

# *Namoi Water*

Incorporated

(Department of Fair Trading Incorporation Number: INC9883450)

## Constitution

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## **Part 1 - Preliminary**

### ***1. Definitions***

(1) In these rules:

Commissioner means the Commissioner of the Office of Fair Trading.

Regarding the Board, an ordinary member means a member of the Board who is not an office-bearer of the association, as referred to in rule 15.

Secretary means:

- (a) the person holding office under these rules as secretary of the association, or
- (b) if no such person holds that office – the public officer of the association.

Special general meeting means a general meeting of the association other than an annual general meeting.

The Act means the Associations Incorporation Act 1984.

The Regulation means the Associations Incorporation Regulation 1999.

Majority refers to one half of the elected board plus 1.

(2) In these rules:

- (a) a reference to a function includes a reference to a power, authority and duty, and
- (b) a reference to the exercise of a function includes, if the function is a duty, a reference to the performance of the duty.

(3) The provisions of the Interpretation Act 1987 apply to and in respect of these rules in the same manner as those provisions would so apply if these rules were an instrument made under the Act.

## **Part 2 – Objects and Structure of Namoi Water Incorporated**

### ***2. Objects***

(1) To secure for all irrigators and water users in the Namoi Valley an equitable and fair distribution of water.

(2) To pursue with responsible Government and Community bodies, the development of sound water resource policies that take into account community, environmental, economic and irrigator concerns for sustainable use and management in the Namoi Valley.

(3) To foster the enhancement of water quality and quantity in the Namoi Valley.

(4) To promote the importance and benefits of irrigation to the local and wider communities of the nation, including the elected representatives of those communities.

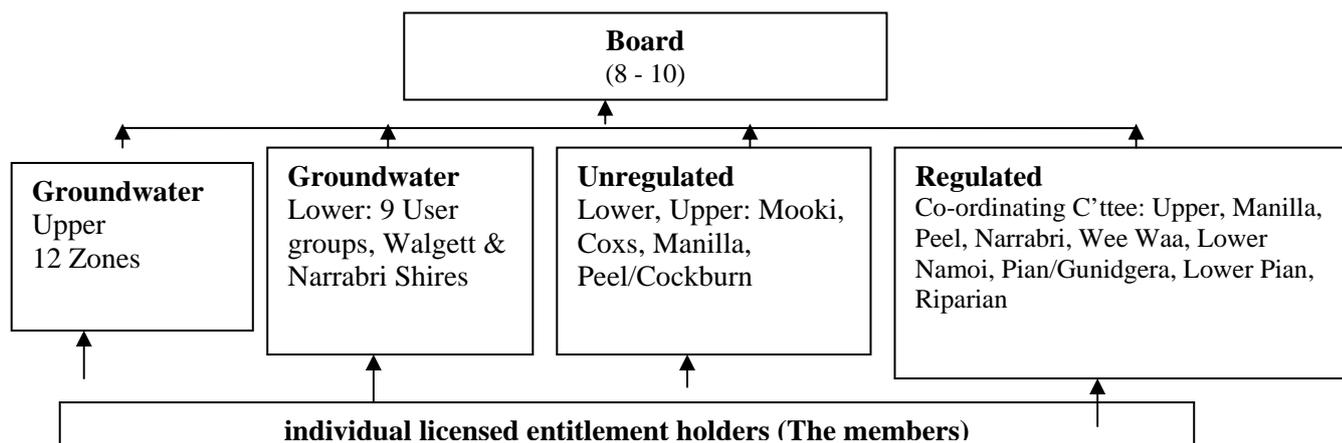
(5) To promote environmental awareness and responsibility among water users and the community.

(6) To encourage and support effective research into matters relating to water issues.

- (7) To liaise and coordinate with other water user groups in areas of common interest.  
 (8) To identify ways to recruit and encourage new representatives through appropriate means such as subcommittee representation leading to nomination for the Board.

### 3. Structure

(1) The Board of Namoi Water will consist of between eight and ten members. Eight members of the board will be drawn equally from four subcommittees (two from each group) representing the Upper Namoi Groundwater users, Lower Namoi Groundwater users, Unregulated users and Regulated users, as detailed in the table below.



