

# AUSTRALIAN LABOUR AND EMPLOYMENT RELATIONS ASSOCIATION – AUSTRALIAN CAPITAL TERRITORY INCORPORATED

## CONSTITUTION

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**CONSTITUTION**

**Australian Labour and Employment Relations Association - Australian Capital Territory Inc. – A00249**

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## Part 1.1 Preliminary

### 1 Definitions for model rules

In these rules:

*Note:* A definition applies except so far as the contrary intention appears (see *Legislation Act* s155).

**financial year** means the year ending on 30 June.

**member** means a member, however described, of the association.

**ordinary committee member** means a member of the committee who is not an office-bearer of the association as mentioned in section 12 (1) (a).

**secretary** means the person holding office under these rules as secretary of the association or, if no such person holds that office, the public officer of the association.

**the Act** means the *Associations Incorporation Act 1991*.

**the regulation** means the *Associations Incorporation Regulation 1991*.

### 1A Application of Legislation Act 2001

The *Legislation Act 2001* applies to these rules in the same way as it would if they were an instrument made under the Act.

### 1B Interpretation

(1) In these rules, unless the contrary intention appears:

“general meeting” means a general meeting of members convened in accordance with section 23.

“ordinary committee member” means a member of the committee to whom section 12(1)(b).

(2) In these rules, expressions referring to writing shall, unless the contrary intention appears, be construed as including references to printing, lithography, photography, and other modes of representing or reproducing words in a visible form.

(3) Words or expressions contained in these rules shall be interpreted in accordance with the provision of the *Interpretation Act 1967* as in force on the date on which these rules last amended.

## Part 1.2 Membership

### 2 Membership qualifications

- (1) A person who is nominated and approved for membership as provided in these rules is eligible to be a member of the Association on payment of the annual subscription prescribed in, or fixed under, these rules.
- (2) An application by a person for membership of the Association
  - (a) shall be made in writing and signed by the applicant;
  - (b) shall be lodged with the public officer Secretary of the Association
- (3) As soon as is practicable after the receipt of an application, the Secretary shall refer the application to the committee.
- (4) Upon an application being approved by the committee, the Secretary shall, with as little delay as possible, notify the applicant, in writing, that they have been approved for membership of the Association and, upon receipt of the sum payable by or on behalf of the applicant, enter the applicant's name in a register of members to be kept by the Secretary, whereupon the applicant becomes a member of the Association.
- (5) There shall be the following classes of members;
  - (a) life members;
  - (b) ordinary members;
  - (c) student members, being persons engaged in a course of full-time study at a university, college or other educational institution;
  - (d) unemployed members, being persons eligible to receive unemployment benefits under the *Social Security Act 1991*; and
  - (e) corporate members.
- (6) Written nominations, including supporting evidence, for life membership may be put forward to the Committee by any class of member. Where an application is endorsed by the Committee the nomination will be put forward to the AGM for ratification.

### 3 Nomination for membership

- (1) A nomination of a person for membership of the association:
  - (a) must be made by a member of the association in writing; and
  - (b) must be lodged with the secretary of the association.
- (2) As soon as is practicable after receiving a nomination for membership, the secretary must refer the nomination to the committee which must decide whether to approve or to reject the nomination.
- (3) If the committee decides to approve a nomination for membership, the secretary must as soon as practicable after that decision notify the nominee of that approval and request the nominee to pay within 28 days after receipt of the notification the sum payable under these rules by a member as the entrance fee and the first year's annual subscription.

- (4) The secretary must, on payment by the nominee of the amounts mentioned in subsection (3) within the period mentioned in that subsection, enter the nominee's name in the register of members and, on the name being so entered, the nominee becomes a member of the association.

#### **4 Membership entitlements not transferable**

A right, privilege or obligation that a person has because of being a member of the association:

- (a) cannot be transferred or transmitted to another person; and  
(b) terminates on cessation of the person's membership .

#### **5 Cessation of membership**

A person ceases to be a member of the association if the person—

- (a) dies or, for a corporation, is wound up; or  
(b) resigns from membership of the association; or  
(c) is expelled from the association; or  
(d) fails to renew membership of the association.

