



HERBERT
SMITH
FREEHILLS

History Council of Victoria Inc Rules

Adopted on **17 November 2016**



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Rules

**History Council of Victoria
ABN 29 687 468 421
An incorporated association**

1 Association's name

The name of the Association is History Council of Victoria (**Association**).

2 Purposes

The Association is established for public charitable purposes of promoting the understanding, appreciation and enjoyment of written literature, Aboriginal and Torres Strait Islander arts, oral history, film and other art forms that have historical content or significance by, without limitation:

- (a) promoting the writing and protection of historical literature;
- (b) raising the profile of literature and media with historical content at all levels of government and throughout the community to strengthen recognition of history in policy and practice;
- (c) facilitating communication and cooperation between the History Council's constituent organisations in the interests of promoting public awareness of historical culture;
- (d) undertaking lectures, seminars and other activities that encourage access to historical literature, artefacts, film and other art forms;
- (e) facilitating co-ordination between the various organisations involved in writing historical literature and the teaching of history in schools;
- (f) advising on appropriate information, communication and referral procedures for individuals and organisations in the history community;
- (g) promoting art forms based on, or inspired by, Victoria's history;
- (h) promoting awareness of and encouraging research into the historical culture of Victoria's Indigenous and multicultural populations;
- (i) increasing support to history teachers and students, particularly in rural areas;
- (j) increasing support and resources for history from a wide range of government, community and business sources through direct representation, cultural activities, awards, promotions and exhibitions;
- (k) exploring and advising on ways of improving the knowledge base of teachers of history through use of historical literature and other media; and
- (l) promoting the study and display of moveable cultural heritage.



3 Powers

Solely for carrying out the Association's purposes, the Association may:

- (a) raise funds or encourage contributions by way of gifts (by will or otherwise), grants, sponsorships or otherwise, by personal or public appeals or by any other manner;
- (b) accept and undertake trusteeship, administration and management of trusts and funds, whether as trustee or as agent for the trustee or otherwise, and charge and accept fees, commission or other remuneration for doing so;
- (c) purchase, take on lease or in exchange, hire or otherwise acquire real or personal property, and any rights or privileges;
- (d) control, manage, lease, exchange, mortgage, charge, sell, transfer, surrender, dispose of, develop, carry on business or otherwise deal with any real or personal property of any kind or any estate or interest in that property;
- (e) invest, deal with and lend money and otherwise provide financial accommodation to, and guarantee or otherwise secure loans;
- (f) construct, improve, maintain, develop, work, manage and control real or personal property;
- (g) enter into contracts and deeds;
- (h) borrow, raise or secure the payment of money and secure the repayment or performance of any debt, liability, contract, guarantee or other engagement in any way and, in particular, by mortgage, charge or overdraft or by the issue of debentures or debenture stock (perpetual or otherwise) charged on all or any of the Association's property (both present and future) and purchase, redeem or pay off those securities;
- (i) print and publish information in hard copy or by electronic means;
- (j) appoint patrons of the Association;
- (k) co-ordinate and arrange conferences, meetings, standing committees and commissions and other forums; and
- (l) do all other things for carrying out the purposes and that are incidental or conducive to the purposes.

4 Not for profit status

4.1 Application of the Association's income and property

- (a) The Association's income and property must be applied solely towards promoting the Association's purposes.
- (b) No part of the income or property may be paid, transferred or distributed, directly or indirectly, by way of dividend, bonus, or other profit distribution, to any of the members.
- (c) This rule 4 does not prohibit indemnification of, or payment of premiums on contracts of insurance for, any Board member to the extent permitted by law and these Rules.



4.2 Payments to Board members

All payments to Board members must be approved by the Board including, but not limited to:

- (a) out-of-pocket expenses incurred by a Board member in performing a duty as a Board member of the Association; or
- (b) a service rendered to the Association by a Board member in a professional or technical capacity or as an employee, other than in the capacity as a Board member of the Association, where:
 - (1) the provision of the service has the prior approval of the Board; and
 - (2) the amount payable is not more than an amount which commercially would be reasonable payment for the service.

5 Membership

5.1 Members

- (a) The members are:
 - (1) the members under the existing Rules at the date of the adoption of these Rules until transitional arrangements are completed; and
 - (2) the members who are admitted to membership in accordance with this rule 5.
- (b) The Board may decide to create categories of membership with the same or differing rights or privileges and may invite organisations and individuals to join the Association in a specific category.
- (c) Each organisational member may appoint one representative, by notice in the form determined by or accepted by the Board.

5.2 Application

- (a) Applications from individuals or organisations wishing to join the Association will be considered by the Board.
- (b) Every applicant for membership of the Association (except the members under Rule 5.1(a)(1)) must apply in the form and manner decided by the Board.

5.3 Subscription fee

- (a) An annual subscription fee may be decided by the Board, and notified to the members. There are no entrance fees or other membership fees payable by members.
- (b) The Board must notify all persons entered on the register of members of the amount and time for payment of any annual subscription fee and of any alteration to the annual subscription fee. Varying amounts may be applied as decided by the Board and made available to the members in a notice or a membership policy.
- (c) Where the annual subscription fee is not received:



- (1) after one month of the due date, the Board may issue a written reminder notice to the member; and
 - (2) after one month of the written reminder notice, the member's rights and privileges associated with that membership will be suspended, including the right to receive notices of general meetings and the right to attend and vote at general meetings.
- (d) If a member who was suspended pursuant to rule 5.3(c) has not paid an annual subscription fee for more than 2 months after the written reminder notice, the person ceases to be a member, unless the person is also a Board member, in which case the suspension under rule 5.3(c) will continue.

