



AIDS COUNCIL OF NSW INCORPORATED CONSTITUTION

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PART I - PRELIMINARY

Name

- 1 The name of the association shall be the AIDS Council of New South Wales Inc..

Objects

- 2 ACON's purpose is to maintain and build on the success of the community-based response to HIV/AIDS by:
- (1) improving the health, well-being and rights of all people living with HIV/AIDS (regardless of sexuality, gender or age) and other affected communities, which includes gay men, lesbians and transgender people, people who inject drugs, sex workers, and Aboriginal and Torres Strait Islanders;
 - (2) directly providing appropriate and high-quality care and education services to all people living with HIV/AIDS, those directly affected by HIV or at risk of HIV infection, as well as advocating for the provision of appropriate services by other service providers; and
 - (3) advocating for the development of a legal and social policy environment that supports ACON's work and that of related organisations.

ACON will achieve its purposes by:

- (1) continuing the work of ACON's communities in response to HIV/AIDS and other relevant health issues and liaising with other groups and services as appropriate;
- (2) conducting educational and self-help projects to minimise the incidence of HIV/AIDS and other relevant health issues in ACON's communities and amongst other people in New South Wales;
- (3) liaising with government and other bodies to ensure that the necessary services and resources for people living with HIV/AIDS and other relevant health issues are provided;
- (4) fighting discrimination resulting from HIV/AIDS and other relevant health issues and ensuring that repressive legislation and government action does not occur;
- (5) ensuring that the general public and the media are correctly informed about HIV/AIDS and other relevant health issues and correcting false, misleading or dangerous statements about these issues in the public domain;
- (6) liaising and consulting with a view to assisting either directly or through affiliated organisations, people with HIV/AIDS and other relevant health conditions, and those at risk, and their lovers and their friends, and making provision for their welfare and for their emotional and social support;
- (7) encouraging, assisting and promoting medical and scientific research into the causes, prevention, treatment and cure of HIV/AIDS and other relevant health issues;
- (8) receiving donations, grants and bequests from persons and institutions including governments and raising money to achieve ACON's objects;
- (9) buying and selling real property, holding leases, acquiring assets, employing staff, carrying on trading activities and doing all lawful things necessary for or conducive to or incidental to the achievement of ACON's objects; and
- (10) doing any other such activities or entering into any such arrangements as are appropriate to the achievement of ACON's objects.

Interpretation

- 3 (1) In these rules, except in so far as the context or subject matter otherwise indicates or requires:
- "**ACON**" means the AIDS Council of New South Wales;
 - "**CSN**" means Community Support Network of New South Wales Inc;
 - "**CSN Member**" means a current financial member of CSN;
 - "**CSN/ACON Management Agreement**" means the management agreement first entered into between CSN and ACON in 1988, as revised from time to time;
 - "**Director-General**" means the Director-General of the Department of Fair Trading;
 - "**financial year**" means the year ending 30 June;
 - "**general meeting**" means the annual general meeting or a special general meeting;
 - "**Secretary**" means:
 - (a) the person holding office under these rules as secretary of ACON; or
 - (b) where no such person holds that office, the public officer of ACON;
 - "**the Act**" means the Associations Incorporation Act, 1984;
 - "**the Regulation**" means the Associations Incorporation Regulation, 1999.
- (2) In these rules:
- (a) a reference to a function includes a reference to a power, authority and duty; and
 - (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.
- (3) The provisions of the Interpretation Act, 1987, apply to and in respect of these rules in the same manner as those provisions would so apply if these rules were an instrument made under the Act.

Community Support Network

- 3A ACON and CSN were both formed in 1984 as part of the community response to the impact of HIV/AIDS. Since 1988 ACON and CSN have collaborated in the provision of high quality home care to HIV positive people. ACON recognises the importance of the contribution that has been made and continues to be made by CSN and its members in enabling ACON to meet its objects.

PART II - MEMBERSHIP

Membership Qualifications

- 4 Membership of ACON shall be open to:
- (1) natural persons who subscribe to the objects of ACON, on payment of the annual subscription payable under these rules; and
 - (2) any body corporate or politic which subscribes to the objects of ACON and whose activities, whether in whole or in part, are not inconsistent with those objects, on payment of the annual subscription payable under these rules. Members under this sub-section shall have the voting rights of a natural person being a member of ACON. Such members shall nominate, in writing to the Secretary, a person who is a member of ACON under rule 4 (1) to exercise that vote.

