

# CONSTITUTION OF THE AUSTRALIAN ASSOCIATION OF AGRICULTURAL CONSULTANTS (WA) INC

## NAME

1. The name of the Association is the “Australian Association of Agricultural Consultants (WA) Inc”.

## INTERPRETATION

2. In these rules and in any regulations and/or by-laws made pursuant to these Rules, unless the contrary intention appears:

“**Act**” means the *Associations Act (WA)*, 1987.

“**Association**” means the Australian Association of Agricultural Consultants (WA) Inc.

“**Committee**” means the committee of management as provided for in clause 48 of these Rules

“**Independent Consultant**” means a person who provides consulting services to agriculture and:

- (a) who does not receive any of the following:
  - (i) Commissions or rebates (including commissions that are rebated in full to the person’s clients);
  - (ii) forms of remuneration calculated on the basis of the volume of business placed by the person with the issuer of a product or service;
  - (iii) other gifts or benefits from an issuer of a product or service which may reasonably be expected to influence the person;
- (b)
  - (i) whose employer (if any); or
  - (ii) if the person provides a product or services on behalf of another person, that other person;

does not receive any of the commissions, remunerations, gifts or benefits referred to in sub-paragraph (a) of the definition of this term;

- (c) who personally or whose employer (if any), in providing consulting to agriculture, is not subjected to direct or indirect restrictions relating to

the products or services in respect of which their consulting relates;  
and

- (d) who is a person who personally or whose employer does not provide consulting to agriculture that is subject to any conflicts of interest that might:
- (i) arise from the associations or relationships of the person or that employer with issuers of products or services; and
  - (ii) reasonably be expected to influence the person or the employer in providing their consulting.

Note: The reference in sub-paragraph (c) of this definition to direct or indirect restrictions does not include a reference to restrictions imposed on a person or the person's employer by:

- the conditions on an Australian financial services licenses; or
- the Corporations Act, 2001 or any regulations made under that Act.

**“Members”** means Members of the various classes of Membership of the Association as provided for in these rules.

**“Previous Rules”** means the rules of the Association in effect immediately prior to the coming into effect pursuant to the Act of these Rules.

**“Special Resolution”** means a resolution that is passed by a majority of not less than three-fourths of the Members of the Association who are entitled under these Rules to vote in person or by proxy at a General Meeting of which notice specifying the intention to propose the resolution as a special resolution was given in accordance with these Rules.

**“Surplus Property of the Association”** means that property of the Association remaining after satisfaction of the debts and liabilities of the Association and the costs, charges and expenses of the winding-up of the Association.

## OBJECTS

3. The objects of the Association shall be:
- 3.1 to provide for Members a professional organisation to service their special needs;
  - 3.2 to determine and implement a Code of Professional Conduct for Members;
  - 3.3 to assist the growth and standing of the practice of agricultural consultancy as a profession;

- 3.4 to arrange for the conduct of schools, refresher courses and further education for Members to maintain and improve the level of service offered by Members to the public;
  - 3.5 to cooperate with other organisations with similar objectives;
  - 3.6 to serve any other need which Members consider appropriate from time to time;
  - 3.7 to start and foster good relations between Members and the general public and to improve the standing of Members within the community;
  - 3.8 to suspend, remove from Membership or discipline Members in the manner provided for in these rules.
4. The property and income of the Association shall be applied solely towards the promotion of the objects or purposes of the Association and no part of that property or income may be paid or otherwise distributed, directly or indirectly, to Members of the Association, except in good faith and the promotion of those objects or purposes PROVIDED THAT remuneration may be paid in good faith to any officers or servants of the Association or to other persons not being Members of the Association in return for services actually rendered to the Association.

## **POWERS**

- 5. The Association may do all things necessary or convenient for carrying out its objects and, in particular, shall have the powers stipulated in section 13 of the Act.

## **MEMBERSHIP**

### **6. Classifications of Membership**

The Membership of the Association shall consist of General Members, Independent Members, Associate Members and Retired Members.

### **7. Eligibility for Membership**

- 7.1 No person shall be eligible for Membership of any of the classes of Membership stipulated in Rule 6:
  - 7.1.1 unless that person agrees in writing to abide by the rules, codes, regulations, by-laws, resolutions and policies of the Association; or
  - 7.1.2 if that person:
    - (a) is an undischarged bankrupt;

- (b) is of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
- (c) has been convicted of an indictable offence; or
- (d) is a person who is either personally indebted to the Association or, alternatively, is a director of a corporation which is indebted to the Association.

7.2 Subject to Rule 7.1 above, a person's eligibility for Membership of the various classes of membership stipulated in Rule 6 shall be as follows:

### 7.2.1 General Member

A person (not being a corporation, partnership or other body corporate):

- (a) whose occupation is that of a person advising others in land based primary production and who is:
  - (i) an agronomist;
  - (ii) a farm management consultant;
  - (iii) a forestry management consultant;
  - (iv) a horticulturalist;
  - (v) a livestock consultant;
  - (vi) a natural resource manager;
  - (vii) a price risk management adviser in grain, wool or livestock;
  - (viii) a veterinarian;
  - (ix) a viticulturist;
  - (x) engaged in such other occupations as determined from time to time at a general meeting by ordinary resolution.
- (b) who holds a business, science or commercial degree from an internationally recognised tertiary institution;
- (c) who renders gross professional fees for services (excluding any fees received from the payment of commissions or from the sale of goods) each financial year of no less than \$50,000.00 or such sum as may be fixed from time to time by the Committee, either:

- (i) through accounts rendered personally in the name of the Member; or
  - (ii) through accounts rendered in the name of another person or entity in circumstances where the exertions of the Member concerned have represented the consideration for the rendering of those accounts
- (d) who is engaged, on average each financial year, in the practice of one or more of the occupations referred to in sub-paragraph (a) above for no less than 25 hours per week;
  - (e) who attends professional development training in one or more of the occupations referred to in sub-paragraph (a) above for no less than 20 hours each financial year; and
  - (f) who has previously been an Associate Member of the Association for no less than 12 calendar months.

