

**RULES OF THE ENVIRONMENTAL DEFENDER'S OFFICE  
(ACT) INCORPORATED**

**TABLE OF PROVISIONS**

Clause

**PART I-PRELIMINARY**

- 1. Name
- 2. Objects
- 3. Powers
- 4. Interpretation

**PART II-MEMBERSHIP**

- 5. Membership qualifications
- 6. Application for membership
- 7. Membership entitlements not transferable
- 8. Cessation of membership
- 9. Resignation of membership
- 10. Fee, subscriptions etc.
- 11. Members' liabilities
- 12. Disciplining of members

**PART III-THE COMMITTEE**

- 13. Powers of the Committee
- 14. Constitution and membership
- 15. Election of Committee members
- 16. Secretary
- 17. Treasurer
- 18. Vacancies
- 19. Removal of Committee members
- 20. Committee meetings and quorum
- 21. Delegation by Committee to Sub-Committee
- 22. Voting and decisions

**PART IV-GENERAL MEETINGS**

- 23. Annual general meetings-holding of
- 24. Annual general meetings-calling of and business at
- 25. General meetings-calling of
- 26. Notice
- 27. General meetings-procedure and quorum
- 28. Presiding member
- 29. Adjournment
- 30. Making of decisions
- 31. Voting
- 32. Appointment of proxies

**PART V-MISCELLANEOUS**

- 33. Funds-source
- 34. Funds-management
- 35. Alteration of objects and rules
- 36. Common seal
- 37. Custody of books
- 38. Inspection of books
- 39. Service of notices
- 40. Surplus property
- 41. Amalgamation
- 42. Public Fund

**APPENDIX A  
FORM OF APPOINTMENT OF PROXY**

**APPENDIX B  
ENVIRONMENTAL DEFENDER'S OFFICE (ACT) PUBLIC FUND**

## PART I-PRELIMINARY

### 1. Name

The name of the association shall be the Environmental Defender's Office (ACT) Incorporated (in these rules called "the Association").

### 2. Objects and purposes of the Association

- 1) The Association's principal purposes are:
  - a) the protection and enhancement of the natural environment or of a significant aspect of the natural environment; and
  - b) the provision of information or education, or the carrying on of research, about the natural environment or a significant aspect of the natural environment.
- 2) The Association will achieve these objects by:
  - a) the provision of legal services in relation to the orderly and sustainable development of the ACT through its environmental laws including the planning and land system;
  - b) the provision of legal information and education, and conducting research, about the natural environment or a significant aspect of the natural environment as well as ACT environmental laws and policies including planning laws and policy;
  - c) operating a community legal aid service to provide legal services for the protection of the environment to persons who cannot otherwise afford or obtain such services;
  - d) ensuring existing and proposed legislation and policy documents which affect the environment are inter and intra-generationally equitable, and will result in ecologically sustainable outcomes;
  - e) helping others protect and enhance the natural environment through:
    - i) educating members of the community about the processes established by, and rights under, environmental laws;
    - ii) undertaking activities that will promote access to the legal system for persons seeking to protect the environment; and
  - f) establishing and maintaining a public fund to be called the Environmental Defender's Office (ACT) Public Fund for the specific purpose of supporting the environmental objects of the Association. The Public Fund is established to receive all gifts of money or property for this purpose and any money received because of such gifts must be credited to its bank account. The Public Fund must not receive any other money or property into its account and it must comply with subdivision 30-E of the *Income Tax Assessment Act 1997*.
- 3) Within this rule:
  - a) For the avoidance of doubt, the term 'natural environment' has the same meaning as in the *Income Tax Assessment Act 1997* (Cth).
  - b) The 'significant aspect' of the natural environment is the natural environment within the borders of the Australian Capital Territory, and the region surrounding the Australian Capital Territory which may impact on the natural environment of the Australian Capital Territory. This includes, but is not limited to: significant natural areas such as National Parks; wildlife

and their habitats; issues affecting the environment such as air and water quality, waste minimisation, soil conservation, and biodiversity; and promotion of ecologically sustainable development principles.

- c) In fulfilling the objects at 2, the Association may provide legal services for the natural environment and other types of environments, for example, built, cultural, and historic environments. However, the principal purpose and focus of the Association will be for the natural environment.

### **3. Powers**

The Association shall, subject to the provisions of the Act, have the power to do all such things as may seem to the Committee to be necessary or convenient to carry out the objects of the association.