#### **6 Resignation of membership**

- (1) A member is not entitled to resign from membership of the association except in accordance with this section.
- (2) A member who has paid all amounts payable by the member to the association may resign from membership of the association by first giving notice (of not less than 1 month or, if the committee has determined a shorter period, that shorter period) in writing to the secretary of the member's intention to resign and, at the end of the period of notice, the member ceases to be a member.
- (3) If a person ceases to be a member, the secretary must make an appropriate entry in the register of members recording the date the member ceased to be a member.

#### **7 Fee, subscriptions etc**

- (1) The annual membership fee of the association will be determined by resolution of the committee on an annual basis.
- (2) The annual membership fee is payable:
- (a) except as provided by paragraph (b) before 1 July in each calendar year; or  
(b) if a person becomes a member on or after 1 July in any calendar year – before 1 July in each succeeding calendar year.

#### **8 Members' liabilities**

The liability of members is limited in accordance with Section 51 of the *Associations Incorporation Act 1991*.

## **9 Disciplining of members**

- (1) If the committee is of the opinion that a member:
  - (a) has persistently refused or neglected to comply with a provision of these rules; or
  - (b) has persistently and wilfully acted in a manner prejudicial to the interests of the association;the committee may, by resolution:
  - (a) expel the member from the association; or
  - (b) suspend the member from the rights and privileges of membership of the association that the committee may decide for a specified period.
- (2) A resolution of the committee under subsection (1) is of no effect unless the committee, at a meeting held not earlier than 14 days and not later than 28 days after service on the member of a notice under subsection (3), confirms the resolution in accordance with this section.
- (3) If the committee passes a resolution under subsection (1), the secretary must, as soon as practicable, serve a written notice on the member
  - (a) setting out the resolution of the committee and the grounds on which it is based; and
  - (b) stating that the member may address the committee at a meeting to be held not earlier than 14 days and not later than 28 days after service of the notice; and
  - (c) stating the date, place and time of that meeting; and
  - (d) informing the member that the member may do either or both of the following:
    - (i) attend and speak at that meeting;
    - (ii) submit to the committee at or before the date of that meeting written representations relating to the resolution.
- (4) Subject to the Act, section 50, at a meeting of the committee mentioned in subsection (2), the committee must:
  - (a) give to the member mentioned in subsection (1) an opportunity to make oral representations; and
  - (b) give due consideration to any written representations submitted to the committee by that member at or before the meeting; and
  - (c) by resolution decide whether to confirm or to revoke the resolution of the committee made under subsection (1).
- (5) If the committee confirms a resolution under subsection (4), the secretary must, within 7 days after that confirmation, by written notice inform the member of that confirmation and of the member's right of appeal under section 10.
- (6) A resolution confirmed by the committee under subsection (4) does not take effect:

- (a) until the end of the period within which the member is entitled to appeal against the resolution if the member does not exercise the right of appeal within that period; or
- (b) if within that period the member exercises the right of appeal – unless and until the association confirms the resolution in accordance with section 10(4).

## **10 Right of appeal of disciplined member**

- (1) A member may appeal to the association in general meeting against a resolution of the committee that is confirmed under section 9(4), within 7 days after notice of the resolution is served on the member, by lodging with the secretary a notice to that effect.
- (2) On receipt of a notice under subsection (1), the secretary must notify the committee which must call a general meeting of the association to be held within 21 days after the date when the secretary received the notice or as soon as possible after that date.
- (3) Subject to the Act, section 50, at a general meeting of the association called under subsection (2):
  - (a) no business other than the question of the appeal may be transacted; and
  - (b) the committee and the member must be given the opportunity to make representations in relation to the appeal orally or in writing, or both; and
  - (c) the members present must vote by secret ballot on the question of whether the resolution made under section 9(4) should be confirmed or revoked.
- (4) If the meeting passes a special resolution in favour of the confirmation of the resolution made under section 9(4), that resolution is confirmed.

## **Part 1.3 Committee**

### **11 Powers of committee**

The committee, subject to the Act, the regulation, these rules, and to any resolution passed by the association in general meeting:

- (a) controls and manages the affairs of the association; and
- (b) may exercise all functions that may be exercised by the association other than those functions that are required by these rules to be exercised by the association in general meeting; and
- (c) has power to perform all acts and do all things that appear to the committee to be necessary or desirable for the proper management of the affairs of the association.