5.4 Register of members

- (a) The Board must keep a register of members. The full name, address, category of membership (if applicable) and the date the membership commenced, of each member must be entered.
- (b) A member may request in writing to the Secretary to restrict access to the member's personal information on the register.
- (c) The date on which a person ceases to be a member of the Association must be entered in the register of members, within 14 days of the cessation of membership.

5.5 Grievance procedure

- (a) Any dispute under these Rules between a member and another member or between a member and the Association must, unless the parties otherwise agree, be dealt with by the procedure in this rule 5.5(a).
- (b) Any party to a dispute between members, may refer the dispute to the Board for determination or mediation.
- (c) The Board may, subject to rule 5.5(e) below, act as a mediator or decision maker (provided they are unbiased) or may appoint a third party as a mediator or decision maker.
- (d) If there is a dispute between the Association and a member, either party may require the dispute be referred to mediation.
- (e) The mediator must be an unbiased and:
 - (1) a person chosen by agreement between the parties to the dispute; or
 - (2) in the absence of agreement within 14 days of a party requiring mediation:
 - A. in the case of a dispute between a member and another member, a person appointed by the Board;
 - B. in the case of a dispute between a member and the Association, a person who is a mediator appointed or employed by the Dispute Settlement Centre of Victoria (Department of Justice) or its successor in law.
- (f) A member can be a mediator, provided they are unbiased.
- (g) Any party to a dispute may appoint any person to act on behalf of that party.
- (h) In each dispute:



- (1) the parties to the dispute must have a reasonable opportunity to be heard;
 - (2) due consideration must be given to any written statement submitted by a party; and
 - (3) natural justice must be accorded to the parties to the dispute throughout the process.
- (i) If the mediation process does not result in the dispute being resolved, within a reasonable time as decided by the mediator, or failing this decision, within one month of the party requiring mediation, any party to the dispute may refer the matter to an unbiased decision maker.
 - (j) A determination made under this rule is final and binding on all parties to the dispute.

5.6 Rights, obligations and liabilities of members

- (a) The members have the rights set out in the Act and at law, as modified, deleted, varied or added to by these Rules.
- (b) The members are required to comply with these Rules and any by-rules, regulations, codes of conduct, policies or guidelines applicable to members adopted by the Board from time to time and made available to the members.
- (c) The liabilities of a member, as a member, are limited to the amount, if any, unpaid by the member in respect of any subscription or other membership fee.

6 When membership ceases

6.1 Death, resignation and other events

A person immediately ceases to be a member if the person:

- (a) dies;
- (b) resigns as a member by giving written notice to the Association;
- (c) is expelled under rule 6.2;
- (d) ceases to be a member under rule 5.3(d);
- (e) has not replied within 3 months of a written notice sent to the member by the Secretary asking the member to confirm in writing that the member wishes to remain a member.
- (f) completes their term of office and is not reappointed

6.2 Disciplinary action

- (a) The Board members may decide there are grounds to investigate if:
 - (1) a member has failed to comply with the Rules or any procedures or policies of the Association; or
 - (2) it is in the interests of the Association for a member to no longer remain a member; or



- (3) the member is not supporting the purposes of the Association or by act or omission may cause detriment to the Association or its reputation.
- (b) The Board may establish a committee or consider the matter itself or refer the matter to a third party, provided the decision maker is unbiased.
- (c) At least two weeks before a meeting to consider the issues, the decision maker, must give the member written notice:
 - (1) stating the date, place and time of the meeting;
 - (2) setting out the grounds on which the investigation is based; and
 - (3) informing the member that he or she may attend the meeting and may give an oral or written explanation or submission.
- (d) The decision maker has 4 weeks to consider the issues and may call for further information and hearings. The decision maker may decide on the appropriate disciplinary action, if any, including a decision to expel the member. Any decision must be notified to the member within 6 weeks from the meeting referred to in rule 6.2(c).
- (e) A member who has received notice under rule 6.2(c) must not initiate a grievance procedure under rule 1.1(a) until the determination under rule 6.2(d).
- (f) A determination by the decision maker is final and binding on all parties.

7 Winding up

- (a) If, on the winding up or dissolution of the Association, any property remains after satisfaction of all its debts and liabilities, this property must only be given or transferred to an organisation:
 - (1) that is charitable at law;
 - (2) whose constitution prohibits distributions or payments to its members to an extent at least as great as is outlined in rule 4; and
 - (3) gifts to which can be deducted under Division 30 of the ITAA 97 due to it being characterised as a cultural organisation with a public fund that is on the ROCO under item 12.1.1 of the table in section 30-100.
- (b) The identity of the institution referred to in rule 7(a) must be decided by the Board, or if the Board does not wish to decide or does not decide, it must be decided by the members by ordinary resolution at or before the time of winding up or dissolution of the Association and, if the members cannot decide, by the Supreme Court of the state or territory in which the Association is registered.

8 Inclusion on the Register of Cultural Organisations

8.1 Introduction

If the Association is on the ROCO it must comply with this rule 8.



8.2 Ministerial Rules

The Association must comply with any rules that the Treasurer of the Commonwealth of Australia, the Commissioner or the Minister responsible for the ROCO make to ensure that gifts made to the Public Fund (established under rule 8.5) will only be used for the Association's principal purposes and principal activity set out in rule 2 of the Association's statement of purposes.