### **4. Interpretation**

- (1) In these rules, unless a contrary intention appears-

"financial year" means the year ending on 30 June;

"member" means a member, however described, of the Association;

"ordinary Committee member" means a member of the Committee who is not an office-bearer of the Association as referred to in subrule 14 (1)(a);

"secretary" means the person holding office under these rules as secretary of the Association or, where no such person holds that office, the public officer of the Association;

"the Act" means the *Associations Incorporation Act 1991* (ACT);

"the Public Fund" means the Environmental Defender's Office (ACT) Public Fund;

"the Regulations" means the *Associations Incorporation Regulations*.

- (2) In these rules-

- (a) a reference to a function includes a reference to a power, authority or duty; and

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

- (3) The provisions of the *Legislation Act 2001* apply to these rules in the same way as it would if these rules were an instrument made under the Act.

## **PART II-MEMBERSHIP**

### **5. Membership qualifications**

A person is qualified to be a member if-

- (a) the person is a person referred to in subsection 21(2)(a) or (b) of the Act 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-

- (i) has been nominated for membership in accordance with subrule 6(1); and

- (ii) has been approved for membership of the Association by the Committee of the Association.

### **6. Application for membership**

(1) An application for membership of the Association-

(a) shall be made in writing in the form from time to time approved by the Committee for that purpose with the sum payable under these rules as the entrance fee and the first year's subscription; and

(b) shall be lodged with the secretary of the Association.

(2) As soon as is practicable after receiving an application for membership, the secretary shall refer the application to the Committee which shall determine in its complete discretion whether to approve or to reject the application.

(3) The secretary shall, upon approval of the application for membership by the Committee, enter the applicant's name in the register of members and, upon the name being so entered, the applicant shall become a member of the Association.

#### **7. Membership entitlements not transferable**

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 upon cessation of the person's membership.

#### **8. Cessation of membership**

A person ceases to be a member of the Association if the person-

(a) dies or, in the case of a body corporate, is wound up;

(b) resigns from membership of the Association;

(c) is expelled from the Association; or

(d) fails to renew membership of the Association after the expiration of a period of grace, if any, as determined by the Committee.

#### **9. Resignation of membership**

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

(2) A member who has paid all amounts payable by the member to the Association may resign from membership of the Association by giving notice in writing to the secretary.

(3) Where a person ceases to be a member, the secretary shall make an appropriate entry in the register of members recording the date on which the member ceased to be a member.

#### **10. Fee, subscriptions etc.**

(1) The annual membership fee of the Association for an individual is \$30, or such other amount as has been determined by resolution of the Committee.

(2) The Committee, by resolution, may determine other classes of membership and set the annual membership fee for those classes.

(3) The annual membership fee is payable-

(a) except as provided by paragraph (b), before 1 July in each financial year; or

(b) where a person becomes a member on or after 1 July, on the date upon which the person becomes a member, but if the person becomes a member after 1 May in any financial year, before 1 July in each succeeding financial year.

(4) If a person becomes a member after 1 January but before 1 May in a financial year the membership fee payable for that year is the proportion of the annual membership fee equivalent to the proportion of the financial year remaining (calculated by reference to the number of full months remaining).

### **11. Members' liabilities**

The liability of a member 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 6.

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

(1) If any member wilfully refuses or neglects to comply with the provisions of the rules of the Association or is guilty of conduct which in the opinion of the Committee is unbecoming of a member or prejudicial to the interests of the Association, the Committee, by resolution, may expel the member from the Association and remove the member's name from the register of members.

(2) At least 7 days before the meeting of the Committee at which a resolution for the member's expulsion is to be considered by the Committee, the member:

(a) must have been given notice of the meeting and of the allegations against the member and of the intended resolution for the member's expulsion; and

(b) at the meeting and before the passing of such resolution the member must have an opportunity of giving orally or in writing any explanation or defence the member may think fit.

(3) Any such member may elect to have the question of the member's expulsion dealt with by the Association in general meeting by lodging a notice in writing with the secretary at least 24 hours before the time for holding the meeting at which the resolution for the member's expulsion is to be considered by the Committee.

(4) If a general meeting of the Association is called for that purpose and if at that meeting a resolution for the expulsion of the member is passed by a majority of two thirds of those present and voting (such vote being taken by ballot), the member will be expelled and the member's name removed from the register of members.