#### 7.2.2 **Independent Member**

A person who is eligible for Membership of the Association as a General Member but who, in addition to that eligibility, is an Independent Consultant.

#### 7.2.3 **Associate Member**

A person who provides a service or product to others in land based primary production and who is:

- (a) a member of one of the occupations described in Rule 7.2.1(a) above, but who otherwise does not qualify to be a General Member or Independent Member;
- (b) an employee of a financial institution;
- (c) a financial broker or adviser;
- (d) a sheep or wool broker;
- (e) a livestock agent;
- (f) an insurance agent or broker;
- (g) an accountant qualified as either a Chartered Accountant or a Certified Practising Accountant;
- (h) a legal practitioner entitled to practise as such under the provisions of the *Legal Practice Act, 2003* (WA);

- (i) a licensed valuer pursuant to the terms of the *Land Valuers Licensing Act, 1978 (WA)*;
- (j) a licensed real estate agent pursuant to the terms of the *Real Estate and Business Agents Act, 1978 (WA)*;
- (k) a provider of training or education services; or
- (l) engaged in such other occupations as determined from time to time at a general meeting by ordinary resolution.

#### 7.2.4 Retired Member

A person who:

- (i) has previously been a General Member or Independent Member (or a Corporate Member pursuant to the Previous Rules) of the Association for not less than 5 years but whose occupation is no longer that of a consultant to agriculture;
- (ii) is not engaged for longer than 10 hours per week in any other occupation for which the person receives remuneration.

#### Fellows of The Association

8. From time to time the Association may resolve by resolution of members at a General meeting, upon the nomination of not less than 5 General Members and/or Independent Members and following endorsement of that nomination by resolution of the Committee, that a General Member, Independent Member or Retired Member may be designated a "Fellow" of the Association due to that person having provided exemplary service to the Association and having been a General Member and /or Independent Member (and/or Corporate Member under the Previous Rules) for longer than 10 years.

#### ELECTION OF MEMBERS

9. Any person who is eligible for Membership of the Association and who has been nominated in writing for the class of Membership for which he or she is eligible, by at least two General Members or Independent Members may apply in writing in the form prescribed by the Committee to be elected as a member of that class and such application and nomination shall be lodged with the Secretary/Treasurer of the Association.
10. Applications for Membership shall be accompanied by such a fee as shall from time to time be prescribed by the Committee as a nomination fee. If the applicant for Membership is elected as a member, any nomination fee paid by that applicant shall be retained by the Association. However, if the applicant is not elected, any such nomination fee shall be returned to that applicant.
11. Notice of any application for Membership of the Association shall be provided to all Members in a manner approved by the Committee.

12. Any Member who desires to object to any application for Membership of the Association shall notify the Secretary/Treasurer of the Association in writing of such objection either on or before the date specified in the notice of the application for membership issued pursuant to Rule 11 or, if no such date is specified in that notice, within 14 days of the date of the notice. Any notice of objection shall include written particulars of the grounds of such objection.
13. The Association will establish from time to time a three-person sub-committee that will be comprised of persons that will be known as the Membership Committee and which shall act as stipulated in these rules. Appointment to the Membership Committee will be by way of election at the annual general meeting in the manner set out below:
  - 13.1. persons elected to the Membership Committee shall serve for 3 year terms on the basis (as has been the case under the Previous Rules) that one new appointment by the Committee to the Membership Committee shall take place at the annual general meeting each year;
  - 13.2. should a casual vacancy occur with respect to a person who sits on the Membership Committee, the Committee shall appoint a substitute to the Membership Committee to serve the balance of that person's three year term;
  - 13.3. A candidate for election as a member of the Membership Committee must lodge with the Secretary/Treasurer of the Association a nomination in writing signed by two Members and countersigned by the candidate;
  - 13.4. All nominations for election to the Membership Committee must be lodged with the Secretary/Treasurer no earlier than 28 days prior to and no later than immediately before the conducting of the ballot at the annual general meeting at which time the election of Membership Committee members will take place. At that latter time all nominations shall be deemed to be closed. The Secretary/Treasurer shall reject the nomination of any candidate who is not a Member of the Association or whose subscription to the Association is in arrears at the hour when the nominations close.
  - 13.5. At the conducting of the ballot for election to the Membership Committee the voters may vote for no greater number of candidates than there are vacancies to be filled.
  - 13.6. Notwithstanding the provision of Rule 98 only those General Members or Independent Members present at the annual general meeting where the ballot for the election of the Membership Committee takes place shall be entitled to vote in that election and such votes shall not be cast by proxy.
  - 13.7. Votes at the ballot for the election of the Membership Committee shall be cast in writing.

