association Members in carrying on their businesses;
  - (e) To promote, support or oppose legislative customs tariff or other measures affecting or likely to affect the motor trade or business and allied trades or businesses, and to endeavour to remove any restrictions preventing or interfering with the carrying on of the motor trade or business or any trade or business in accordance with the law and to secure proper parliamentary representation for the benefit and protection of these trades or businesses;
  - (f) To secure, maintain and improve favourable trade relations with all public authorities, manufacturers, suppliers, distributors and consumers of goods, materials, and services either within Australia or abroad;
  - (g) To maintain and improve the relations of Association Members with their employees and registered organisations or registered unions of such employees;
  - (h) To encourage and preserve by every means skill in the said trades and businesses;
  - (i) To establish and maintain a school or other educational facility and to promote and encourage technical and other forms of education for the development of efficient employees in the said trades and businesses;

## RULES OF THE MOTOR TRADERS' ASSOCIATION OF NEW SOUTH WALES

- (j) To establish bursaries and scholarships for educational purposes and to provide and award prizes or make contributions to prize funds of educational establishments;
- (k) To found or assist in the establishment of technical and statistical libraries and to provide books and papers having reference to these trades and businesses and to collect, tabulate, classify and publish all information which might be calculated to interest Association Members and the public generally;
- (l) To discuss, consider and deal with all questions concerning to said trades and businesses;
- (m) To assist and support any scientific or standardisation or like bodies whose activities are calculated to assist or be of interest to Association Members and to promote shows exhibitions trade fairs and the like which may be of interest to Association Members or the public generally;
- (n) To arrange and promote the adoption of uniform and equitable forms of contracts, hiring agreements, credit agreements and other documents used or to be used in the motor trade or business and allied or associated trades and businesses, and to encourage and undertake the settlement of disputes by arbitration and to act as or nominate arbitrators and umpires on such terms and in such cases as may seem expedient, and to appoint committees to deal with disputes between Association Members and their employees;
- (o) To form a code of ethics or practice setting down or recommending standards of conduct and the principles and practices to be observed by Association Members in the transaction of business;
- (p) To improve and advance the methods of manufacture in Australia of the products of these trades or businesses and the distribution thereof;
- (q) To undertake the examination of vehicles of all kinds, machinery, implements, equipment parts, components and accessories materials, modes or conditions of manufacture, quality, accuracy or other characteristics, and to set up standards of quality and to impress or authorise to be impressed or placed on its mark of standard quality;
- (r) To encourage the discovery of and investigate and make known the nature and merit of inventions which may be used by persons engaged in the motor and associated trades or businesses, and to apply for, purchase or otherwise acquire any patents or licences relating to such inventions with a view to the use thereof by Association Members and others either gratuitously or upon such terms as it may consider expedient;
- (s) To apply for the registration of a trade mark or marks or of any design or of any copyright under the provisions of any Acts of the Parliament of Australia;
- (t) To co-operate with or give or obtain concessions to or from any person or persons for the sale and disposal of all commodities or things used in connection with the motor trade or business or associated trades or businesses by or through Association Members upon such terms as to commission or sharing of profits as may be advantageous to the Association without becoming a partner or liable for debts;
- (u) To act as an agent, intermediary or negotiator in respect of any transaction business or trade and to engage in and carry on any business or trade and to execute all kinds of financial, commercial and trading transactions calculated to or capable of being of direct or indirect benefit to the Association or Association Members;
- (v) To promote, subscribe for and hold shares or other interests in any company formed or to be formed for the disposal or distribution of commodities or things used in connection with the motor trade or business or associated trades or businesses or for any purpose which may seem directly or indirectly calculated to benefit the Association or Association Members;
- (w) To establish and maintain divisions, district or local branches and trade or other divisions of the Association in any part of the State or Australia with such limited powers and

## RULES OF THE MOTOR TRADERS' ASSOCIATION OF NEW SOUTH WALES

authorities and subject to such supervision and control by the Association as it may deem expedient;

- (x) To affiliate or enter into alliance with and to appoint representatives to any company, corporation, unincorporated body, organisation, institution, society, association or the like either within Australia or overseas having objects or interests similar to those of the Association or calculated generally to benefit Association Members and to acquire shares or other interests in or advance money to any such company, corporation, unincorporated body, organisation, institution, society or association;
- (y) To establish and support and to aid in the establishment and support of any company, corporation, unincorporated body, organisation, institution, society or association formed for all or any of the objects of the Association;
- (z) To amalgamate with any companies, corporations, unincorporated bodies, organisations, institutions, societies, or associations having objects altogether or in part similar to those of this Association;
- (aa) To purchase or otherwise acquire and undertake all or any part of the property, assets, liabilities and engagements of any one or more of the companies, corporations, unincorporated bodies, organisations, institutions, societies or associations with which this Association is authorised to affiliate or amalgamate;
- (bb) To transfer all or any part of the property, assets, liabilities, and engagements of this Association to any one or more of the companies, corporations, unincorporated bodies, organisations, institutions, societies, or associations with which this Association is authorised to affiliate or amalgamate;
- (cc) To purchase, exchange or on lease, hire or otherwise acquire and either with or without consideration, and to hold for any estate or interest therein, any real or personal property and any rights and privileges necessary or convenient for the purposes of the Association;
- (dd) To construct, alter and maintain any buildings, works, plant and machinery, and equipment necessary or convenient for the purposes of the Association;
- (ee) To sell, subdivide, improve, manage, develop, lease, exchange, mortgage, dispose of, turn to account, or otherwise deal with all or any part of the property of the Association;
- (ff) To secure the fulfilment of any contracts or engagements entered into by the Association by mortgage or charge of all or any of the assets or property of the Association;
- (gg) To borrow, lend, raise or secure the repayment of money in such manner as the Association shall think fit and upon such terms and conditions as deemed expedient and in particular by mortgage, charge or debenture, perpetual or otherwise, or other securities and to charge any such mortgage charge or debenture or other securities upon all or any of the property of the Association present or future;
- (hh) To raise money by subscription or otherwise, and impose levies or make calls on members for the purposes of the Association in such amounts as is prescribed by these Rules and to receive donations and accept, undertake or execute any trust or gift which may be in accordance with or which may further the objects of the Association;
- (ii) To guarantee the performance of contracts, and to give such guarantees and indemnities and enter into such obligations as may seem expedient for the purposes of the Association;
- (jj) To invest and deal with the moneys of the Association not immediately required upon such securities and in such manner as may be determined;
- (kk) To enter into contracts calculated to benefit groups of Association Members or Association Members generally;



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- (ll) To sign and execute all deeds, documents and other instruments of every nature and kind for carrying out the purposes of the Association;
- (mm) To make, draw, accept, endorse, discount, execute, negotiate or issue such cheques, promissory notes, bills of exchange, bills of lading, warrants, debentures, and other negotiable or transferable instruments or securities as may be deemed necessary for carrying out the objects of the Association;
- (nn) To engage professional assistance of any kind, and to remunerate any person for services rendered or to be rendered in or about the establishment or promotion of the Association or the conduct of its affairs;
- (oo) To print and publish any journals, newspapers, periodicals, newsletters, books, pamphlets, or leaflets in any format as determined that the Association may think desirable for the promotion of its objects, and to appropriate any profits derived for the benefit of the Association in such manner as may be determined;
- (pp) To provide facilities for social intercourse between the members of the Association and their friends, and if thought fit, to provide establish and maintain and conduct a club and afford members and their friends all or any of the usual privileges, advantages, conveniences and accommodation of a club upon such terms as the Association thinks fit;
- (qq) To establish, undertake, superintend, administer and contribute to any superannuation, provident, retirement or other fund, trust or convenience calculated to provide benefits for or from which may be made donations or advances to individuals who may be or have been engaged in the motor trade or business or any allied or associated business and allied trade or business or their dependents or connections and to contribute to or assist any charitable or benevolent institution or undertaking;
- (rr) To establish and support or aid in the establishment and maintenance of associations, funds, trusts, and conveniences calculated to benefit Association Members or past members or employees or past employees of the Association or the dependents or connections of these persons and to grant pensions and allowances and to make payments towards assurance;
- (ss) To act as an organisation and/or industrial union of employers under the laws of Australia and its territories or any State of Australia;
- (tt) To bring any proceedings, disputes, claims or things relating to industrial matters before any Court, Commissioner, Committee, Inquiry, Board, Tribunal or authority whatsoever of or in Australia or any territory or State of Australia including (but without limiting the generality of the foregoing) any Court or Tribunal constituted pursuant to the Act;
- (uu) To represent the interests of employers in all branches of the motor trade or business or any allied or associated trade or business before Courts, Boards, Commissions of Enquiry, Conciliation Committees Tribunals, Authorities and other bodies and at conferences with organisations or other bodies of employers or employees;
- (vv) To do all such things as may be conducive to further and extend the motor trade or business or any associated trade or business;
- (ww) To do all such other lawful things as are incidental or conducive to the attainment of any of these objects; and
- (xx) To represent members before, or seek assistance from, world or international organisations where such initiatives are in the interest of members and the industry.

## 5 CODE OF ETHICS

- (1) **Adoption.** The Association may at any time adopt a Code of Ethics in which there will be set the principles and practices to be observed by members in carrying on their trade or business and such other matters as shall be determined by the Executive Board from time to time.
- (2) **Alteration, addition and rescission.** The code of ethics may be altered added to or rescinded and a new Code of Ethics may be adopted at a general meeting of the Association Members provided that any such alteration addition or rescission is agreed to by a simple majority of the Association Members present in person or by Nominated Representative or by proxy and entitled to vote at such meeting.
- (3) **Particulars to be made available.** The Executive Board shall cause particulars of all alterations and additions to the Code of Ethics and of the rescission thereof and of any new Code of Ethics to be made available to the members as soon as practicable after the general meeting is held at which such alteration or addition is made or the rescission occurs and any new Code of Ethics is adopted.

## 6 MEMBERSHIP OF THE ASSOCIATION

- (1) **Membership numbers.** The membership of the Association shall be unlimited in number.
- (2) **Association Members.** The Association Members shall be such persons as admitted to membership of the Association from time to time and whose names will be entered in and appear in the Register in accordance with the provisions of these Rules.
- (3) **Classes of membership.** The Association Members shall consist of the following classes:
  1. (a) member  
(b) affiliates and affiliate members  
(c) service associate members
  2. life members.
- (4) **Association Members bound by these Rules and Code of Ethics.** Every Association Member shall be deemed to know and understand these Rules and the Code of Ethics of the Association and to have agreed to be bound by these Rules and Code of Ethics and will at all times observe and comply with the provisions as agreed.
- (5) **Association Members not partners.** The Association Members are not and shall not be deemed to be partners.

## 7 ELIGIBILITY FOR MEMBERSHIP

Membership of the Association shall be open to any person, firm, partnership, company, corporation or unincorporated body, engaged in the industry referred to in Rule 4(1) within the Commonwealth of Australia and its Territories or employing any worker in such industry.

## 8 LIFE MEMBERS

- (1) **Election.** The Executive Board may recommend to any general meeting of the Association the election as a life member any individual who shall have given long and meritorious service to the Association and the members, affiliate members and existing life members entitled to vote will vote upon the election of such proposed life member at a general meeting. A simple majority of those present and entitled to vote at such general meeting shall be necessary for such election and on the election of any life member their name will be entered by the Executive Board in the Register.
- (2) **Maximum number.** There will be not more than fifteen life members at any one time.

- (3) **Rights and privileges.** Subject as provided by Rule 8(4) every life member from the date of their election and during their lifetime or until they cease to be an Association Member pursuant to Rule 18 enjoy all the rights and privileges of a member of the Association without payment of any subscriptions or levies which may become due for payment after their election.
- (4) **No votes in elections if not member/affiliate member.** Every Life Member who is not for the time being a member or an affiliate member or the Nominated Representative of a member or an affiliate member may attend and speak at any general meeting of the Association but may not vote at any election held for any Offices.

## 9 AFFILIATES AND AFFILIATE MEMBERS

- (1) **Affiliates.** Any companies, corporations, unincorporated bodies, organisations, institutions, societies or associations whose objects or interests are altogether or in part similar to those of the Association and being connected or allied with the motor trade or business or any allied or associated trade or business who apply to be affiliated with the Association and are admitted as affiliates by the Executive Board will become the affiliates of the Association. Any such company corporation or unincorporated body will become affiliated with the Association only on the terms and subject to the conditions as the Executive Board may determine.
- (2) **Affiliate members.** Any member of an affiliate who is eligible for membership of the Association and is desirous of being admitted as an affiliate member of the Association may be admitted on the terms and conditions of affiliation between the affiliate of which they are a member and the Association as prescribed. On their admission as an affiliate member of the Association the Executive Board will immediately enter their name and address in the Register together with the name of the affiliate to which they belong and they are then deemed to have become and remain an affiliate member of the Association and bound by these Rules and to be entitled to all the rights and privileges of an affiliate membership of the Association so long as their name remains in the Register as an affiliate member.

## 10 SERVICE ASSOCIATE MEMBERS

- (1) **Application for membership.** Any person, firm, corporation, or association carrying on business in or associated with the motor business or any allied trade or business may apply to the Executive Board to be admitted as a service associate member of the Association. The application shall be in a form prescribed by the Executive Board and each application shall be dealt with by the Executive Board.
- (2) **Entitlement to services.** A service associate member will be entitled to receive such services provided by the Association or a Division as are determined by the Executive Board.
- (3) **No entitlement to vote, hold office or nominate.** A service associate member will not be entitled to vote at any meeting of members of the Association or a Division, or to hold office within the Association or any Division thereof, or to nominate or second any candidate for election to any office within the Association or a Division.
- (4) **Fees and subscriptions.** The Executive Board shall have power to prescribe fees and subscriptions to be paid by service associate members and each service associate member will pay the fees and subscriptions as are prescribed and shall comply with all directions of the Executive Board.

## 11 DIVISIONS

- (1) **Constitution of Divisions.** Trade Divisions and District Divisions covering the various divisions of the motor trade or business and allied or associated trades and businesses shall be constituted within the Association by the Executive Board.