## **12 Constitution and membership**

- (1) The committee consists of:
- (a) the office-bearers of the association; and
  - (b) up to seven (7) ordinary committee members;
  - (c) the immediate past-President of the Association, who shall be entitled ex-officio to membership of the Committee for so long as he remains immediate past-President.

each of whom must be elected under section 13 or appointed in accordance with subsection (4).

- (2) The office-bearers of the association are:
- (a) the president; and
  - (b) the vice-president; and
  - (c) the treasurer; and
  - (d) the secretary; and
  - (e) an Assistant Secretary/Treasurer.
- (3) Each member of the committee holds office, subject to these rules, until the conclusion of the annual general meeting following the date of the member's election, but is eligible for re-election.
- (4) If there is a vacancy in the membership of the committee, the committee may appoint a member of the association to fill the vacancy and the member so appointed holds office, subject to these rules, until the conclusion of the next annual general meeting after the date of the appointment.
- (5) Of the seven ordinary committeemen, two shall be elected from representatives of employer groups, two shall be elected from representatives of employee organisations, and three shall be elected from the general membership of the Association. The decision of the committee, as to the representation of any member of the Association, shall be final.
- (6) For the purposes of this clause an employee of a corporate member shall be deemed to be a member, provided that no more than two employees of a corporate member may be members of the Committee at the same time.

## **13 Election of committee members**

- (1) Nominations of candidates for election as office-bearers of the association or as ordinary committee members:
- (a) must be made in writing, signed by 2 members of the association and accompanied by the written consent of the candidate (which may be endorsed on the nomination form); and
  - (b) must be given to the secretary of the association not less than 10 days before the date fixed for the annual general meeting at which the election is to take place.

- (2) If insufficient nominations are received to fill all vacancies on the committee, the candidates nominated are taken to be elected and further nominations may be received at the annual general meeting.
- (3) If insufficient further nominations are received, any vacant positions remaining on the committee are taken to be vacancies.
- (4) If the number of nominations received is equal to the number of vacancies to be filled, the people nominated are taken to be elected.
- (5) If the number of nominations received exceeds the number of vacancies to be filled, a ballot must be held.
- (6) The ballot for the election of office-bearers and ordinary committee members must be conducted at the annual general meeting in the way the committee may direct.
- (7) A person is not eligible to simultaneously hold more than 1 position on the committee.

#### **14 Secretary**

- (1) The secretary of the association must, as soon as practicable after being appointed as secretary, notify the association of his or her address.
- (2) The secretary must keep minutes of:
  - (a) all elections and appointments of office-bearers and ordinary committee members; and
  - (b) the names of members of the committee present at a committee meeting or a general meeting; and
  - (c) all proceedings at committee meetings and general meetings.
- (3) Minutes of proceedings at a meeting must be signed by the person presiding at the meeting or by the person presiding at the next succeeding meeting.

#### **15 Treasurer**

The treasurer of the association must:

- (a) collect and receive all amounts owing to the association and make all payments authorised by the association; and
- (b) keep correct accounts and books showing the financial affairs of the association with full details of all receipts and expenditure connected with the activities of the association.

#### **16 Vacancies**

For these rules, a vacancy in the office of a member of the committee happens if the member:

- (a) dies; or
- (b) ceases to be a member of the association; or
- (c) resigns the office; or

- (d) is removed from office under section 17 (Removal of committee members); or
- (e) becomes an insolvent under administration within the meaning of the Corporations Act; or
- (f) suffers from mental or physical incapacity; or
- (g) is disqualified from office under the Act, section 63(1); or
- (h) is absent without the consent of the committee from all meetings of the committee held during a period of 6 months.

#### **17 Removal of committee members**

The association in general meeting may by resolution, subject to the Act, section 50, remove any member of the committee from the office of member of the committee before the end of the member's term of office.

