

Constitution of Company Limited by Guarantee

English Teachers Association Inc

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1. Introduction

1.1 Name of Company

The name of the Company is English Teachers Association NSW Inc.

The Company is to be known as English Teachers Association NSW.

1.2 Legal capacity and powers of the Company

Subject to the Act, the Company has the legal capacity, and the rights, powers and privileges of a natural person.

1.3 Limited liability

The liability of the Company's shareholders is limited.

Each member of the Company undertakes to contribute an amount not exceeding \$20 to the property of the Company in the event of its being wound up while the member is a member or within 1 year after the member ceases to be a member, if required for payment of:

- a) of the debts and liabilities of the Club (contracted before the member ceases to be a member);
- b) of the costs, charges and expenses of winding up; and
- c) for the adjustment of the rights of the contributories among themselves.

1.4 Definitions

In this Constitution, unless the context requires otherwise:

Act means the *Corporations Act 2001 (Cth)* as amended, supplemented or replaced from time to time;

Alternate Director means any person who, for the time being, holds office as an alternate Director duly appointed in accordance with this Constitution;

Annual Fee means the fee payable to the Company for membership, as determined by the Board on the first business day in January each year;

Company means English Teachers Association NSW Inc **ACN *** ****;

Constitution means this constitution of the Company as amended, supplemented or replaced from time to time;

Directors means all or any number of the directors for the time being of the Company appointed in accordance with this Constitution

Member means a registered member of the Company or any person deemed by this Constitution to be such a person;

Office means the registered office for the time being of the Company;

Officer means a member of the Board of Directors and any employees or volunteers acting for or on behalf of the Company.

Procedures Manual means the Company Procedures Manual as updated from time to time.

Register means the register of Members of the Company as required to be kept under section 168 of the Act;

Seal means the common seal of the Company (if any) and includes any additional seal of the Company referred to in clause ~~14.343.3~~;

Secretary means any person appointed to perform the duties of a company secretary of the Company or if no such person holds that office then the Public Officer of the Company; and

Special Resolution has the same meaning as in section 9 of the Act.

1.5 Interpretation

In this Constitution, unless the contrary intention appears:

- (a) a reference to:
 - (i) any statute, ordinance, code or other law includes regulations and other statutory instruments under any of them and consolidations, amendments, re-enactments or a replacement of any of them by any government body;
 - (ii) any officer of the Company includes any person acting for the time being as such an officer;
 - (iii) writing includes any mode of representing or reproducing words in a tangible or visible form, and includes facsimile transmission;
- (b) words importing:
 - (i) the singular include the plural and vice versa;
 - (ii) a gender include all other genders;
 - (iii) natural persons include partnerships, Companies and corporations;
- (c) headings do not affect the construction of this Constitution;
- (d) if a word or phrase is defined cognate words and phrases have corresponding meanings;
- (e) references to notices in this Constitution include not only formal notices of meetings but also all documents and other communications from the Company to its Members but do not include cheques; and
- (f) an expression used in a particular Part or Division of the Act that is given by that Part or Division a special meaning for the purposes of that or any other Part or Division has, in any of this Constitution that deals with a matter dealt with by the relevant Part or Division, the same meaning as applies in or in respect of that Part or Division.

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1.6 Replaceable rules

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Each of the provisions of the sections or sub-sections of the Act which would but for this clause ~~1.64.6~~ apply to the Company as a replaceable rule within the meaning of the Act are displaced and do not apply to the Company except insofar as they are repeated in this Constitution.

2. Objects

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The objects for which the Company is established are:

- (a) To promote and stimulate the study of English and English teaching.
- (b) To provide a forum for those interested in the teaching of English to express views, exchange ideas and disseminate knowledge.
- (c) To represent professionally the views of persons connected with the teaching of English.
- (d) To write, print, publish and distribute any materials related to the teaching of English that the Company may think desirable for the promotion of its objects.
- (e) To liaise with individuals and groups who share a common professional interest in English.

3. Powers

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3.1 No shares

- (a) The Company has all the powers of an individual and a body corporate but does not have the power to issue shares.

3.2 Ancillary to objects

- (a) Despite rule 4.1 the powers of the Company are ancillary to and exercisable only to pursue the objects of the Company set out in rule 2.

3.3 Application of Income and Property

- (a) The income and property of the Company, from wherever it is derived, must be applied solely towards the promotion of the objects of the Company set out in rule 3.

3.4 No Distribution to Members

- (a) No portion of the income or property of the Company may be paid directly or indirectly, by way of dividend, bonus or otherwise to the members of the Company, and no benefit or advantage from the Company may be derived by members that is not offered equally to every member.
- (b) Rule 3.4 (a) does not prevent:
 - (i) the payment in good faith of remuneration to any officer, or servant member of the Company in return for services actually rendered to the Company or for goods supplied in the ordinary and usual way of business;

- (ii) the payment of interest at a rate not to exceed 12% per annum on money borrowed from any member of the Company;
- (iii) the payment of reasonable and proper rent by the Company to a member of the Company for premises leased by the member to the Company; or
- (iv) the reimbursement of expenses incurred by a member on behalf of the Company.

3.5 Exercise of vote and rights

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Subject to this Constitution, no person is entitled to vote or to exercise any right or privilege as a Member until the person is registered in the Register.

4. Membership

4.1 Membership qualifications

- (a) Members must keep current the Annual Fee payable to the Company.
- (b) Membership in this Company is available to any individual who is interested in or involved in the objects of the Company and who:
 - (i) is a practising teacher of English; or
 - (ii) is a person who in the opinion of the Board of Directors is especially interested in or has contributed notably to the advancement of the study and teaching of English.
- (c) Membership is conditional upon the payment of an annual subscription according to the following categories.
 - (i) **Personal Members**

These members shall be entitled to vote and hold office in the Company and may receive all publications and services of the Company according to the procedures established by the Board of Directors.
 - (ii) **Corporate Members**

Organisational membership is available under this description to any international, national, state or local organization including schools, colleges or universities interested in the objects of the Company. Each Corporate Member shall be entitled to one vote by a nominated delegate acceptable to the Board of Directors in elections of the Company but no such delegate shall be entitled to hold office through Corporate Membership nor may Corporate Members nominate others for office.
 - (iii) **Student Members**

These shall be persons undertaking full-time courses of instruction in preparation for the teaching of English at Primary, Secondary or Tertiary levels.

(iv) **Honorary Members**

These members shall be appointed by Board of Directors once only for no greater time than two years and shall be persons who are temporarily resident in New South Wales.

(v) **Honorary Life Members**

These members shall be appointed by the Company in general meeting. Honorary Life Members shall be members who have given long and honorable service to the Company.

(vi) **Casual/Relief Teacher Members**

These shall be persons working as a casual/relief teacher at Primary, Secondary or Tertiary levels. Each Casual/Relief teacher member shall be entitled to vote, and may receive all publications and services of the Company according to the procedures established by the Board of Directors.

(vii) No Honorary Member or Honorary Life Member shall be liable for any subscription fees. Honorary Members and Honorary Life Members shall not be entitled to vote at any meeting of the Company. Should an Honorary Life Member wish to retain voting rights in the Company, he or she will need to take out personal membership in addition to being an Honorary Life Member.