## Part 3 – Membership

### 4. Membership qualifications

(1) A person is qualified to be a member of the association if, but only if:

(a) the person is a person referred to in section 15(1) (a), (b) or (c) of the Associations Incorporation Act 1984 and has not ceased to be a member of the association at any time after incorporation of the association under the Act, or

(b) the person is a natural person:

- (i) who is a licensed water entitlement holder or is a riparian right user and
- (ii) who has been approved for membership of the association by the board of the association, and
- (iii) who has completed a membership form and paid the dues owing

(c) where the entitlement holder is a company or trust they must nominate a representative who is natural person under the terms of the Act

### 5. Cessation of membership

(1) A person ceases to be a member of the association if the person:

- (a) dies, or
- (b) resigns membership, or
- (c) is expelled from the association.
- (d) ceases to be a licensed entitlement holder.

## ***6. Membership entitlements not transferable***

(1) A right, privilege or obligation which a person has by reason of being a member of the association:

- (a) is not capable of being transferred or transmitted to another person, and
- (b) terminates on cessation of the person's membership

## ***7. Resignation of membership***

(1) A member of the association is not entitled to resign that membership except in accordance with this rule.

(2) A member of the association who has paid all amounts payable by the member to the association in respect of the member's membership may resign from membership of the association by first giving to the secretary written notice of at least one month (or such other period as the board may determine) of the member's intention to resign and, on the expiration of the period of notice, the member ceases to be a member.

(3) If a member of the association ceases to be a member under clause (2), and in every other case where a member ceases to hold membership, the secretary must make an appropriate entry in the register of members recording the date on which the member ceased to be a member.

## ***8. Register of members***

(1) The public officer of the association must establish and maintain a register of members of the association specifying the name and address of each person who is a member of the association together with the date on which the person became a member.

(2) The register of members must be kept at the principal place of administration of the association and must be open for inspection, free of charge, by any member of the association at any reasonable hour.

(3) A member of the association may obtain a copy of any part of the register on payment of a fee of \$1 for each page copied or, if some other amount is determined by the board, that other amount.

## ***9. Fees and subscriptions***

(1) A member of the association must, on admission to membership, pay to the association a levy, the amount to be set annually at a general meeting.

## ***10. Members' liabilities***

(1) The liability of a member of the association to contribute towards the payment of the debts and liabilities of the association or the costs, charges and expenses of the winding up of the association is limited to the amount, if any, unpaid by the member in respect of membership of the association as required by rule 9.

## ***11. Resolution of internal disputes***

(1) Disputes between members (in their capacity as members) of the association, and disputes between members and the association, are to be referred to a community justice centre for mediation in accordance with the Community Justice Centres Act 1983.

(2) At least 7 days before a mediation session is to commence, the parties are to exchange statements of the issues that are in dispute between them and supply copies to the mediator.

## ***12. Disciplining of members***

(1) A complaint may be made to the Board by any person that a member of the association:

- (a) has persistently refused or neglected to comply with a provision or provisions of these rules, or
- (b) has persistently and wilfully acted in a manner prejudicial to the interests of the association.

(2) On receiving such a complaint, the board:

- (a) must cause notice of the complaint to be served on the member concerned; and
- (b) must give the member at least 14 days from the time the notice is served within which to make submissions to the Board in connection with the complaint, and
- (c) must take into consideration any submissions made by the member in connection with the complaint.

(3) The Board may, by resolution, expel the member from the association or suspend the member from membership of the association if, after considering the complaint and any submissions made in connection with the complaint, it is satisfied that the facts alleged in the complaint have been proved.

(4) If the Board expels or suspends a member, the secretary must, within 7 days after the action is taken, cause written notice to be given to the member of the action taken, of the reasons given by the board for having taken that action and of the member's right of appeal under rule 12.

(5) The expulsion or suspension does not take effect:

- (a) until the expiration of the period within which the member is entitled to appeal against the resolution concerned, or
- (b) if within that period the member exercises the right of appeal, unless and until the association confirms the resolution under rule 12(5), whichever is the later.