#### **18 Committee meetings and quorum**

- (1) The committee must meet at least four times in each calendar year at the place and time that the committee may decide.
- (2) Additional meetings of the committee may be called by any member of the committee.
- (3) Oral or written notice of a meeting of the committee must be given by the secretary to each member of the committee at least 48 hours (or any other period that may be unanimously agreed on by the members of the committee) before the time appointed for the holding of the meeting.
- (4) Notice of a meeting given under subsection (3) must specify the general nature of the business to be transacted at the meeting and no business other than that business may be transacted at the meeting, except business that the committee members present at the meeting unanimously agree to treat as urgent business.
- (5) Any three members of the committee constitute a quorum for the transaction of the business of a meeting of the committee.
- (6) No business may be transacted by the committee unless a quorum is present and, if within half an hour after the time appointed for the meeting a quorum is not present, the meeting stands adjourned to the same place and at the same hour of the same day in the following week.
- (7) If at the adjourned meeting a quorum is not present within half an hour after the time appointed for the meeting, the meeting is dissolved.
- (8) At meetings of the committee:
  - (a) the president or, in the absence of the president, the vice-president presides; or
  - (b) if the president and the vice-president are absent – one of the remaining members of the committee may be chosen by the members present to preside.

## **19 Delegation by committee to subcommittee**

- (1) The committee may, in writing, delegate to one or more subcommittees (consisting of the member or members of the association that the committee considers appropriate) the exercise of the functions of the committee that are specified in the instrument, other than:
  - (a) this power of delegation; and
  - (b) a function that is a function imposed on the committee by the Act, by any other Territory law, or by resolution of the association in general meeting.
- (2) A function, the exercise of which has been delegated to a subcommittee under this section may, while the delegation remains unrevoked, be exercised from time to time by the subcommittee in accordance with the terms of the delegation.
- (3) A delegation under this section may be made subject to any conditions or limitations about the exercise of any function, or about time or circumstances, that may be specified in the instrument of delegation.
- (4) Despite any delegation under this section, the committee may continue to exercise any function delegated.
- (5) Any act or thing done or suffered by a subcommittee acting in the exercise of a delegation under this section has the same force and effect as it would have if it had been done or suffered by the committee.
- (6) The committee may, in writing, revoke wholly or in part any delegation under this section.
- (7) A subcommittee may meet and adjourn as it considers appropriate.

## **20 Voting and decisions**

- (1) Questions arising at a meeting of the committee or of any subcommittee appointed by the committee are decided by a majority of the votes of members of the committee or subcommittee present at the meeting.
- (2) Each member present at a meeting of the committee or of any subcommittee appointed by the committee (including the person presiding at the meeting) is entitled to one vote but, if the votes on any question are equal, the person presiding may exercise a second or casting vote.
- (3) Subject to section 18(5), the committee may act despite any vacancy on the committee.
- (4) Any act or thing done or suffered, or purporting to have been done or suffered, by the committee or by a subcommittee appointed by the committee, is valid and effectual despite any defect that may afterwards be discovered in the appointment or qualification of any member of the committee or subcommittee.

## **Part 1.4 General meetings**

### **21 Annual general meetings – calling of and business at**

- (1) The Association shall, in each year, hold an annual general meeting.
- (2) The annual general meeting of the association must, subject to the Act, be called on the date and at the place and time that the committee considers appropriate and being not later than three months after the close of the financial year of the Association.
- (3) In addition to any other business that may be transacted at an annual general meeting, the business of an annual general meeting is:
  - (a) to confirm the minutes of the last annual general meeting and of any general meeting held since that meeting; and
  - (b) to receive from the committee reports on the activities of the association during the last financial year; and
  - (c) to elect members of the committee, including office-bearers; and
  - (d) to receive and consider the statement of accounts and the reports that are required to be submitted to members under the Act, section 73(1).
  - (e) to determine the remuneration of servants of the Association.
- (4) An annual general meeting must be specified as such in the notice calling it in accordance with section 24 (Notice).
- (5) An annual general meeting must be conducted in accordance with the provisions of this part.