4.2 Nomination for Membership

- (a) Every applicant for membership shall complete the appropriate membership form and shall forward it, together with the current annual subscription, to the person or body as determined by the Board of the Company.
- (b) The Board of the Company reserves the right to decline an application for membership without providing reasons for doing so.
- (c) The annual subscription payable by all categories of members except Honorary Members and Honorary Life Members shall be determined by the Board of the Company
- (d) The annual subscription payable by all categories of members except Honorary Members and Honorary Life Members shall become due and payable on the first day of every calendar year.
- (e) If the subscription of a member remains unpaid for a period of six weeks after the date of renewal, then membership and all rights pertaining thereto will be suspended. Upon payment of all arrears, membership will resume from the date of payment.
- (f) Membership of the Company will automatically cease on death, mental incapacity or, in the case of corporate membership, insolvency.
- (g) A member may at any time by notice in writing to the Secretary, resign membership of the Company, but shall continue to be liable for any monies due to the Company.

- (h) A member who is under investigation or against whom allegations of misconduct have been made or, in the opinion of the Board of the Company, has conducted themselves in ways prejudicial to the Company may have their membership cancelled.
- (i) Prior to having membership cancelled the member must have the opportunity to respond to such allegations, according to the principles of natural justice.
- (j) Cancellation of membership may only occur at a meeting of the Board of the Company after:
 - (i) receipt by the Secretary of a notice of motion to this effect;
 - (ii) notification in writing to the member concerned at least one week prior to the date of the meeting;
 - (iii) the provision to the member concerned of notice of the grounds alleged for dismissal;
 - (iv) the passing of the motion for cancellation must be carried by a two-thirds majority of the Board of the Company present at the meeting.

4.3 Resignation of membership

- (a) A Member is not entitled to resign its membership except in accordance with this rule.
- (b) A Member who has paid all amounts payable in respect of its membership requirements may resign from membership of the Company by first giving to the Secretary written notice of at least 12 months (or such other period as the Board may determine) of the Member's intention to resign and, on the expiration of the period of notice, the Member ceases to be a member.
- (c) If a Member ceases to be a member under clause (2) above, and in every other case where a Member ceases to hold membership, the Secretary must make an appropriate entry in the Register of members recording the date on which the Member ceased to be a member.

4.4 Register of members

(compare sections 168 and 169 of the Act)

- (a) The Secretary shall establish and maintain a register of Members specifying the name and address of each Member and Director of the Company.
- (b) The Register shall be maintained online and thus shall be open for inspection, free of charge, by any Member's Officers at any hour.
- (c) The Register shall comply with the Act at all times.

4.5 Fees and subscriptions

- (a) A Member shall pay to the Company the Annual Fee as determined from time to time by the Board of Directors of the Company, and in accordance with the changing Consumer Price Index or such similar index published from time to time.

- (b) The Annual Fee is due on the 1st business day in January of each year
- (c) If the Annual Fee of a Member remains unpaid for a period of two calendar months after it becomes due the Secretary may inform the Member in writing of the failure, and pursuant to rule 5 (a) the Board may expel the Member. Alternately, the Board may choose by simple resolution to bar the Member from all privileges of membership provided that the Board may reinstate the Member upon payment of all arrears, and if the Board thinks fit to do so.

4.6 Resolution of internal disputes

- (a) Disputes between Members or between Directors of the Company are to be referred to a community justice centre for mediation in accordance with the *Community Justice Centres Act 1983*.
- (b) At least 7 days before a mediation session is to commence, the parties are to exchange statements of the issues that are in dispute between them and supply copies to the mediator.

4.7 Disciplining of members

- (a) Where the Board of the Company is of the opinion that a Member or their representative on the Board of Directors:
 - (i) has persistently refused or neglected to comply with a provision or provisions of these Rules, or
 - (ii) has persistently and wilfully acted in a manner prejudicial to the interests of the Company.the Board may, by resolution:
 - (iii) expel the Member; or
 - (iv) request the Member to nominate an alternative person to the Board of Directors; or
 - (v) suspend the Director or Member from membership of the Company for a specified period.
- (b) If the Board expels or suspends a Director and/or Member, the Secretary must, within 7 days after the action is taken, cause written notice to be given to the Member of the action taken, of the reasons given by the Board for having taken that action and of the Director's and Member's right of appeal under rule 4.9.
- (c) The expulsion or suspension does not take effect:
 - (i) until the expiration of the period within which the Member is entitled to appeal against the resolution concerned, or
 - (ii) if within that period the Member exercises the right of appeal, unless and until the Company confirms the resolution under rule 4.8(b)), whichever is the later.

4.8 Right of appeal of disciplined member

- (a) A Member may appeal to the Company in general meeting against a resolution of the Board under rule 4.8, within 7 days after notice of the resolution is served on the member, by lodging with the Secretary a notice to that effect.
- (b) The notice may, but need not, be accompanied by a statement of the grounds on which the member intends to rely for the purposes of the appeal.
- (c) On receipt of a notice from a member under clause (1), the Secretary must notify the Board which is to convene a meeting of the Company to be held within 28 days after the date on which the Secretary received the notice.
- (d) At a meeting of the Company convened under clause (c):
 - (i) no business other than the question of the appeal is to be transacted, and
 - (ii) the Board and the member must be given the opportunity to state their respective cases orally or in writing, or both, and
 - (iii) the members present are to vote by secret ballot on the question of whether the resolution should be confirmed or revoked.

If at the meeting the Company passes a special resolution in favour of the confirmation of the resolution, the resolution is confirmed.

4.9 Cessation of membership

- (a) A Member ceases to be a Member of the Company if the Member:
 - (i) fails to pay the Annual Fee within 8 weeks of receiving a reminder that it's payment is overdue, or
 - (ii) resigns membership, or
 - (iii) is expelled from the Company by the Board of Members.

5. General meetings

5.1 Annual general meeting

If required to do so by the Act, the Company must hold an annual general meeting of the Company in accordance with the Act.

5.2 Power to convene general meeting

Any Director may, whenever the Director thinks fit, convene a general meeting of the Company's Members.

5.3 Notice period

- (a) Subject to the Act and clause ~~5.3(b)~~5-3(b), the Company must give 21 days notice of general meetings (including annual general meetings).

- (b) The Company may call, on shorter notice than that specified in clause ~~5.3(a)~~~~5-3(a)~~:
- (i) an annual general meeting, if all the Members entitled to attend and vote at the annual general meeting agree prior to the annual general meeting; and
 - (ii) any other general meeting, if Members holding at least 95% of the votes that may be cast at the general meeting agree prior to the general meeting.

5.4 Notice of general meetings

- (a) Written notice of a general meeting must be given as provided in this Constitution to:
- (i) every Member;
 - (ii) every Director;
 - (iii) the auditor (if any); and
 - (iv) every person who establishes to the Directors' satisfaction their entitlement to a share in consequence of the death, mental incapacity, bankruptcy or insolvency of a Member and, who but for the death, mental incapacity, bankruptcy or insolvency (as the case may be) would have been entitled to receive notice of the meeting.
- (b) Notice to joint Members may be given by sending it to the joint Member named first in the Register.

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5.5 Content of notice of general meetings

A notice of a general meeting must:

- (a) specify the place, date and time for the meeting;
- (b) except as provided by clause ~~5.65-6~~, state the general nature of the business to be transacted at the meeting;
- (c) if a special resolution is to be proposed at the meeting, set out an intention to propose the special resolution and state the resolution;
- (d) contain a statement of:
 - (i) each Member's right to appoint a proxy; and
 - (ii) the fact that a proxy need not be a Member of the Company; and
- (e) contain a statement that, if the Member appoints more than one proxy, each proxy may be appointed to represent a specified proportion of the Member's votes.