## ***13. Right of appeal of disciplined member***

(1) A member may appeal to the association in general meeting against a resolution of the board under rule 11, within 7 days after notice of the resolution is served on the member, by lodging with the secretary a notice to that effect.

(2) The notice may, but need not, be accompanied by a statement of the grounds on which the member intends to rely for the purposes of the appeal.

- (3) On receipt of a notice from a member under clause (1), the secretary must notify the board which is to convene a general meeting of the association to be held within 28 days after the date on which the secretary received the notice.
- (4) At a general meeting of the association convened under clause (3):
- (a) no business other than the question of the appeal is to be transacted, and
  - (b) the Board and the member must be given the opportunity to state their respective cases orally or in writing, or both, and
  - (c) the members present are to vote by secret ballot on the question of whether the resolution should be confirmed or revoked.
- (5) If at the general meeting the association passes a special resolution in favour of the confirmation of the resolution, the resolution is confirmed.

## **Part 4 - The Board**

### ***14. Powers of the Board***

(1) The board is to be called the executive Board of the association and, subject to the Act, the Regulation and these rules and to any resolution passed by the association in general meeting:

- (a) is to control and manage the affairs of the association, and
- (b) may exercise all such functions as may be exercised by the association, other than those functions that are required by these rules to be exercised by a general meeting of members of the association, and
- (c) has power to perform all such acts and do all such things as appear to the Board to be necessary or desirable for the proper management of the affairs of the association.
- (d) has the power to appoint or employ any paid officer or consultant other than auditors and fix their remuneration.
- (e) the Board has the power to recommend remunerations for board members and seek the members approval for such remunerations at the annual general meeting

### ***15. Constitution and membership***

(1) The Board of Namoi Water will comprise 2 board members from each water source sub committee to ensure equal representation. A sub committee may elect not to nominate a board member if they choose, with that vacancy being filled by nominations from the other sub committees.

Suggested board composition & election requirements are as follows:

- (a) The Board will consist of 8 board members with an option for up to 2 board appointments.
- (b) Each sub committee is entitled to 2 seats on the board.

In the event of a casual vacancy occurring in the membership of the board, the board may appoint a member of the association to fill the vacancy and the member so appointed is to hold office, subject to these rules, until the conclusion of the annual general meeting next following the date of the appointment.

## ***16. Election of the Board***

- (1). Each water source sub committee must have a meeting for licence holders of that water source at least 14 days prior to the Namoi Water AGM to elect their nominees to the Board. The meeting shall elect the sub committee nominees for the Board and rank the nominations in order of preference, with a maximum of 5 nominations (there is no minimum number of nominees).
- (2). At that meeting the Executive officer or his nominee shall be available to present the annual report of operations and any other matters considered appropriate.
- (3). The Association's scheduled AGM should have all sub committee executives present and is open to all members of the Association.
- (4). At the Annual General Meeting each sub committee's first and second preference nominees for the Board are duly elected.
- (5). Any vacant positions resulting from a lack of any sub-committee nomination are then declared open to the balance of the sub committee nominees
- (6). Each sub committee has 2 votes each to fill the vacant positions on the board from the remaining nominees. In the case of a tie, the meeting will resolve the vacancy by calling for votes from the floor of the AGM
- (7). The chairperson, deputy chairperson, public officer / secretary and treasurer will be nominated and elected by the Board immediately following the AGM.

## **Board Appointments**

The Board at its discretion from time to time may appoint a maximum of 2 additional Board members.

Appointments of additional Board Members must have a 75% majority of the existing Board members in favour of the appointment.

## **Term of Board Members**

- (a) Each Board member shall have a term of 2 years
- (b) At the inaugural annual general meeting only, the first preference nominee of each sub committee shall have a term of 3 years, the second preference nominee of each sub committee shall have a term of 2 years. This will facilitate a 2-year rotation of Board members & deliver continuity.
- (c) the term for any Board appointments will terminate at the subsequent annual general meeting.

## ***17. Secretary***

- (1) The Secretary of the association must, as soon as practicable after being appointed as secretary, lodge notice with the association of his or her address.
- (2) It is the duty of the secretary to keep minutes of:
  - (a) All appointments of office-bearers and members of the Board,
  - (b) The names of members of the Board present at a board meeting or a general meeting, and
  - (c) All proceedings at Board meetings and general meetings.
- (3) Minutes of proceedings at a meeting must be signed by the chairperson of the meeting or by the chairperson of the next succeeding meeting.