- 13.8. The Secretary/Treasurer shall reject ballot papers where the voting intentions of the Member concerned can not be readily ascertained from that ballot paper.
- 13.9. The Secretary/Treasurer shall total the number of votes cast for each candidate. The candidates who shall be deemed to be elected as members of the Membership Committee shall be those candidates who have received the highest total number of votes cast against them with respect to the positions to which they aspire.
- 13.10. In the event that the position of a Membership Committee member cannot be decided due to one or more candidates having received the same number of votes cast against them, the candidate elected shall be decided by a vote cast by the Chairperson of the annual general meeting. The Chairperson's casting vote shall be in addition to the vote to which he or she was entitled as a Member.
- 13.11. Immediately following the conducting of the election for the Membership Committee at the annual general meeting the Secretary/Treasurer shall hand a written result of the election to the Chairperson of that meeting, who shall declare during that meeting the result of the election.
- 13.12. All ballot papers shall be destroyed as soon as practicable after the result of the ballot is declared by the Chairperson.
- 13.13. Each successful candidate for election to the Membership Committee shall take office at the close of the annual general meeting.
- 13.14. If election to a position on the Membership Committee is not the subject of a contest then the appointments to the Membership Committee shall be declared by the Chairperson at the annual general meeting and this fact shall be entered in the minute book.
- 13.15. A Membership Committee member may resign his or her office by giving notice to the Secretary/Treasurer.
- 13.16. The Membership Committee shall meet as often as necessary for transaction of its business. Two members of the Membership Committee shall form a quorum. Minutes of all resolutions and proceedings of the Membership Committee shall be entered in a book provided for that purpose.
- 13.17. Except where these Rules expressly provide otherwise, all questions at any meeting of the Membership Committee shall be determined by the majority of the votes of the Committee members present. The Chairperson of the meeting shall, in the case of any equality of votes have a second casting vote.
14. Any application for Membership of the Association and any objections to that application shall be referred to a Membership Committee for consideration in

accordance with the criteria stipulated in Rule 7 and the Membership Committee shall then make a written determination to grant or reject that application for Membership. Written grounds for making any determination to reject an application for Membership shall be provided by a Membership Committee contemporaneously with the making of such a determination. No application for Membership shall be granted unless two-thirds of the Membership Committee present and voting at the meeting at which the application is determined vote in favour of that application.

15. Should the Membership Committee determining the application for Membership consider rejecting the application, then prior to making any decision on the application, the Membership Committee shall set out in writing the grounds upon which it is considering rejecting the application.
16. Should the application for Membership to be determined by a Membership Committee be an application that:
  - 16.1 pursuant to Rule 14 a Membership Committee is considering rejecting;  
or
  - 16.2 in respect of which any notice of objection has been received pursuant to Rule 12,

THEN the following procedures shall apply:

- (a) not less than 14 days before the Membership Committee meets to determine the application for Membership, the applicant for Membership shall be given notice of the notice of objection or the fact that the Membership Committee is considering rejecting the application;
- (b) not less than 14 days before the Membership Committee meets to determine the application for Membership, the applicant for Membership shall be given copies of any written grounds in support of the Member's notice of objection and any written grounds upon which the Membership Committee is considering rejecting the application;
- (c) not less than 14 days before the Membership Committee meets to determine the application for Membership the applicant for Membership shall be given notice stating the date, time and place of that meeting and informing the applicant that the applicant may attend and speak at that meeting, call evidence at that meeting and/or submit to the Membership Committee written representations at or prior to the date of the meeting;
- (d) at the meeting of the Membership Committee at which the application for Membership is determined, prior to making that determination, the applicant shall be given an opportunity to make oral representations and call evidence in support of the application for Membership. The Membership Committee shall

give due and unbiased consideration to those oral representations and that evidence and any written representations submitted by the applicant.

17. Every member who nominates an applicant for Membership shall, if requested by the Secretary/Treasurer of the Association, supply to the Secretary/Treasurer for the information of the Membership Committee, to the best of the Member's knowledge, such information as the Secretary/Treasurer may require.
18. Notwithstanding the provisions of Rule 119, any notice required to be given pursuant to these Rules to an applicant for Membership of the Association shall be given by being posted by ordinary mail to the applicant's address recorded on the application for Membership.
19. Any applicant for Membership aggrieved by a decision of the Membership Committee under these Rules to reject an application for Membership may appeal against such a decision pursuant to Rules 40-46.
20. Following the making of any determination by the Membership Committee, the applicant for Membership shall be provided with notice of that determination within a period of 14 days following the determination.

#### **TRANSITIONAL MEMBERSHIP PROVISIONS**

21. Any person who was a Member of the Association pursuant to the provisions of the Previous Rules shall be required to apply in writing for Membership of the class of membership to which that person aspires and shall be required to meet all of the eligibility requirements for that particular class, save and except that, until 15 October 2004 (but no later),:
  - 21.1 Rules 9 to 12 of these Rules shall not apply to such applications;
  - 21.2 Rule 7.2.1(f) of these Rules shall only apply to a limited extent, in that:
    - (a) persons applying for General Membership or Independent Membership who were Corporate Members under the Previous Rules are not required to have previously been an Associate Member;
    - (b) persons applying for General Membership or Independent Membership who were not Corporate Members under the previous Rules (but who, rather, were Provisional Members or Associate Members) are required to have been an Associate Member under these Rules or a Provisional Member or Associate Member under the Previous Rules for, in total, no less than 12 calendar months; and
  - 21.3 Rule 7.2.1(b) shall not apply to those persons applying for General Membership or Independent Membership who were Corporate Members under the previous Rules.