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5.6 Content of notice of annual general meeting

It is not necessary for the notice of an annual general meeting to state that the business to be transacted at the meeting includes:

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- (a) the consideration of the financial statements; and
- (b) the reports of the Directors and auditor (if any);
- (c) the election of Directors and other officers in place of those retiring;
- (d) the appointment and fixing of the remuneration of the auditors; and
- (e) any other business which, under this Constitution or the Act, is required to be transacted at an annual general meeting.

5.7 Nature of business

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All business will be special that is transacted at a general meeting, with the exception of:

- (a) the consideration of the accounts, balance sheets, and the reports of the Directors and auditors; and
- (b) the election of the Directors and/or auditors (if any).

5.8 Notice of adjourned meeting

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When a meeting is adjourned, new notice of the resumed meeting must be given if the meeting is adjourned for 30 days or more.

5.9 Failure to give notice

Any resolution passed at a meeting is not invalidated by:

- (a) the accidental omission to give notice of a meeting to any Member or non-receipt of that notice by a Member; or
- (b) the accidental omission to send out the instrument of proxy to a person entitled to receive notice or non-receipt of that instrument.

6. Proceedings at general meetings

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6.1 Circular resolutions

- (a) A resolution may be passed without a general meeting being held if all the Members entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. A body corporate's representative may sign such a circular resolution. Each member of a joint membership must sign a circular resolution.
- (b) Identical copies of the document may be distributed for signing by different Members and taken together will constitute one and the same document.
- (c) The resolution is passed when the last Member signs the document, and satisfies any requirement in this Constitution or the Act that the resolution be passed at a general meeting.

6.2 Sole Member resolutions

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- (a) If at any time the Company has only one Member, it satisfies any requirement in this Constitution or the Act that a resolution be passed by that sole Member recording the resolution and signing the record.
- (b) A body corporate's representative may sign a resolution referred to in clause ~~6.2(a)~~6-2(a).

6.3 Use of technology

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The Company may hold a meeting at 2 or more venues using any technology that gives Members a reasonable opportunity to participate.

6.4 Quorum

- (a) Except as otherwise provided in this Constitution, the quorum for a general meeting of the Company is 20 Members present in person or by proxy, attorney or body corporate representative and the quorum must be present at all times during the meeting.
- (b) No business will be transacted at any general meeting unless a quorum of Members is present at the time when the meeting proceeds to business.
- (c) For the purpose of determining whether a quorum is present:
 - (i) each person attending as a proxy, as a body corporate's representative, or as a validly appointed attorney of a Member, is deemed to be a Member;
 - (ii) if a Member has appointed more than one proxy, attorney or representative, only one may be counted; and
 - (iii) if an individual person is attending both as a Member and as a proxy, attorney or representative, they may be counted only once.
- (d) If at any time the Company has only one Member, then that Member present in person or by proxy, attorney or body corporate representative is a quorum.

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6.5 Effect of no quorum

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If a quorum of the Company's Members is not present within half an hour after the time appointed for the meeting in the notice:

- (a) if the meeting was convened on the requisition of Members, the meeting must be dissolved; or
- (b) in any other case:
 - (i) the meeting will be adjourned to the date, time and place that the Directors specify (or if the Directors do not specify such details, the meeting is adjourned to the same day in the next week at the same time and place) except that if the meeting is adjourned for 30 days or more, notice of the resumed meeting must be given; and

- (ii) if at a meeting resumed under clause ~~6.5(b)(i)~~ ~~6.5(b)(i)~~ a quorum is not present within half an hour after the time appointed for the meeting, the meeting must be dissolved.

6.6 Chairperson of general meeting

The Directors may elect any person to chair general meetings of the Company.

6.7 Vacancy in chair

Where a general meeting is held and:

- (a) a chairperson has not been elected by the Directors as provided by clause ~~6.66-6~~; or
- (b) the chairperson declines to act or is not present within 15 minutes after the time appointed for the holding of the meeting,

the Members present must elect one of their number to be chairperson of the meeting or part of the meeting (as the case may be).

6.8 Adjournment

The chairperson must adjourn a general meeting if the Members present with a majority of votes at the general meeting agree or direct that the chairperson must do so.

6.9 Adjourned meetings

- (a) Only unfinished business is to be transacted at a meeting resumed after an adjournment.
- (b) A resolution passed at a meeting resumed after an adjournment is passed on the day it was in fact passed.

7. Voting at general meetings

7.1 Annual general meetings – holding of

- (a) The Company must, at least once in each calendar year and within the period of 5 months after the expiration of each financial year of the Company, convene an annual general meeting of its members;
- (b) Clause (1) has effect subject to any extension or permission granted by the Commissioner under section 250P of the Act.

7.2 Annual general meetings – calling of and business at

- (a) The annual general meeting of the Company is, subject to the Act and to rule 7.1, to be convened on such date, method, and at such place and time as the Board thinks fit.
- (b) In addition to any other business which may be transacted at an annual general meeting, the business of an annual general meeting is to include the following:

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- (i) to confirm the minutes of the last preceding annual general meeting and of any special general meeting held since that meeting,
- (ii) to receive from the Board reports on the activities of the Company during the last preceding financial year,
- (iii) to elect office-bearers of the Company and appoint Directors to the Board
- (iv) to receive and consider the financial statement which is required to be submitted to members under the Act.

7.3 Special general meetings – calling of

- (a) An annual general meeting must be specified as such in the notice convening it.
- (b) Any three (3) members or more of the Board may, whenever it thinks fit, convene a special general meeting of the Company.
- (c) The Board must, on the requisition in writing of at least 5 Directors, convene a special general meeting of the Company.
- (d) A requisition of Directors for a special general meeting:
 - (i) must state the purpose or purposes of the meeting, and
 - (ii) must be signed by the Directors making the requisition, and
 - (iii) must be lodged with the Secretary, and
 - (iv) may consist of several documents in a similar form, each signed by one or more of the Directors making the requisition.
- (e) If the Board fails to convene a special general meeting to be held within 1 month after that date on which a requisition of Directors for the meeting is lodged with the Secretary, any one or more of the Directors who made the requisition may convene a special general meeting to be held not later than 3 months after that date.
- (f) A special general meeting convened by a Director or Directors as referred to in clause (4) must be convened as nearly as is practicable in the same manner as meetings are convened by the Board.

7.4 Notice

- (a) Except if the nature of the business proposed to be dealt with at a meeting requires a special resolution of the Company, the Secretary must, at least 14 days before the date fixed for the holding of the meeting, give a notice to each Director *in writing* specifying the place, date and time of the meeting and the nature of the business proposed to be transacted at the meeting.
- (b) If the nature of the business proposed to be dealt with at a meeting requires a special resolution of the Company, the Secretary must, at least 21 days before the date fixed for the holding of the meeting, cause notice to be given to each member specifying, in addition to the matter required under clause (1), the intention to propose the resolution as a special resolution.

- (c) No business other than that specified in the notice convening a meeting is to be transacted at the meeting except, in the case of an annual general meeting, business which may be transacted under rule 7.4(b).
- (d) A Director desiring to bring any business before a meeting may give notice in writing of that business to the Secretary who must include that business in the next notice calling a meeting given after receipt of the notice from the member.