8.3 Statistical information

The Association must provide to the Department statistical information on the gifts and donations made to the Public Fund every 6 months.

8.4 Notifying the Department

The Association must notify the Department, as soon as practicable, of:

- (a) any changes to its principal purposes and principal activity;
- (b) any change to the name of the Association or its Public Fund;
- (c) any change to the membership of the committee administering the Public Fund under rule 8.5(g);
- (d) any departure from this rule 8;
- (e) if the Association becomes insolvent, or commences any process for the winding up of the Association or experiences other financial difficulties; or
- (f) any other issues reasonably required by the Department.

8.5 Establishment and operation of Public Fund

- (a) The Association must establish and maintain for its principal purposes and principal activity in Australia a fund to be called the History Council of Victoria Public Fund (or such other name as decided by the directors and notified to the Department) (**Public Fund**):
 - (1) to which Gifts and Deductible Contributions of money or property for those purposes and activity are to be made;
 - (2) to which any money received by the Association because of those Gifts and Deductible Contributions is to be credited; and
 - (3) that does not receive any other money or property.
- (b) The purposes of the Public Fund are the same as the principal purposes and principal activity of the Association.
- (c) The Association must maintain for the Public Fund:
 - (1) a separate bank account; and
 - (2) proper accounting records.
- (d) The bank account signatories must be Australian resident members of the committee in charge of the Public Fund.
- (e) The Association must seek donations from the public to the Public Fund.
- (f) The Association must use the following only for its principal purposes and principal activity and the provisions of rule 4 apply to:



- (1) Gifts and Deductible Contributions made to the Public Fund; and
 - (2) any money received because of those Gifts and Deductible Contributions.
- (g) At a particular time, the Board may administer the Public Fund if the majority of the Board members are then Responsible Persons. If at that time the majority of Board members are not Responsible Persons, the Board members must delegate the power to administer the Public Fund to a committee of at least 3 persons, a majority of whom are Responsible Persons.
- (h) At the first occurrence of:
- (1) the winding up of the Public Fund;
 - (2) the Association ceasing to be endorsed as a deductible gift recipient under Subdivision 30-BA of ITAA 97; or
 - (3) the Association and the Public Fund ceasing to be on the ROCO,
- any surplus assets of the Public Fund must be transferred to a fund on the ROCO, the identity of which must be decided by the Board.

8.6 Receipts

- (a) Receipts for Gifts to the Public Fund must be made in the name of the Public Fund and state:
- (1) the number of the receipt;
 - (2) the name of the Association;
 - (3) the Australian Business Number of the Association;
 - (4) the date the donation was received;
 - (5) signature of a person authorised to act on behalf of the Public Fund;
 - (6) name of the donor;
 - (7) type of donation (money or property) and value;
 - (8) a reference to the Public Fund being on the ROCO; and
 - (9) if the receipt is for a Gift, the fact that the receipt is for a Gift.
- (b) Receipts for Deductible Contributions to the Public Fund must be made in the name of the Public Fund and state:
- (1) the number of the receipt;
 - (2) the name of the Association;
 - (3) the Australian Business Number of the Association;
 - (4) the date the donation was received;
 - (5) signature of a person authorised to act on behalf of the Public Fund;
 - (6) name of the person who made the Deductible Contribution;
 - (7) a reference to the Public Fund being on the ROCO;
 - (8) that the receipt is for a contribution made in return for a right to attend, or participate in, a specified fundraising event;
 - (9) if the amount is money, the amount of the contribution; and



- (10) the amount of the GST inclusive market value, on the day the contribution was made, of the right to attend or participate in the fundraising event.

9 Altering this Statement of Purposes and Rules

- (a) The Association must not pass a special resolution altering these Rules, if, as a result, the Association will cease to be a charity.
- (b) These Rules may only be altered, deleted or added to, in accordance with the Act.

10 General meetings

10.1 Holding and calling general meetings

- (a) The Association must in each calendar year convene an annual general meeting of the members within 5 months of the end of the financial year.
- (b) A general meeting (including an annual general meeting or a special general meeting) may only be called:
- (1) by a resolution of the Board; or
 - (2) as otherwise provided in the Act.

10.2 Notice of general meetings

- (a) At least 21 days' notice of every general meeting must be given in any manner authorised by rule 15:
- (1) to each person who is at the date of the notice a member; and
 - (2) to the Auditor, if any.
- (b) A notice of a general meeting must:
- (1) specify the date, time and place of the meeting;
 - (2) state the general nature of the business to be transacted at the meeting;
 - (3) state in full any proposed special resolution and state that the resolution is being proposed as a special resolution; and
 - (4) specify the manner and time for the receipt of proxies.
- (c) The non-receipt of notice of a general meeting or proxy form by any person entitled to receive notice of a general meeting does not invalidate anything done or any resolution passed at the general meeting if the non-receipt or failure occurred by accident or error.
- (d) A person's attendance at a general meeting waives any objection to a failure to give notice, or the giving of a defective notice, of the meeting.



10.3 Quorum at general meetings

- (a) No business may be transacted at a general meeting, except the election of a chairperson and the adjournment of the meeting, unless a quorum of members is present when the meeting proceeds to business.
- (b) A quorum consists of 7 members entitled to vote and present at the meeting.
- (c) If a quorum is not present within 30 minutes of the time appointed for a general meeting the meeting stands adjourned to the day, and at the time and place, that the Board decides or, if the Board does not make a decision, to the same day in the next week at the same time and place.
- (d) If at the adjourned meeting under rule 10.3(c), a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting must be dissolved.