## **MAINTENANCE OF MEMBERSHIP**

22. 22.1 Each Member shall complete and return to the Secretary/Treasurer of the Association an annual statutory declaration (termed a "Declaration of Membership Status") before 30 June each year in a form to be determined by the Committee certifying:
- (a) whether the Member continues to comply with the various criteria for Membership of the individual classes of Membership referred to in these Rules;
  - (b) whether the Member is a person who is an Independent Consultant (as defined by these rules).
  - (c) Upon receipt of the completed Declaration of Membership Status an invoice will be raised for the appropriate membership status rate and sent to the member. Payment of the membership invoice is due by the 31<sup>st</sup> October of that year.
- 22.2 As a service to consumers and in order to provided for a full disclosure of matters that might be relevant to a consideration by consumers as to whether a Member is an Independent Consultant, the Committee may from time to time and in such manner as the Committee deems fit, provide to consumers (including, but not limited to, placing details on the Association's internet site) information provided by Members in their annual Declaration of Membership Status referred to in Rule 22.1 as to whether the Member is an Independent Consultant.
23. The Membership Committee may grant temporary leave of absence to any Member for a period of up to two years during which time the Membership subscription rate to be paid by that Member will be charged at a discounted rate as determined from time to time by the Committee to apply to Members who have been granted such leave of absence, PROVIDED THAT during the time that a Member has been granted a leave of absence the Member concerned shall not be entitled to exercise any of the benefits or privileges of Membership of the Association including, but not limited to, any entitlement to vote at elections held by the Association.
24. All applications for leave of absence by a member must be made in writing and addressed to the Secretary/Treasurer of the Association.

## **REGISTER OF MEMBERS**

25. The Association shall keep and maintain in an up to date condition a register of the Members, the classes of Membership applicable to those Members and their postal or residential addresses. Upon the request of a Member, the Association shall make the register available for the inspection of that Member and the Member may make a copy of or take an extract from the register, but shall have no right to remove the register for that purpose.

## **RULES TO BE AVAILABLE TO MEMBERS**

26. The Association shall keep and maintain in an up to date condition the Rules of the Association and, upon the request of a Member of the Association, shall make available those Rules for the inspection of that Member and the Member may make a copy of or take an extract from the Rules but shall have no right to remove the Rules for that purpose.

## **RECORD OF OFFICE HOLDERS**

27. The Association shall maintain a record of:
- 27.1 the names and residential or postal addresses of the persons who hold the offices of the Association provided for by these Rules, including all offices held by the persons who constitute the Committee and persons who are authorised to use the common seal of the Association; and
  - 27.2 the names and residential or postal addresses of any persons who are appointed to act as trustees on behalf of the Association;

and the Association shall, upon the request of a Member of the Association, make available the record for the inspection of that Member and the Member may make a copy of or take an extract from the record but shall have no right to remove the record for that purpose.

## **CERTIFICATE OF MEMBERSHIP**

28. A Certificate of Membership shall be issued in the name of each Member of the Association signed under the seal of the Association. Such certificates shall remain the property of the Association and shall be returned to the Association immediately upon notice of demand by the Committee or upon cessation of Membership.

## **OBLIGATIONS OF MEMBERSHIP**

29. Members will at all times adhere to the rules, codes, regulations and by-laws of the Association and all resolutions and policies determined by the Committee.
30. Members will not make available to any person who is not a Member of the Association any Association documents, material, advice, notice or Membership service.
31. Members will not hold out, or assist any person to hold out that the other person is any way a Member or entitled to any Membership benefits of the Association if the other person is not a Member of the Association.

## **RIGHTS OF MEMBERS**

32. 32.1 Only General Members and Independent Members shall be entitled to:
- 32.1.1 vote at any meeting of the Association or on any ballot;

- 32.1.2 nominate any person for admission to or for office in the Association;
- 32.1.3 hold office in the Association, or subject to the terms of Rule 51, be a member of the Committee;
- 32.1.4 propose an amendment to the Rules of the Association,
- 32.2 Only General Members shall be entitled to use the abbreviation "AAAC" after their names;
- 32.3 Only Independent Members shall be entitled to use the abbreviation "AAAC (Independent)" after their names;
- 32.4 Only General Members who have been designated "Fellows" under Rule 8 shall be entitled to use the abbreviation "FAAAC" after their names;
- 32.5 Only Independent Members who have been designated "Fellows" under Rule 8 shall be entitled to use the abbreviation "FAAAC (Independent)" after their names.

PROVIDED THAT this Rule shall not prevent any other class of Member or any person who is not a Member of the Association from serving on any sub-Committee of the Association on such terms and for such period as the Committee may determine.

## **CESSATION OF MEMBERSHIP**

### **33. Resignation of Membership**

Any Member may at any time resign his or her Membership of the Association without giving any reason for that resignation by submitting that resignation by way of notice to the Secretary/Treasurer of the Association. Upon such resignation, and upon the payment of any moneys owing to the Association, the Member concerned shall cease to be a Member of the Association.

### **34. Expulsion and Suspension of Membership and Disciplining of Members**

- 34.1 Ethics Committees shall be established from time to time by the Committee and shall be made up of persons including any person who is not a "Member" of the Association) stipulated and selected by the Committee.
- 34.2 A Member shall be expelled from the Association should the Ethics Committee determine that the Member does not hold or no longer holds the qualifications stipulated in Rule 7 as being required for Membership of that Member's particular class of Membership;
- 34.3 A Member may be:
  - 34.3.1 expelled;

- 34.3.2 suspended;
- 34.3.3 reprimanded;
- 34.3.4 fined a monetary penalty of not more than \$10,000.00; and/or
- 34.3.5 ordered to pay restitution of any moneys held and/or received by the Member concerned to the person or persons determined to be entitled to those moneys by the Ethics Committee;

should the Ethics Committee determine that a Member has breached one or more of the rules, codes, regulations or by-laws of the Association.