## RULES OF THE MOTOR TRADERS' ASSOCIATION OF NEW SOUTH WALES

- (2) **Appointment of member to Division(s).** Each member of the Association will be appointed by the Executive Board to and shall whilst a member of the Association be a member of such one or more Divisions of the Association to which they will be appointed by the Executive Board and admitted to membership.
- (3) **Divisions as at the date of these Rules.** As at the date of these Rules, the Divisions of the Association are as follows:
- (a) Trade Divisions:
- (i) Australian Automobile Dealers Association;
  - (ii) Australian Heavy Vehicle Repairers Association;
  - (iii) Auto Dismantlers Division;
  - (iv) Automotive and Marine Trimmers Division;
  - (v) Automotive Electrical Specialists Division;
  - (vi) Automotive Mechanical Repair Division;
  - (vii) Automotive Transmission and Rebuilders Division;
  - (viii) Body Repair Division;
  - (ix) Brake Repair Specialist Division;
  - (x) Caravan Industry Division;
  - (xi) Commercial Vehicle Industry Association of NSW Division;
  - (xii) Engine Reconditioners Association of NSW Division;
  - (xiii) Exhaust System Specialist Division;
  - (xiv) Farm Machinery Dealers Association Division;
  - (xv) General Trades Division;
  - (xvi) Hire Car and Chauffeur Driven Limousines Division;
  - (xvii) Licensed Used Car Dealers Division;
  - (xviii) Motor Bus Division;
  - (xix) Motor Cycle Industry Association of NSW Division;
  - (xx) Motor Vehicle Assessor and Inspector Division;
  - (xxi) Parts and Accessories Division;
  - (xxii) Radiator Repair Specialists Division;
  - (xxiii) Rental Vehicle Division;
  - (xxiv) Rustproofing Specialists Division;
  - (xxv) Service Station Division;
  - (xxvi) Steering and Suspension Specialists Division;
  - (xxvii) Tow-Truck Operators Division; and
  - (xxviii) Tyre Dealers and Retreaders Association of NSW Division;
- (b) District Divisions:
- (i) Australian Capital Territory Division;
  - (ii) Central Coast District Division;
  - (iii) Central West District Division;
  - (iv) Clarence/Coffs Harbour District Division;
  - (v) Gwydir/North West District Division;
  - (vi) Illawarra District Division;
  - (vii) Kempsey/Manning/Port Macquarie District Division;
  - (viii) Metropolitan District Division;
  - (ix) Newcastle and Hunter District Division;
  - (x) North and New England District Division;
  - (xi) Richmond and Tweed District Division;
  - (xii) Shoalhaven District Division;
  - (xiii) South Coast District Division;
  - (xiv) South District Division;
  - (xv) South West District Division; and
  - (xvi) West District Division.
- (4) **Coverage of Trade Division.** Each Trade Division will cover such division or divisions of the motor trade or business or any allied or associated trade or business as the Executive Board may determine and alter from time to time.

## RULES OF THE MOTOR TRADERS' ASSOCIATION OF NEW SOUTH WALES

- (5) **Geographical limits of District Divisions.** The geographical limits of each of the District Divisions shall be as defined by the Executive Board and may be altered by the Executive Board.
- (6) **Executive Board may change Divisions.** The Executive Board may from time to time dissolve, consolidate, or amalgamate any existing Division or create any new Division.
- (7) **Consequences of dissolution, consolidation and amalgamation.** Where a Division is dissolved, consolidated, or amalgamated:
  - (a) any Councillor who were elected by the dissolved, consolidated, or amalgamated Division, are entitled to remain Councillor for the remainder of their usual term in office;
  - (b) any member of a dissolved Division will become a member of one or more other Divisions determined by the Executive Board; and
  - (c) any member whose membership changes to a new Division as a result of their original Division being dissolved, consolidated, or amalgamated will have their period of financial membership of the original Division recognised.

### 12 THE ASSOCIATION AND THE DIVISIONS - BY-LAWS OF DIVISIONS

- (1) **Power of Divisions.** Each Division shall have power to originate, report upon and deal with matters affecting or relating to the Division or that division of the motor trade or business or any allied or associated trade or business covered by the Division.
- (2) **Resolutions and decisions of Divisions**
  - (a) No resolution or decision of any Division or committee thereof shall be effective or be acted upon until the expiration of two business days after a true copy of the resolution or decision has been delivered to and received by the President.
  - (b) If the President shall within that period of two business days give a notice in writing to a Division that the President proposes to refer that resolution or decision to the Executive Board for consideration, that resolution or decision shall not be of any effect until the resolution has been considered by the Executive Board and approved by it.
  - (c) The Executive Board may refer any resolution or decision made under Rule 12(2)(b) back to the Division or to the committee thereof for reconsideration with its reasons for disagreement but will not be bound to do so.
- (3) **By-laws of Divisions.** Each Division in general meeting of all members will adopt by-laws regulating the management and conduct of the Division. The by-laws (and any repeal or alteration thereof or addition thereto from time to time) will comply with the provisions of the Act in all respects, be subject to the approval of the Executive Board and shall contain provision for:
  - (a) An annual general meeting of members of the Division and for the Executive Board to convene a meeting of members of the Division at any time should it so desire;
  - (b) The annual election of a committee and of office bearers;
  - (c) The method of convening all meetings of the Division and its committee and to enable members of the Executive Board or their nominees to attend;
  - (d) The admission of members to the Division and their resignation in accordance with Rules 13 and 14;
  - (e) The circumstances under which the office of any office bearer or member of a committee shall become vacant;
  - (f) The property of the Division to be controlled and its funds invested and applied in such manner as the Executive Board shall authorise and direct;

- (g) The appointment of qualified auditors and the provision of audited balance sheets and profit and loss accounts to the Executive Board when required; and
  - (h) Such other matters as may be required by the Act, by these Rules or by the Executive Board.
- (4) **Inconsistency with the Rules.** Such by-laws shall also acknowledge the supremacy of the Association and provide that in the event of any inconsistency between these Rules and the by-laws of the Division, these Rules shall prevail.
- (5) **No action to injure another Division.** No Division shall take any action calculated to, or which may injure the interests of another Division.

### 13 ADMISSION OF MEMBERS OF THE ASSOCIATION AND OF THE DIVISIONS

- (1) **Application for membership.** Any person who is eligible for being admitted to membership of the Association shall lodge with the Association a written application for membership. Each application will indicate the trade or business in which the applicant is engaged and the location thereof and the Division or Divisions of the Association to which the applicant proposes to be admitted and will be in the form and contain the particulars as the Executive Board will prescribe.
- (2) **Information about membership.** The Association will provide in writing to any person who is eligible for and is desirous of being admitted to membership of the Association the following information:
- (a) the financial obligations arising from membership; and
  - (b) the circumstances and the manner in which a member may resign from the organisation.
- (3) **Nominated Representative.** If a person other than an individual (including without limitation a firm, partnership, company, corporation or unincorporated body) makes application to be admitted to membership of the Association, it must at the same time nominate one or more individuals to be its Nominated Representative(s) in accordance with Rule 15(1).
- (4) **Subscription.** Each applicant for membership of the Association will lodge with their application for membership the subscription payable by them for the financial year of the Association then current and the sum will be payable by them pursuant to Rule 16 if they are admitted to membership of the Division or Division of the Association to which he seeks to be admitted.
- (5) **Admission**
- (a) Applications for membership under Rule 13(1) shall be dealt with by the Executive Board or its delegate.
  - (b) If an application is dealt with by a delegate of the Executive Board, the application may only be accepted on the following conditions:
    - (i) the acceptance must be ratified by the Executive Board within 60 days, failing which the acceptance will be deemed void and have no effect from the beginning;
    - (ii) the name and address as well as other particulars of the applicant will be entered in a special folio titled "Conditional Admission (Pending Ratification)" in the Register, to be moved to an ordinary folio upon ratification by the Executive Board; and
    - (iii) the applicant has all rights, privileges and obligations of a member subject to Rule 13(5)(b)(i) above.
  - (c) The Executive Board must not unreasonably reject an application for membership (including by refusing to ratify under Rule 13(5)(b)(i) above).



- (6) **Register.** The following particulars of the admitted applicant will be immediately entered (including by moving from the special folio) in the Register following the applicant's admission:
- (a) name;
  - (b) address;
  - (c) the Division(s) to which the applicant has been admitted;
  - (d) Nominated Representative or representatives (if any); and
  - (e) any other particulars as will be required by Rule 37.
- (7) **Proof of membership.** The Association must at the request of an individual who is a member, give to the individual within 28 days after the request is made a statement showing:
- (a) That the individual is a member of the Association; and
  - (b) The Division(s) of the individual's membership; and
  - (c) If the individual expressly requests - whether the individual is a financial member of the Association
- (8) **Duration of membership.** Subject to Rule 13(5)(b), each applicant admitted to membership of the Association becomes a member of the Association and of each Division to which they are then admitted on and from the date upon which their name is entered in the Register and they will remain a member of the Association and of that Division(s) and be bound by these Rules and to be entitled to all the rights and privileges of membership of the Association so long as their name remains in the Register as a member.
- (9) **Notification of application results.** As soon as practicable after an application for membership has been determined the Executive Board will notify the applicant in writing of the acceptance or rejection thereof. Any applicant whose application for membership of the Association is rejected shall have the subscription paid to the Association with their application refunded in full.
- (10) **Unrequested Division admission.** Any applicant for membership who at the time of admission to membership of the Association is admitted to any Division(s) other than that or those to which they indicated that they request to be admitted in the application for admission will not be liable to pay in addition to the subscription paid by them with the application any further subscription for the financial year of the Association during which they will be admitted as a member nor shall they be entitled to have any part of the subscription paid by them with their application refunded.

## 14 MEMBERSHIP OF DIVISIONS

- (1) **Membership of at least one Trade Division.** Every member will at all times whilst they are a member be and remain a member of at least one Trade Division.
- (2) **Application for additional Division membership**
- (a) Any member may at any time whilst they remain a member of the Association lodge with the Executive Board a written application for membership of any one or more divisions of which they are not then a member. Any application will be in the form and contain the information as the Executive Board require as to the nature and location of the trade or business carried on by the Applicant.
  - (b) The Executive Board shall not unreasonably reject any such application.
  - (c) As soon as practicable after an application for membership of additional Division(s) has been determined, the Executive Board will request the Chief Executive Officer to notify the applicant as to the Division(s) to which they have been admitted, if any.

- (d) Upon such admission the Executive Board will request the Chief Executive Officer to enter in the Register the Division(s) to which the applicant has been admitted and the applicant is then a member of such Division(s).
- (3) **Resignation of Division membership.** Subject to Rule 14(1), any member who intends to resign their membership of any Division may so do by giving written notice to the Executive Board and the resignation shall take effect immediately upon its receipt by the Executive Board who will remove the name of the member from the Register as a member of that Division.
- (4) **Change of Division membership without application**
- (a) If at any time the Executive Board considers that there has been a change in the nature or location of the trade or business in which a member of the Association is engaged, the Executive Board:
- (i) may admit such member as a member of any Division(s) other than the Division(s) of which they are already a member; and
- (ii) may but shall not be bound to revoke their existing membership of the Division(s) to which they are already a member.
- (b) The Executive Board will upon the admission or revocation taking place enter particulars thereof in the Register and give written notice thereof to the member.
- (5) **Further subscription for additional Division membership.** Any member who shall be admitted to other Division(s) pursuant to Rule 14(2) or 14(4) is liable to pay as a consequence any further subscription for the financial year of the Association during which the admission will take place and they are not entitled to have their annual subscription for that year or any part thereof refunded if his membership of any Division(s) is revoked.

## 15 NOMINATED REPRESENTATIVES

- (1) **Non-individual member must nominate representative.** If a person other than an individual (including without limitation a firm, partnership, company, corporation or unincorporated body) becomes a member of the Association, or is admitted to the membership of additional Division(s), it must nominate an individual to represent it in respect of each Division of which it is a member. The person who becomes or is a member may nominate the same or a different individual or individuals as its Nominated Representative(s) in respect of each one or more Divisions to which it belongs provided always that no firm, partnership, company, corporation, or unincorporated body which is a member of the Association will have more than one Nominated Representative in respect of any one Division at the one time.
- (2) **Non-individual affiliate member may nominate representative.** Subject to the terms and conditions of affiliation with the Association of the affiliate to which it belongs, any affiliate member which is not an individual may nominate an individual to be its Nominated Representative to represent it at all general meetings of the Association. No affiliate member shall have more than one Nominated Representative at any one time.
- (3) **Qualification of Nominated Representative.** An individual nominated to be a representative under Rule 15(1) or 15(2) must be a principal or proprietor of the firm or partnership or a director, secretary or manager of the company or corporation or an executive officer of the unincorporated body which is the member or affiliate member being represented.
- (4) **Nomination and approval.** Any nomination under Rule 15(1) or 15(2) will be in writing and will be in a form and will contain all particulars as the Executive Board will prescribe and will be lodged with the Executive Board. The nomination will be considered by the Executive Board as soon as practicable after its receipt and the Executive Board shall thereupon approve or reject the nomination.



- (5) **Entry of Nominated Representative's name in the Register.** When a nomination under Rule 15(1) or 15(2) of a Nominated Representative has been approved:
- (a) the Executive Board will enter in the Register the name and address of the Nominated Representative, the relevant Division(s) or affiliate member and all other particulars as are required by Rule 37;
  - (b) the individual whose name and address are entered in the Register as the Nominated Representative of a member in respect of a Division will be the Nominated Representative of the member in respect of that Division for the purposes of these Rules; and
  - (c) the person whose name and address are entered in the Register for the time being as the Nominated Representative of an affiliate member will be the Nominated Representative of the affiliate member for the purposes of these Rules
- (6) **Resignation of Nominated Representative.** Any Nominated Representative may by notice in writing given to the Executive Board resign whereupon the member or affiliate member which has nominated the resigning Nominated Representative shall be deemed to have made application in writing to have that resigning Nominated Representative withdrawn as its Nominated Representative and the provisions of Rule 15(7) apply.
- (7) **Withdrawal of nomination**
- (a) Any member or affiliate member that has one or more Nominated Representatives may make application in writing to the Executive Board to:
    - (i) withdraw any Nominated Representative (in this Rule called "the old representative"), and in the case of a member, in respect of any or all Divisions in which it is being represented; and
    - (ii) nominate another individual (in this Rule called "the new representative") as its Nominated Representative to replace the old representative.
  - (b) If a member or affiliate member is deemed to have made application to withdraw a Nominated Representative under Rule 15(6), it must nominate the new representative to replace the old representative as soon as practicable.
  - (c) The provisions of Rules 15(4) and 15(5) will apply in relation to any nomination under Rule 15(7)(a)(ii) or 15(7)(b).
  - (d) The particulars of the old representative must be removed from the Register at the same time as the particulars of the new representative are entered in the Register.
- (8) **Cessation of membership of affiliate membership.** If upon a member or affiliate member ceasing to be a member or affiliate member of the Association its name is removed from the Register, the name of its Nominated Representative(s) must also thereupon be removed from the Register and they will forfeit all rights and privileges as Nominated Representatives.
- (9) **Meetings and elections**
- (a) A member that is not an individual may attend and be represented at all meetings of the members of each Division to which it belongs by its Nominated Representative for the time being in respect of that Division.
  - (b) A member or affiliate member that is not an individual may attend and be represented at all general meetings of the Association by its Nominated Representative(s) .
  - (c) Any Nominated Representative for the time being of a member or an affiliate member which is not an individual may be elected to any position of office of the Association under these Rules, provided that the member or affiliate member or the Nominated Representative meets any other eligibility requirements under these Rules.

16 SUBSCRIPTIONS

(1) **Obligation to pay annual subscription**

- (a) Each member and affiliate member of the Association must pay to the Association an annual subscription in respect of their membership of the Association for each financial year except those members referred to in Rule 16(1)(b). The annual subscription payable by members and affiliate members of the Association under this Rule 16(1)(a) will be due and payable in advance before the first day of January in each Financial Year for which it is payable.
- (b) As and from 1 January 2020 any member who is admitted into membership of the Association will pay an annual subscription in respect of their membership, which subscription is due on the anniversary date of their membership of the Association.