## **PART III-THE COMMITTEE**

### **13. Powers of the Committee**

The Committee, subject to the Act, the Regulations, these rules, and to any resolution passed by the Association in general meeting-

(a) shall control and manage the affairs of the Association;

(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 the Association in general meeting; and

(c) has power to perform all such acts and do all such things as appear to the Committee to be necessary or desirable for the proper management of the affairs of the Association.

#### **14. Constitution and membership**

- (1) The Committee shall consist of-
  - (a) the office-bearers of the Association; and
  - (b) up to 5 ordinary Committee members each of whom shall be elected pursuant to rule 15 or appointed in accordance with subrule 14(4).
- (2) The office-bearers of the Association shall be-
  - (a) the chairperson ;
  - (b) the deputy chairperson;
  - (c) the treasurer;
  - (d) the secretary; and
  - (e) the public officer.
- (3) Each member of the Committee shall, subject to these rules, hold office until the conclusion of the annual general meeting following the date of the member's election, but is eligible for re-election.
- (4) In the event of a vacancy in the membership of the Committee, the Committee may appoint a member of the Association to fill the vacancy and the member so appointed shall hold office, subject to these rules, until the conclusion of the annual general meeting next following the date of the appointment.

#### **15. Election of Committee members**

- (1) Nominations of candidates for election as office-bearers of the Association or as ordinary Committee members-
  - (a) shall be made in writing, signed by 2 members of the Association and accompanied by the written consent of the candidate (which may be endorsed on the nomination form); and
  - (b) shall be delivered to the secretary of the Association on or by the date fixed for the annual general meeting at which the election is to take place.
- (2) If insufficient nominations are received to fill all vacancies on the Committee, the candidates nominated shall be deemed to be elected and further nominations shall be received at the annual general meeting. If a member believes there are reasons why a nominee is inappropriate, a vote should be held regardless of an absence of alternative nominees for that position.
- (3) If insufficient further nominations are received, any vacant positions remaining on the Committee shall be deemed to be vacancies.
- (4) If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated shall be taken to be elected.
- (5) If the number of nominations received exceeds the number of vacancies to be filled, a ballot shall be held.
- (6) The ballot for the election of office-bearers and ordinary Committee members shall be conducted at the annual general meeting in such manner as the Committee may direct.
- (7) A person is not eligible to simultaneously hold more than 1 position on the Committee, other than public officer and another position.

## **16. Secretary**

(1) The secretary of the Association shall, as soon as practicable after being appointed as secretary, notify the Association of his or her address.

(2) The secretary shall keep minutes of-

(a) all elections and appointments of office-bearers and ordinary Committee members;

(b) the names of members of the Committee present at a Committee meeting or a general meeting; and

(c) all proceedings at Committee meetings and general meetings.

(3) Minutes of proceedings at a meeting shall be placed before, and confirmed or amended at, the next succeeding meeting.

## **17. Treasurer**

(1) The treasurer of the Association shall-

(a) collect and receive all moneys due to the Association and make all payments authorised by the Association; and

(b) keep correct accounts and books showing the financial affairs of the Association with full details of all receipts and expenditure connected with the activities of the Association.

## **18. Vacancies**

(1) For the purposes of these rules, a vacancy in the office of a member of the Committee occurs if the member-

(a) dies;

(b) ceases to be a member of the Association;

(c) resigns the office;

(d) is removed from office pursuant to rule 19;

(e) becomes an insolvent under administration within the meaning of the *Corporations Act 2001* (Cth);

(f) suffers from mental or physical incapacity;

(g) is disqualified from office under subsection 63 (1) of the Act; or

(h) is absent without the consent of the Committee from all meetings of the Committee held during a period of 6 months.

## **19. Removal of Committee members**

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

## **20. Committee meetings and quorum**

(1) The Committee shall meet at least 3 times in each financial year at such place and time as the Committee may determine.

- (2) Additional meetings of the Committee may be convened by any member of the Committee.
- (3) Oral or written notice of a meeting of the Committee shall be given by the secretary to each member of the Committee at least 24 hours (or such other period as may be unanimously agreed upon by the members of the Committee) before the time appointed for the holding of the meeting.
- (4) Any 5 members of the Committee constitute a quorum for the transaction of the business of a meeting of the Committee.
- (5) If within half an hour after the appointed time for the commencement of a meeting of the Committee a quorum is not present, the meeting shall stand adjourned to the same day in the following week at the same time and place (unless another time or place is specified at the time of adjournment by the person presiding at the meeting and notice given in accordance with subrule 20(3)).
- (6) If at the adjourned meeting a quorum is not present within half an hour after the time appointed for the meeting, the meeting shall be dissolved.
- (8) At meetings of the Committee-
  - (a) the chairperson or in the absence of the chairperson, the deputy chairperson shall preside; or
  - (b) if the chairperson and the deputy chairperson are absent, 1 of the remaining members of the Committee may be chosen by the members present to preside.