- 34.4 Should the Association receive a complaint from a Member of the Association, a consultant to agriculture who is not a Member of the Association or any member of the public that any of the events referred to in Rules 34.2 or 34.3 has or may have occurred, the Committee must refer the matter to an Ethics Committee for hearing.
- 34.5 The following procedure shall apply with respect to any hearing conducted by an Ethics Committee pursuant to Rule 34:
  - 34.5.1 not less than 14 days before the Ethics Committee meets to hear the relevant matter the Association shall give to the Member to whom the matter relates:
    - (a) notice of the nature of the allegations against the Member;
    - (b) copies of any documentary evidence that will be considered by the Ethics Committee at the hearing including, but not limited to, any written complaints received by the Association; and
    - (c) notice stating the date, time and place of the hearing before the Ethics Committee and the fact that the Member concerned may attend, speak and call evidence at the hearing before the Ethics Committee and may submit to the Ethics Committee written representations at or prior to the date of the hearing;
  - 34.5.2 At the hearing by the Ethics Committee, prior to the Ethics Committee making its determination, the Member shall be given an opportunity to make oral representations and call evidence and the Ethics Committee shall give due consideration to those oral representations, the evidence and any written representations submitted by the Member.
  - 34.5.3 Following the hearing by the Ethics Committee it shall deliver its decision and the reasons for that decision in writing. A copy of the decision and the reasons for that decision shall be

provided to the Member concerned within 14 days of the decision being made.

- 34.5.4 The Ethics Committee shall have the power to make any order with respect to the costs of any hearing before it including any costs of the Association and any costs of the parties or any other persons involved in the hearing.
- 34.6 Notwithstanding any suspension of a Member pursuant to these Rules, the Member shall remain liable for all moneys that otherwise would have been payable if the Member had not been under suspension.
- 34.7 Notwithstanding any expulsion of a Member pursuant to these Rules the Member shall remain liable for all moneys due by that person at the date of that expulsion to the Association.
- 34.8 Any Member who is expelled or suspended from Membership of the Association by the Ethics Committee or who is penalised by the Ethics Committee shall have a right of appeal against that expulsion, suspension or penalty in accordance with the provisions of Rules 39-45 PROVIDED THAT if a Member has been expelled or suspended the Member shall remain under suspension until the determination of the appeal.
- 34.9 Expulsion of the Member pursuant to Rules 34.2 or 34.3 shall be deemed to not take effect until:
- 34.9.1 the date upon which any time given to appeal against the decision to expel expires pursuant to Rule 40; or
- 34.9.2 the date that notice of the determination of any such appeal is given to the Member,
- whichever is the latter.

## **ANNUAL SUBSCRIPTIONS**

35. Each Member shall pay such annual subscription for the class of Membership to which the Member belongs, as may be prescribed at the annual general meeting. Further, each Member shall pay any special levy subscriptions imposed upon the class of membership to which the Member belongs as the Committee may from time to time prescribe.
36. The annual subscription shall be due and payable on 31 October in each year. In the year in which a Member is initially admitted to Membership the Member's annual subscription shall be payable for that year immediately upon that admission. If any person is admitted as a Member after 31 December in any year, that Member shall only be required to pay with respect to that year one half of the usual annual subscription charged for Members of that class.
37. If any Member fails to pay his or her annual subscription by 30 November in any year, the Member shall not be entitled to attend or take part at any meeting

of the Association including, but not limited to, meetings of the Committee or to vote at any election or to exercise any privileges of a Member until the amount is paid.

38. If a Member fails to pay his or her annual subscription by 31 December in any year, the Member shall immediately cease to be a Member and his or her name shall be removed immediately from the Register of Members, but that Member may, notwithstanding that removal, be sued for all subscriptions in arrears.
39. Any Member aggrieved by a decision under Rules 37 and 38 may appeal against such a decision pursuant to Rules 40-46.

## **APPEALS**

40. Any person who is given a right to appeal against a decision pursuant to the provision of these Rules may so appeal by notice addressed to the Secretary/Treasurer of the Association. Such a notice of appeal is to be lodged with the Secretary/Treasurer of the Association, together with a written statement of the grounds of that appeal, within 14 days from the date of the decision appealed against.
41. Any person appealing pursuant to Rule 40 shall pay to the Association at the time that the appeal is lodged such sum as the Committee shall determine from time to time. A notice of appeal shall not have been duly lodged pursuant to these Rules unless and until the required sum is paid to the Association.
42. All appeals pursuant to Rule 40 shall be heard by an Appeals Board made up of the following persons who shall not have been Members of the original decision-making body:
  - 42.1 a Chairperson, being a legal practitioner (being licensed or entitled to practise as a legal practitioner pursuant to the laws of the Commonwealth of Australia or one or more of its States or Territories) appointed by the President of the Australian Institute of Arbitrators and Mediators, who is a member of that Institute but is not a Member of the Association and is not a consultant to agriculture;
  - 42.2 a consumer representative who shall be appointed by the Committee but who is not a Member of the Association or a consultant to agriculture; and
  - 42.3 a person appointed by the Committee who is a practising consultant to agriculture.

The Chairperson of the Appeals Board shall be responsible for making all determinations on issues of law. Issues of fact shall be determined by a majority decision of the three Members of the Appeals Board.

43. Any sum of money lodged with the Association pursuant to Rule 41 with respect to the hearing of an appeal shall be retained or refunded in whole or in part as determined by the Appeals Board.

44. Any hearing by the Appeals Board shall be by way of hearing de novo and at that hearing the Appeals Board shall have the power to:
  - 44.1 make any decision that the body which made the decision appealed from was empowered to make;
  - 44.2 make such orders as to the costs of the hearing of the appeal as the Appeals Board considers to be just including, but not limited to, payment of the administrative costs of the Association relating to the appeal and the costs of the parties to the appeal.
45. Not less than 14 days before the Appeals Board sits to hear the relevant appeal the Secretary/Treasurer of the Association shall give to the Member the subject of the appeal:
  - 45.1 copies of any documentary evidence considered by the body which made the decision the subject of the appeal;
  - 45.2 notice stating the date, time and place of the hearing and informing the Member that he or she may attend and speak at the hearing, call evidence at the hearing and/or submit to the Appeals Board written representations at or prior to the date of the hearing;
  - 45.3 at the hearing of the appeal by the Appeals Board, prior to the Appeals Board making its determination, the parties to the appeal (including the Association itself) shall be given an opportunity to make oral representations, call evidence and make written submissions and the Appeals Board shall give due consideration to those representations, submissions and evidence.
46. Following the hearing of the appeal, the Appeals Board shall deliver its decision in writing. A copy of the decision and the reasons for that decision shall be provided to the Member concerned within 14 days of the decision being made.