(2) **Amount of annual subscription payable by members**

- (a) The annual subscription payable by members shall be determined as follows:
  - (i) The annual subscription payable by members of each Trade Division of the Association will be an amount as the Executive Board may determine.
  - (ii) Unless the Executive Board determines otherwise no annual subscription shall be payable by any member consequent upon membership of any District Division of the Association.
- (B) If at the time an annual subscription is due and payable by a member, that member is a member of more than one of the Trade Divisions of the Association, the subscription payable by the member shall be the aggregate of:
  - (a) the highest subscription of all the Trade Divisions of which the member is a member at the time the annual subscription is due and payable; and
  - (b) in respect of the member's membership of each of the other Trade Divisions of which they belong at the time the annual subscription is due and payable, such subscription as the Executive Board may determine.

(3) **Annual subscription payable by affiliate members.** The annual subscription or other arrangements payable by each affiliate member shall be such annual subscription as the Executive Board shall determine.

(4) **No refund of subscription.** Unless the Executive Board determines otherwise, no member or affiliate member having paid annual subscription is entitled to have the same or any part thereof refunded whether they cease to be a member or for any other reason whatsoever.

(5) **No entrance fee for re-admission within six months.** If a former Association Member applies for membership of the Association within six (6) months after their membership has ceased under Rule 18 and the application is accepted by the Executive Board they will not be required to pay any entrance fee associated with the new membership (other than membership fees) in relation to the membership for which they have applied.

17 LEVIES

(1) **Executive Board may impose levies.** The Executive Board may at any time impose a levy upon members and affiliate members for the general purposes of the Association or any special object or for the purposes of emergency expenses incurred and each member and affiliate member shall pay every levy so imposed by the Executive Board.

(2) **Allocation of levies**

## RULES OF THE MOTOR TRADERS' ASSOCIATION OF NEW SOUTH WALES

- (a) Subject to Rule 17(2)(b), every levy imposed under Rule 17(1) will be borne by all members and affiliate members.
- (b) If in the opinion of the Executive Board a levy is required to meet special expenditure which should properly be borne only by the members of any one or more Divisions or by the affiliate members of one or more affiliates, then the levy will be contributed to by the members of the Division or Divisions or the affiliate members of such affiliate or affiliates only.
- (c) Notwithstanding Rule 17(2)(b), no member or affiliate member will be called upon to pay in any one financial year of the Association a levy or levies which shall exceed the amount of the annual subscription payable by the member for that year.

### 18 CESSATION OF MEMBERSHIP

- (1) **Cessation of membership.** An Association Member will cease to be an Association Member if and when a cessation event occurs, and their name must be removed from the Register with effect from such cessation of membership, provided that:
  - (a) in the case of a cessation event in Rule 18(2)(d), on the written request of the liquidator, official manager, inspector or receiver accompanied by their undertaking to pay subscriptions when due the Executive Board may resolve that the membership of the company or corporation shall continue; and
  - (b) in the case of a cessation event in Rule 18(2)(f), the Executive Board may reinstate the member and restore their name to the Register on payment of all arrears or other moneys if the Executive Board so determines.
- (2) **Cessation event.** A “cessation event” referred to in Rule 18(1) occurs:
  - (a) **Resignation.** If an Association Member resigns from membership, which resignation shall take effect immediately upon receipt of a notice by the Executive Board or on the date specified in the notice, whichever is the later;
  - (b) **Incapacity.** In the case of an Association Member that is an individual upon their death or upon them becoming of unsound mind or whose person or estate is liable to be dealt with in any way under the law relating to mental health or upon the making of a sequestration order or the execution of a deed of assignment or arrangement for the benefit of creditors by or against the individual;
  - (c) **Dissolution.** In the case of a firm or partnership upon its dissolution or upon the making of a sequestration order or the execution of a deed of assignment or arrangement for the benefit of creditors by or against the firm or partnership or any member thereof;
  - (d) **Winding up.** In the case of a company or corporation upon an order being made or resolution passed for the winding up (other than for the purposes of amalgamation or reconstruction) or upon the appointment of an official manager, inspector or receiver or receiver and manager;
  - (e) **Cessation of membership of affiliate or affiliation.** In the case of an affiliate member if they cease to be a member of the affiliate or the affiliate of which they are a member ceases to be affiliated with the Association;
  - (f) **Unfinancial Member.** If a member of affiliate member is an Unfinancial Member and notice is sent to them by the Executive Board regarding their status as Unfinancial Member; or
  - (g) **Ineligibility.** Where a member ceases to be eligible to become a member of the Association, provided that the Executive Board has resolved to confirm such ineligibility.
- (3) **Resignation of membership**

- (a) For the purposes of Rule (2)(a):
  - (i) a resignation of membership must be effected by notice in writing addressed and delivered to the Executive Board; and
  - (ii) a notice delivered to the Executive Board shall be taken to have been received by the Association when it was delivered, whether in person, by ordinary pre-paid mail or by electronic delivery.
- (b) Notwithstanding Rule 18(3)(a):
  - (i) a notice of resignation that has been actually received by the Association is not invalid because it was not addressed and delivered in accordance with Rule 18(3)(a); and
  - (ii) a resignation from membership of the Association is valid even if it is not effected in accordance with Rule 18(3)(a) if the member is informed in writing by or on behalf of the Association that the resignation has been accepted.

## 19 ASSIGNMENT, TRANSFER OR SUCCESSION OF BUSINESS OF A MEMBER

In the case of a member's business or part thereof being assigned or transferred to a person who is not a member or upon the succession to the business or part thereof, the member is required to notify the Association within 14 days after the assignment, transfer or succession, of the assignment, transfer or succession.

## 20 DISCIPLINARY POWERS AND EXPULSION

- (1) **President to call Executive Board meeting upon complaint or charge.** If a complaint or charge is made to the President in writing about a disciplinary event against an Association Member, the President must call a meeting of the Executive Board to consider the complaint or charge.
- (2) **Disciplinary event.** A disciplinary event as referred to in Rule 20(1) includes and only includes, in respect of any Association Member:
  - (a) **Offence.** That such Association Member has been charged with or convicted of an offence under any Act, regulation, ordinance, industrial award or other law arising out of or in the course of the conduct of their trade or business;
  - (b) **Loss of licence.** That any licence registration certificate necessary to enable them to carry on or to continue carrying on their trade or business has been suspended or cancelled or the member has otherwise ceased to hold such a licence registration or certification or the business to which any such licence registration or certificate relates is being carried on dishonestly or unfairly;
  - (c) **Contravention of Code of Ethics.** That such Association Member has acted or is acting in a manner which appears to be opposed to or contrary to the Code of Ethics;
  - (d) **Failure to obey Executive Board direction.** That such Association Member has failed to obey a direction of the Executive Board made in pursuance or in furtherance of the Code of Ethics;
  - (e) **Breach of Rules or Executive Board resolutions.** That such Association Member has committed or is committing a breach of these Rules or of a resolution of the Executive Board; and
  - (f) **Conduct prejudicial to objects.** That such Association Member has acted or is acting in a manner prejudicial to the objects of the Association.

(3) **Suspension and investigation**

- (a) Subject to Rule 20(3)(b), where in the opinion of the Executive Board the circumstances warrant such a course the Executive Board may at any time do any one or more of the following:
- (i) suspend the Association Member from membership of the Association;
  - (ii) summon the Association Member to appear before the Executive Board to answer the charge or complaint made against them at such place time and date appointed by the Executive Board for that purpose;
  - (iii) refer the charge or complaint to the Board of Enquiry.
- (b) If the Executive Board suspend an Association Member from membership of the Association under Rule 20(3)(a)(i), the Executive Board must also:
- (i) summon the Association Member to appear before it under Rule 20(3)(a)(ii); or
  - (ii) refers the charge or complaint to the Board of Enquiry under Rule 20(3)(a)(iii).
- (c) If the Executive Board decides to do any one or more things under Rules 20(3)(a)(i), 20(3)(a)(ii) and 20(3)(a)(iii), the Executive Board must give notice to the Association Member specifying the charge or complaint with sufficient particularity to enable them to answer the same and notifying them (if this be the case) that:
- (i) they have been suspended and as to the period of his suspension;
  - (ii) they have been summoned to appear before the Executive Board and as to the place time and date appointed by the Executive Board for that appearance and that they are required to so appear to answer the charge or complaint made against them;
  - (iii) the charge or complaint is being referred to the Board of Enquiry.
- (d) Any notice given to an Association Member pursuant to Rule 20(3)(c)(ii) shall be given at least seven (7) days before the date fixed for the Association Member's appearance before the Executive Board.
- (e) Any notice given to an Association Member pursuant to Rule 20(3)(c)(iii) will be given on or before the date on which the charge or complaint is referred to the Board of Enquiry.
- (f) The Executive Board may at any time withdraw any charge or complaint referred to the Board of Enquiry whether or not the Board of Enquiry has entered upon the hearing of the charge or complaint.

(4) **Suspension of membership**

- (a) Where the Executive Board suspends an Association Member it will do so for a specified period. The Executive Board may at any time extend or reduce the period of suspension.
- (b) If the Executive Board suspends an Association Member:
- (i) the Association Member will during the period of their suspension forfeit all rights and privileges of membership of the Association;
  - (ii) if the Executive Board so determines, the Association Member will remain liable for and pay to the Association any subscriptions, levies or other moneys which at the time of or during the suspension may be or may become due by the Association Member to the Association; and
  - (iii) any Association Member suspended will during the period of the suspension continue to have their name and address maintained in the Register and be

deemed to be an Association Member for the purposes of industrial award  
respondency only.

(5) **Right to Counsel.** A person summoned before the Executive Board pursuant to Rule 20(3)(a)(ii) or any Appellant under Rule 20(7) or a complainant may be represented by counsel or a solicitor or an agent provided always that any one of the proprietors thereof may represent any firm or partnership and any officer may represent any company corporation or unincorporated body.

(6) **Decision of the Executive Board**

(a) Following the meeting at which an Association Member is summoned to appear pursuant to Rule 20(3)(a)(ii) or receipt of a report and recommendation of the Board of Enquiry, the Executive Board may resolve (whether the resolution will be in accordance with the report and recommendations of the Board of Enquiry or not) to:

- (i) take no further action in relation to any charge, complaint, question or matter against or concerning an Association Member; or
- (ii) caution or reprimand such Association Member; or
- (iii) impose a fine upon such Association Member of a sum not exceeding one thousand dollars (\$1,000); or
- (iv) further suspend or expel the member from membership of the Association; or
- (v) impose one or more penalties.

(b) Notice in writing of the decision or resolution of the Executive Board under Rule 20(6)(a) will be given to the Association Member promptly thereafter.

(7) **Appeal to general meeting**

(a) The Association Member dealt with under Rule 20(6) may appeal to a general meeting of the Association against the Executive Board's decision by lodging a notice of appeal with the Executive Board within fourteen (14) days after the date upon which notice of the Executive Board's decision is given to such Association Member.

(b) In the event that a notice of appeal is received the Executive Board will convene a special general meeting of the Association to hear and determine the appeal as soon as practicable after the notice of appeal is lodged with them.

(c) If suspended the Association Member's suspension will stand pending the hearing and determination of such appeal.

(d) No decision of the Executive Board under Rule 20(6) may be implemented so long as an appeal under this Rule 20(7) is pending.

(e) The Association Member will be given not less than seven (7) days' notice in writing of the place date and time of the general meeting which will hear the appeal.

(f) The general meeting which will hear the appeal will give the appellant an opportunity to speak and show cause why the penalty imposed by the Executive Board upon them should not stand and may uphold or reject the appeal by a simple majority of the Association Members present and entitled to vote at the meeting.

(g) The decision of a general meeting on an appeal shall be final and binding on the appellant.

(8) **Payment of fines.** All fines imposed under these Rules shall be part of the general funds of the Association and shall be paid to the Association within seven (7) days after notice has been given by the Executive Board to the person liable to pay the same.



- (9) **Ex parte decisions.** Should any Association Member fail to appear before the Executive Board when summoned to appear or at a special general meeting convened to hear and determine an appeal lodged by the Association Member, as the case may be, then the Executive Board or the special general meeting may proceed ex parte and such failure to appear without reasonable written excuse on the part of the member shall then itself be conduct which may be dealt with under this Rule.

## 21 BOARD OF ENQUIRY

- (1) **Board of Enquiry.** There will be a Tribunal to be called the Board of Enquiry for the purpose of:
- (a) hearing charges or complaints against Association Members, Councillors, Statutory Officers or any other person holding an office or position of the Association;
  - (b) investigating any question or matter referred to it by the Executive Board in relation to such charges or complaints; and
  - (c) exercising or performing such other powers or functions as may be conferred or imposed on it by the Executive Board in connection with the foregoing (other than powers or functions of management of the business of the Association).
- (2) **Composition.** The Board of Enquiry shall consist of:
- (i) a chairperson; and
  - (ii) not less than two (2) nor more than nine (9) other members who will be individuals and who at the time of their appointment shall be Association Members who are entitled to vote at general meetings of the Association or Nominated Representatives of members or of affiliated members.
- (3) **Appointment and term.** The chairperson and other members of the Board of Enquiry shall be appointed by the Executive Board for and will hold office for such term as the Executive Board may think fit.
- (4) **Committees.** The powers and functions of the Board of Enquiry may be exercised or performed by any committee of three or more members of whom one shall be the chairperson (unless the chairperson be absent or otherwise unavailable) and any committee when exercising or performing any powers or functions will be deemed to be the Board of Enquiry.
- (5) **Resignation.** A member of the Board of Enquiry may resign from their office upon giving one (1) month's notice in writing to the Executive Board of their intention to do so and the resignation shall take effect on the expiration of the notice.
- (6) **Vacation of office.** The office of a member of the Board of Enquiry will be vacated:
- (a) if they die;
  - (b) upon the expiration of a notice of resignation given by them under Rule 21(5);
  - (c) in the case of any member of the Board of Enquiry other than the chairperson, if they cease to be an Association Member entitled to vote at general meetings of the Association or a Nominated Representative of a member or of an affiliated member; or
  - (d) if they are removed from office by the Executive Board for any cause which to it seems sufficient.
- (7) **Vacation of office during hearing.** If any member of the Board of Enquiry ceases to be a member thereof during the hearing of any charge, complaint, question or matter before a committee of the Board of Enquiry of whom he or she is a member, such hearing may be continued and recommendations made thereon by the remaining members of that committee of the Board of Enquiry before whom such hearing was commenced and continued prior to the vacancy occurring.