10.4 General meetings by technology

- (a) The contemporaneous linking together by telephone or other electronic means of a sufficient number of the members in person, to constitute a quorum constitutes a meeting of the members, provided each member can clearly and simultaneously communicate with each other.
- (b) All the provisions in these Rules relating to meetings of the members apply, so far as they can and with any necessary changes, to meetings of the members by telephone or other electronic means.
- (c) A member who takes part in a meeting by telephone or other electronic means is taken to be present in person at the meeting.
- (d) A meeting by telephone or other electronic means is taken as held at the place decided by the chairperson of the meeting, as long as at least one of the members involved was at that place for the duration of the meeting.

10.5 Chairperson of general meetings

- (a) The chairperson of the Board must preside as chairperson at a general meeting if he or she is:
 - (1) present within 15 minutes of the time appointed for the meeting; and
 - (2) willing to act.
- (b) If there is no chairperson of the Board or both the conditions in rule 10.5(a) have not been met, the members present must elect another chairperson of the meeting.
- (c) A chairperson elected under rule 10.5(b) must be:
 - (1) another Board member who is present and willing to act; or
 - (2) if no other Board member present at the meeting is willing to act, a member who is present and willing to act.

10.6 Conducting and adjourning general meetings

- (a) A question arising at a general meeting relating to the order of business, procedure or conduct of the meeting must be referred to the chairperson of the meeting, whose decision is final.



- (b) The chairperson of a general meeting may, and must if so directed by the meeting, adjourn the meeting from time to time and from place to place, but no business may be transacted at any adjourned meeting except the business left unfinished at the meeting from which the adjournment took place.
- (c) Where a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as for an original meeting.
- (d) Except as provided by rule 10.6(c), it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.
- (e) Where a meeting is adjourned, the Board may change the venue of, or postpone or cancel, the adjourned meeting.

10.7 Decisions at general meetings

- (a) Except where by law a resolution requires a special majority, questions arising at a general meeting must be decided by a majority of votes cast by the members by written votes (if permitted) or by those present (including by proxy, if permitted) at the meeting. Such a decision is for all purposes a decision of the members.
- (b) Where the votes on a proposed resolution are equal:
 - (1) the chairperson of the meeting does not have a second or casting vote; and
 - (2) the proposed resolution is taken as lost.
- (c) A resolution put to the vote of a general meeting must be decided as the chairperson determines unless, before the vote is taken or before or immediately after the declaration of the result of the vote, a poll is demanded by:
 - (1) the chairperson of the meeting; or
 - (2) any member present.
- (d) A demand for a poll does not prevent a general meeting continuing for the transaction of any business except the question on which the poll has been demanded.
- (e) Unless a poll is duly demanded, a declaration by the chairperson of a general meeting that a resolution has been carried or carried unanimously, or carried by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Association, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- (f) If a poll is duly demanded at a general meeting, it must be taken in such manner, and either at once or after an interval or adjournment or otherwise, as the chairperson of the meeting directs. The result of the poll is the resolution of the meeting at which the poll was demanded.
- (g) A poll demanded at a general meeting on the election of a chairperson of the meeting or on a question of adjournment must be taken immediately.
- (h) The demand for a poll may be withdrawn.

10.8 Voting rights

- (a) Subject to these Rules, and to any rights or restrictions attached to any category of membership, every member entitled to vote has one vote.



- (b) Unless otherwise decided by the Board, each member entitled to vote at a meeting of members may vote:
 - (1) in person; or
 - (2) by proxy; or
 - (3) by written vote; or
 - (4) where a member is a body corporate, by its representative.
- (c) A proxy is entitled to a separate vote for each member the person represents, in addition to any vote the person may have as a member in his or her own right.
- (d) A representative is entitled to a single vote for the organisational member the person represents.
- (e) An objection to the qualification of a person to vote at a general meeting must be referred to the chairperson of the meeting, whose decision is final.
- (f) A vote not disallowed by the chairperson of a meeting is valid for all purposes.
- (g) The Board may decide to put resolutions (but not special resolutions) to the members for consideration and voting by ballot, without holding a general meeting, unless a meeting must be held under the Act. The Board may decide the manner in which the ballot will be held and will ensure it is accountable to the members in respect of the conduct of the ballot.

10.9 Member's proxy or representative

- (a) Each proxy must be appointed by a member by notice in the form determined by or accepted by the Board and given to the no later than 24 hours before the time of the general meeting for which the proxy is appointed, unless a shorter timeframe is agreed by the Board.
- (b) Each representative must be appointed by an organisational member by notice in the form determined by or accepted by the Board no later than 24 hours before the time of the general meeting for which the representative is appointed, unless a shorter timeframe is agreed by the Board.
- (c) A proxy or representative may, but need not, be a member of the Association.
- (d) A proxy or representative may be appointed for any general meeting.
- (e) The authority appointing a proxy may direct the manner in which the proxy is to vote in respect of a particular resolution and, where the authority so provides, the proxy or representative is not entitled to vote on the proposed resolution except as directed by the authority.
- (f) Even though the authority appointing a proxy or representative may refer to specific resolutions and may direct the proxy or representative how to vote on those resolutions, unless otherwise provided, it is taken to also confer authority:
 - (1) to vote on any amendment moved to the proposed resolutions and on any motion that the proposed resolutions not be put or any similar motion;
 - (2) to vote on any procedural motion, including any motion to elect the chairperson, to vacate the chair or to adjourn the meeting; and
 - (3) to act generally at the meeting.
- (g) The Board may waive all or any of the requirements for proxies or representatives, and in particular may waive the time in which the proxy or instrument appointing a representative must be received, the form the instrument appointing a proxy or



representative is in and, on the production of such other evidence as the Board requires to prove the validity of the appointment of a proxy or representative, accept:

- (1) an oral appointment of a proxy or representative; or
 - (2) a copy (including a copy sent by fax) of an instrument appointing a proxy or representative or of the power of attorney or other authority under which the instrument is signed.
- (h) The appointment of a proxy is not revoked by the appointer attending and taking part in the general meeting but, if the appointer votes on a resolution in person or by written vote, the person acting as proxy for the appointer is not entitled to vote, and must not vote, as the appointer's proxy on the resolution.

10.10 Voting by written votes

- (a) The Board may decide that, at any general meeting, a member who is entitled to attend and vote on a resolution at that meeting is entitled to a written vote in respect of that resolution. A 'written vote' is a vote submitted (whether by hard copy or electronic means) by a member by giving notice to the company for or against the identified resolution.
- (b) The Board may decide the procedures in relation to written voting, including specifying the form, method and timing of giving a written vote at a meeting.
- (c) A person who has cast a written vote is entitled to attend a meeting. If a member attempts to cast more than one vote on a particular resolution, the vote cast in person prevails over the written vote.

11 Board members

11.1 Composition of Board

- (a) The maximum number of Board members is 20 and the minimum number is 3.
- (b) Provided the following organisations (or their successors in law) are members, each has the right to appoint and remove by written notice to the Secretary its representative to serve as a Board member until the Board otherwise resolves:
 - (1) State Library of Victoria (ABN 73 190 237 854);
 - (2) Museum Victoria (ABN 63 640 679 155);
 - (3) Professional Historians Association Vic Inc (ABN 52 799 129 643);
 - (4) Royal Historical Society of Victoria Inc (ABN 36 520 675 471);
 - (5) Victorian Curriculum and Assessment Authority (ABN 82 628 957 617);
 - (6) The History Teachers Association of Victoria Ltd (ABN 44 005 739 239);
 - (7) National Trust of Australia (Victoria) (ABN 61 004 356 192);
 - (8) Public Record Office Victoria (ABN 27 651 947 573);
 - (9) Heritage Council Victoria (ABN 87 967 501 331);
 - (10) Victorian Department of Education and Training (ABN 52 705 101 522);



- (11) Museums Australia (Victoria) (ABN 83 048 139 955);
- (12) Australian Broadcasting Corporation (ABN 52 429 278 345).
- (c) Where an organisation other than those named in Rule 11.1(b) is a member, its representative shall be appointed to the Board in accordance with these Rules and a composition policy agreed to by the Board.
- (d) The Board may appoint individuals as Board members in accordance with these Rules and a composition policy agreed to by the Board.
- (e) The term of office of a Board member is three years from the date on which the Board member is appointed, pursuant to these Rules.
- (f) Board members may be reappointed for successive terms.
- (g) A Board member may only be appointed under one membership category.

11.2 Board Positions

- (a) The Board positions are a chairperson, a deputy chairperson, a treasurer, or other positions as the Board members decide.
- (b) The Secretary must be appointed in accordance with rule 12 and need not be a member of the Board.

11.3 Removal of Board members

Subject to this rule, the members may, by special resolution passed at a general meeting, remove any Board member.

11.4 Vacation of office

- (a) The office of a Board member becomes vacant if the Board member:
 - (1) is disqualified from managing a corporation, within the meaning of the *Corporations Act 2001*;
 - (2) is disqualified from being a responsible person or entity within the meaning of the *Australian Charities and Not-for-profits Commission Act 2012*;
 - (3) fails to attend at least two-thirds of the meetings of the Board over a period of 12 months without leave of absence, unless the Board members decide to grant a leave of absence;
 - (4) resigns by written notice to the Association;
 - (5) has been appointed under rule 11.1(b) and his or her appointing organisation ceases to be a member of the Association; and
 - (6) completes their term of office and is not reappointed.
- (b) All Board members cease to be in office if a statutory manager is appointed under the Act to conduct the affairs of the Association.

11.5 Board members' interests

- (a) Subject to rule 11.5(b), a Board member who has a perceived or actual material conflict of interest (including a material personal interest) in a matter being considered by the Board must:



- (1) as soon as he or she becomes aware of his or her interest, disclose to the Board members the nature and extent of his or her interest and the relation of the interest to the activities of the Association; and
 - (2) where it is a material personal interest, disclose the nature and extent of the interest to the members at the next general meeting.
- (b) The Board members may make regulations or adopt a policy dealing with a conflict of interest.

11.6 Use of information or position

- (a) A Board member must not:
- (1) while a Board member; and
 - (2) after ceasing to be a Board member,
knowingly or recklessly make improper use of information acquired by virtue of his or her position in the Association so as to:
 - (3) gain, directly or indirectly, any pecuniary benefit or material advantage for himself or herself or any other person; or
 - (4) cause a detriment to the Association.
- (b) A Board member must not knowingly or recklessly make improper use of his or her position in the Association so as to:
- (1) gain, directly or indirectly, any pecuniary benefit or material advantage for himself or herself or any other person; or
- (c) cause detriment to the Association.