### **22 General meetings – calling of**

- (1) The committee may call a general meeting of the association:
  - (a) whenever it considers appropriate; or
  - (b) on the requisition in writing of not less than 5% of the total number of members.
- (2) A requisition of members for a general meeting:
  - (a) must state the purpose or purposes of the meeting; and
  - (b) must be signed by the members making the requisition; and
  - (c) must be lodged with the secretary; and
  - (d) may consist of several documents in a similar form, each signed by one or more of the members making the requisition.
- (3) If the committee fails to call a general meeting within one month after the date when a requisition of members for the meeting is lodged with the secretary, any one or more of the members who made the requisition may call a general meeting to be held not later than three months after that date.
- (4) A general meeting called by a member or members mentioned in subsection (2) must be called as nearly as is practicable in the same way as general meetings are called by the committee and any member who

thereby incurs expense is entitled to be reimbursed by the association for any reasonable expense so incurred.

### **23 Notice**

- (1) Except if the nature of the business proposed to be dealt with at a general meeting requires a special resolution of the association, the secretary must, at least 14 days before the date fixed for the holding of the general meeting, send by prepaid post to each member at the member's address appearing in the register of members, a notice specifying the place, date and time of the meeting and the nature of the business proposed to be transacted at the meeting.
- (2) If the nature of the business proposed to be dealt with at a general meeting requires a special resolution of the association, the secretary must, at least 21 days before the date fixed for the holding of the general meeting, send notice to each member in the way provided in subsection (1) specifying, in addition to the matter required under that subsection, the intention to propose the resolution as a special resolution.
- (3) No business other than that specified in the notice calling a general meeting may be transacted at the meeting except, for an annual general meeting, business that may be transacted under section 21(3).
- (4) A member desiring to bring any business before a general meeting may give written notice of that business to the secretary who must include that business in the next notice calling a general meeting given after receipt of the notice from the member.

### **24 General meetings – procedure and quorum**

- (1) No item of business may be transacted at a general meeting unless a quorum of members entitled under these rules to vote is present during the time the meeting is considering that item.
- (2) Five members present in person (who are entitled under these rules to vote at a general meeting) constitute a quorum for the transaction of the business of a general meeting.
- (3) If within 30 minutes after the appointed time for the start of a general meeting a quorum is not present, the meeting if called on the requisition of members is dissolved and in any other case stands adjourned to the same day in the following week at the same time and (unless another place is specified at the time of adjournment by the person presiding at the meeting or communicated by written notice to members given before the day to which the meeting is adjourned) at the same place.
- (4) If at the adjourned meeting a quorum is not present within 30 minutes after the time appointed for the start of the meeting, the members present (being not less than 3) constitute a quorum.

### **25 Presiding member**

- (1) The president, or in the absence of the president, the vice-president, presides at each general meeting of the association.

- (2) If the president and the vice-president are absent from a general meeting, the members present must elect 1 of their number to preside at the meeting.

## **26 Adjournment**

- (1) The person presiding at a general meeting at which a quorum is present may, with the consent of the majority of members present at the meeting, adjourn the meeting from time to time and place to place, but no business may be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.
- (2) If a general meeting is adjourned for 14 days or more, the secretary must give written or oral notice of the adjourned meeting to each member of the association stating the place, date and time of the meeting and the nature of the business to be transacted at the meeting.
- (3) Except as provided in subsections (1) and (2), notice of an adjournment of a general meeting or of the business to be transacted at an adjourned meeting is not required to be given.

## **27 Making of decisions**

- (1) A question arising at a general meeting of the association is to be decided on a show of hands and, unless before or on the declaration of the show of hands a poll is demanded, a declaration by the person presiding that a resolution has, on a show of hands, been carried or carried unanimously or carried by a particular majority or lost, or an entry to that effect in the minute book of the association, is evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against that resolution.
- (2) At a general meeting of the association, a poll may be demanded by the person presiding or by not less than three members present in person or by proxy at the meeting.
- (3) If the poll is demanded at a general meeting, the poll must be taken:
  - (a) immediately if the poll relates to the election of the person to preside at the meeting or to the question of an adjournment; or
  - (b) in any other case—in the way and at the time before the close of the meeting that the person presiding directs, and the resolution of the poll on the matter is taken to be the resolution of the meeting on that matter.

## **28 Voting**

- (1) Subject to subsection (3), on any question arising at a general meeting of the association a member has 1 vote only.
- (2) All votes must be given personally.
- (3) If the votes on a question at a general meeting are equal, the person presiding is entitled to exercise a second or casting vote.
- (4) A member is not entitled to vote at any general meeting of the association unless all money due and payable by the member to the association has

been paid, other than the amount of the annual subscription payable for the then current year.