7.5 Procedure

- (a) No item of business is to be transacted at a meeting unless a quorum of Directors entitled under these Rules to vote is present (by whatever method deemed appropriate by the Board) during the time the meeting is considering that item.
- (b) 20 members present in person or in whichever form of attendance is deemed necessary (being members entitled under these Rules to vote at a meeting) constitute a quorum for the transaction of the business of a meeting.
- (c) If within half an hour after the appointed time for the commencement of a meeting a quorum is not present, the meeting:
 - (i) if convened on the requisition of members, is to be dissolved, and
 - (ii) in any other case, is to stand adjourned to the same day in the following week at the same time and (unless another place is specified at the time of the adjournment by the person presiding at the meeting or communicated by written notice to members given before the day to which the meeting is adjourned) at the same place.
- (d) 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.
- (e) Minutes of proceedings at a meeting must be signed by the chairperson of the meeting or by the chairperson of the next succeeding meeting.

7.6 Presiding member

- (a) The President or, in the President's absence, the Vice-president, is to preside as chairperson at each meeting of the Company.
- (b) If the President and the Vice-president are absent or unwilling to act, the Directors present must elect one of their number to preside as chairperson at the meeting.

7.7 Adjournment

- (a) The chairperson of a meeting at which a quorum is present may, with the consent of the majority of members present at the meeting, adjourn the meeting from time to time and place to place, but no business is to be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.
- (b) If a meeting is adjourned for 14 days or more, the Secretary must give written or oral notice of the adjourned meeting to each Director of the Company stating

the place, date and time of the meeting and the nature of the business to be transacted at the meeting.

- (c) Except as provided in clauses (a) and (b), notice of an adjournment of a meeting or of the business to be transacted at an adjourned meeting is not required to be given.

7.8 Voting

- (a) The Board may act despite any vacancy on the Board.
- (b) A Director is not entitled to attend or vote at any meeting of the Company unless all money due and payable by the Member they represent at the Company has been paid.
- (c) On any question arising at a meeting of the Company (or a sub-committee) each Director has one vote only.
- (d) All votes must be given personally (in whichever form the Board determines that may take) or by proxy, but no Director may hold more than 3 proxies.
- (e) Questions arising at a meeting of the Board or of any sub-committee appointed by the Board are to be determined by a majority of the votes of the Directors present at the meeting (in person or in whichever form of attendance is deemed necessary), or for whom a proxy is held.
- (f) In the case of a tie of votes on a question at a meeting, the chairperson of the meeting is entitled to exercise a second or casting vote.

7.9 Appointment of proxies

- (a) Each Director (provided that the Member they represent at the Company owes no Annual Fees to the Company) is to be entitled to appoint another as proxy by notice given to the Secretary in writing no later than 24 hours before the time of the meeting in respect of which the proxy is appointed.
- (b) The notice appointing the proxy is to be in the form set out in Appendix 2 to these Rules.

7.10 Decision-making

- (a) After a vote on a question has taken place, the chairperson must verbally acknowledge the result as passed or rejected, and ensure that a note is made in the minutes of the Company.
- (b) Any act or thing done or suffered, or purporting to have been done or suffered, by the Board or by a sub-committee appointed by the Board, is valid and effectual despite any defect that may afterwards be discovered in the appointment or qualification of any member of the Board or sub-committee.
- (c) At a meeting of the Company, a poll may be demanded by the chairperson or by at least 5 members present in person (in whichever form the Board determines that may take) or by proxy at the meeting.
- (d) If a poll is demanded at a meeting, the poll must be taken:

- (i) immediately in the case of a poll which relates to the election of the chairperson of the meeting or to the question of an adjournment, or
- (ii) in any other case, in such manner and at such time before the close of the meeting as the chairperson directs,

and the resolution of the poll on the matter is taken to be the resolution of the meeting on that matter.

7.11 Special resolution

- (a) A resolution of the Company is a special resolution if it is passed by a majority which comprises at least three-quarters of such members of the Company as, being entitled under these Rules so to do, vote in person (in whichever form the Board determines that may take) or by proxy at a meeting for which at least 21 days' written notice specifying the intention to propose the resolution as a special resolution was given in accordance with these Rules.

7.12 Voting rights

- (a) Subject to any rights or restrictions attached to any class of shares, each Member, entitled to vote may vote in person or by proxy, attorney or body corporate representative authorised under the Act, at a meeting of the Members of the Company, and each Member has:
 - (i) on a show of hands, one vote; and
 - (ii) on a poll, one vote for each share they hold.

8. Appointment and removal of Directors

Field Code Changed

Field Code Changed

8.1 Number (*compare section 201A*)

- (a) The Board of Directors shall:
 - (i) consist of no more than 13 Directors on the Board. The Company may from time to time register an increase of Directors; and
 - (ii) be responsible for policy making and managing the business of the Company; and
 - (iii) receive, consider and act on reports from staff, officers and committees.
- (b) All directors shall be obliged to make an active contribution to the work of the Company for the duration of their term on the Board of Directors.
- (c) In the event of any director's being unable to attend a Board of Directors meeting, an apology shall be forwarded to the Board of Directors Officer of the Company before the same meeting.
- (d) The Board of Directors of the Company shall be a President, a Vice President, an Honorary Treasurer and six Managers as determined by the Board of Directors. In addition to these, there will be four other directors with duties defined as required.

The Company Secretary will have no voting rights.

- (e) The President shall:
 - (i) represent and stand for the Company during his/her term of office;
 - (ii) chair meetings of the Company, the Board of Directors and committee plenaries; and
 - (iii) direct the business of the Company, and other officers of the Company will provide him/her with material necessary to carry out this function.
- (f) The Vice President shall represent and stand for the Company in the absence of the President;
- (g) The Company Secretary shall:
 - (i) be responsible for receiving, filing and preserving the correspondence of the Company;
 - (ii) notify the President of the contents of correspondence in time for the authorisation of any agenda, and tabling it at the Board of Directors Meetings;
 - (iii) be responsible for sending out notices for meetings as authorised by the President;
 - (iv) ensure that minutes are made of all appointments of officers and assistants, the names of members present at all meetings and of all proceedings at meetings; and
 - (v) be responsible for organising the Annual General Meeting.
- (h) The Honorary Treasurer shall:
 - (i) be responsible for the receipt and expenditure of all monies of the Company, and maintaining the balance of the same;
 - (ii) maintain financial records of the Company;
 - (iii) provide financial reports, budget estimates and advice to the Board of Directors and the Board of Directors; and
 - (iv) be responsible for preparing a balance sheet for audit prior to the Annual General Meeting, and presenting a report to the Annual General Meeting.
- (i) The Board of Directors may meet as they think fit, provided that their discussions are communicated to the Committees forthwith.
- (j) At the Annual General Meeting of the Company the members of the Board of Directors shall be elected from among members.
- (k) The Board of Directors shall hold office for 2 years and will be eligible for re-election at the end of that term if he or she chooses to stand.
- (l) All members of the Board of Directors shall be eligible for re-election.
- (m) All nominations for the Board of Directors need to be in the hands of the Secretary at a date before the Annual General Meeting. This date will be

publicised by the Secretary on Board of Directors Nomination Forms and on the Company web site.