- (8) **Division of opinion.** When any charge, complaint, question or matter is heard before members of the Board of Enquiry or a committee thereof and the members are divided in opinion as to the decision to be given or on any point arising during the hearing as to the recommendations to be made on any such charge, complaint, question or matter, the point will be decided or recommendations made according to:
- (a) the opinion of the majority of the members, if there be a majority; or
  - (b) if the members of the Board of Enquiry are equally divided in opinion, then the opinion of the chairperson of the Board of Enquiry if he or she takes part in the hearing; or
  - (c) if the chairperson of the Board of Enquiry does not take part in the hearing, the opinion of the member appointed by the members of the Board of Enquiry taking part in such hearing to act as chairperson on the hearing will prevail.
- (9) **Procedures.** The Board of Enquiry may:
- (a) arrange the hearing of any charge or complaint or the investigation of any question or matter referred to it by the Executive Board in the manner at the place or places and at the time or times as the Board of Enquiry may in its absolute discretion determine and will cause not less than seven days notice of that place and time to be given to the person against whom a charge or complaint has been made and to any other person who appears to the Board of Enquiry to have sufficient interest in the hearing of the charge or complaint or the investigation of the question or matter referred to it;
  - (b) call and receive both oral and written evidence and summon to appear before it the complainant and any person who may in its opinion be able to give evidence or produce documents touching on the matter in question or whom any complainant may desire to call as a witness and will not be bound to observe rules of law governing the admission of evidence but may inform itself of any matter in any manner as it thinks fit;
  - (c) require the production before it of and inspect any books, documents or records produced before it and retain them for a reasonable period as it thinks fit and make copies of or take extracts from them;
  - (d) adjourn any hearing or investigation from time to time;
  - (e) terminate any hearing or investigation at any time for any cause which to it seems sufficient and shall do so if the charge or complaint then before it is withdrawn;
  - (f) employ such assistance as it thinks proper for carrying out any enquiry; and
  - (g) otherwise regulate and control its own procedures.
- (10) **Right to counsel.** A person summoned before the Board of Enquiry or a complainant may be represented by counsel or a solicitor or an agent provided always that any one of the proprietors thereof may represent any firm or partnership and any officer may represent any company corporation or unincorporated body.
- (11) **Private proceedings.** Every proceeding before a Board of Enquiry will be taken in private unless the Board of Enquiry shall otherwise determine.
- (12) **No cost orders.** No costs will be allowed to or against any person appearing before the Board of Enquiry.
- (13) **Report and recommendations**
- (a) The Board of Enquiry may in relation to any charge, complaint, question or matter referred to it by the Executive Board make any report and recommendations thereon as it may determine including (without limiting the generality of the foregoing) a recommendation that:



- (i) no further action be taken in relation to any charge, complaint, question or matter; or
  - (ii) the person subject to the charge, complaint, question or matter be cautioned, reprimanded, fined suspended or further suspended or expelled or dealt with in any one or more of such ways.
- (b) Any report and recommendations made by the Board of Enquiry to the Executive Board will be considered at a meeting of the Executive Board as soon as may be practicable after the report and recommendations have been made.

## 22 NO RIGHTS PRIVILEGES OR CLAIMS ON CESSATION OF OR EXPULSION FROM MEMBERSHIP

- (1) **No rights, privileges, claims or interests upon cessation.** Upon their name being removed from the Register an Association Member shall cease to be an Association Member and will forfeit all rights and privileges of membership of the Association and will cease to have any claim or interest of any kind whatsoever to or against any of the funds or assets of the Association or any member or any employee of the Association.
- (2) **Continuing liability for moneys due.** Any member or affiliate member who ceases to be a member or an affiliate member will nevertheless remain liable for and will pay to the Association any subscriptions levies or other moneys which at the time of his ceasing to be a member or an affiliate member may be due by them to the Association.
- (3) **Right and privilege not transferable or transmissible.** No right or privilege of any Association Member will be in any way be transferable or transmissible but all rights and privileges of membership of the Association will cease upon the Association Member ceasing to be a member whether by death resignation, expulsion, or otherwise.

## 23 ANNUAL GENERAL MEETINGS

- (1) **Annual general meeting**
  - (a) A meeting of the Association Members to be called the annual general meeting will in addition to any other meetings be held within six (6) months of the end of each financial year.
  - (b) Every notice calling an annual general meeting will be given as provided by these Rules and will specify the meeting as such and annual general meetings shall be held at such time and place as the Executive Board shall appoint.
- (2) **Member's motions**
  - (a) Any Association Member intending to propose any motion in relation to any special business at any annual general meeting of the Association will give to the Executive Board notice in writing of their intention to do so and of the terms of such motion at least forty-two (42) days before the date upon which the annual general meeting is to be held.
  - (b) The notice of the meeting shall give particulars of any motions of which the Executive Board has had due notice and no business will be transacted at any annual general meeting except that stated in the notice convening the meeting.
- (3) **Business of annual general meeting**
  - (a) At each annual general meeting a report on the affairs of the Association for the preceding financial year of the Association will be presented by the President or the chairman of the meeting on behalf of the Executive Board together with the duly audited balance sheet and accounts of the Association made up to the last day of the preceding financial year.

- (b) The election of the Executive Board and any other Officers shall, if such election has been conducted immediately before the annual general meeting, be declared.
- (c) The auditor for the ensuing year shall be appointed and any other special business of which due notice shall have been given shall be transacted.

## 24 SPECIAL GENERAL MEETINGS

- (1) **Special general meetings.** All general meetings of Association Members other than annual general meetings shall be called special general meetings.
- (2) **Convening special general meetings**
  - (a) The President must convene a special general meeting as soon as practicable if directed to do so:
    - (i) by the Executive Board; or
    - (ii) by notice in writing addressed to him or her and signed by any twenty-five (25) members and/or affiliate members.
  - (b) The President may also convene special general meetings other than under Rule 24(2)(a) as he or she sees fit.
- (3) **Other business.** Any business other than that of which notice has been given may be dealt with at a special general meeting if the chairperson of the meeting so determines.

## 25 NOTICE OF GENERAL MEETINGS

- (1) **Amount, contents and recipients of notice.** At least twenty-one (21) days' notice (exclusive of the day on which the notice is given or deemed to be given, but inclusive of the day for which notice is given) specifying the place and day and the hour of general meetings and the nature of any special business shall be given in the manner required by Rule 40 to persons as are entitled to receive the notices pursuant to Rule 40(5).
- (2) **Special business.** All business that is transacted at an annual general meeting is special with the exception of:
  - (a) the consideration of the full report of the Association including the balance sheet and accounts, the reports of the President, Executive Board, Council and auditor;
  - (b) the declaration of the election of Officers; and
  - (c) the appointment of the auditor.
- (3) **Notice by publication.** Provided that notice specifying the matters prescribed by Rule 25(1) has appeared in an edition of the publication under Rule 40(1)(a) published at least fourteen (14) days before the day upon which the meeting is held, the omission to give any other notice of a meeting to any member pursuant to Rule 40(1)(b), 40(1)(c), or 40(1)(d) or the non-receipt of an edition of the abovementioned publication or the notice by any person entitled to receive notice thereof will not invalidate any resolution passed or proceedings had at any general meeting.

## 26 ATTENDANCE AT GENERAL MEETINGS

- (1) **Members and life members.** Any member or life member is entitled to attend and speak at the general meetings of the Association in person, by Nominated Representative or by proxy.

## RULES OF THE MOTOR TRADERS' ASSOCIATION OF NEW SOUTH WALES

- (2) **Affiliate members.** Subject to the terms of affiliation of an affiliate with the Association, any affiliate member who belongs to that affiliate is entitled to attend and speak at the general meetings of the Association in person, by Nominated Representative or by proxy.

### 27 QUORUM AT A GENERAL MEETING

- (1) **Quorum**
- (a) No business will be transacted at any general meeting unless a quorum is present at the time when the meeting proceeds to business.
  - (b) Unless provided for in these Rules not less than twelve (12) members, life members and affiliate members present in person or by Nominated Representative or by proxy and entitled to vote will be a quorum.
- (2) **Adjournment for absence of a quorum**
- (a) If within half an hour from the time appointed for the meeting a quorum is not present, the meeting will stand adjourned to the same day in the next week at the same time and place.
  - (b) if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the meeting shall lapse.

### 28 CHAIRPERSON AT GENERAL MEETINGS

- (1) **Chairperson**
- (a) Subject to Rules 28(1)(b) below, the President will preside as chairperson at every general meeting of the Association Members.
  - (b) If there is no President, or the President is not present within fifteen (15) minutes after the time appointed for the holding of the meeting or is unwilling to act:
    - (i) the Vice President who is present and willing to act will be the chairperson of the meeting; or
    - (ii) if the Vice President is not present or is unwilling to act, then the Association Members present in person or by Nominated Representative or by proxy and entitled to vote thereat will appoint one of their number to be chairperson of the meeting.
- (2) **Adjournment with consent**
- (a) The chairperson may, with the consent of the attendees at any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business will be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
  - (b) When a meeting is adjourned for thirty days (30) or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Otherwise, it will not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

### 29 VOTING AT GENERAL MEETINGS

- (1) **Entitlement to vote**
- (a) Subject to Rule 29(1)(b), at any general meeting of the Association, only members, affiliate members and (subject to Rule 8(4)) life members will be entitled to vote.

- (b) No Association Member shall be entitled to vote at any general meeting whether in person or by proxy or by Nominated Representative if such Association Member is an Unfinancial Member at the time appointed for the holding of the meeting.
- (2) **Show of hands**
- (a) At any general meeting, a resolution put to the vote of the meeting shall be decided on a show of hands unless a secret ballot is (before or on the declaration of the result of the show of hands) required under Rule 29(4).
- (b) Unless a secret ballot is required under Rule 29(4), a declaration by the chairperson that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Association is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- (3) **One person one vote.** On a show of hands or on a secret ballot held at any general meeting of the Association:
- (a) each member present in person or by Nominated Representative or proxy is entitled to one vote for each Division of which they are a member at the time appointed for the holding of the meeting;
- (b) each affiliate member present in person or by Nominated Representative or by proxy is entitled to one vote; and
- (c) each life member who is entitled to vote and who is present in person or by proxy is entitled to one vote.
- (4) **When a secret ballot is required.** A secret ballot will be held:-
- (a) on an appeal by an Association Member against a resolution for his expulsion pursuant to Rule 20(7);
- (b) on a resolution for the dismissal of an Officer pursuant to Rule 35(2); and
- (c) on any resolution before a general meeting if demanded:
- (i) by the chairperson of the meeting; or
- (ii) by at least five (5) of the Association Members present in person or by Nominated Representative or proxy and entitled to vote thereat.
- A demand for a secret ballot may be withdrawn.
- (5) **When a secret ballot will be taken.** If a secret ballot is required under Rule 29(4), it will be taken either at once or after an interval or adjournment or otherwise as the chairperson of the meeting directs, and the result of the secret ballot will be the resolution of the meeting at which the secret ballot was required, but a secret ballot demanded on the election of a chairperson or on a question of adjournment or required pursuant to Rule 29(4)(a) or 29(4)(b) will be taken immediately.
- (6) **Conduct of secret ballot.** At all general meetings where a secret ballot is taken the returning officer if present will conduct such ballot but if the returning officer is not present two scrutineers will be appointed by the chairperson of the meeting and they will conduct the ballot. In any case of doubt as to the formality or otherwise of any ballot paper the returning officer will determine the same, but if the ballot is conducted by scrutineers, they will refer the same to the chairperson of the meeting whose decision shall be final.
- (7) **Ordinary resolution.** Subject to these Rules all questions arising at any general meeting of the Association will be decided by an ordinary resolution.

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- (8) **Casting vote.** In the case of an equality of votes, whether on a show of hands or on a secret ballot, the chairperson of the meeting at which the show of hands or secret ballot takes place will be entitled to a second or casting vote.
- (9) **Proxy**
- (a) An Association Member may attend and vote by proxy at any general meeting of the Association.
  - (b) If a member is a member of more than one Division, the member may appoint a separate proxy in respect of each vote to which the member is entitled as a member of each separate Division of the Association.
  - (c) An instrument appointing a proxy will be in writing in the common or usual form under the hand of the appointor or of their attorney duly authorised in writing.
  - (d) A proxy shall be an individual.
  - (e) A proxy may but need not be an Association Member, or a Nominated Representative.
  - (f) The instrument appointing a proxy will be deemed to confer authority to demand or join in demanding a secret ballot.
- (10) **Form of proxy appointment.** Every instrument appointing a proxy in respect of a general meeting of the Association Members shall be in the following form or a form as near thereto as circumstances admit:-

MOTOR TRADERS' ASSOCIATION OF NEW SOUTH WALES

FORM OF PROXY

I, \_\_\_\_\_, of \_\_\_\_\_ being a member/ affiliate member/life member of the abovenamed Association and the \_\_\_\_\_ Division(s) hereby appoint \_\_\_\_\_ of \_\_\_\_\_ as my proxy to vote for me and on my behalf (as a member of that/those Division(s)) at the (annual or special, as the case may be) general meeting of the Association Members, to be held on the day of \_\_\_\_\_ 20\_\_\_\_ and at any adjournment of the meeting. \_\_\_\_\_ As witness my hand this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

SIGNED by the said \_\_\_\_\_ )

\_\_\_\_\_ )  
in the presence of: \_\_\_\_\_ )

- (11) **Time and place for disposing proxy appointment.** An instrument appointing a proxy will be deposited at the Registered Office or at such other place within the State (if any) as is specified for that purpose in the notice convening the general meeting of the Association not less than twenty-four (24) hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, and in default the instrument of proxy is not to be treated as valid.
- (12) **Proxy vote valid despite prior incapacity or revocation.** A vote given in accordance with the terms of an instrument of proxy will be valid notwithstanding:
- (a) the previous death or unsoundness of mind of the Association Member giving the same; or
  - (b) revocation of the instrument,

if no intimation in writing of such death, unsoundness of mind or revocation as aforesaid has been received by the Executive Board before the time appointed for the holding of the meeting or adjourned meeting at which the instrument is used.

- (13) **Nominated Representative prevails over proxy.** If a Nominated Representative of an Association Member who is entitled to exercise at a general meeting of the Association a vote to which that Association Member is entitled and that Association Member has also appointed a proxy to exercise that vote for the Association Member at that general meeting and the proxy is also present, the vote to which the Association Member is entitled shall be exercised by the Nominated Representative.

**30 THE ADVISORY COUNCIL**

- (1) **Advisory Council.** There shall be an Advisory Council of the Association which will consist of Councillors elected in accordance with this Rule 30.

(2) **Role of the Council**

- (a) The role of the Council is to be a forum of the Association to:
- (i) facilitate communications between the Executive Board and the Association Members;
  - (ii) inform decision-making by the Executive Board; and
  - (iii) facilitate implementation and enforcement of decisions of the Executive Board;
- (b) The Council will also perform other functions as may be determined by the Executive Board from time to time.
- (c) The Council has no power to establish committees or sub-committees unless the Executive Board determines otherwise.
- (d) The Council must comply with any directions of the Executive Board regarding the Council's operations and must report its minutes to the Executive Board.

- (3) **Functions and Responsibilities of Councillors.** The functions and responsibilities of the Councillors are:

- (a) serving as representatives of the respective Divisions and affiliates which elected them to the Council; and
- (b) nominate, and run as, candidates in elections for members of the Executive Board.

(4) **Councillors not Statutory Officers**

- (a) The Council is not intended to be a committee of management for the purposes of the Act. If despite the foregoing the Council is considered a committee of management for the purposes of the Act, these Rules should be interpreted in such a manner that the Council is not considered a committee of management for the purposes of the Act, to the extent possible.
- (b) The office of Councillor, whether being an office per se or being an office as a member of the Council, is not intended to be a Statutory Office. If despite the foregoing the office of Councillor is considered a Statutory Office, these Rules should be interpreted in such a manner that the office of Councillor is not considered a Statutory Office, to the extent possible.

- (5) **Divisional entitlements to elect Councillors.** Each Trade or District Division of the Association with a membership size specified in the "Membership" column in the below table at the nomination opening time of an election of Councillors is entitled to elect the number of Councillors set out in the "Councillors" column in the below table.