## **21. Delegation by Committee to Sub-Committee**

(1) The Committee may, by instrument in writing, delegate to 1 or more Sub-Committees (consisting of such member or members of the Association as the Committee thinks fit) the exercise of such of the functions of the Committee as are specified in the instrument, other than-

- (a) this power of delegation; and
- (b) a function which is a function imposed on the Committee by the Act, by any other law of the Territory, or by resolution of the Association in general meeting.

(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 rule 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) Notwithstanding any delegation under this rule, the Committee 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 Committee.

(6) The Committee 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 or as directed by the Committee.

## **22. Voting and decisions**

(1) Questions arising at a meeting of the Committee or of any Sub-Committee appointed by the Committee shall be determined by a majority of the votes of members of the Committee or sub-Committee present at the meeting.

(2) Each Committee member present at a meeting of the Committee or of any Sub-Committee appointed by the Committee (including the person presiding at the meeting) is entitled to 1 vote and, in the event of an equality of votes on any question, the question shall be resolved in the negative.

(3) Subject to subrule 20(4), the Committee may act notwithstanding any vacancy on the Committee.

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

#### **PART IV-GENERAL MEETINGS**

##### **23. Annual general meetings - holding of**

(1) With the exception of the first annual general meeting of the Association, the Association shall, at least once in each financial year and within the period of 5 months after the expiration of each financial year of the Association, convene an annual general meeting of its members.

(2) The Association shall 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 5 months after the expiration of the first financial year of the Association.

(3) Subrules 23(1) and 23(2) have effect subject to the powers of the Registrar-General under section 120 of the Act in relation to extensions of time.

##### **24. Annual general meetings - calling of and business at**

(1) The annual general meeting of the Association shall, subject to the Act, be convened on such date and at such place and time as the Committee 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 shall be-

(a) to confirm the minutes of the last preceding annual general meeting and of any general meeting held since that meeting;

(b) to receive from the Committee reports on the activities of the Association during the last preceding financial year;

(c) to elect members of the Committee, including office-bearers; and

(d) to receive and consider the statement of accounts and the reports that are required to be submitted to members pursuant to subsection 73(1) of the Act.

(3) An annual general meeting shall be specified as such in the notice convening it in accordance with rule 25.

(4) An annual general meeting shall be conducted in accordance with the provisions of this Part.

##### **25. General meetings - calling of**

(1) The Committee may, whenever it thinks fit, convene a general meeting of the Association.

(2) The Committee shall, on the requisition in writing of not less than 5 members or 5 per cent of the total number of members whichever is the greater, convene a general meeting of the Association.

(3) A requisition of members for a general meeting-

(a) shall state the purpose or purposes of the meeting;

(b) shall be signed by the members making the requisition;

(c) shall be lodged with the secretary; and

(d) may consist of several documents in a similar form, each signed by 1 or more of the members making the requisition.

(4) If the Committee fails to convene a general meeting within 1 month after the date on which a requisition of members for the meeting is lodged with the secretary, any 1 or more of the members who made the requisition may convene a general meeting to be held not later than 3 months after that date.

(5) A general meeting convened by a member or members referred to in subrule 25(4) shall be convened as nearly as is practicable in the same manner as general meetings are convened by the Committee and any member who thereby incurs expense is entitled to be reimbursed by the Association for any reasonable expense so incurred.

## **26. Notice**

(1) Except where the nature of the business proposed to be dealt with at a general meeting requires a special resolution of the Association, the secretary shall, at least 14 days before the date fixed for the holding of the general meeting give notice to each member whose name appears in the register of members, a notice specifying the place, date and time of the meeting and the nature of the business proposed to be transacted at the meeting.

(2) Where the nature of the business proposed to be dealt with at a general meeting requires a special resolution of the Association, the secretary shall, at least 21 days before the date fixed for the holding of the general meeting, cause notice to be sent to each member in the manner provided in subrule 26(1) specifying, in addition to the matter required under that subrule, the intention to propose the resolution as a special resolution.