## ***18. Treasurer***

- (1) It is the duty of the treasurer of the association to ensure:
- (a) That all money due to the association is collected and received and that all payments authorised by the association are made, and
  - (b) That correct books and accounts are kept showing the financial affairs of the association, including full details of all receipts and expenditure connected with the activities of the association.

## ***19. Casual vacancies***

- (1) For the purposes of these rules, a casual vacancy in the office of a member of the Board occurs if the member:
- (a) dies, or
  - (b) ceases to be a member of the association, or
  - (c) becomes an insolvent under administration within the meaning of the Corporations Act 2001 of the Commonwealth, or
  - (d) resigns office by notice in writing given to the secretary, or
  - (e) is removed from office under rule 20, or
  - (f) becomes a mentally incapacitated person, or
  - (g) is absent without the consent of the board from all meetings of the board held during a period of 6 months.

## ***20. Removal of member***

- (1) The association in general meeting may by resolution remove any member of the Board from the office of member before the expiration of the member's term of office and may by resolution appoint another person to hold office until the expiration of the term of office of the member so removed.
- (2) If a member of the Board to whom a proposed resolution referred to in clause (1) relates makes representations in writing to the secretary or chairperson (not exceeding a reasonable length) and requests that the representation be notified to the members of the association, the secretary or the chairman may send a copy of the representations to each member of the association or, if the representations are not so sent, the member is entitled to require that the representations be read out at the meeting at which the resolution is considered.

## ***21. Meetings and quorum***

- (1) The Board must meet at least 3 times in each period of 12 months at such place and time as any two members of the Board determine.
- (2) Additional meetings of the Board may be convened by the chairman or by any member of the Board.
- (3) Written notice of a meeting of the Board must be given by the secretary to each member of the Board at least 48 hours (or such other period as may be unanimously agreed on by the members of the Board) before the time appointed for the holding of the meeting.
- (4) Notice of a meeting given under clause (3) must specify the general nature of the business to be transacted at the meeting and no business other than that business is to be transacted at the meeting, except business which the Board members present at the meeting unanimously agree to treat as urgent business.
- (5) One half plus one of the elected members of the Board constitute a quorum for the transaction of the business of a meeting of the Board.

(6) No business is to be transacted by the Board unless a quorum is present and if, within half an hour of the time appointed for the meeting, a quorum is not present, the meeting is to stand 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 of the time appointed for the meeting, the meeting is to be dissolved.

(8) At a meeting of the Board:

(a) the chairperson or, in the chairperson's absence, the deputy chairperson is to preside, or

(b) if the chairperson and the deputy chairperson are absent or unwilling to act, such one of the remaining members of the board as may be chosen by the members present at the meeting is to preside.

## ***22. Delegation by Board to sub-committee***

### **(1) Water Source Sub-Committee Structure**

(a) There will be a total of 4 sub-committees classified by their water sources as follows: Groundwater Upper, Groundwater Lower, Unregulated River and Regulated River.

(b) These sub-committees will essentially mirror the arrangements that are already in place within the various existing water user associations.

(c) Sub-committees will have an executive that is duly elected annually by the relevant licence holders.

(d) Each sub-committee is required to address the issues of that water source.

(e) Sub-committee meetings will be coordinated and recorded by the secretary of Namoi Water.

(f) The Executive Officer of the Namoi Water will be required to attend the sub-committee meetings and ensure that all issues are included in the Board papers for consideration.

### **(2) General Sub-Committees**

(1) The Board may, by instrument in writing, delegate to one or more sub-committees (consisting of such member or members of the association as the board thinks fit) the exercise of such of the functions of the Board as are specified in the instrument, other than:

(a) this power of delegation, and

(b) a function which is a duty imposed on the Board by the Act or by any other law.

(2) A function the exercise of which has been delegated to a sub-committee under this rule may, while the delegation remains unrevoked, be exercised from time to time by the sub-committee in accordance with the terms of the delegation.