<b>Membership</b>	<b>Councillors</b>
100 or less	1



<b>Membership</b>	<b>Councillors</b>
More than 100 but not more than 500	2
More than 500 but not more than 800	3
More than 800 but not more than 1,000	6
More than 1,000 but not more than 1,500	7
More than 1,500 but not more than 2,000	8
More than 2,000	9

- (6) **Affiliate entitlements to elect Councillors.** The affiliate members of each affiliate will elect from those of their number who are individuals and the Nominated Representatives of those of them who are not individuals such number of individuals as Councillors as the terms of its affiliation with the Association prescribe.
- (7) **Eligibility requirements for Councillors**
- (a) Subject to Rule 30(7)(c), any member who is an individual, or any Nominated Representative of a member who is not an individual, of a Division at the nomination opening time is eligible to be elected as a Councillor representing that Division.
  - (b) Subject to Rule 30(7)(c) and the terms of affiliation of the relevant affiliate, any affiliate member who is an individual, or any Nominated Representative of an affiliate member who is not an individual, of an affiliate at the nomination opening time is eligible to be elected as a Councillor representing that affiliate.
  - (c) No person will be eligible to be elected as a Councillor if at that time the person is an Unfinancial Member or a Nominated Representative of an Unfinancial Member.
  - (d) Any one individual may be elected as a Councillor by members of more than one Division or the affiliate members of more than an affiliate and may represent more than one Division or affiliate on the Council at the one time.
- (8) **Newly-formed Divisions**
- (a) Any new Division formed during any year may upon such formation elect Councillors in accordance with Rule 30(5) and the election will be conducted in the manner required by Rule 30(10).
  - (b) The Councillors so elected shall take office at the conclusion of the meeting of the Council next following the formation of the Division.
  - (c) The Councillors elected will subject to these Rules hold office from their election until they retire (but are eligible for re-election) at the conclusion of the annual general meeting at which all other Councillors retire as prescribed by Rule 30(11).
- (9) **Newly-affiliated affiliates**
- (a) The affiliate members of any affiliate which becomes affiliated with the Association during any year may upon such affiliation elect individuals as Councillors from those of their number and the Nominated Representatives of such of them that are not individuals, and such election shall be conducted in the manner required by Rule 30(10).
  - (b) The Councillors so elected shall take office at the conclusion of the next meeting of the Council held following the date upon which the returning officer shall declare to the President the result of the election.
  - (c) The Councillors so elected shall subject as herein provided hold office from their election until they retire (but are eligible for re-election) at the conclusion of the annual general meeting at which all other Councillors retire as prescribed by Rule 30(11).
- (10) **Election of Councillors**

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- (a) **Frequency of elections.** Unless the Executive Board otherwise determine an election of Councillors will be held by members of each Division and by the affiliate members of each affiliate once in every four (4) years. So far as may be practicable and unless the Executive Board determines otherwise, the ballot closing date of such elections will be not later than the thirtieth day of November in the preceding year.
- (b) **Further rules.** Elections of Councillors are to be regulated by any further rules as may be determined by the Executive Board from time to time to the extent not inconsistent with these Rules.
- (11) **Term of office**
- (a) **Term of office.** Subject to the provisions of these Rules, individuals elected as Councillors by the members of Divisions and the affiliate members of affiliates will take office at the conclusion of the annual general meeting of the Association next held after their election and will hold office as Councillors until the conclusion of the annual general meeting of the Association at the conclusion of the fourth (4<sup>th</sup>) annual general meeting following that at the conclusion of which they take office, when they shall be deemed to have retired but they are eligible for re-election.
- (b) **Limitations on term of office.** Councillors are not subject to any limitation on the maximum duration of term in office but may only serve three (3) consecutive terms of office.
- (12) **Automatic vacation of office.** The office of a Councillor will become vacant and no resolution for his dismissal as such shall be necessary if the Councillor:
- (a) dies or resigns their office by notice in writing given to the Executive Board;
- (b) ceases to be a member or an affiliate member or the Nominated Representative of a member or an affiliate member of the Association;
- (c) ceases to be a member of the Division which has elected him as a Councillor;
- (d) ceases to be a member of the affiliate which has elected him as a Councillor; or
- (e) is the Nominated Representative of a member who ceases to be a member of the Association or of an affiliate member who ceases to be an affiliate member of the Association,
- provided always that if a Councillor has been elected to the Council by more than one Division or affiliate, their office will become vacant only as a representative of the Division or affiliate of which he has ceased to be a member or the Nominated Representative of a member or an affiliate member as the case may be.
- (13) **Casual vacancy.** Casual vacancies of the Council shall not be filled. The continuing members of the Council may act irrespective of any vacancy in the Council unless if their number is reduced below the number fixed by or pursuant to these Rules as the necessary quorum of the Council.

### 31 PROCEEDINGS OF THE COUNCIL

- (1) **Frequency of meetings.** The Council will meet together for the despatch of business at least four (4) times in each year and may meet together at other times, adjourn and otherwise regulate its meetings as it thinks fit. The President may at any time and must on the requisition of seven (7) members of the Council summon a meeting of the Council.
- (2) **Attendance, voting and resolutions**
- (a) **Councillors' entitlement to vote.** Each Councillor is entitled to attend and vote at Council meetings.



- (b) **Additional non-voting attendance.** The chairperson of any meeting of the Council would have discretion to allow attendance by additional representatives of a Division or affiliate. No additional votes shall be attached to such attendance.
  - (c) **One Councillor one vote.** Notwithstanding any other provision of these Rules and regardless of any alternate representation, proxy or dual representation held by any Councillor, at any meeting of the Council each Councillor present in person will have no more than one vote which the Councillor may exercise in such manner as he/she shall see fit.
  - (d) **Ordinary resolution.** Subject to these Rules questions arising at any meeting of the Council shall be decided by an ordinary resolution.
  - (e) **Casting vote.** In case of an equality of votes the chairperson of the meeting will have a second or casting vote.
  - (f) **No vote by interested Councillor.** A Councillor will not vote in respect of any contract or proposed contract with the Association in which the Councillor is interested or any matter arising from the contract and if they do the vote will not be counted.
- (3) **Quorum.** The quorum necessary for the transaction of the business of the Council will be eight (8) or any greater number as may be fixed by the Executive Board.
- (4) **Chairperson**
- (a) Subject to Rules 31(4)(b) below, the President will preside as chairperson at every meeting of the Council.
  - (b) If there is no President, or the President is not present within ten (10) minutes after the time appointed for the holding of the meeting or is unwilling to act:
    - (i) the Vice President who is present and willing to act will be the chairperson of the meeting; or
    - (ii) if the Vice President is not present or is unwilling to act, then the Councillors present in person will appoint one of their number to be chairperson of the meeting.
- (5) **Validity of acts of Council and Councillors.** All acts done by any meeting of the Council or by any person acting as a Councillor will, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any such Councillor or that any Councillor(s) were disqualified, be as valid as if every person had been duly appointed and was qualified to be a Councillor.
- (6) **Circular resolution.** A resolution in writing signed by all Councillors for the time being entitled to receive notice of a meeting of the Council will be as valid and effectual as if it had been passed at a meeting of the Council properly convened and held. Any such resolution may consist of several documents in like form each signed by one or more Councillors.
- (7) **Further rules.** The proceedings of the Council are to be regulated by any further rules as may be determined by the Executive Board from time to time to the extent not inconsistent with these Rules.

## 32 THE EXECUTIVE BOARD

- (1) **Constitution of the Executive Board.** There will be an Executive Board comprising ten (10) members elected in accordance with Rule 32(2).
- (2) **Election of members of the Executive Board.** Any election of members of the Executive Board will be conducted in accordance with the Election Rules.

(3) **Term of office**

- (a) **Term of office.** The individuals elected as members of the Executive Board will take office at the conclusion of the annual general meeting of the Association next held after their election and will hold office as Councillors until the conclusion of the annual general meeting of the Association at the conclusion of the fourth (4<sup>th</sup>) annual general meeting following that at the conclusion of which they take office, when they shall be deemed to have retired but they are eligible for re-election.
- (b) **Limitations on term of office.** Members of the Executive Board are not subject to any limitation on the maximum duration of term in office but may only serve three (3) consecutive terms of office (excluding any term of office as a result of the filling of a casual vacancy).

(4) **Automatic vacation of office.** The office of a member of the Executive Board will become vacant automatically if they:

- (a) dies or resigns their office by notice in writing given to the Executive Board;
- (b) ceases to be a member or an affiliate member or the Nominated Representative of a member or an affiliate member of the Association; or
- (c) is the Nominated Representative of a member who ceases to be a member of the Association or of an affiliate member who ceases to be an affiliate member of the Association.

(5) **Casual vacancy**

- (a) Any vacancy on the Executive Board must be filled up by the Executive Board by appointment in accordance with Rule 32(5)(b) below except where the unexpired part of the term of office exceeds 12 months or three quarters of the term of office, in which case the vacancy must be filled by ordinary election in accordance with the Election Rules.
- (b) Where there is a vacancy on the Executive Board to be filled by the Executive Board, the Executive Board must fill such vacancy as follows:
- (i) the Reserve Board Member (as defined below) who received the most votes in the immediate past election shall be appointed to fill the vacancy, and if there are two or more Reserve Board Members who received the most votes in the immediate past election, the Executive Board shall decide by lot which Reserve Board Member is to be appointed;
- (ii) where there are two or more vacancies on the Executive Board to be filled by the Executive Board, the vacancies shall be filled by repeating the process set out in Rule 32(5)(b)(i) above unless and until no Reserve Board Member exists; and
- (iii) where no Reserve Board Member exists, the Executive Board shall appoint any Councillor (except any Councillor who has been dismissed from office in accordance with Rule 35) as it sees fit to fill the vacancy.
- (c) The Executive Board must cause records to be kept of any Councillor nominated to be a member of the Executive Board and received at least one vote in the immediate past election for members of the Executive Board. Any such Councillor who was not successfully elected as a member of the Executive Board in the immediate past election is referred to as a "**Reserve Board Member**" for the purposes of this Rule **Error! Reference source not found.** For the avoidance of doubt, a Reserve Board Member is not a member of the Executive Board.
- (d) Any person appointed or elected to fill a vacancy on the Executive Board under this Rule **Error! Reference source not found.** will hold office from the time of appointment or election only until the conclusion of the next following annual general meeting when they will be deemed to have retired but will be eligible for re-election.

- (6) **Expanding the Executive Board.** The Association may from time to time by ordinary resolution passed at a general meeting increase the number of members of the Executive Board.
- (7) **Remuneration.** Members of the Executive Board will be entitled to remuneration for their services for acting as such as may be determined by the Executive Board from time to time. Further, any member of the Executive Board may be reimbursed by the Association for any travelling or other expenses properly incurred by them in attending and returning from meetings of the Association Members, the Council and the Executive Board or otherwise in connection with the business of the Association.
- (8) **Financial training.** All members of the Executive Board will within six (6) months of taking office, undertake financial training as specified by the Act that covers duties of Statutory Officers as they relate to the financial management of the Association.
- (9) **Powers and responsibilities of the Executive Board**
- (a) The Executive Board is responsible for managing and directing the activities of the Association to achieve the objects set out in Rule 4.
  - (b) Subject to these Rules, the Executive Board may exercise all the powers of the Association except for powers that, under the Act, any other legislation or these Rules, may only be exercised by the Association in general meeting.
  - (c) The Association in general meeting may by ordinary resolution override or invalidate any act of the Executive Board.
  - (d) The Executive Board must decide on the responsible financial management of the Association including:
    - (i) any suitable written delegations of power under Rule 32(10);
    - (ii) how money will be managed, such as how electronic transfers, negotiable instruments or cheques must be authorised and signed or otherwise approved; and
    - (iii) the conditions under which funds may be spent.
  - (e) The Executive Board must develop and implement policies relating to the expenditure of the Association.
  - (f) The Executive Board must decide on the manner of notifying the Fair Work Commission of industrial disputes.
  - (g) The Executive Board must manage the manner in which the property of the Association is to be controlled and its funds invested.
- (10) **Delegation of power**
- (a) The Executive Board may delegate any of their powers and functions to a committee or a member of the Executive Board, the Council or a committee or a member of the Council, an employee of the Association (such as a Chief Executive Officer) or any other person, as they consider appropriate.
  - (b) The delegation must be recorded in the Association's minute book.
- (11) **Keeping of minutes**
- (a) The Executive Board shall cause minutes be kept of:
    - (i) the election of Officers;

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- (ii) names of members of the Executive Board present at all meetings of the Association and of the Executive Board and its committees; and
  - (iii) all proceedings at all meetings of the Association, the Executive Board and its committees and the Council.
- (b) The minutes shall be entered in books kept for that purpose and signed by the chairperson of the meeting at which the proceedings were held or by the chairperson of the next succeeding meeting. Any minute so entered that purports to be so signed will be evidence of the proceedings to which it relates. Where minutes have been entered and signed then subject to these Rules and until the contrary is proved:
- (i) the meeting will be deemed to have been duly convened and held;
  - (ii) all proceedings thereat will be deemed to have been duly had; and
  - (iii) all appointments made thereat will be deemed to be valid.

### (12) Regulations

- (a) The Executive Board may pass a resolution to make regulations of the Association to give effect to these Rules.
- (b) Regulations made by the Executive Board may be assigned any designation as the Executive Board sees fit, whether as "regulations", "by-laws", "code", "charter", "policy" or otherwise.
- (c) Regulations made by the Executive Board may be suspended, amended, rescinded or abolished by the Executive Board from time to time.
- (d) Association Members and Officers must comply with regulations made by the Executive Board as if they were part of these Rules.
- (e) To the extent there is any inconsistency between these Rules and any regulations made by the Executive Board, these Rules shall prevail.
- (f) Any regulations made by the Executive Board may be disallowed by an ordinary resolution at a general meeting.

## 33 PROCEEDINGS OF THE EXECUTIVE BOARD

- (1) **Frequency of meetings.** The Executive Board will meet together for the despatch of business at least four (4) times in each year. The Executive Board may meet together at other times, adjourn and otherwise regulate its meetings as it thinks fit. The President may at any time and must on the requisition of any two (2) members of the Executive Board summon a meeting of the Executive Board.

### (2) Chairperson

- (a) Subject to Rules 33(2)(b) below, the President will preside as chairperson at every meeting of the Executive Board.
- (b) If there is no President, or the President is not present within ten (10) minutes after the time appointed for the holding of the meeting or is unwilling to act:
  - (i) the Vice President who is present and willing to act will be the chairperson of the meeting; or
  - (ii) if the Vice President is not present or is unwilling to act, then the members of the Executive Board present in person will appoint one of their number to be chairperson of the meeting.