- (n) The Board of Directors shall have the authority, through a majority vote at a Board of Directors meeting, to appoint up to two extra members to the Board of Directors - such appointments to last until the next Annual General Meeting.
- (o) The process for such appointment to be as follows:
 - (i) Any such potentially co-opted members must be formally nominated and seconded by existing Board of Directors members.
 - (ii) Nominations must be tabled one month or one regular scheduled Board of Directors meeting in advance of voting - whichever is the longer period.
 - (iii) Notification of nominations must be recorded in the minutes of the meeting at which potentially co-opted members are nominated.
- (p) The Board of Directors may by ordinary resolution remove any director before the expiration of that person's period of office, and may by an ordinary resolution appoint another person in his/her place.
- (q) A member of the Board of Directors with the support of at least two others may direct the Secretary to summon a meeting of the Board of Directors.
- (r) Questions arising at any meeting of the Board of Directors shall be decided by a majority of votes, and a determination by a majority of the members of the Board of Directors shall be deemed a determination of the Board of Directors. In case of an equality of votes the Chair of the meeting shall have a second or casting vote.
- (s) The quorum necessary for the transaction of the business of the Board of Directors shall be five.
- (t) Continuing members of the Board of Directors which has fallen below a quorum may act for the purpose of increasing the number of members of the Board of Directors to a quorum or summon a general number as it thinks fit.
- (u) The President shall preside as Chairperson at every meeting of the Board of Directors. In the event of the President's absence the Vice President shall chair the meeting. If the Vice President is not present at the meeting, then the members may choose one of their number to chair the meeting.
- (v) Any Director who misses two consecutive meetings may be asked to relinquish his or her position by a majority of the other members of the Board.
- (w) The office-bearers of the Company are to be elected by the Directors for a 2 year term commencing on the date of their election as a Director to the following positions:
 - (i) President
 - (ii) Vice-President
 - (iii) Treasurer
 - (iv) 6 Managers

- (v) 4 members
- (x) Whenever possible, no more than 2 positions should be elected in any one year, so as to preserve continuity of experience of office-bearers. In order to prevent more than 2 positions being elected at any one time, the Board may vote by simple majority to increase the length of term of any office-bearer(s) that are willing to continue in their position for 1 further year.
- (y) Each office-bearer of the Board is, subject to this Constitution, to hold office until the commencement of the second Annual General Meeting after their election to office.
- (z) All office-bearers are eligible for re-election following the end of their term provided that they are then a Director.
- (aa) In the event of a casual vacancy occurring in the Board:
 - (i) the Board of Directors may appoint a substitute Director; and
 - (ii) where the Director was also an office-bearer, the Board may by simple majority appoint an alternate Director to fill the office-bearer's until the commencement of the next annual general meeting when such Director is eligible for election for a further 2 year term.

8.2 Election of Directors

Field Code Changed

- (a) Nominations of candidates for election as Directors of the Company:
 - (i) must be made in writing, signed by 2 members of the Company and accompanied by the written consent of the candidate (which may be endorsed on the form of the nomination), and
 - (ii) must be delivered to the Secretary of the Company at least 14 days before the date fixed for the holding of the annual general meeting at which the election is to take place.
- (b) If insufficient nominations are received to fill all vacancies on the Board, the candidates nominated are taken to be elected and further nominations are to be received at the annual general meeting.
- (c) If insufficient further nominations are received, any vacant positions remaining on the Board are taken to be casual vacancies.
- (d) If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated are taken to be elected.
- (e) If the number of nominations received exceeds the number of vacancies to be filled, a ballot is to be held.
- (f) The ballot for the election of members of the Board is to be conducted at the annual general meeting in such usual and proper manner as the Board may direct.
- (g) The Directors may at any time appoint any person to be a Director, either to fill a casual vacancy or as an addition to the existing Directors, provided that the total number of Directors does not at any time exceed the maximum number of Directors permitted under this Constitution.

8.3 Appointment of Officers

The Board may appoint, whether by contract or direct employment, an Executive Officer (without voting rights) and such other staff that may from time to time be deemed necessary to carry out the business of the Company.

8.4 Casual vacancies

- (a) For the purposes of this Constitution, a casual vacancy in the office of a member of the Board occurs if the member:
- (i) dies, or
 - (ii) ceases to be a financial member of their appointing Member, or
 - (iii) becomes an insolvent under administration within the meaning of the *Corporations Act 2001* of the Commonwealth, or
 - (iv) resigns office by notice in writing given to the Secretary, or
 - (v) is removed from office under rule 4.8, or
 - (vi) becomes a mentally incapacitated person, or
 - (vii) is absent without the consent of the Board from all meetings of the Board held during a period of 6 months.

8.5 Removal of a Director

The Company may by resolution remove any Director from his position before the expiration of the term of office and may by resolution appoint another Director to hold office until the expiration of the term of office of the Director so removed.

9. Powers and duties of Directors

9.1 General management power

Subject to the Act, this Constitution and any resolution of the Company, the Directors:

- (a) will manage the business of the Company;
- (b) may exercise all such powers of the Company that are not, by the Act or this Constitution, required to be exercised by the Company in general meeting, provided that:
- (i) no resolution of the Company in general meeting will invalidate any prior act of the Directors which would have been valid if such a resolution had not been made; and
 - (ii) any sale or disposal by the Directors of the Company's main undertaking or a substantial proportion of its assets will be subject to ratification by the Company in general meeting; and
- (c) may pay all expenses incurred in promoting and forming the Company.

Field Code Changed

Field Code Changed

Field Code Changed

9.2 Attorneys

Field Code Changed

- (a) The Directors may, by power of attorney under the Seal, appoint any person or persons to be the attorney or attorneys of the Company with such powers, authorities and discretions (being powers, authorities and discretions vested in or exercisable by the Directors), for such period and subject to such conditions as they think fit.
- (b) Any such power of attorney may contain provisions for the protection and convenience of persons dealing with the attorney and may also authorise the attorney to delegate all or any of the powers, authorities and discretions vested in the attorney.

9.3 Power to borrow and give security

Field Code Changed

- (a) Without limiting the generality of clause ~~9.19.1~~, the Directors may for the purposes of the Company:
 - (i) borrow money, with or without giving security for it; and
 - (ii) guarantee the performance of any obligation of the Company or of any other person.
- (b) ~~The Directors may borrow or provide security as they think fit and in particular by the issue of bonds, debentures or debenture stock or any mortgage, charge or other security on the undertaking of the whole or part of the property of the Company (both present and future) including its uncalled capital.~~
- (c) Debentures, debenture stock, bonds or other securities may be:
 - (i) made assignable free from any equities between the Company and the person to whom the same has been issued; or
 - (ii) issued at a discount, premium or otherwise and with any special privileges as to redemption, surrender, drawings, allotment of shares, attending and voting at general meetings of the Company, appointment of Directors and otherwise, and any debentures may be re-issued notwithstanding that they may have been made paid off or satisfied.

Field Code Changed

9.4 Register of mortgages and charges

Field Code Changed

The Directors must:

Field Code Changed

- (a) cause a proper register to be kept in accordance with the Act of all mortgages and charges affecting the property of the Company; and
- (b) comply with the Act in regard to the registration of mortgages and charges.

9.5 Indemnity

Field Code Changed

Subject to clause ~~19.18~~ and to the extent permitted by the Act, if any of the Directors or any other person becomes personally liable for the payment of any sum primarily due from the Company, the Directors may execute a mortgage, charge or security over the whole or any part of the assets of the Company by way of indemnity to secure the Directors or persons so becoming liable from any loss in respect of the liability.