(3) A delegation under this section may be made subject to such conditions or limitations as to the exercise of any function, or as to time or circumstances, as may be specified in the instrument of delegation.

(4) Despite any delegation under this rule, the Board may continue to exercise any function delegated.

(5) Any act or thing done or suffered by a sub-committee acting in the exercise of a delegation under this rule has the same force and effect as it would have if it had been done or suffered by the Board.

(6) The Board may, by instrument in writing, revoke wholly or in part any delegation under this rule.

(7) A sub-committee may meet and adjourn, as it thinks proper.

### ***23. Voting and decisions***

(1) Questions arising at a meeting of the Board or of any sub-committee appointed by the board are to be determined by a majority of the votes of members of the board or sub-committee present at the meeting.

(2) Each member present at a meeting of the Board or of any sub-committee appointed by the Board (including the person presiding at the meeting) is entitled to one vote but, in the event of an equality of votes on any question, the person presiding may exercise a second or casting vote.

(3) Subject to rule 21(5), the board may act despite any vacancy on the Board.

(4) Any act or thing done or suffered, or purporting to have been done or suffered, by the Board or by a subcommittee appointed by the board, is valid and effectual despite any defect that may afterwards be discovered in the appointment or qualification of any member of the board or sub-committee.

## **Part 5 - General meeting**

### ***24. Annual general meetings – holding of***

(1) With the exception of the first annual general meeting of the association, the association must, at least once in each calendar year and within the period of 6 months after the expiration of each financial year of the association, convene an annual general meeting of its members.

(2) The association must hold its first annual general meeting:

- (a) within the period of 18 months after its incorporation under the Act, and
- (b) within the period of 6 months after the expiration of the first financial year of the association.

(3) Clauses (1) and (2) have effect subject to any extension or permission granted by the Commissioner under section 26(3) of the Act.

### ***25. Annual general meetings – calling of and business at***

(1) The annual general meeting of the association is, subject to the Act and to rule 24, to be convened on such date and at such place and time as the board thinks fit.

(2) In addition to any other business which may be transacted at an annual general meeting, the business of an annual general meeting is to include the following:

- (a) to confirm the minutes of the last preceding annual general meeting and of any special general meeting held since that meeting,
- (b) to receive from the board reports on the activities of the association during the last preceding financial year,
- (c) to ratify ordinary members of the board with reference to Rule 16(1),
- (d) to receive and consider the statement which is required to be submitted to members under section 26(6) of the Act.

(3) An annual general meeting must be specified as such in the notice convening it.

### ***26. Special general meetings – calling of***

(1) The Board may, whenever it thinks fit, convene a special general meeting of the association.

- (2) The Board must, on the requisition in writing of at least 5 per cent of the total number of members, convene a special general meeting of the association.
- (3) A requisition of members for a special 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.
- (4) If the Board fails to convene a special general meeting to be held within 1 month after that date on which a requisition of members for the meeting is lodged with the secretary, any one or more of the members who made the requisition may convene a special general meeting to be held not later than 3 months after that date.
- (5) A special general meeting convened by a member or members as referred to in clause (4) must be convened as nearly as is practicable in the same manner as general meetings are convened by the Board and any member who consequently incurs expenses is entitled to be reimbursed by the association for any expense so incurred.

## ***27. 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, give a notice to each member 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, cause notice to be given to each member specifying, in addition to the matter required under clause (1), the intention to propose the resolution as a special resolution.
- (3) No business other than that specified in the notice convening a general meeting is to be transacted at the meeting except, in the case of an annual general meeting, business which may be transacted under rule 24(2).
- (4) A member desiring to bring any business before a general meeting may give notice in writing 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.

## ***28. Procedure***

- (1) No item of business is to 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 (being members 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 half an hour after the appointed time for the commencement of a general meeting a quorum is not present, the meeting:
- (a) if convened on the requisition of members, is to be dissolved, and
  - (b) in any other case, is to stand adjourned to the same day in the following week at the same time and (unless another place is specified at the time of the 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 half an hour after the time appointed for the commencement of the meeting, the members present (being at least 3) is to constitute a quorum.