(3) **Attendance, voting and resolutions**

- (a) **Entitlement to vote.** Each member of the Executive Board is entitled to attend and vote at meetings of the Executive Board.
- (b) **Additional non-voting attendance.** The chairperson of any meeting of the Executive Board would have discretion to allow attendance by any Officer or employee of the Association or other relevant persons. No additional votes shall be attached to such attendance.
- (c) **One person one vote.** At any meeting of the Executive Board each member of the Executive Board present in person thereat will have one vote which they may exercise in such manner as they shall see fit.
- (d) **Ordinary resolution.** Subject to these Rules questions arising at any meeting of the Executive Board shall be decided by an ordinary resolution.
- (e) **Casting vote.** In case of an equality of votes the chairperson of the meeting will have a second or casting vote.
- (f) **No vote by interested member of the Executive Board.** A member of the Executive Board will not vote in respect of any contract or proposed contract with the Association in which they are interested or any matter arising from the contract and if they do vote it will not be counted.

(4) **Quorum.** The quorum necessary for the transaction of the business of the Executive Board will be six (6).

(5) **Casual vacancy.** The continuing members of the Executive Board may act notwithstanding any vacancy in the Executive Board but if their number is reduced below the number fixed by or pursuant to these Rules as the necessary quorum of the Executive Board the continuing member or members may act for the purpose of:

- (a) increasing the number of members of the Executive Board to that number within six (6) months in accordance with these Rules; or
- (b) summoning a general meeting of the Association.

(6) **Circular resolution.** A resolution in writing signed by all the members of the Executive Board will be as valid and effectual as if it has been passed at a meeting of the Executive Board duly convened and held. Any such resolution may consist of several documents in like form and each signed by one or more members of the Executive Board. A resolution under this Rule may be signed using any electronic method.

(7) **Using technology**

- (a) The Executive Board may hold meetings by using any technology (such as video or teleconferencing) that is agreed to by all members of the Executive Board.
- (b) The agreement of members of the Executive Board under clause 33(7) may be a standing (ongoing) one.
- (c) A member of the Executive Board may only withdraw their agreement under clause 33(7) within a reasonable period before the meeting.

**34 PRESIDENT AND VICE PRESIDENT**

(1) **President**

- (a) The Association shall have one (1) President.

- (b) The powers and responsibilities of the President include, and only include:
    - (i) those expressly conferred or imposed on the President in these Rules;
    - (ii) any such functions customarily exercised by the President to the extent not inconsistent with these Rules; and
    - (iii) any powers and responsibilities that must or may be exercised by the secretary of a registered organisation under the Act.
  - (c) The President may delegate any of his or her powers and responsibilities to any Officer, employee of the Association or other person as s/he sees fit, provided that any powers and responsibilities under Rule 34(1)(b)(iii) must only be delegated to a Statutory Officer.
- (2) **Vice President**
- (a) The Association shall have one (1) Vice President.
  - (b) The powers and responsibilities of the Vice President include, and only include:
    - (i) those expressly conferred or imposed on the Vice President in these Rules; and
    - (ii) the powers and responsibilities of the President, but only where the President is unwilling or unable to act or delegates such powers and responsibilities to the Vice President.
- (3) **Election of the President and the Vice President.** The President and the Vice President will be conducted in accordance with the Election Rules.
- (4) **Term of office.** The term of office of the President and the Vice President will be co-extensive with their term of office as members of the Executive Board. The President and the Vice President are subject to the same limitations on term of office as those for the term of office of members of the Executive Board.
- (5) **Automatic vacation of office.** The office of the President or the Vice President will become vacant automatically if they:
  - (a) resigns their office by notice in writing given to the Executive Board; or
  - (b) their office as a member of the Executive Board is vacated.
- (6) **Casual vacancy**
- (a) Any vacancy in the office of the President or the Vice President may be filled up by the Executive Board by appointment from amongst members of the Executive Board (except any member of the Executive Board who has been dismissed from office in accordance with Rule 35) in any manner it deems fit except where the unexpired part of the term of office exceeds 12 months or three quarters of the term of office, in which case the vacancy must be filled by ordinary election in accordance with the Election Rules.
  - (b) Any person so appointed or elected will hold office from the time of appointment or election only until the conclusion of the next following annual general meeting when they will be deemed to have retired but will be eligible for re-election.

### 35 DISMISSAL FROM OFFICE OF OFFICERS

- (1) **Automatic dismissal.** An Officer will be automatically dismissed from office if such Officer:
  - (a) is no longer an Association Member or a Nominated Representative; or



- (b) is disqualified from office under the Act or otherwise prevented from remaining an Officer under any law.

(2) **Dismissal by resolution of general meeting**

- (a) **President to call Executive Board meeting.** If a complaint or charge is made to the President in writing about a disciplinary event against an Officer, the President must call a meeting of the Executive Board to consider the complaint or charge. Any member of the Executive Board against whom the complaint or charge is made must not attend or vote at the Executive Board meeting considering the complaint or charge.
- (b) **Disciplinary event.** A “disciplinary event” as referred to in Rule 35(2)(a) includes and only includes, in respect of any Officer:
  - (i) misappropriation of the funds of the Association;
  - (ii) a substantial breach of these Rules;
  - (iii) gross misbehaviour; or
  - (iv) gross neglect of duty.
- (c) **Decision of the Executive Board.** Where in the opinion of the Executive Board the complaint or charge warrants such a course of action, the Executive Board may do any or all of the following:
  - (i) suspend the Officer against whom the complaint or charge is made from office for a period of time no longer than 90 days;
  - (ii) refer the charge or complaint to the Board of Enquiry;
  - (iii) call a special general meeting to consider the charge or complaint.
- (d) **Suspension.** An Officer must not be suspended for the same complaint or charge unless there is compelling new evidence which significantly changes the nature or likelihood of the relevant disciplinary event being true.
- (e) **Board of Enquiry.** If the Executive Board has referred a charge or complaint against an Officer to the Board of Enquiry, the Executive Board:
  - (i) must not call a special general meeting to consider the charge or complaint until the Board of Enquiry has made a report and recommendations or 60 days have elapsed, whichever is earlier; and
  - (ii) must provide or make available any report and recommendations made by the Board of Enquiry, if any, to all Association Members alongside the notice of meeting regarding the special general meeting called to consider the charge or complaint.
- (f) **Due process.** An Officer who is subject to a complaint or charge that will be considered at a general meeting shall have had not less than 21 days’ notice in writing of what is alleged against him/her and of the intended resolution for dismissal and before the passing of that resolution they shall have an opportunity of giving orally or in writing any explanation or defence they may think fit.
- (g) **Decision of the general meeting.** A general meeting considering a complaint or charge against an Officer may either resolve to remove the Officer in question or take no action against such Officer.
- (h) **Dismissal only by ordinary resolution of the general meeting.** Subject to Rule 35(1), an Officer can only be dismissed from office by an ordinary resolution of the general meeting.

36 AUDITOR AND ACCOUNTS

- (1) **Appointment of auditor(s).** The Association will at each annual general meeting of the Association Members appoint a person or persons to be auditor or auditors of the Association. No person will be so appointed unless they are competent to be appointed under the Act and have consented in writing to their appointment.
- (2) **Term of office.** The auditor will subject as herein provided hold office until the conclusion of the next annual general meeting of the Association after his appointment at which time they will be deemed to have retired. The retiring auditor will be eligible for re-election.
- (3) **Vacancy in office.** Vacancy in the office of the auditor will be filled by the Executive Board. Any person so appointed will hold office only until the conclusion of the annual general meeting of the Association next following their appointment but they will be eligible for re-election.
- (4) **Replacement of auditor in general meeting.** The Association may by ordinary resolution remove the auditor before the expiration of his or her term of office and may by ordinary resolution appoint another auditor in their place. Any person so appointed will hold office only until the conclusion of the annual general meeting next following his appointment but they will be eligible for a re-appointment.
- (5) **Fees of auditor.** The fees of the auditor will be fixed by the Executive Board.
- (6) **Accounts.** The Executive Board will cause to be kept such accounting and other records as will sufficiently explain the financial position and transactions of the Association and enable true and fair profit and loss accounts, balance sheets and any documents required to be attached to be prepared from time to time and shall cause those records to be kept in a manner as to enable them to be conveniently and properly audited.
- (7) **Audit at least once a year.** At least once in every year the auditor will audit the accounts of the Association and will report the result to the Executive Board.
- (8) **General purpose financial report**
  - (a) As soon as may be practicable after 31 December in each year the Executive Board will cause to be prepared the general purpose financial report of the Association for the year ended on 31 December last past and will cause the same to be properly audited by the auditor.
  - (b) A general purpose financial report together with the report of the auditor thereon will be presented for approval by the Executive Board to the annual general meeting of the Association held next after the end of the financial year of the Association to which the report relates together with any other reports or comments by the Executive Boards sees as proper.
  - (c) A true copy of the general purpose financial report or concise report or concise report as determined by the Executive Board and report of the auditor thereon will be made available to every Association Member at a time prescribed in the Act and in a manner as the Executive Board may prescribe.
- (9) **Auditor's access to accounts.** The auditor will, for audit purposes only, and at all reasonable times have access to the accounts, books, minutes and records of the Association and the Executive Board will make the same available to the auditor and the auditor will be entitled to examine any present or past Statutory Officer, Councillor, or employee of the Association with regard thereto and require such information or explanations as may to them appear necessary or proper and may report to the Executive Board with regard to the accounts, books, minutes and records.



### 37 REGISTER

- (1) **Register.** The President shall cause to be kept and maintained in a manner required by law a Register of all Association Members in strict alphabetical order in classes of membership and each individual entry will show not less than the following particulars:
  - (a) the name and address of each member, life member, and affiliate member;
  - (b) the date upon which each member or affiliate member became a member or affiliate member as the case may be and the date upon which each life member was elected or appointed;
  - (c) the class of membership;
  - (d) the Division or Divisions of which each member is a member;
  - (e) the affiliate to which each affiliate member belongs;
  - (f) the name or names and address or addresses of the Nominated Representative (where applicable); and
  - (g) the date upon which the membership of each member, life member, or affiliate member ceased, provided that in this case then all similar individual entries may be grouped together in the Register.
- (2) **Change of address.** Any Association Member or any Nominated Representative may at any time give to the President notice in writing to the effect that he has changed his address and the President shall thereupon cause to be entered in the Register as the case may be the new address of such Association Member or Nominated Representative.
- (3) **Change in particulars.** The Association must enter in the Register any change in the particulars shown on the Register, within twenty-eight (28) days after the matters necessitating the change became known to the Association.

### 38 EXECUTION OF DOCUMENTS

- (1) **Direct execution.** The Association may execute a document without using a common seal if the document is signed by 2 members of the Executive Board.
- (2) **Execution by agent.** The Association's power to make, vary, ratify or discharge a contract, or execute a document (including a deed), may be exercised by an individual acting with the Association's express or implied authority and on behalf of the Association.

### 39 EXAMINATION OF ASSOCIATION'S RECORDS

- (1) **Inspection by Councillor or Councillor elect.** The Executive Board will from time to time determine at what times and places and under what conditions the accounts, books, minutes and other records of the Association will be open to the inspection of any Councillor or Councillor elect.
- (2) **No other right to inspect.** Subject to Rule 39(1) no Association Member or any Nominated Representative or other representative of an Association Member will have any right of inspecting any account, book, minute or record of the Association except as conferred by law or authorised by the Association in general meeting.

### 40 NOTICES

- (1) **Methods of notice.** A notice may be given by the Association to an Association Member either:

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- (a) by publishing the same once in an edition of a publication reasonably accessible to the Association Members generally;
  - (b) personally; or
  - (c) by sending a copy thereof by ordinary mail postage pre-paid to the Association Member in an envelope addressed to him at his address appearing in the Register for the time being; or
  - (d) to the electronic mail address of any member as recorded by the Association.
- (2) **Notice to affiliate.** A notice may be given to an affiliate and to any members thereof for the time being who are not affiliate members in such manner as the terms of its affiliation with the Association prescribe.
- (3) **Notice by publication.** Where a notice is published in accordance with Rule 40(1)(a), it will be deemed to have been received by all Association Members on the relevant publication date whether in fact received by all Association Members or not.
- (4) **Notice by post.** Where a notice is sent by post pursuant to Rule 40(1)(c), it will be deemed to have been received by the Association Member to whom it is addressed on the day following the day of its posting whether in fact received by him on that day or not.
- (5) **Notice of general meetings.** Notice of every general meeting will be given in any manner hereinbefore authorised to all Association Members. No other person will be entitled to receive notices of general meetings.

### 41 ALTERATION OF CONSTITUTION AND RULES

- (1) **Alteration of Rules.** Subject to Rules 41(2) and 41(3) these Rules may be altered added to or rescinded and new Rules may be adopted at a special general meeting of the Association Members called for that purpose provided that any such alteration addition or rescission is in accordance with the Act and is agreed to by a simple majority of the Association Members present in person or by Nominated Representative or by proxy and entitled to vote at such meeting.
- (2) **Amendments required by the FWC General Manager.** These Rules may be amended by a resolution of the Executive Board where any amendments are required by the FWC General Manager to effect compliance with the provisions of the said laws for registration.
- (3) **Non-substantive amendments.** These Rules may be amended by resolution of the Executive Board to the extent that the Executive Board determines that amendments are required to the Rules so as to:-
- (a) provide clarity;
  - (b) remove anomalies;
  - (c) improve grammar;
  - (d) utilise rule numbers the provisions of which have been deleted by previous Rule changes; or
  - (e) reflect the alterations required consequential to renumbering of the Rules.

### 42 DISSOLUTION

- (1) **Limited liability of Association Members.** In the event of the Association being wound up or dissolved, the liability of each of the Association Members to contribute to the debts and liabilities of the Association will be limited to ten dollars (\$10.00).

(2) **Dissolution upon application**

- (a) In the event of the Association Members being reduced in number to twenty or less, any five Association Members may give notice to the Executive Board of their desire that the Association be dissolved and the Executive Board will thereupon convene a special general meeting of the Association Members to determine the matter.
  - (b) If a simple majority of the Association Members present at the special general meeting either in person or by Nominated Representative or by proxy and entitled to vote thereat resolve that the Association be dissolved then the Executive Board will, so far as there are funds available, make provision to satisfy all the debts and liabilities of the Association.
  - (c) The Executive Board will thereupon cause to be published a notice of the dissolution of the Association as may be required by law and will also cause notice of the dissolution to be published in two (2) daily newspapers circulating in the State. Subject thereto, all members of the Executive Board will cease to be personally responsible for any acts of whatsoever nature in respect of the Association or its activities up to the date of the notification of dissolution as required by law.
- (3) **Residual assets.** If upon the dissolution of the Association there remains after satisfaction of all its debts and liabilities any property whatsoever this property will not be paid to or distributed among the Association Members but will be given or transferred to some one or more companies, corporations or unincorporated bodies having interests or objects altogether or in part similar to the objects of the Association and which will prohibit the distribution of its or their income and property among its or their members, such one or more companies, corporations or unincorporated bodies to be determined at or before the time of dissolution by the Commonwealth Industrial Court created by the Act.

**43 INDEMNITY**

- (1) **Indemnity.** Every Councillor, Statutory Officer, member of the Board of Enquiry, auditor or employee of the Association will be indemnified out of the property and assets of the Association and it will be the duty of the Association to pay out of its funds all costs, losses, charges and expenses which any such Councillor, Statutory Officer, member of the Board of Enquiry, auditor or employee may in good faith incur or become liable to pay by reason of any contract entered into or act or deed done by him in the discharge of his duties in accordance with these Rules.
- (2) **Lien.** Any such Councillor, Statutory Officer, member of the Board of Enquiry, auditor or employee entitled to this indemnity will on the establishment of a claim, have a lien on the property and assets of the Association for the amount equivalent to the quantum of any claim.