9.6 Other offices of Directors

Subject to the Act, a Director may hold any other office or offices under the Company (except that of auditor) in conjunction with the office of Director and on such terms as to remuneration and otherwise as the Directors may arrange.

10. Proceedings of Directors

10.1 Meetings and quorum

- (a) The Board must meet in person or in whichever form of attendance is deemed necessary, at least 4 times in each period of 12 months at such place and time as the Board may determine.
- (b) Additional meetings of the Board may be convened by the President or by any member of the Board.
- (c) Oral or written notice of a meeting of the Board must be given by the Secretary to each member of the Board at least 48 hours (or such other period as may be unanimously agreed on by the members of the Board) before the time appointed for the holding of the meeting.
- (d) Notice of a meeting given under clause (c) must specify the general nature of the business to be transacted at the meeting and no business other than that business is to be transacted at the meeting, except business which the Board members present at the meeting unanimously agree to treat as urgent business.
- (e) Any 5 members of the Board constitute a quorum for the transaction of the business of a meeting of the Board.
- (f) No business is to be transacted by the Board unless a quorum is present and if, within half an hour of the time appointed for the meeting, a quorum is not present, the meeting is to stand adjourned to the same place and at the same hour of the same day in the following week.
- (g) If at the adjourned meeting a quorum is not present within half an hour of the time appointed for the meeting, the meeting is to be dissolved.
- (h) At a meeting of the Board:
 - (i) the President or, in the President's absence, the Vice-president is to preside, or
 - (ii) if the President and the Vice-president are absent or unwilling to act, one of the remaining Directors may be chosen by the members present at the meeting to preside.
- (i) A Director may call a Directors' meeting by giving reasonable notice to each Director.

10.2 Circulating resolutions

- (a) The Directors may pass a resolution without a Directors' meeting being held if all the Directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.

Field Code Changed

Field Code Changed

- (b) Identical copies of the document may be distributed for signing by different Directors and taken together will constitute one and the same document.
- (c) The resolution is passed when the last Director signs the document.

10.3 Telephone and other meetings

Field Code Changed

Without limiting the power of the Directors to regulate their meetings as they think fit, a meeting of Directors or committee of Directors may be held where one or more of the Directors is not physically present at the meeting, provided that:

- (a) all Directors consent to the calling and the holding of the meeting by means of telephone or other form of communication;
- (b) all Directors participating in the meeting are able to communicate with each other effectively, simultaneously and instantaneously by means of the agreed form of communication;
- (c) notice of the meeting is given to all the Directors entitled to notice in accordance with the usual procedures agreed on or laid down from time to time by the Directors and such notice does not specify that Directors are required to be present in person;
- (d) in the event that a failure in communications prevents clause ~~10.3(b)~~10.3(b) from being satisfied by that number of Directors which constitutes a quorum, then the meeting will be suspended until clause ~~10.3(b)~~10.3(b) is satisfied again. If clause ~~10.3(b)~~10.3(b) is not satisfied within 15 minutes from the time the meeting was interrupted, the meeting will be deemed to have terminated; and
- (e) any meeting held where one or more of the Directors is not physically present will be deemed to be held at the location specified in the notice of meeting provided a Director is present at that location. If no Director is present at the location specified, the meeting will be deemed to be held at the location where the chairperson of the meeting is located.

10.4 Directors' resolutions

Field Code Changed

- (a) Subject to this Constitution, a resolution of the Directors must be passed by a majority of the votes of Directors present and entitled to vote on the resolution.
- (b) In case of an equality of votes, the chairperson of the meeting, in addition to his or her deliberative vote (if any), has a casting vote.

10.5 Minutes

Field Code Changed

- (a) The Directors must cause minutes to be made of:
 - (i) all appointments of Directors, Alternate Directors and officers;
 - (ii) the names of the Directors present at each meeting of the Directors;
 - (iii) all orders made by the Directors;
 - (iv) all declarations made or notices given by any Director (either generally or specifically) of his or her interest in any contract or proposed contract or

of his or her holding of any office or property whereby any conflict of duty or interest may arise; and

- (v) all resolutions and proceedings of meetings of Members and classes of Members and of the Directors,

and retain the minutes in a minute book for a period of at least 10 years or such other period as may be required under the Act.

- (b) The minutes of a meeting must be signed by the chairperson of the meeting or the chairperson of the next meeting.
- (c) In the absence of evidence to the contrary, contents of the minute book that is recorded and signed in accordance with this clause ~~10.540-5~~ is evidence of the matters shown in the minute.

Field Code Changed

10.6 Director's personal interests

Field Code Changed

If a Director has a material personal interest in a matter that relates to the affairs of the Company other than an interest that does not have to be disclosed under section 191(2) of the Act and the Director discloses the nature and extent of the interest and its relation to the affairs of the Company to the other Directors, in accordance with section 191 of the Act, then:

- (a) the Director may vote on matters that relate to the interest;
- (b) any transactions that relate to the interest may proceed; and
- (c) if the disclosure is made before the transaction is entered into:
 - (i) the Director may retain benefits under the transaction even though the Director has the interest; and
 - (ii) the Company cannot avoid the transaction merely because of the existence of the interest.

10.7 Delegation to Committees

Field Code Changed

Field Code Changed

- (a) The Directors may delegate any of their powers to a committee or committees consisting of such of their number as they think fit.
- (b) A committee must exercise the powers delegated to it in accordance with any directions of the Directors. The effect of the committee exercising a power in this way is the same as if it had been exercised by the Directors.
- (c) The members of a committee may elect one of their number as chairperson of their meetings.
- (d) Where a meeting of a committee is held and:
 - (i) a chairperson has not already been elected to chair that meeting under clause ~~10.7(c)40.7(e)~~; or
 - (ii) the previously elected chairperson is not present within 15 minutes after the time appointed for the holding of the meeting or is unwilling to act,

the members present may elect one of their number to be chairperson of the meeting.

- (e) A committee may meet and adjourn as it thinks fit unless otherwise directed by the Directors.
- (f) Questions arising at a meeting of a committee must be determined by a majority of votes of the members present and voting.
- (g) In the case of an equality of votes, the chairperson has a casting vote, in addition to any vote the chairperson has in the chairperson's capacity as a member of the committee (if any).
- (h) The professional development work of the Company will be undertaken by committees of members ("Committees") dedicated to specific areas of interest and lead by a Committee Manager.
- (i) The Board of Directors may from time to time resolve to approve the formation of a Committee for a specific area of interest.
- (j) The Board of Directors may from time to time in its discretion resolve to
 - (i) dissolve a Committee
 - (ii) suspend a committee for such a period of time as it thinks fit and
 - (iii) remove members of a Committee and appoint new members to the Committee.
- (k) Each Committee shall furnish to the appropriate meeting of the Board of Directors a report of its activities and shall tender to the Board of Directors such advice concerning the subject matter of its activities as the Board of Directors deems desirable.

Field Code Changed

10.8 Acts of Directors Valid Despite Defective Appointment

Any act done at any meeting of the Directors or of a committee of Directors by any person acting as a Director is, although it is later discovered that there was some defect in the appointment of any such Director or that the Director was disqualified, is valid as if the Director had been duly appointed and was qualified to be a Director or to be a member of the committee.