(3) No business other than that specified in the notice convening a general meeting shall be transacted at the meeting except, in the case of an annual general meeting, business which may be transacted pursuant to subrule 24(2) or in the case of any other meeting such business as is unanimously agreed by those present to be dealt with.

(4) A member desiring to bring any business before a general meeting may give notice in writing of that business to the secretary who shall include that business in the next notice calling a general meeting given after receipt of the notice from the member.

## **27. General meetings - procedure and quorum**

(1) No item of business shall 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) 6 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 if convened upon the requisition of members shall be dissolved and in any other case shall stand adjourned to the same day in the following week at the same time and place (unless another time or place is specified at the time of adjournment by the person presiding at the meeting or communicated by written notice to members given before the day to which the meeting is adjourned).

(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 not less than 5) shall constitute a quorum.

### **28. Presiding member**

(1) The chairperson, or in the absence of the president, the deputy-chairperson, shall preside at each general meeting of the Association.

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

### **29. Adjournment**

(1) The person presiding at a general meeting at which a quorum is present may, with the consent of the majority of members present at the meeting, adjourn the meeting from time to time and place to place, but no business shall be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.

(2) Where a general meeting is adjourned for 14 days or more, the secretary shall 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 subrules 29(1) and 29(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.

### **30. Making of decisions**

(1) A question arising at a general meeting of the Association shall be determined on a show of hands and, unless before or on the declaration of the show of hands a poll is demanded in accordance with subrule 30(2), a declaration by the person presiding that a resolution has, on a show of hands, been carried or carried unanimously or carried by a particular majority or lost (or an entry to that effect in the minute book of the Association) is evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against that resolution.

(2) At a general meeting of the Association, a poll may be demanded by the person presiding or by not less than 3 members present in person or by proxy at the meeting.

(3) Where the poll is demanded at a general meeting, the poll shall be taken-

(a) immediately in the case of a poll which relates to the election of the person to preside at the meeting or to the question of an adjournment; or

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

### **31. Voting**

(1) Subject to subrule 31(2), upon any question arising at a general meeting of the Association a member has 1 vote only.

(2) All votes shall be given personally or by proxy but no member may hold more than 5 proxies.

(3) In the case of an equality of votes on a question at a general meeting, the question is to be answered in the negative.

(4) A member or proxy is not entitled to vote at any general meeting of the Association unless all money due and payable by the member or proxy to the Association has been paid, other than the amount of the annual subscription payable in respect of the then current year.

### **32. Appointment of proxies**

(1) Each member shall be entitled to appoint another member as proxy by notice given to the secretary at the meeting in respect of which the proxy is appointed.

(2) The notice appointing the proxy shall be in the form set out in Appendix A to these rules.

## **PART V-MISCELLANEOUS**

### **33. Funds-source**

(1) The funds of the Association shall be derived from entrance fees and annual fees of members, donations, grants and, subject to any resolution passed by the Association in general meeting and subject to section 114 of the Act, such other sources as the Committee determines.

(2) All donations received by the Association shall be deposited into the Public Fund bank account.

(3) All other money received by the Association (except for donations referred to in subrule 33(2)) shall be deposited as soon as practicable and without deduction to the credit of the Association's bank account.

(4) The Association shall, as soon as practicable after receiving any money, issue an appropriate receipt.

### **34. Funds-management**

(1) The assets and income of the Association shall be applied solely in furtherance of its objects and no portion of shall be distributed directly or indirectly to the members of the organisation except as bona fide compensation for services rendered or expenses incurred on behalf of the organisation.

(2) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments shall be signed by any 2 members of the Committee or employees of the Association, being members of the Committee or employees authorised to do so by the Committee.

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

Neither the objects of the Association referred to in section 29 of the Act nor these rules shall be altered except in accordance with the Act.

### **36. Common seal**

(1) The common seal of the Association shall be kept in the custody of a person designated by the Committee.

(2) The common seal shall not be affixed to any instrument except by the authority of the Committee and the affixing of the common seal shall be attested by the signatures of 2 office-bearers of the Association.

### **37. Custody of books**

Subject to the Act, the Regulations and these rules, the Committee shall designate a person who shall keep in his or her custody or under his or her control all records, books, and other documents relating to the Association.