11.7 Powers and duties of Board members

- (a) The Board members have the duties set out in the Act and in the regulations of the *Australian Charities and Not-for-profits Commission Act 2012*.
- (b) The Board members are responsible for managing the Association's affairs and carrying out the purposes of the Association in good faith and subject to the Act, *Australian Charities and Not-for-profits Commission Act 2012* and these Rules. The Board members may exercise, to the exclusion of the Association in general meeting, all the Association's powers which are not required, by the Act or by these Rules, to be exercised by the Association in general meeting.
- (c) The Board members may:
- (1) appoint or employ any person and delegate the powers, discretions and duties vested in or exercisable by the Board members, on the terms the Board members decide;
 - (2) subject to any contract between the Association and the relevant person, remove or dismiss the person at any time, with or without cause.
- (d) The Board must operate in accordance with the Board Charter.

11.8 Proceedings of the Board

- (a) The Board may meet and adjourn and otherwise regulate its meetings as it thinks fit.



- (b) The simultaneous linking together by telephone or other electronic means of a sufficient number of the Board members to constitute a quorum constitutes a meeting of the Board members. All the provisions in these Rules relating to meetings of the Board members apply, so far as they can and with any necessary changes, to meetings of the Board members by telephone or other electronic means.
- (c) A Board member who takes part in a meeting by telephone or other electronic means is taken to be present in person at the meeting.
- (d) A meeting by telephone or other electronic means is taken as held at the place decided by the chairperson of the meeting, as long as at least one of the Board members involved was at that place for the duration of the meeting.
- (e) If, before or during the meeting, any technical difficulty occurs as a result of which one or more Board members cease to participate, the chairperson may adjourn the meeting until the difficulty is remedied or may, where a quorum of Board members remains present, continue with the meeting.

11.9 Notice of Board meetings

- (a) Subject to these Rules, notice of a meeting of the Board must be given to each person who is at the time of giving the notice a Board member, except a Board member on leave of absence approved by the Board.
- (b) A notice of a Board meeting:
 - (1) must specify the time and place of the meeting;
 - (2) need not state the nature of the business to be transacted at the meeting;
 - (3) may be given immediately before the meeting; and
 - (4) may be given in person or by post, telephone, fax or other electronic means.
- (c) A Board member may waive the requirement of notice of a meeting of Board members by notifying the Association to that effect in person or by post, telephone, fax or other electronic means.
- (d) The non-receipt of notice of a meeting of Board members by, or a failure to give notice of a meeting of Board members to, a Board member does not invalidate anything done or any resolution passed at the meeting if:
 - (1) the non-receipt or failure occurred by accident or error;
 - (2) the Board member has waived or waives notice of that meeting under rule 11.10(c) before or after the meeting;
 - (3) the Board member has notified or notifies the secretary or chairperson of his or her agreement to that thing or resolution personally or by post, telephone, fax or other electronic means before or after the meeting; or
 - (4) the Board member attended the meeting.
- (e) Attendance by a person at a meeting of Board members waives any objection which that person may have to a failure to give notice of the meeting.

11.10 Quorum at Board meetings

- (a) No business may be transacted at a Board meeting unless a quorum of Board members is present at the time the business is dealt with.



- (b) A quorum consists of the lesser of:
 - (1) a majority of the Board members; and
 - (2) 7 Board members.
- (c) If the number of Board members in office at any time is not sufficient to constitute a quorum, or is less than the minimum number of Board members fixed under these Rules, the remaining Board members must act as soon as possible to appoint additional Board members, as required, and, until that has happened, may only act if and to the extent that there is an emergency requiring them to act.

11.11 Chairperson

- (a) The chairperson must preside as chairperson at each Board meeting if present within 10 minutes after the time appointed for the meeting and willing to act. If the chairperson is not present within 10 minutes after the time appointed for the meeting or is not willing to act, the deputy chairperson must preside as chairperson at the meeting (if present within 10 minutes after the time appointed for the meeting and willing to act).
- (b) If there is no chairperson or the conditions in rule 11.11(a) have not been met, the Board members present must elect one of the Board members as chairperson of the meeting.

11.12 Decisions of Board members

- (a) A meeting of Board members at which a quorum is present may exercise all the powers and discretions vested in or exercisable by the Board members under these Rules.
- (b) Questions arising at a meeting of Board members must be decided by a majority of votes cast by the Board members present. Such a decision is for all purposes a decision of the Board members.
- (c) Where the votes on a proposed resolution are equal:
 - (1) the chairperson of the meeting does not have a second or casting vote; and
 - (2) the proposed resolution is taken as lost.

11.13 Voting by written votes

- (a) The Board may decide that, at any Board meeting, a member who is entitled to attend and vote on a resolution at that meeting is entitled to a written vote in respect of that resolution. A 'written vote' is a vote submitted (whether by hard copy or electronic means) by a member by giving notice to the company for or against the identified resolution.
- (b) The Board may decide the procedures in relation to written voting, including specifying the form, method and timing of giving a written vote at a meeting.
- (c) A person who has cast a written vote is entitled to attend a meeting. If a member attempts to cast more than one vote on a particular resolution, the vote cast in person prevails over the written vote.



11.14 Advisory groups

The Board may establish one or more advisory groups. If so established, the composition, duties and responsibilities of any such advisory group will be set out in a policy or resolution adopted by the Board members.

11.15 Committees of the Board

- (a) The Board members may delegate any of their powers to one or more committees consisting of the number of Board members and other individuals they think fit.
- (b) The chair of a committee will normally be a member of the Board.
- (c) A committee must exercise the powers delegated in accordance with any directions given by the Board.
- (d) The provisions of these Rules that apply to meetings and resolutions of Board members apply, so far as they can and with any necessary changes, to meetings and resolutions of any committee.