Field Code Changed

11. Alternate Directors

Field Code Changed

11.1 Power to appoint an Alternate Director

- (a) Subject to the other Directors' prior written approval, a Director (**Appointing Director**) may appoint an Alternate Director to exercise some or all of the Appointing Director's powers either indefinitely or for a specified period. An Alternate Director need not be a Director or Member.

11.2 Appointment

Field Code Changed

The appointment of an Alternate Director must be in writing and a copy given to the Company.

11.3 Rights and powers

Field Code Changed

- (a) An Alternate Director:
 - (i) is entitled to notice of each Directors' meeting and if the Appointing Director is not present at any such meeting, the Alternate Director may attend and vote at that meeting in the Appointing Director's place; and
 - (ii) is otherwise entitled to exercise all the powers of the Appointing Director in the Appointing Director's place (unless the appointment was limited to some only of the Appointing Director's powers, in which case the Alternate Director may only exercise those powers).
- (b) When an Alternate Director exercises the Appointing Director's powers, the exercise of the powers is just as effective as if the powers were exercised by the Appointing Director.

11.4 Alternate Director is not agent of appointor

Field Code Changed

An Alternate Director is responsible to the Company for his or her own acts and defaults as if the Alternate Director were an ordinary Director and is not deemed to be an agent of the appointing Director.

11.5 Termination of appointment

- (a) The Appointing Director may terminate the Alternate Director's appointment at any time.
- (b) The termination of an Alternate Director must be in writing and is not effective until a copy is given to the Company.
- (c) In any case, the appointment of an Alternate Director terminates when the Appointing Director ceases to hold office as Director.

12. Units

- (a) In the event that not less than five members inform the Board of Directors of the Company in writing of their intention to set up a unit of the Company and the Board of Directors approves such intention then such members may adopt such rules for the conduct of the unit as are from time to time approved by the Board of Directors and are not inconsistent with these rules.
- (b) The role of a unit shall be to provide an opportunity for local members to meet professionally for the purpose of sharing ideas on English teaching.
- (c) Any unit of the Company will be designated "The _____ Unit of the English Teachers Association NSW".
- (d) The conduct of unit affairs shall be the responsibility of an annually elected Unit Executive and shall not be contrary to this Constitution.
- (e) Units shall forward the names of their office-bearers (President, Secretary and Treasurer) to the Secretary of the Company within one month of the election of officers. Such notification shall be regarded as evidence of the unit's active operation and a prerequisite for any of the benefits associated with the use of the Company banner.

- (f) A unit may apply to the Board of Directors for a grant at any time for the purpose of financing communications, such as postage, printing, emails and telephone calls, with those members associated with the unit.
- (g) At the end of the financial year the Treasurer of the unit shall forward to the Executive Officer of the Company a copy of the unit's properly audited balance sheet.
- (h) From time to time, the Board of Directors may invite units to apply for other grants if savings permit.
- (i) No member shall be an office-bearer on both the Board of Directors of the Company and a unit Executive of the Company at the same time. Members may, however hold the position of Director of the Company and the position of officer on a unit Executive of the Company.
- (j) No unit of the Company nor any member or officer of any unit shall have the authority to commit the Company to any engagement, financial liability or obligation whatsoever, unless authorised in writing by the Board of Directors of the Company.
- (k) The Board of Directors may terminate the right of the Unit of the Company to operate if it considers to have acted in a manner unbecoming or prejudicial to the Company, provided that the Board of Directors has notified in writing this intention to the unit and the unit has been given an opportunity to explain according to the principles of natural justice.
- (l) If a unit ceases to operate, the remaining members shall arrange for the return of the assets of the unit to the Treasurer of the Company.

13. **Secretary**

A Secretary of the Company holds office on such terms and conditions, as to remuneration and otherwise, as the Directors determine.

Field Code Changed

Field Code Changed

14. **Seal**

14.1 **Safe Custody**

Where the Company has a Seal, the Directors must provide for its safe custody.

14.2 **Authority to Use**

Where the Company has a Seal, the Seal must only be used by the authority of the Directors, or of a committee of the Directors authorised by the Directors to authorise the use of the Seal.

14.3 **Additional Seal**

Where the Company has a Seal, the Company may have for use outside the state or territory in which the Office is located, one or more Seals each of which must only be used in accordance with the provisions of this rule 13.

Field Code Changed

15. Execution of documents

15.1 Use of Seal optional

Except where required by the Act, the Company need not have or use the Seal to execute documents or deeds. The Directors may resolve whether or not the Company is to have or use a Seal.

15.2 Execution without the Seal

The Company may validly execute a document (including a deed) without using the Seal if the document is signed:

- (a) if the Company has more than one Director, by a Director and countersigned by another Director, Secretary or another person appointed by the Directors to countersign that document or a class of documents in which that document is included; or
- (b) if the Company has only one Director who is also the only Secretary or where the Company has only one Director and no Secretary, by that Director where the Director states next to his or her signature that he or she is the sole Director and, if applicable, sole Secretary of the Company.

15.3 Execution using the Seal

The Company may validly execute a document (including a deed) by fixing the Seal to the document and the fixing being witnessed by:

- (a) if the Company has more than one Director, by a Director and countersigned by another Director, a Secretary or another person appointed by the Directors to countersign that document or a class of documents in which that document is included; or
- (b) if the Company has only one Director who is also the only Secretary or where the Company has only one Director and no Secretary, by that Director where the Director states next to his or her signature that he or she is witnessing the fixing of the Seal in his or her capacity as sole Director and, if applicable, sole Secretary of the Company.

15.4 Execution by authorised persons

Clauses ~~15.244.2~~ and ~~15.314.3~~ do not limit the ability of the Directors to authorise a person who is not an officer of the Company to execute a document for and on behalf of the Company.

15.5 Seal register

- (a) The Secretary must record details of every document to which the Seal, if any, is fixed in a Seal register.
- (b) Where the Company has a Seal, the Seal register must be produced at each Directors' meeting for the purpose of the Directors approving the fixing of the Seal to each document recorded in the Seal register since the last Directors' meeting.

16. Inspection of records

- (a) The Directors must determine whether and on what terms the accounting records and other documents of the Company or any of them will be open to the inspection of Members other than Directors.
- (b) A Member other than a Director does not have the right to inspect any document of the Company except as provided by the Act or authorised by the Directors or by the Company in general meeting.

Field Code Changed

Field Code Changed

17. Notices

17.1 Notices in writing

Any notice given by the Company to any Member must be:

- (a) in writing, legible and in English;
- (b) signed by an officer of the Company or in any way authorised by clause [1544](#).

Field Code Changed

Field Code Changed

17.2 Service

The Company must give a notice to any Member by:

- (a) serving it on the Member personally;
- (b) sending it by post to the Member's address as shown in the Register or an alternative address (if any) supplied by the Member to the Company for the purpose of giving notices; or
- (c) sending it by facsimile to the facsimile number (if any) nominated by the Member;
- (d) sending it by email to the email address (if any) nominated by the Member.

Field Code Changed

17.3 Deemed receipt

A notice is deemed to be duly given or made in the case of:

- (a) delivery in person, when delivered;
- (b) delivery by post:
 - (i) in Australia to an Australian address, on the third day after posting; or
 - (ii) in any other case, on the tenth day after posting; or
- (c) delivery by facsimile, on a transmission report being printed by the Company's facsimile machine stating that the document has been sent to the Member's facsimile number,
- (d) Registered as an email sent on the Company's server of sent emails,

Field Code Changed

Field Code Changed

Field Code Changed

but if delivery is not made before 4.00 pm on a day it will be deemed to be received at 9.00 am on the next day.