## **Part 1.5 Miscellaneous**

### **29 Funds – source**

- (1) The funds of the association must be derived from entrance fees and annual subscriptions of members, donations and, subject to any resolution passed by the association in general meeting and subject to the Act, section 114, any other sources that the committee decides.
- (2) All money received by the association must be deposited as soon as practicable and without deduction to the credit of the association's bank account.
- (3) The association must, as soon as practicable after receiving any money, issue an appropriate receipt.

### **30 Funds – management**

- (1) Subject to any resolution passed by the association in general meeting, the funds of the association must be used for the objects of the association (see Attachment 1) in the way that the committee decides.
- (2) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by one of the President, Treasurer, Secretary or combination thereof.

### **31 Alteration of objects and rules**

- (1) The rules may be amended by resolution passed by a two thirds majority of financial members voting at a special general meeting.
- (2) Notice of the proposed amendment shall be included in the notice of calling the special general meeting.

### **32 Custody of books**

Subject to the Act, the regulation and these rules, the secretary/treasurer must keep in their custody or under their control all records, books, and other documents relating to the association.

### **33 Inspection of books**

The records, books and other documents of the association must be open to inspection at a place in the ACT, free of charge, by a member of the association during business hours.

### **34 Service of notice**

- (1) For these rules, a notice may be served by or on behalf of the association on any member either personally or by sending it by post to the member at the member's address shown in the register of members.
- (2) If a document is sent to a person by properly addressing, prepaying and posting to the person a letter containing the document, the document is taken for these rules, unless the contrary is proved, to have been served on

the person at the time when the letter would have been delivered in the ordinary course of post.

**35 Winding Up of Association**

In the event of the Association being dissolved the amount which remains after such dissolution and the satisfaction of all debts and liabilities shall be transferred to any incorporated association which has similar objects to the Association and which is exempt from income tax.

**36 Amalgamation of Association**

Where it furthers the objects of the Association to amalgamate with any one or more other Associations having similar objects the other Association must have rules prohibiting the distribution of its assets and income to members and must be exempt from income tax.

As approved at:

Annual General Meeting - 17 September 2008 – New Constitution

Special General Meeting – 27 July 2011 – Name change

## Appendix 1      Objects and Purpose of the Association

The basic objects of the Association are to organise and foster discussion, research, education and publication within the field of industrial relations.

- (a) the purchase, taking on lease or in exchange, and the hiring or otherwise acquiring of any real or personal property that may be deemed necessary or convenient for any of the objects or purposes of the Association;
- (b) the buying, selling and supplying of, and dealing in, goods of any kinds;
- (c) the construction, maintenance, and alteration of building or works necessary or convenient for any of the objects or purposes of the Association;
- (d) the accepting of any gift, whether subject to a special trust or not, for any one or more of the objects or purposes of the Association;
- (e) the taking of such steps from time to time as the committee or the members in general meeting may deem expedient for the purpose of procuring contributions to the funds of the Association, whether by way of donations, subscriptions, or otherwise;
- (f) the printing and publishing of such newspapers, periodicals, books, leaflets, or other documents as the committee or the members in general meeting may think desirable for the promotion of the objects and purposes of the Association;
- (g) the borrowing and raising of money in such manner and on such terms as the committee may think fit or as may be approved or directed by resolution passed at a general meeting; and securing the repayment of money so raised or borrowed or the payment of a debt or liabilities of the Association by giving mortgages, charges or securities upon or over all or any of the real or personal property of the Association;
- (h) subject to the provisions of the *Trustee Ordinance 1957*, the investment of any moneys of the Association not immediately required for any of its objects or purposes in such manner as the committee may from time to time determine;
- (i) the making of gifts, subscriptions, or donations to any of the funds, authorities, or institutions to which paragraph (a) of sub-section (1) of section 78 of the *Income Tax Assessment Act 1936* of the Commonwealth relates;
- (j) the establishment and support, or aiding in the establishment or support, of any other association formed for any of the basic objects of the Association;
- (k) the doing of all such other lawful things as are incidental or conducive to the attainment of the basic objects of the Association or of any of the objects and purposes specified in the foregoing provisions of this sub-rule.