11.16 Validity of acts

An act done by:

- (a) a person acting as a Board member;
- (b) a meeting of Board members; or
- (c) a committee under Rule 11.14,

is not invalidated merely because of one of the following circumstances, if that circumstance was not known by the person, the Board members or the committee (as applicable) when the act was done:

- (d) a defect in the appointment of the person as a Board member;
- (e) the person being disqualified to be a Board member or having vacated office; or
- (f) the person not being entitled to vote.

12 Secretary

12.1 Appointment

- (a) The Board members must appoint a Secretary to hold the position subject to the Act and carry out the duties provided in the Act and any additional duties as decided by the Board members.
- (b) Before being appointed, the Secretary must:
 - (1) consent to the appointment;
 - (2) be at least 18 years old; and
 - (3) be a resident of Australia.
- (c) The Secretary may hold any other position or office in the Association but is not required to be a Board member.



- (d) Board policies relating to interests and the use of information or position apply to the Secretary as though he or she is a Board member.

12.2 Vacation of office

- (a) The office of a Secretary becomes vacant if the Secretary:
 - (1) becomes ineligible within the meaning of the *Corporations Act 2001* (Cth);
 - (2) becomes disqualified from being a responsible person within the meaning of the *Australian Charities and Not-for-profits Commission Act 2012*;
 - (3) is removed from office by resolution of the Board members;
 - (4) resigns by written notice to the Association; or
 - (5) ceases to be a resident of Australia.
- (b) The Board members must appoint a new Secretary within 14 days of the office becoming vacant and provide notice as required under the Act.

13 Indemnity and insurance

13.1 Persons to whom the indemnity and insurance apply

The indemnity and insurance referred to in this rule 13 apply to Indemnified Officers.

13.2 Indemnity

- (a) The Association must indemnify, on a full indemnity basis and to the full extent permitted by law, each Indemnified Officer against all losses or liabilities (including costs and expenses) incurred by the person as an office holder of the Association.
- (b) This indemnity:
 - (1) is a continuing obligation and is enforceable by an Indemnified Officer even though that person has ceased to be an office holder of the Association; and
 - (2) operates only to the extent that the loss or liability in question is not covered by insurance.

13.3 Insurance

The Association may, to the extent permitted by law, purchase and maintain insurance; or pay or agree to pay a premium for insurance, for any Indemnified Officer against any liability incurred by the person as an office holder of the Association where the Board considers it appropriate to do so.

13.4 Savings

Nothing in this rule 13:

- (a) affects any other right or remedy that an Indemnified Officer may have in respect of any loss or liability referred to in this indemnity or insurance; or



- (b) limits the capacity of the Association to indemnify or provide or pay for insurance for any person to whom this rule 13 does not apply.

14 Financial records

14.1 Keep financial records

- (a) The Board members must keep financial records that:
 - (1) correctly record and explain the Association's transactions and financial position and performance; and
 - (2) enable true and fair financial statements to be prepared as required by the Act or any other law.
- (b) The records must be retained for at least 7 years.

14.2 Tier one, tier two or tier three association

- (a) Each year the Board must determine whether the Association is a tier one, tier two or tier three association in accordance with the Act and comply with the requirements of reporting, review and audit applicable to that tier as set out in the Act.
- (b) At the time of adoption of these Rules:
 - (1) Tier one has total revenue less than \$250,000 during the previous Financial Year;
 - (2) Tier two has total revenue of more than \$250,000 but less than \$1,000,000 during the previous Financial Year;
 - (3) Tier three has total revenue of more than \$1,000,000 during the previous Financial Year.

15 Notices

15.1 Notices by the Association

The Association may give notices, including a notice of general meeting, to a member or Board member:

- (a) personally;
- (b) by sending it by post to the address for the member in the register of members or the alternative address (if any) nominated by the member; or
- (c) by sending it to the electronic address (if any) nominated by the member.

15.2 Notices to the Association

Subject to these Rules, a notice may be given by a member or Board member to the Association by:



- (a) serving it on the Association at the registered address of the Association;
- (b) sending it by post in a prepaid envelope to the registered address of the Association; or
- (c) by electronic means to the principal electronic address of the Association.

15.3 Time of service of notice

- (a) A notice from the Association properly addressed and posted is taken to be served at 10.00am on the day that is two Business Days after the date it was posted.
- (b) Where the Association sends a notice by email or other electronic transmission, the notice is taken as served at the time the email or electronic transmission is sent.
- (c) If service under rules 15.1(b) or 15.1(c) is on a day which is not a Business Day or is after 4.00pm (addressee's time), the notice is regarded as having been received at 9.00am on the next following Business Day.

15.4 Other communications and documents

Rules 15.1 to 15.3 (inclusive) apply, so far as they can and with any necessary changes, to the service of any communication or document.

15.5 Notices in writing

A reference in these Rules to a written notice includes a notice given by fax or electronic transmission or any other form of written communication.

16 Source and management of funds

- (a) The funds of the Association are to be derived from fees, subscriptions, gifts, sponsorships, donations, government grants, fundraising activities and such other sources as the Board determines.
- (b) The funds must be managed as decided by the Board members.
- (c) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed:
 - (1) as the Board members decide; or
 - (2) failing a decision, by any 2 Board members.