#### **LEGAL REPRESENTATION**

47. Subject to any rule of law to the contrary, a person shall be entitled to legal representation at any hearing or appeal conducted pursuant to these Rules or any other rules, codes, by-laws or regulations of the Association if the body conducting that hearing or appeal considers that:
  - 47.1 such legal representation is necessary to enable the parties to the hearing to effectively present their cases; and
  - 47.2 it is otherwise appropriate in the circumstances for the parties to be legally represented.

**MANAGEMENT COMMITTEE**

48. The affairs of the Association shall be managed by the Committee and the Committee shall have power to do all things incidental to that role including, but not limited to, the employing of administrative assistants.
49. The Committee shall have the power to prescribe from time to time regulations, by-laws and codes of conduct so long as those regulations, by-laws and codes are not inconsistent with these Rules.
50. The Committee shall consist of the President and Vice-President, the Secretary/Treasurer and a minimum of five other Non-Office Bearing Committee members.
51. In accordance with Rule 32, a member of the Committee must be a General Member or Independent Member of the Association.
52. Any member of the Committee who ceases to be a Member of the Association shall immediately cease to hold office or otherwise be a Committee member.
53. Each member of the Committee shall hold office on the Committee for a period of one year, commencing at the annual general meeting at which the Committee member is elected and expiring at the beginning of the annual general meeting held the following year. Each Committee member shall be eligible for re-election following the ending of his or her one year term as a member of the Committee and there shall be no limitation upon the number of terms that a person shall be eligible to serve as a Committee member.
54. At each annual general meeting, the Members of the Association so entitled to vote, shall elect a President, a Vice-President, a Secretary/Treasurer and a minimum of five other Non-Office Bearing Committee members.
55. No person shall be entitled to hold the office of President for more than four consecutive years.
56. In the case of a casual vacancy in the office of President, the Vice-President shall become the President until the commencement of the next annual general meeting.
57. In the case of a casual vacancy in the office of Vice-President or in the office of Secretary/Treasurer the vacancy shall be filled by the Committee from one of its members and the person so chosen shall hold the office of Vice-President or Secretary/Treasurer (as the case may be) until the commencement of the next annual general meeting.
58. The Committee may fill any casual vacancy in the office of a Non-Office Bearing Committee member as it so determines, but the person so chosen to be a Committee member shall otherwise be a person eligible to hold office as a Committee member in accordance with the provisions of Rule 51 and shall hold office as a Committee member only for as long as the person in whose place he or she is chosen would have held such office.

59. A candidate for election as a member of the Committee must lodge with the Secretary/Treasurer of the Association a nomination in writing signed by two Members and countersigned by the candidate.
60. All nominations for Membership of the Committee must be lodged with the Secretary/Treasurer no earlier than 28 days prior to and no later than immediately before the conducting of the ballot at the annual general meeting at which time the election of Committee members will take place. At that latter time all nominations shall be deemed to be closed. The Secretary/Treasurer shall reject the nomination of any candidate who is not eligible under these rules to serve as a Committee member or whose subscription to the Association is in arrears at the hour when the nominations close. Where appropriate, a nomination must identify whether the Member concerned is seeking election to the Committee as a President, Vice-President or Secretary/Treasurer and whether the Member concerned wishes to serve on the Committee as a Non-Office Bearing Committee member should he or she be unsuccessful in being elected as the President, Vice-President and/or Secretary/Treasurer.
61. At the conducting of the ballot for membership of the Committee the voters may vote for no greater number of candidates than there are vacancies to be filled.
62. Notwithstanding the provision of Rule 98 only those General Members and Independent Members present at the annual general meeting where the ballot for the election for membership of the Committee takes place shall be entitled to vote in that election and such votes shall not be cast by proxy.
63. Votes at the ballot for the election of members of the Committee shall be cast in writing.
64. The Secretary/Treasurer shall reject ballot papers where the voting intentions of the Member concerned can not be readily ascertained from that ballot paper.
65. The Secretary/Treasurer shall total the number of votes cast for each candidate. The candidates who shall be deemed to be elected as President, Vice-President, Secretary/Treasurer and the remaining Non-Office Bearing Committee members shall be those candidates who have received the highest total number of votes cast against them with respect to the positions to which they aspire PROVIDED THAT the total number of Non-Office Bearing Committee Members shall be five unless the general meeting resolves to increase that number.
66. In the event that the position of a Committee member cannot be decided due to one or more candidates having received the same number of votes cast against them, the candidate elected shall be decided by a vote cast by the Chairperson of the annual general meeting. The Chairperson's casting vote shall be in addition to the vote to which he or she was entitled as a Member.
67. Immediately following the conducting of the election for members of the Committee at the annual general meeting the Secretary/Treasurer shall hand a

written result of the elections for the President, Vice-President, Secretary/Treasurer and Non-Office Bearing Committee members to the Chairperson of that meeting, who shall declare during that meeting the result of the election.