**44 TRANSITIONAL RULE**

- (1) **Councillors appointed on 18 June 2021.** Save as provided for in these Rules, the term of office of the Councillors appointed to hold office on the 18 June 2021 shall cease on the close of the annual general meeting held in 2024.
- (2) **Definition.** For the purposes of this Rule 44 only:
  - (a) “**Pre-Amendment Rules**” means the Rules before amendment on **[insert date]**; and
  - (b) “**Post-Amendment Rules**” means these Rules as amended on **[insert date]**.
- (3) **Limitations on term of office.** Any term of office served under the Pre-Amendment Rules or Rule 44(4) shall be disregarded for the purposes of any limitations on the term of office of any Officers in these Rules.
- (4) **Caretaking Council and Executive Board.** Upon adoption of the Post-Amendment Rules:

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- (a) Councillors elected under the Pre-Amendment Rules shall be deemed as Councillors elected under the Post-Amendment Rules unless and until new Councillors have been elected under these Rules; and
- (b) Members of the Executive Board elected under the Pre-Amendment Rules shall be deemed as members of the Executive Board elected under the Post-Amendment Rules unless and until new members of the Executive Board have been elected under these Rules.

### 45 ADOPTION OF THESE RULES

These Rules shall be deemed to have been adopted on the date upon which the FWC General Manager or its delegate shall issue the certificate in relation thereto pursuant to the Act.

### 46 LOANS, GRANTS AND DONATIONS

A loan, grant or donation of an amount exceeding \$1,000 shall not be made by the Association unless the Executive Board -

- (1) has satisfied itself -
  - (a) that the making of the loan, grant or donation would be in accordance with the other rules of the Association; and
  - (b) in relation to a loan - that, in the circumstances, the security proposed to be given for the repayment of the loan is adequate and the proposed arrangements for the repayment of the loan are satisfactory; and
- (2) has approved the making of the loan, grant or donation.

**SCHEDULE**  
—  
**RULES FOR THE CONDUCT OF ELECTIONS OF  
STATUTORY OFFICERS**

**PART 1 – GENERAL PROVISIONS**

**1. DEFINITIONS**

The definitions in Rule 2(1) (except that for “member” and “Association Member”) apply in these Election Rules. Additionally, the following definitions are used in (and only in) these Election Rules:

**1.1 Candidate**

Means a person who seeks or is nominated for an office. Also known as a nominee.

**1.2 Close of Roll Day**

The day on which the roll of voters for the ballot is closed. Any person who is eligible to vote on that day is included in the roll of voters. The Close of Roll Day is a day no earlier than 30 days and no later than 7 days prior to the day on which nominations open as prescribed in section 143(3) of the Act.

**1.3 collegiate election**

Means an election conducted in accordance with Part 1 – General Provisions and Part 3 – Collegiate Elections of these Elections Rules.

**Explanatory note (which does not form part of the operative provisions of the Election Rules):**

A collegiate election is intended to be an election that adopts a ‘collegiate electoral system’ under the Act. Such a collegiate election is comprised of:

- (a) a first stage, at which persons are elected to a number of offices in a direct election; and
- (b) one or more subsequent stages at which persons are elected by and from a body of persons consisting only of:
  - (i) persons elected at the last preceding stage; or
  - (ii) persons elected at the last preceding stage and other persons (being in number not more than 15% of the number of persons comprising the body) holding offices in the organisation (including the office to which the election relates), not including any person holding such an office merely because of having filled a casual vacancy in the office within the last 12 months, or the last quarter, of the term of the office.

**1.4 direct election**

Means an election conducted in accordance with Part 1 – General Provisions and Part 2 – Direct Elections of these Elections Rules.

**1.5 incompatible offices**

Refers to offices which cannot be held concurrently under the Rules.

**1.6 irregularity**

## RULES OF THE MOTOR TRADERS' ASSOCIATION OF NEW SOUTH WALES

Has the same meaning as the definition contained in Section 6 of the Act.

### 1.7 member

Has the same meaning as Association Member as defined in Rule 2(1).

### 1.8 Nominator

Means a person who nominates another person for office.

### 1.9 Nominee

Means the person nominated for office. Also known as a candidate.

### 1.10 office and officer

Has the same meaning as Statutory Office and Statutory Officer as defined in Rule 2(1).

### 1.11 prescribed officer

The office holder or employee within the Association who is authorised by the Executive Board to make available the Register to the returning officer.

### 1.12 returning officer

Means, in relation to elections conducted by the Australian Electoral Commission, an employee of the Australian Electoral Commission. In other cases, it means the person appointed under these Election Rules to conduct the election.

## 2. ELECTIONS

### 2.1 Method of Election

#### Direct Elections

2.1.1 All direct elections shall be by secret postal ballot. In spite of anything else contained in these Election Rules, a person is eligible to vote in a ballot if they are, on Close of Roll Day, a Financial Member of the part of the Association that the office represents.

**2.1.2 All members of the Executive Board will be elected by way of direct elections.**

#### Collegiate Elections

2.1.3 All collegiate elections shall be by secret ballot at a meeting of the Executive Board.

**2.1.4 The President and the Vice President will be elected by way of collegiate elections.**

## 3. RETURNING OFFICER

### 3.1 Returning Officer – Powers and Duties

3.1.1 A returning officer not being the holder of any office in, or an employee of, the Association or of a branch, section, division, or sub-branch of the Association shall be appointed by the incumbent Executive Board to conduct each election for office.

3.1.2 Where a returning officer is required to conduct an election for any position other than an office, the returning officer shall apply these election rules making any necessary changes and shall have the same powers and duties as apply under these rules to the conduct of an election for office.



## **RULES OF THE MOTOR TRADERS' ASSOCIATION OF NEW SOUTH WALES**

- 3.1.3 The returning officer shall prepare and circulate a notice calling for nominations in accordance with these Election Rules.
- 3.1.4 After the close of nominations the returning officer shall consider all nominations received during the nomination period. The returning officer shall reject any nominations received after the nomination period has closed.
- 3.1.5 The returning officer shall accept all nominations which satisfy the requirements of these Election Rules.
- 3.1.6 The returning officer shall treat any defective nominations in the manner prescribed in these Election Rules.
- 3.1.7 Where a ballot is required, the returning officer shall conduct the ballot in accordance with the provisions of these Election Rules.
- 3.1.8 In respect to any matter pertaining to the conduct of any election, and in spite of anything else contained in these Election Rules, the returning officer shall take such action and give such directions as the returning officer considers necessary, including but not limited to making void a step already taken in the election, to ensure the secrecy of the ballot and to prevent or remedy an irregularity.

## **4. ADVERTISING**

### **4.1 Publication**

- 4.1.1 The returning officer shall cause an election notice to be published in accordance with Rule 40 no later than the opening of nominations for the relevant election.

### **4.2 Election notice**

- 4.2.1 The election notice shall:

- (a) state that the election is being conducted by the returning officer;
- (b) list the offices for which nominations are sought;
- (c) invite nomination for election from all eligible persons;
- (d) fix the time and date for the opening and closing of nominations;
- (e) fix the time and date for the opening and closing of the ballot;
- (f) specify the place where nomination forms may be obtained;
- (g) specify the place where nominations must be lodged;
- (h) specify the accepted method/s of lodgement;
- (i) fix a time and date for withdrawal of nominations; and
- (j) if applicable, specify other documentation required to be submitted with the nomination, ie a biographical and/or policy statement not exceeding 200 words in support of the nomination.

## **5. SCRUTINEERS**

### **5.1 Appointment**

## RULES OF THE MOTOR TRADERS' ASSOCIATION OF NEW SOUTH WALES

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

### 5.2 Rights and obligations

5.2.1 A scrutineer may be present at any stage in the ballot. This includes:

- (a) countersigning any seals or placing their own seal on any receptacle being used for the ballot;
- (b) bringing to the attention of the returning officer any alleged irregularity in:
  - (i) the issue of ballot papers;
  - (ii) the admission of envelopes to scrutiny;
  - (iii) the formality or informality of ballot papers; or
  - (iv) the counting of votes.

5.2.2 A scrutineer shall not:

- (a) interrupt the scrutiny without lawful reason;
- (b) disclose any knowledge acquired by him/her concerning the votes of any particular voter or voters;
- (c) fail to carry out any lawful request by the returning officer;
- (d) touch any ballot material; or
- (e) act in a manner which will interfere with the proper conduct of the election.

5.2.3 Failure of a scrutineer to attend any scheduled event will not delay any step in the election.

## PART 2 – DIRECT ELECTIONS

### 6. TIMETABLE – NOMINATIONS AND VOTING

#### 6.1 Nominations

- 6.1.1 Nominations for all offices shall open on the seventh day of the first month of the Quarter which immediately precedes the Quarter in which the term of office of the offices for election expires.
- 6.1.2 Nominations shall close at 12 noon on the twenty-first day after nominations have opened. Nominations received by the returning officer after that time shall not be accepted.
- 6.1.3 If any of the above dates fall on a weekend or a public holiday, the relevant day shall be the returning officer's next standard working day after that date.
- 6.1.4 Nominations shall be called in the manner prescribed in these Election Rules.
- 6.1.5 Nominations lodged with the returning officer shall be in writing and include the following information:
- (a) the full name of the nominee;
  - (b) the form in which the nominee's name is to appear on a ballot paper if different to the name shown above;
  - (c) the nominee's contact details;
  - (d) the name and address of each nominator, if required;
  - (e) the office for which the nominee is nominating;
  - (f) the signed endorsement/consent of the nominee;
  - (g) the signature of each nominator; and
  - (h) any further documentation required by the returning officer.
- 6.1.6 If, after the close of nominations, the number of valid nominations received for an office is less than the number of positions to be filled, the returning officer shall not make another call for nominations unless, where the office is the office of a member of a collective body, the number of valid nominations received is not enough to enable the collective body to have a quorum in its meetings, in which case the returning officer may make another call for nominations.

#### 6.2 Voting

- 6.2.1 Voting for all direct elections shall open on the first day of the last month of the Quarter in which nominations are called.
- 6.2.2 The ballot shall close at 10 am on the twenty-first day after the day that the ballot opened. Ballot material received by the returning officer after that time shall not be included in the scrutiny.
- 6.2.3 If any of the above dates fall on a weekend or a public holiday, the relevant day shall be the returning officer's next standard working day after that date.
- 6.2.4 In spite of the provisions of this Election Rule, if the returning officer is unable to commence the nomination period so as to comply with this Election Rule, the election timetable shall be established by applying the timeframes identified in this Election Rule, but commencing from the date of the opening of nominations.

### 7. ELIGIBILITY TO NOMINATE

## 7.1 Nominations

- 7.1.1 Each member's eligibility to participate as a nominee or nominator shall be determined as at the close of nominations.
- 7.1.2 A nominee for any office must be a Financial Member of the part of the Association that the office represents. **Further, in the case of an election for members of the Executive Board, a nominee must be a Councillor-elect, except where the number of valid nominations received after the two consecutive closes of nominations is on both occasion not enough to enable the Executive Board to have a quorum in its meetings, in which case a nominee can be any Financial Member.**
- 7.1.3 A nominator for any office must be a Financial Member of the part of the Association that the office represents. **Further, in the case of an election for members of the Executive Board, a nominator must be a Councillor-elect.** A nominee must self-nominate or be nominated by at least 1 nominator.

## 8. MULTIPLE NOMINATIONS

### 8.1 Holding more than one office

- 8.1.1 No person may hold simultaneously more than one of the following offices, which are listed in descending ranking. The first office listed being the highest office: **None.**

## 9. DEFECTIVE NOMINATIONS

### 9.1 Notification

- 9.1.1 Where the returning officer finds that a nomination is or may be defective, the returning officer shall, before rejecting the nomination, notify the person concerned of the defect and where practicable, give the person the opportunity of remedying the defect or providing further information in support of the nomination, within a period of not less than seven days after being notified.
- 9.1.2 Where the returning officer has notified a person of a defective nomination, and where that person has remedied the defect and advised the returning officer within the time prescribed by the returning officer, the returning officer shall accept the nomination.
- 9.1.3 Where the returning officer has notified a person of a nomination defect, and where that person has not corrected the defect and advised the returning officer within the time prescribed by the returning officer, the nomination shall be rejected.

## 10. WITHDRAWAL OF NOMINATIONS

### 10.1 Notification of withdrawal

- 10.1.1 A person nominating for any office may withdraw the nomination by notice in writing to the returning officer at any time before the closing time for the receipt of nominations;
- 10.1.2 The notification in writing referred to above must include the signed endorsement of the nominee and be in a form acceptable to the returning officer.
- 10.1.3 Once a nominator has endorsed the nomination of another person for election to any office in the Association, that nominator may not subsequently withdraw that endorsement.

## 11. UNCONTESTED ELECTIONS

### 11.1 Declaration

## **RULES OF THE MOTOR TRADERS' ASSOCIATION OF NEW SOUTH WALES**

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

### **12. ROLL OF VOTERS**

#### **12.1 Supply of listings for the roll of voters**

- 12.1.1 The only persons eligible to appear on the roll of voters in a ballot are those persons who, on Close of Roll Day, are Financial Members of the part of the Association that the office represents.
- 12.1.2 In the case of an election for members of the Executive Board, the office of each member of the Executive Board shall represent the entire Association (rather than any specific Division(s) or affiliate(s)), and be elected by all Financial Members of the Association.
- 12.1.3 Close of Roll Day shall be a day which is no earlier than 30 days and no later than 7 days before the day on which nominations for the election open. Wherever the last day of a Quarter falls within this period, Close of Roll Day shall be that day. Otherwise Close of Roll day shall be the day 7 days prior to the date for the opening of nominations.
- 12.1.4 The returning officer shall request the prescribed officer to supply the name and postal address of every member eligible to vote at an election. The returning officer may also request the prescribed officer to supply additional information which does not form the roll of voters but is to be used to ensure no irregularity occurs, and to supply the information in electronic form. The prescribed officer shall comply with such a request.
- 12.1.5 The prescribed officer must take all reasonable steps to ensure the listings supplied to the returning officer contain, where practicable, each eligible member's residential or other postal address rather than workplace address.
- 12.1.6 Any candidate for election and any member entitled to vote in an election may inspect and obtain a copy of the roll for the purposes of the election only. A copy of the roll may be provided in an electronic form.

#### **12.2 Absent Voting**

- 12.2.1 Any member who is entitled to vote at any election held under these Election Rules and who will be absent from their usual address during the period in which the ballot is to be conducted, may apply to the returning officer for ballot material to be sent to another address that the member so nominates.
- 12.2.2 Notification to the returning officer shall be in a form acceptable to the returning officer and shall set out the member's name and usual address and the address to which the member elects to have ballot material sent.
- 12.2.3 Where a returning officer receives a request for an absent vote made in the form described in this rule, the returning officer shall comply with that request.

### **13. CONTESTED ELECTIONS**

#### **13.1 Ballot**

- 13.1.1 If the number of valid nominations received for an office exceeds the number of positions to be filled, the returning officer shall conduct a secret postal ballot of members entitled to vote. The returning officer may include a number of ballots on the same ballot paper.