### ***29. Presiding member***

(1) The chairperson or, in the chairperson's absence, the deputy chair, is to preside as chairperson at each general meeting of the association.

(2) If the chairperson and the deputy chairperson are absent or unwilling to act, the members present must elect one of their number to preside as chairperson at the meeting.

### ***30. Adjournment***

(1) The chairperson of 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 is to 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 clauses (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.

### ***31. Making of decisions***

(1) A question arising at a general meeting of the association is to be determined 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 chairperson 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 chairperson or by at least 3 members present in person.

(3) If a poll is demanded at a general meeting, the poll must be taken;

(a) immediately in the case of a poll which relates to the election of the chairperson of the meeting or to the question of an adjournment, or

(b) in any other case, in such manner and at such time before the close of the meeting as the chairperson directs, and the resolution of the poll on the matter is taken to be the resolution of the meeting on that matter.

### ***32. Special resolution***

A resolution of the association is a special resolution:

(a) if it is passed by a majority which comprises at least three-quarters of such members of the association as, being entitled under these rules so to do, vote

in person at a general meeting of which at least 21 days' written notice specifying the intention to propose the resolution as a special resolution was given in accordance with these rules, or  
(b) where it is made to appear to the Commissioner that it is not practicable for the resolution to be passed in the manner specified in paragraph (a), if the resolution is passed in a manner specified by the Commissioner.

### ***33. Voting***

- (1) On any question arising at a general meeting of the association a member has one vote only.
- (2) All votes must be given personally.
- (3) In the case of an equality of votes on a question at a general meeting, the chairperson of the meeting 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 in respect of the then current year.

### ***34. Appointment of proxies***

There will be no appointment of proxies.

## **Part 6 - Miscellaneous**

### ***35. Insurance***

- (1) The association may effect and maintain insurance.

### ***36. Funds – source***

- (1) The funds of the association are to be derived from entrance fees and annual subscriptions of members, donations and, subject to any resolution passed by the association in general meeting, such other sources as the Board determines.
- (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.

### ***37. Funds – management***

- (1) Subject to any resolution passed by the association in general meeting, the funds of the association are to be used in pursuance of the objects of the association in such manner as the Board determines.
- (2) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by any 2 members of the board or employees of the association, being members or employees authorised to do so by the Board.

### ***38. Alteration of objects and rules***

- (1) The statement of objects and these rules may be altered, rescinded or added to only by a special resolution of the association (refer Rule 32).

### ***39. Common seal***

(1) The common seal of the association must be kept in the custody of the public officer.

(2) The common seal must not be affixed to any instrument except by the authority of the Board and the affixing of the common seal must be attested by the signatures either of 2 members of the Board or of 1 member of the Board and of the public officer or secretary.

### ***40. Custody of books***

(1) Except as otherwise provided by these rules, the public officer must keep in his or her custody or under his or her control all records, books and other documents relating to the association.

### ***41. Inspection of books***

(1) The records, books and other documents of the association must be open to inspection, free of charge, by a member of the association at any reasonable hour.

### ***42. Service of notices***

(1) For the purpose of these rules, a notice may be served on or given to a person:

- (a) by delivering it to the person personally, or
- (b) by sending it by pre-paid post to the address of the person, or
- (c) by sending it by facsimile transmission or some other form of electronic transmission to an address specified by the person for giving or serving the notice.

(2) For the purpose of these rules, a notice is taken, unless the contrary is proved, to have been given or served:

- (a) in the case of a notice given or served personally, on the date on which it is received by the addressee, and
- (b) in the case of a notice sent by pre-paid post, on the date when it would have been delivered in the ordinary course of post, and
- (c) in the case of a notice sent by facsimile transmission or some other form of electronic transmission, on the date it was sent, or if the machine from which the transmission was sent produces a report indicating that the notice was sent on a later date, on that date.

### ***43. Non-Profit Clause***

(1) The assets and income of the association shall be applied exclusively to the promotion of its objects and no portion shall be paid or distributed directly or indirectly to the members of the organization except as bona fide remuneration for services rendered or expenses incurred on behalf of the association.

(2) 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 paid and applied by the association to any organization which has similar objects and which has rules prohibiting the distribution of its assets and income to its members.