17.4 Notice to joint holders

Field Code Changed

A notice may be given by the Company to joint Members by sending the notice to the joint Member first named in the Register or to an alternative address (if any) nominated by that Member.

17.5 Notice in case of death or bankruptcy

A notice may be given by the Company to a person entitled to a share in consequence of the death, mental incapacity, bankruptcy or insolvency of a Member by:

- (a) serving it on that person personally;
- (b) sending it by post addressed to that person by name or title.

and at the address (if any) supplied for the purpose by the person or, if such an address has not been supplied, at the address to which the notice might have been sent if the death, mental incapacity, bankruptcy or insolvency had not occurred.

18. Winding up

Field Code Changed

Field Code Changed

- (a) If upon the winding up or dissolution of the Company any property remains, after satisfaction of all debts and liabilities, that property must not be paid to or distributed among the members of the Company but must be given or transferred to some other institution or institutions determined by the members of the Company at or before the time of dissolution.
- (b) If the members do not make the necessary determination under rule (a), the Company may apply to the Supreme Court to determine the institution or institutions.
- (c) No institution is eligible to receive property under this rule 17 unless:
 - (i) it has objects similar to the objects of the Company; and
 - (ii) its constitution prohibits the distribution of its or their income and property among its or their members to an extent at least as great as is imposed on the Company under 3.3 and 3.4.

19. Indemnity

Field Code Changed

Field Code Changed

19.1 Interpretation

Field Code Changed

In this clause 18:

- (a) **proceedings** means any proceedings, whether civil or criminal, being proceedings in which it is alleged that the person has done or omitted to do some act in their capacity as an officer of the Company (including proceedings alleging that they were guilty of negligence, default, breach of trust or breach of duty in relation to the Company); and
- (b) **officer** has the meaning given to that term in section 9 of the Act.

19.2 Scope of indemnity

In addition to any other indemnity provided to an officer of the Company in accordance with the Act, and to the extent permitted by the Act:

- (a) every officer of the Company will be indemnified out of the assets of the Company against any liability incurred by them in relation to the execution of their office;
- (b) no officer of the Company is liable for any loss or damage incurred by the Company in relation to the execution of his or her office;
- (c) every officer of the Company will be indemnified out of the assets of the Company against any liability which he or she incurs:
 - (i) in defending any proceedings, whether civil or criminal, in which judgment is given in favour of the officer or in which the officer is acquitted;
 - (ii) in connection with any application, in relation to any such proceedings, in which relief is granted under the Act to the officer by the Court; and
- (d) every officer of the Company will be indemnified out of the assets of the Company against any liability to another person (other than the Company or a related body corporate of the Company) where the liability is incurred by the officer in their capacity as an officer of the Company, provided that this indemnity will not apply where the liability arises out of conduct involving a lack of good faith.

Field Code Changed

19.3 Insurance

In addition to the payment of any other insurance premium by the Company in accordance with the Act, and to the extent permitted by the Act, the Company may pay the premium in respect of a contract insuring an officer of the Company against a liability:

- (a) incurred by the officer of the Company in his or her capacity as officer, provided that the liability does not arise out of conduct involving a wilful breach of duty in relation to the Company or a contravention of sections 182 or 183 of the Act; or
- (b) for costs and expenses incurred by that officer of the Company in defending proceedings, whatever their outcome.

Field Code Changed

20. Funds

20.1 Funds – source

- (a) The funds of the Company are to be derived from Annual Fees, gifts, donations, grants, bequests, earnings, subsidies and contracts, and, subject to any resolution passed by the Company in meeting, such other sources as the Board determines.
- (b) All money received by the Company must be deposited as soon as practicable and without deduction to the credit of the Company's bank account.
- (c) The Company must, as soon as practicable after receiving any money, issue an appropriate receipt.

20.2 Funds – management

- (a) Subject to any resolution passed by the Company, the funds of the Company are to be used in pursuance of the objects of the Company in such manner as the Board determines.
- (b) Any 2 Officers of the Company, being Directors or employees authorised to do so by the Board, must sign all cheques, drafts, bills of exchange, promissory notes and other negotiable instruments.

21. Alteration of objects and Constitution

Subject always to the Act, the statement of objects and this Constitution may be altered, rescinded or added to only by a special resolution of the Company.

22. Accounts

- (a) True accounts shall be kept of all sums of money received and expended by the Company and the matter in the respect of which the receipt and expenditure takes place for the financial year; and of the property, credits and liabilities of the Company; and subject to any reasonable restrictions as to time and matter of inspecting them that may be imposed by the Company for the time being, those accounts shall be opened to inspection by a duly authorised representative of any unit of the Company.
- (b) The Treasurer of the Company shall faithfully keep all general records, accounting books, and records of receipts and expenditure connected with the operations and business of the Company in such form and manner as the Board of Directors may direct.
- (c) The accounts, books and records shall be kept at the Company's office, or at such a place as the Board of Directors may decide.

23. Banking and Finance

- (a) The Treasurer of the Company shall be responsible for receiving all money paid to the Company and the issuing of receipts.
- (b) The Board of Directors shall cause to be opened with such bank or other financial institution as the Board of Directors selects a banking account or banking accounts in the name of the Company into which all monies received shall be paid as soon as possible after the receipt thereto.
- (c) No cheques shall be drawn on the Company's bank account except for the payment of expenditure which has been authorised by the Board of Directors.
- (d) All cheques, drafts, bills of exchange, promissory notes, and other negotiable instructions shall be signed by the Treasurer or any officer duly appointed from time to time by the Board of Directors for that purpose.

24. Audit

An audit of the books may be carried out by a Certified Practising Accountant from time to time as the Board thinks fit, or as required under the Company's Procedures Manual.

Appendix 1 –MEMBERSHIP APPLICATION

(Rule 4.2)

APPLICATION FOR MEMBERSHIP OF THE ENGLISH TEACHERS ASSOCIATION NSW INC.

I,.....
(full name of applicant)

of.....
(applicant's address)

being hereby apply on behalf of
(title of office – president, chair, etc)

.....Incorporated
(full name of Company)

to become a Member of the Company. In the event of admission as a member, I as President/Chair of the Company agree that the Company shall be bound by the Constitution of the Company for the time being in force.

.....
Signature of applicant

Date.....

I,..... a Director of the Company,
(full name)

nominate the applicant, who is personally known to me, for membership of the Company.

.....
Signature of proposer

Date.....

I,..... a Director of the Company,
(full name)

second the nomination of the applicant, who is personally known to me, for membership of the Company.

.....
Signature of seconder

Date.....

Appendix 2 – PROXY FORM

(Rule 7.9)

FORM OF APPOINTMENT OF PROXY

I,of
(full name) *(address)*

being a member of
(name of Member)

hereby appoint of
(full name of proxy) *(address)*

being a member of a Member, as my proxy to vote for me on my behalf at the meeting of the Company (annual general meeting or special general meeting, as the case may be) to be held on the

.....day of.....
(month and year)

and at any adjournment of that meeting.

- * My proxy is authorised to vote in favour of/against (delete as appropriate) the resolution (insert details).
- * to be inserted if desired.

.....
Signature of member appointing proxy

Date.....

NOTE: A proxy vote may not be given to a person who is not a Director of the Company and/or is from a Member that is not a current financial member of the Company.