68. All ballot papers shall be destroyed as soon as practicable by the Secretary/Treasurer after the result of the ballot is declared by the Chairperson.
69. Each successful candidate for election to the Committee shall take office at the close of the annual general meeting.
70. If elections to the positions of President, Vice-President, Secretary/Treasurer and/or the Non-Office Bearing members of the Committee are not the subject of a contest then the election of those persons to the Committee shall be declared by the Chairperson at the annual general meeting and this fact shall be entered in the minute book.
71. A Committee member may resign his or her office by giving notice to the Secretary/Treasurer.
72. The Committee shall meet as often as necessary for transaction of its business. Five members of the Committee shall form a quorum. Minutes of all resolutions and proceedings of the Committee shall be entered in a book provided for that purpose.
73. Except where these Rules expressly provide otherwise, all questions at any meeting of the Committee shall be determined by the majority of the votes of the Committee members present. The Chairperson of the meeting shall, in the case of any equality of votes have a second casting vote.
74. The Committee shall not act, except to fill casual vacancies, when the number of Committee members is reduced below five.
75. Notice shall be given of every meeting of the Committee to every Committee member and shall be sent by post or e-mail or delivered to the address of that Committee member as appearing in the Association's Register of Members, but the inadvertent omission to send such a notice or the non-receipt of such a notice by any Member of the Committee shall not invalidate the proceedings at the Committee meeting. Notice need not be given of any meeting which is fixed by any resolution of the Committee as a day upon which meetings are to be regularly held.
76. Every meeting of the Committee shall be presided over by the President as Chairperson or, in his or her absence, the Vice-President. In the absence of both the President and the Vice-President, the Committee members present at the meeting concerned shall choose a Chairperson.
77. The Association at a special general meeting may by a special resolution remove any Committee member before the expiration of his or her term of office and may appoint another person in his or her stead.
78. Any member of the Committee who:

78.1 ceases to be a Member of the Association or is suspended from membership or,

78.2 is without the leave of the Committee absent for three consecutive meetings,

shall vacate his or her office on the Committee unless, in the latter case, the absence without leave shall subsequently be excused by a resolution of the Committee.

79. All acts done or resolutions passed at any meetings of the Committee shall, notwithstanding that it is afterwards discovered that there was a defect in the appointment of a Committee member or that the Committee member was not entitled to serve as a member of the Committee, shall be deemed to have been acts regularly and validly performed and resolutions regularly and validly passed.

80. Committee members shall ensure that they disclose any interests in a contract or proposed contract made by or in the contemplation of the Committee as is required under section 21 of the Act. Further, Committee members shall ensure that they comply with the prohibition upon taking part in any deliberations or decisions of the Committee with respect to contracts as stipulated in section 22 of the Act.

81. The Secretary/Treasurer shall be responsible, in addition to all other duties referred to in these Rules for:

81.1 preparing the minutes of all Committee meetings for presentation to subsequent meetings;

81.2 preparing the minutes of all general meetings, including the annual general meeting held immediately following the expiry of the Secretary/Treasurer's term of office;

81.3 conducting the correspondence of the Association under the direction of the Committee;

81.4 preparing an annual report on the affairs of the Association;

81.5 receiving and paying into the bank accounts of the Association all subscriptions, levies and moneys received by the Secretary/Treasurer in his capacity as Secretary/Treasurer and paying all accounts approved by the Committee.

## **ANNUAL GENERAL MEETING**

82. The annual general meeting of the Association shall be held within three months of 30 June in each year on such day and hour as the Committee may from time to time determine and shall be convened by not less than 28 days notice.

83. Any Member may on giving to the Secretary/Treasurer notice together with a copy of the proposed resolution on or before 15 July in any year, submit any resolution to the next annual general meeting. The Secretary/Treasurer shall upon receipt of any such notice and resolution notify the same to Members in the notice convening the annual general meeting.
84. The following shall be the order of business to be conducted at the annual general meeting:
- 84.1 confirmation of the minutes of the last annual general meeting and of any special general meeting held since the preceding annual general meeting;
  - 84.2 receiving and discussing the annual accounts and any reports of the Committee, including the annual report prepared by the Secretary/Treasurer;
  - 84.3 the election of the Committee for the following twelve months commencing at the time of election until the next Annual General Meeting;
  - 84.4 the appointment of auditors for the ensuing year;
  - 84.5 the declaration of the subscriptions of the Association for the ensuing financial year commencing July 1st;
  - 84.6 the determination of all resolutions, notice of which has duly been given prior to the annual general meeting; and
  - 84.7 general business.

### **SPECIAL MEETINGS**

85. The Secretary/Treasurer shall convene a special general meeting whenever required by the Committee or by a requisition made in writing and signed by not less than 10 General Members and/or Independent Members. Every such requisition shall express the object of the meeting proposed to be called and upon receipt of such a requisition the Secretary/Treasurer shall forthwith convene a special general meeting to be held not less than seven days or more than 21 days from the time of the requisition received. If the Secretary/Treasurer does not convene such a special general meeting then the requisitioners or any of them may convene such a meeting.
86. At least seven days notice shall be given to Members of every special general meeting specifying the time and place of that meeting and the nature of business to be conducted at that meeting.

### **VENUE AND QUORUM AT GENERAL MEETINGS**

87. Every general meeting, whether it be special or annual, shall be held at such place as the Committee may determine.

88. At any general meeting, whether special or annual, a quorum shall consist of 10 General Members and/or Independent Members present personally at that meeting and whose subscriptions to the Association are not in arrears.
89. If within half an hour from the time appointed for a general meeting, whether special or annual, a quorum of Members as required in Rule 88 is not present, the meeting shall, unless convened by order of the Committee, be dissolved. However, if the meeting has been convened by the Committee it shall stand adjourned to the same day in the following week at the same time and place. If at such adjourned meeting a quorum as required under Rule 88 is not present, the General Members and/or Independent Members present shall be a quorum and may transact the business for which the meeting was called.