### **38. Inspection of books**

The records, books and other documents of the Association shall be open to inspection at a place in the Territory, free of charge, by a member of the Association at any reasonable hour.

### **39. Service of notice**

(1) For the purpose of these rules, a notice may be served by or on behalf of the Association upon any member either personally, by sending it by post to the member at the member's address shown in the register of members, or by sending it by facsimile to the attention of that person to the number shown on the register of members or such other number as has been notified by the member to the Association.

(2) Where a document is sent to a person by properly addressing, prepaying and posting to the person a letter containing the document, the document shall, unless the contrary is proved, be deemed for the purposes of these rules to have been served on the person at the time at which the letter would have been delivered in the ordinary course of post.

(3) Where a document is sent by facsimile it shall be deemed for the purposes of these rules to have been served on the person one hour after the time that it was sent.

### **40. Surplus property**

In the event of the Association being dissolved or wound up, the amount which remains after such dissolution and the satisfaction of all debts and liabilities, is to be transferred to the public fund of an organisation with similar objectives that is on the Register of Environmental Organisations.

### **41. Amalgamation**

Where it furthers the objects of the Association to amalgamate with any one or more other organisations having similar objects, the other organisation must have rules prohibiting the distribution of its assets and income to members; and must be approved by the Commissioner of Taxation as a public benevolent institution for the purposes of any Commonwealth Taxation Act.

### **42. Public Fund**

(1) The Association will inform the Commonwealth Department responsible for the environment as soon as possible if:

- (a) it changes its name or the name of its Public Fund; or
- (b) there is any change to the membership of the management committee of the Public Fund; or
- (c) there has been any departure from the model rules for public funds located in the Guidelines to the Register of Environmental Organisations.

(2) The Association agrees to comply with any rules that the Commonwealth Treasurer and the Commonwealth Minister with responsibility for the environment may make to ensure that gifts made to the fund are only used for its principal purpose.

(3) The income and property of the Association shall be used and applied solely in promotion of its objects and no portion shall be distributed, paid or transferred directly or indirectly by way of dividend, bonus or by way of profit to members, directors, or trustees of the Association.

(4) Any allocation of funds or property to other persons or organisations will be made in accordance with the established purposes of the Association and not be influenced by the preference of the donor.

(5) Statistical information requested by the Commonwealth Department responsible for the Register of Environmental Organisations on donations to the Public Fund will be provided within four months of the end of the financial year.

(6) An audited financial statement for the Association and its Public Fund will be supplied with the annual statistical return. The statement will provide information on the expenditure of Public Fund monies and the management of Public Fund assets.

(7) The Public Fund has to be managed in accordance with the Rules of the Public Fund set out in Appendix B.

**APPENDIX A**  
**FORM OF APPOINTMENT OF PROXY**

I,.....(full name)  
of.....(address)  
being a member of .....  
(name of incorporated Association) hereby appoint  
.....(full name of proxy)  
of .....(address)  
being a member of that incorporated Association, as my proxy to vote for me on my behalf at the  
general meeting of the Association (annual general meeting or other general meeting, as the case may  
be) to be held on the .....  
day of ..... 20 ..... and at any adjournment of that meeting.

\*My proxy is authorised to vote in favour of/against (delete as appropriate) the resolution (insert details).

.....  
(Signature of member appointing proxy)

Date .....

(\*To be inserted if desired.)

NOTE: A proxy vote may not be given to a person who is not a member of the Association.

**APPENDIX B**  
**RULES FOR THE ENVIRONMENTAL DEFENDER'S OFFICE (ACT) PUBLIC FUND**

1. The objective of the Public Fund is to support the Association's environmental purposes.
2. Members of the public are to be invited to make gifts of money or property to the Public Fund for the environmental purposes of the Association.
3. Money from interest on donations, income derived from donated property, and money from the realisation of such property is to be deposited into the Public Fund.
4. A separate bank account is to be opened to deposit money donated to the Public Fund, including interest accruing thereon, and gifts to it are to be kept separate from other funds of the Association.
5. Receipts are to be issued in the name of the Public Fund and proper accounting records and procedures are to be kept and used for the fund.
6. The Public Fund will be operated on a not-for-profit basis.
7. A committee of management of no fewer than three persons will administer the Public Fund. The committee will be appointed by the Association. A majority of the members of the committee are required to be 'responsible persons' as defined by the Guidelines to the Register of Environmental Organisations.