### **14. BALLOT PAPERS**

**14.1 Ballot paper wording**

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

- (a) the name of the Association;
- (b) the initials of the returning officer or other authenticating mark;
- (c) the name and number of office/s to be filled;
- (d) instructions for marking the ballot paper;
- (e) the names of the candidates in the format and order required by these rules;
- (f) instructions for returning the ballot paper;
- (g) name of the returning officer; and
- (h) any other instruction considered necessary by the returning officer.

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

14.1.3 The ballot papers shall contain the names of the candidates with the surname first followed by the given names. No other candidate information will be printed on the ballot paper.

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

14.1.5 The ballot shall be conducted under a first past the post system where:

- (a) the method of voting shall be by placing a tick or cross or number, as required by the returning officer, in the square next to the name/s of the candidate/s for whom the elector wishes to vote;
- (b) the candidate(s) with the highest number of votes shall be elected;
- (c) if two or more candidates each receive the same number of votes the returning officer shall decide by lot which candidate is to be elected; and
- (d) a ballot paper shall be informal if marked other than in accordance with this Election Rule.

14.1.6 The ballot paper shall contain instructions for the voter to place a tick, cross or number, as the returning officer may determine, opposite the name or names of the candidates for whom the voter wishes to vote.

**15. POSTAL BALLOT**

**15.1 Postal facilities for ballot material**

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

- (a) persons authorised by Australia Post;
- (b) the returning officer, and
- (c) persons authorised in writing by the returning officer.



**15.2 Issue of ballot material**

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

15.2.2 Ballot material shall include:

- (a) one or more ballot papers showing the time and date of the close of the ballot;
- (b) a Reply Paid envelope addressed to the private box referred to in this rule, being an envelope that may be posted without expense to the voter; and
- (c) an inner "Declaration Envelope" as prescribed by the Act, suitable for containing the ballot paper/s.

**15.3 Replacement ballot material**

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

15.3.2 The application shall:

- (a) be in writing;
- (b) set out the applicant's full name and postal address;
- (c) set out the grounds on which the application is made;
- (d) contain a declaration that the applicant has not voted in the ballot; and
- (e) be accompanied, if practicable, by any evidence that is available of the loss, destruction or spoiling of the ballot material.

15.3.3 If the returning officer is satisfied that the information contained in the application is true and correct, the returning officer shall issue replacement ballot material to the applicant.

**16. SCRUTINY**

**16.1 During the ballot**

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

**16.2 Preliminary scrutiny of envelopes**

16.2.1 The returning officer shall conduct a preliminary scrutiny of returned declaration envelopes to ensure that only one returned envelope from each eligible voter is admitted to the count. The returning officer may commence the preliminary scrutiny prior to the close of the ballot.

16.2.2 Before proceeding to count the votes to ascertain the result of the ballot, the returning officer shall:

- (a) remove the "Declaration Envelope" from the Reply Paid envelopes, and
- (b) examine the voter's declaration attached to each "Declaration Envelope", and mark off the voter's name against a copy of the roll of voters.

## RULES OF THE MOTOR TRADERS' ASSOCIATION OF NEW SOUTH WALES

16.2.3 A voter's returned ballot material shall be rejected and set aside if:

- (a) the 'Declaration Envelope' has not been returned; or
- (b) the voter has not completed the declaration on the "Declaration Envelope" to satisfy the returning officer; or
- (c) the voter is ineligible to vote; or
- (d) the returning officer is unable to identify the voter on the roll of voters.

16.2.4 Where a voter returns more than one set of ballot material, only one set of ballot material shall be admitted into the count. The returning officer shall decide which set of ballot material is to be rejected.

16.2.5 The returning officer shall note on the ballot material that it has been rejected and the reason for rejection and set it aside for separate custody.

### 16.3 Scrutiny of ballot papers

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

16.3.2 The returning officer shall reject as informal a ballot paper that:

- (a) does not bear the initials or other authenticating mark of the returning officer; and/or
- (b) has upon it any mark or writing by which the voter can be identified; and/or
- (c) is not marked substantially in accordance with the instructions included on the ballot paper; and/or
- (d) the marking is such that the intention of the voter is not clear; and/or
- (e) is not returned inside the declaration envelope.

16.3.3 Where, during the ballot, the returning officer is informed by a scrutineer that the scrutineer objects to a returned envelope or a ballot paper being accepted or rejected, the returning officer shall decide whether the returned envelope or ballot paper is to be admitted or rejected and endorse the decision on the envelope or ballot paper. The decision of the returning officer is to be final.

## 17. DECLARATION OF RESULTS

### 17.1 Notice

17.1.1 The returning officer shall declare the result of the election within fourteen days of the closing day of the ballot by giving notice of the result in writing to the relevant officer of the Association at its registered office.

17.1.2 The returning officer shall, at the same time and in the same manner as the returning officer declares the result of the election, declare the following information in relation to the ballot:

- (a) the total number of persons on the roll of voters;
- (b) the total number of ballot papers issued;
- (c) the total number of envelopes that were returned undelivered by the closing date of the ballot;

**RULES OF THE MOTOR TRADERS' ASSOCIATION OF NEW SOUTH WALES**

- (d) the total number of ballot papers received by the returning officer; and
- (e) the total number of ballot papers rejected as informal.

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## PART 3 – COLLEGIATE ELECTIONS

### 18. TIMETABLE – NOMINATIONS AND VOTING

#### 18.1 Nominations

- 18.1.1 Nominations for all offices shall be called by the returning officer as soon as practicable after the declaration of results of the relevant direct election and fourteen days prior to the meeting at which the election is to be held. If that day falls on a weekend or a public holiday, the relevant day shall be the returning officer's next standard working day after that date. Nominations shall close at the meeting in descending order as identified in the hierarchy in this Election Rule. If a candidate is successful for an office the candidate is excluded from any subsequent election.
- 18.1.2 In spite of the above paragraph, if no meeting is scheduled to occur prior to the expiry of the term of office of the offices for election, nominations shall close at a date and time to be determined by the returning officer and ballots, if any, shall be conducted, mutatis mutandis, as a postal ballot in accordance with the rules which apply to the conduct of a direct election.
- 18.1.3 Nominations shall be called in the manner prescribed in these Election Rules.
- 18.1.4 Nominations lodged with the returning officer shall be in writing and include the following information:
- (a) the full name of the nominee;
  - (b) the form in which the nominee's name is to appear on a ballot paper if different to the name shown above;
  - (c) the nominee's contact details;
  - (d) the name and address of each nominator, if required;
  - (e) the office for which the nominee is nominating;
  - (f) the signed endorsement/consent of the nominee;
  - (g) the signature of each nominator; and
  - (h) any further documentation required by the returning officer.

#### 18.2 Voting

- 18.2.1 Voting for all collegiate elections shall occur at the meeting of the relevant electorate immediately after nominations have closed. **For the avoidance of doubt, in an election of the President and the Vice President, the electorate is the Executive Board.**
- 18.2.2 Ballots shall be conducted so that the ballot for the office highest in the hierarchical order shall be completed first before the ballot for the next highest office is conducted. The returning officer shall conduct each ballot in sequence in descending order as identified in these rules. Once a candidate is successful in a ballot the candidate is excluded from any subsequent ballots.
- 18.2.3 In spite of the provisions of these Election Rules, if ballots are conducted as a secret postal ballot the returning officer shall instruct the voters to vote using sequential numbers commencing with the number 1, so that a candidate who is successful for a higher office may be excluded from the ballot for any subsequent office which the candidate can not simultaneously hold.

### 19. ELIGIBILITY TO NOMINATE

#### 19.1 Nominations

## **RULES OF THE MOTOR TRADERS' ASSOCIATION OF NEW SOUTH WALES**

- 19.1.1 Each person's eligibility to participate as a nominee or nominator shall be determined as at the date that the meeting is held.
- 19.1.2 A candidate for any office must be a member of the electorate.
- 19.1.3 A nominee may self-nominate; or nominated by at least 1 other nominator.
- 19.1.4 A nominator for any office must be a member of the electorate.
- 19.1.5 **For the avoidance of doubt, in an election of the President and the Vice President, the electorate is the Executive Board.**

## **20. MULTIPLE NOMINATIONS**

### **20.1 Holding more than one office**

- 20.1.1 No person may hold simultaneously more than one of the following offices, which are listed in descending ranking. The first office listed being the highest office: **President; Vice President.**

### **20.2 Nomination for more than one office**

- 20.2.1 Where a person nominates for more than one office which can not be held simultaneously the returning officer shall conduct the election for each office in order of the hierarchy indicated in these rules. If a person is elected to an office the person shall be excluded from any subsequent office which is unable to be held simultaneously.

### **20.3 Election to an office while already holding another office**

- 20.3.1 Where a person holding any office is elected to an office the person cannot hold simultaneously with the office currently held, then the person is deemed to have relinquished the office already held.

## **21. DEFECTIVE NOMINATIONS**

### **21.1 Notification**

- 21.1.1 Where the returning officer finds that a nomination is or may be defective, the returning officer shall, before rejecting the nomination, notify the person concerned of the defect and give the person an amount of time determined reasonable by the returning officer to remedy the defect or provide further information in support of the nomination.
- 21.1.2 Where the returning officer has notified a person of a defective nomination, and where that person has corrected the defect and advised the returning officer within the time prescribed by the returning officer, the returning officer shall accept the nomination.
- 21.1.3 Where the returning officer has notified a person of a nomination defect, and where that person has not corrected the defect and advised the returning officer within the time prescribed by the returning officer, the nomination shall be rejected.

## **22. WITHDRAWAL OF NOMINATIONS**

### **22.1 Notification of withdrawal**

- 22.1.1 A person nominating for any office may withdraw the nomination by notice in writing to the returning officer at any time before the closing time for the receipt of nominations
- 22.1.2 The notification referred to above must include a signed endorsement by the nominee and be in a form acceptable to the returning officer.

## RULES OF THE MOTOR TRADERS' ASSOCIATION OF NEW SOUTH WALES

22.1.3 Once a nominator has endorsed the nomination of another person for election to any office in the Association, that nominator may not subsequently withdraw that endorsement.

### 23. UNCONTESTED ELECTIONS

#### 23.1 Declaration

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

### 24. ROLL OF VOTERS

#### 24.1 Roll of Voters

24.1.1 A person is eligible to vote in a ballot if, on the date of the meeting, they are a member of the relevant electorate identified in this Election Rule.

#### 24.1.2 The President and the Vice President shall be elected by members of the Executive Board.

24.1.3 The returning officer shall request the prescribed officer to supply the name and postal address of every person eligible to vote at an election. The returning officer may also request the prescribed officer to supply additional information which does not form the roll of voters but is to be used to ensure no irregularity occurs, and to supply the information in electronic form. The prescribed officer shall comply with such request.

24.1.4 Any candidate for election and any person entitled to vote in an election may inspect and obtain a copy of the roll for the purposes of the election only. A copy of the roll may be provided in an electronic form.

#### 24.2 Voting

24.2.1 Voting shall be conducted at the first meeting of the relevant electorate after the date on which nominations were called. If no meeting is scheduled to commence prior to the expiry of the term of office for the offices to be elected, the ballot shall be conducted as a postal ballot.

#### 24.3 Proxy and Absent voting

A person entitled to vote in a collegiate election and who will be unable to attend the meeting at which an election is to be held may vote by way of either a proxy vote or an absent vote.

##### Proxy Voting

24.3.1 A member of the electorate who will be absent from the meeting may appoint another member of the electorate to vote as a proxy in any election conducted under this Election Rule.

24.3.2 A proxy must be appointed in writing, signed by the voting member of the electorate appointing the proxy, and must be delivered to the returning officer prior to the time for the closing of nominations.

##### Absent voting

24.3.3 Any person who is entitled to vote at any election held under these Election Rules and who will be unable to attend the meeting at which the election is to be conducted, may apply to the returning officer for ballot material to be sent to an address that the person so nominates.

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



24.3.5 Where a returning officer receives a request for an absent vote made in the form described in this Election Rule, the returning officer shall comply with that request. No ballot shall be counted until ten days from the date of posting of the ballot paper(s) by the returning officer, to provide the absent voter with reasonable opportunity to return the ballot paper(s) to the returning officer.

## **25. CONTESTED ELECTIONS**

### **25.1 Ballot**

25.1.1 If the number of valid nominations received for an office exceeds the number of positions to be filled, the returning officer shall conduct a secret ballot at the meeting of members entitled to vote. Ballots shall be conducted sequentially in descending hierarchical order as identified in these rules. Once a ballot is completed and the result determined the ballot for the next highest office shall commence.

## **26. BALLOT PAPERS**

### **26.1 Ballot paper wording**

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

- (a) the name of the Association;
- (b) the initials of the returning officer or other authenticating mark;
- (c) the name and number of the office/s to be elected;
- (d) instructions for marking the ballot paper;
- (e) the names of the candidates in the order required by the rules;
- (f) instructions for returning the ballot paper;
- (g) name and location of the returning officer; and
- (h) any other instruction considered necessary by the returning officer.

26.1.2 The ballot papers shall contain the names of the candidates with the last name first followed by the given names. No other candidate information will be printed on the ballot paper.

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

26.1.4 The ballot shall be conducted under a first past the post system where:

- (a) the method of voting shall be by placing a tick or cross or number, as required by the returning officer, in the square next to the name/s of the candidate/s for whom the elector wishes to vote;
- (b) the candidate(s) with the highest number of votes shall be elected;
- (c) if two or more candidates each receive the same number of votes the returning officer shall decide by lot which candidate is to be elected; and
- (d) a ballot paper shall be informal if marked other than in accordance with this Election Rule.

26.1.5 The ballot paper shall contain instructions for the voter to place a tick, cross or number, as the returning officer may determine, opposite the name or names of the candidates for whom the voter wishes to vote.

**27. SCRUTINY**

**27.1 Scrutiny of ballot papers**

27.1.1 Subject to Election Rule 24.3.5, immediately after the close of the ballot the returning officer shall conduct the count of the votes.

27.1.2 The returning officer shall reject as informal a ballot paper that:

- (a) does not bear the initials or other authenticating mark of the returning officer; and/or
- (b) has upon it any mark or writing by which the voter can be identified; and/or
- (c) is not marked substantially in accordance with the instructions included on the ballot paper; and/or
- (d) the marking is such that the intention of the voter is not clear.

27.1.3 Where, during the ballot, the returning officer is informed by a scrutineer that the scrutineer objects to a ballot paper being accepted or rejected, the returning officer shall decide whether the ballot paper is to be admitted or rejected and endorse the decision on the ballot paper.

**28. DECLARATION OF RESULTS**

**28.1 Notice**

28.1.1 The returning officer shall declare the result of the election by giving notice of the result in writing to the relevant officer of the Association at its registered office.

28.1.2 The returning officer shall, at the same time and in the same manner as the returning officer declares the result of the election, declare the following information in relation to the ballot:

- (a) the total number of persons on the roll of voters;
- (b) the total number of ballot papers issued;
- (c) the total number of envelopes that were returned undelivered by the closing date of the ballot (if applicable);
- (d) the total number of ballot papers received by the returning officer; and
- (e) the total number of ballot papers rejected as informal.

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