### **CHAIRMAN**

90. Subject to any vote at a general meeting to the contrary, the Chairperson of every general meeting of the Association shall be the President or, in his or her absence, the Vice-President. In the case of annual general meetings, unless a vote resolves to the contrary, the Chairperson of such meetings shall be the President who held that office immediately prior to the commencement of the annual general meeting or, in his or her absence, the Vice-President who held that office immediately prior to the commencement of the annual general meeting.

### **VOTES OF MEMBERS**

91. At any general meeting, unless a poll is demanded by at least 10 General Members and/or Independent Members present personally, a declaration by the Chairperson that a resolution has been carried or carried by a particular majority, or lost, shall be sufficient evidence of that fact.
92. If a poll is demanded in the manner referred to in Rule 91 it shall be taken in such a manner and at such time and place and in the manner that, subject to a vote at the meeting to the contrary, the Chairperson of the meeting directs. The demand for a poll may be withdrawn.
93. No poll shall be demanded as to the election of a Chairperson or any question as to an adjournment of the general meeting and any demand for a poll shall not prevent the continuance of a meeting for the transaction of other business.
94. Every Member entitled to vote at a general meeting whether, special or annual, shall have one vote on a show of hands and one vote at a poll, PROVIDED THAT no member under suspension shall, during the period of suspension, be entitled to vote at such a meeting, vote in the election of Committee members or to act as a proxy for a Member.
95. Every question submitted to a general meeting, whether special or annual, shall be decided by a show of hands unless a poll is called in the manner provided for in Rules 91 and 92. When a poll is so called the question concerned shall be decided by a majority of votes of those present at the meeting personally or



and manner of such inspections as may be imposed by the Committee and subject to the provisions of Rule 114.

### **AUDITOR**

103. Every annual general meeting shall appoint an auditor or auditors for the ensuing year.
104. If a casual vacancy should occur in the office of auditor the Committee may fill such casual vacancy.
105. A member of the Committee shall not be eligible for election as auditor.
106. At least once every year the accounts of the Association shall be audited by the appointed auditors.

### **COMMON SEAL OF THE ASSOCIATION**

107. The common seal of the Association engraved with the name of the Association shall be kept in the care of the Secretary/Treasurer. The seal shall not be used or affixed to any deed or other document except pursuant to a resolution of the Committee or a general meeting. Further, the seal shall not be used or affixed to any deed or other document except in the presence of the President and one other member of the Committee, both of whom shall subscribe their names as witnesses to the use or affixing of the seal.

### **AMENDMENT TO THE RULES**

108. The Association may amend these Rules by special resolution but not otherwise.
109. Within one month of the passing of a special resolution altering its Rules, or such further time as may be allowed pursuant to section 17 of the Act, the Secretary/Treasurer shall lodge as required by section 17 of the Act notice of the special resolution setting out particulars of the alteration together with a certificate given by a member of the Committee certifying that the resolution was duly passed as a special resolution and that the Rules of the Association as so altered conform to the requirements of the Act.
110. In accordance with section 17 of the Act, an amendment to the Rules of the Association shall not take effect until the provisions of Rule 109 have been complied with.

### **SUB-COMMITTEES**

111. The Committee shall have the power to appoint at its discretion sub-committees of the Associations on such terms and for such period as the Committee may determine and such sub-committees may be comprised of any person selected by the Committee, whether or not that person is a Member of the Association. Any sub-committee appointed pursuant to these Rules shall be responsible to the Committee.

## **ACTIONS TO RECOVER MONEY**

112. Notwithstanding any other provision in these Rules, all subscriptions owing by any Member under these Rules and all moneys owing or payable by any Member to the Association whatsoever shall be recoverable by action in any Court of law against such a Member, whether such a Member shall at the time of that action have ceased to be a Member of the Association or not.

## **THE CUSTODY AND INSPECTION OF RECORDS AND DOCUMENTS**

113. The custody of all records, books, documents and securities of the Association shall be held by the Secretary/Treasurer or as otherwise determined by the Committee.
114. Members of the Association shall be entitled to inspect any of the records and documents of the Association upon the provision to the Secretary/Treasurer of a minimum of 35 days notice SAVE THAT the manner and place of that inspection shall be determined by the Committee and a Member shall not be entitled to inspect a record or document if, in the opinion of the Committee, the record or document that the Member wishes to inspect is confidential or it is not otherwise in the interests of the Association for the records and/or documents concerned to be inspected by the Member.

## **DISSOLUTION**

115. The Association may be wound-up voluntarily if the Association is solvent and if it is resolved by special resolution at a general meeting, whether special or annual, that the Association so be wound-up voluntarily.
116. The Secretary/Treasurer shall caused a copy of any special resolution passed by the Association resolving that the Association be wound-up voluntarily to be lodged in accordance with section 30(2) of the Act within 14 days after the passing of the resolution.
117. If, upon the winding-up or any dissolution of the Association, there remains any surplus property, that property shall not be paid to or distributed amongst the Members of the Association but shall be given or transferred:
- 117.1 to another Association incorporated under the Act; or
- 117.2 for charitable purposes.

PROVIDED THAT prior to the winding up or any dissolution of the Association the Committee shall be authorised and directed by the Members at a general meeting to prepare a distribution plan of the Surplus Property of the Association pursuant to section 33 of the Act. The incorporated association or charitable purpose which is to receive the surplus property shall be determined by a resolution of the eligible Members of the Association at that time.

118. In the event of the winding up or any dissolution of the Association, the Commissioner of Taxation shall be advised of the date of that winding up or dissolution within 30 days of that winding up or dissolution occurring.

**NOTICES**

119. Any notice required to be provided under these Rules must be in writing and must be transmitted to the recipient by ordinary post, facsimile or electronic mail.