17 Records

17.1 Custody of records

The Board or its delegate for this purpose must keep in its or their custody, or under its or their control, all records, books, documents and securities of the Association.



17.2 Minutes of meetings and minutes of resolutions

- (a) The Board members must ensure accurate minutes are recorded in books kept for the purpose of:
 - (1) proceedings of general meetings, of Board meetings and of committees of the Board; and
 - (2) resolutions put to members, Board members and committee members.
- (b) The minutes of a meeting must be signed within a reasonable time by the chairperson of the meeting or the chairperson of the next meeting as an accurate record, after the Board concurs the minutes are an accurate record.

17.3 Inspection of records

- (a) The documents associated with incorporation, these Rules, the trust deed of any trust of which the Association is a trustee, and the minutes of general meetings, including accounting records and financial statements submitted to that general meeting, must be made available for inspection by any member who gives the chairperson, the secretary or delegate for this purpose, reasonable notice that the member wishes to inspect them.
- (b) The Board must give a member a copy of anything referred to in Rule 17.3(a) within 14 days of a written request from a member and payment of any reasonable fee set by the Board members.
- (c) A member (other than a Board member) may apply in writing to the Board to have access to:
 - (1) minutes of Board meetings or meetings of committees;
 - (2) any resolutions of the Board or any committee;
 - (3) records, books, relevant documents or securities of the Association.
- (d) The application must state the member's purpose of the access and specify how the member will use the information.
- (e) The Board must review the application at the Board meeting following the receipt of the application, or if that is not practicable, at the next following Board meeting. The Board may request further information or written undertakings from the member as to the use of the information. The Board may:
 - (1) agree to the application, subject to the Association's legal and other duties (including privacy, commercial confidentiality, governance) on such terms and conditions as it considers necessary, including setting access and time limits to control any disruption or inconvenience to management or volunteer time, and may require the member to enter a confidentiality deed or deed restricting the use and disclosure, and any other conditions the Board considers necessary or desirable; or
 - (2) refuse the application in its absolute discretion without the need to provide reasons, if it considers it may not be in the interests of the Association, or any of the other entities referred to in the relevant documents, to allow the member access.



17.4 Returning documents of the Association

Any person who has possession or control of documents that belong to the Association is required to return the documents to the secretary within 28 days after the person ceases to be a member, or ceases to hold the position or role by virtue of which he or she had possession or control of the documents.

18 Common seal

There is no common seal. Contracts and documents of the Association must be signed:

- (a) as authorised by the Board members; or
- (b) by any 2 Board members; or
- (c) by a Board member and the secretary.

19 Definitions and interpretation

19.1 Definitions

The meanings of the terms used in these Rules are set out below.

Term	Meaning
Act	the <i>Associations Incorporation Act Reform 2012</i> (Vic).
Auditor	the auditor of the Association for the purposes of audit or review under the Act.
Board	the committee of management of the Association.
Board Charter	a document of governance guidelines as determined by the Board.
Commissioner	the Commissioner of Taxation, a Second Commissioner of Taxation or a Deputy Commissioner of Taxation for the purposes of ITAA 97.
Deductible Contribution	a contribution of money or property as described in item 7 or item 8 of the table in section 30-15 of the ITAA 97 in relation to a fundraising event held for the principal purpose of the Association.
Department	Department responsible for ROCO within the Ministry for the Arts.
Financial Year	period of 12 months ending on 30 June.



Term	Meaning
Gift	a contribution of money or property as described in item 1 of the table in section 30-15 of the ITAA 97.
Guide	the ROCO's guidelines issued from time to time by the Department.
Indemnified Officer	<ol style="list-style-type: none">1 each person who is or has been a Board member or Secretary of the Association; and2 an office holder within the meaning of the Act; and3 any former officer holder as the Board members in each case decide.
ITAA 97	the <i>Income Tax Assessment Act 1997</i> (Cth).
Organisational member	a generic term for organisations and corporate entities if allowed as a category of membership under rule 5.1(b) and also as listed at rule 11.1(b).
Public Fund	the History Council of Victoria Public Fund as described in rule 8.5(a).
ROCO	the register of cultural organisations maintained by the Department under section 30-295 of ITAA 97.
Responsible Person	an individual who has a degree of responsibility to the wider Australian community as set out in the Guide.
Secretary	the person occupying the office of secretary of the Association under the Act.

19.2 Interpretation

In these Rules:

- (a) references to notices include formal notices of meeting and all documents and other communications from the Association to its member;
- (b) a reference to any legislation or a provision of any legislation includes any amendment to that legislation or provision, any consolidation or replacement of that legislation or provision and any subordinate legislation made under that legislation;
- (c) a reference to a member present at a general meeting is a reference to a member present in person or by proxy, attorney or representative either at the meeting or a participant by using technology as permitted under these Rules;
- (d) a reference to writing and written includes printing, lithography and other ways of representing or reproducing words in a visible form; and
- (e) the singular (including defined terms) includes the plural and the plural includes the singular.



19.3 Headings

Headings are used for convenience only and do not affect the interpretation of these Rules.

20 Application of the Act

20.1 What parts of the Act apply?

Unless the contrary intention appears:

- (a) an expression used in a rule that deals with a matter dealt with by a provision of the Act has the same meaning as in that provision; and
- (b) subject to rule 20.1(a), an expression in a rule that has a defined meaning for the purposes of the Act has the same meaning as in the Act.

20.2 Model Rules

The provisions of these Rules displace each provision of the Model Rules, except to the extent required by the Act.