Affiliated Organisations

5 Section deleted 22 September 1997

Nomination for membership

- 6 (1) An application for membership of ACON:
- (a) shall be made in writing; and
 - (b) shall be lodged with the Secretary.
- (2) As soon as practicable after receiving a nomination for membership, the Secretary shall refer the nomination to the Board which shall determine whether to approve or to reject the nomination.
- (3) The Secretary shall, on approval of the application for membership, enter or cause to be entered the nominee's name in the register of members and, upon the name being so entered, the nominee becomes a member of ACON.

Rejection of nomination

- 7 (1) Where the Board passes a resolution to reject a nomination for membership, the Secretary shall, as soon as practicable, cause a notice in writing to be served upon the nominee:
- (a) setting out the resolution of the Board and the grounds on which it is based;
 - (b) stating that the nominee may address the Board at a meeting to be held not earlier than 14 days and not later than 28 days after service of the notice;
 - (c) stating the date, place and time of that meeting; and
 - (d) informing the nominee that she or he may do either or both of the following:
 - (i) attend and speak at that meeting; and/or
 - (ii) submit to the Board at or prior to the date of that meeting written representations relating to the resolution.
- (2) At a meeting of the Board held as referred to in clause (1), the Board shall:
- (a) give to the nominee an opportunity to make oral representations;
 - (b) give due consideration to any written representations submitted to the Board by the nominee at or prior to the meeting; and
 - (c) by resolution determine whether to confirm or to revoke the resolution of the Board rejecting the nomination.
- (3) Where the Board confirms a resolution under clause (2), the Secretary shall, within 7 days after that confirmation, by notice in writing inform the nominee of the fact and of the nominee's right of appeal under rule 8.

Right of appeal of nominee

- 8 (1) A nominee may appeal to the members of ACON in general meeting against a resolution of the Board which is confirmed under rule 7(2), within 7 days after notice of the resolution is served on the nominee by lodging with the Secretary a notice to that effect.
- (2) Upon receipt of a notice from a nominee under clause (1), the Secretary shall notify the Board which shall convene a general meeting of the members of ACON to be held within 21 days after the date on which the Secretary received the notice.
- (3) At a general meeting of the members of ACON convened under clause (2):
- (a) no business other than the question of the appeal shall be transacted;
 - (b) the Board and the nominee shall be given the opportunity to state their respective cases orally or in writing or both; and
 - (c) the members present shall vote by secret ballot on the question of whether the resolution should be confirmed or revoked.
- (4) If at the general meeting of the members of ACON a special resolution in favour of the confirmation of the resolution is passed, the resolution is confirmed.

Cessation of membership

- 9 (1) A natural person ceases to be a member of ACON if:
- (a) the person dies;
 - (b) the person resigns that membership;
 - (c) the annual membership fee paid in respect of the person has expired for more than 12 months and ACON has no contact details for the member; or
 - (d) the member is expelled from ACON.
- (2) A member under rule 4(2) ceases to be a member of ACON if:
- (a) the member ceases to exist, is dissolved, or otherwise is altered;
 - (b) the member resigns that membership;
 - (c) the annual membership fee paid in respect of the member has expired for more than 12 months and ACON has no contact details for the member; or
 - (d) the member is expelled from ACON.

Membership entitlements not transferable

- 10 A right, privilege or obligation which applies by reason of being a member:
- (a) is not capable of being transferred or transmitted to another person or member; and
 - (b) terminates upon cessation of the member's membership.

Resignation of membership

- 11 Where a member of ACON ceases to hold membership, the Secretary shall make or cause to be made an appropriate entry in the register of members recording the date on which the member ceased to be a member.

Register of members

- 12 (1) The public officer of ACON shall establish and maintain or cause to be maintained a register of members of ACON specifying the name and address of each person who is a member of ACON, or is the nominee of that member where the member is not a natural person, with the date on which they became a member.
- (2) The register of members shall be kept at the principal place of administration of ACON.

Fees

- 13 (1) The annual membership fee payable by members shall be fixed by the annual general meeting of the members of ACON.
- (2) Subject to paragraph (3), annual membership fees shall be paid on or before a date to be fixed by the Board, such date being at least 21 days prior to the annual general meeting;
- (3) Where a member becomes a member on or after 1st April and before the annual general meeting in the same calendar year, no further fee is payable in that calendar year.

13A Despite rule 13, a CSN Member who is accepted as a member of ACON will not be liable to pay any annual membership fee while the CSN/ACON Management Agreement is in force.

Members' liabilities

14 The liability of a member of ACON to contribute towards the payment of the debts and liabilities of ACON or the costs, charges and expenses of the winding up of ACON is limited to the amount, if any, unpaid by the member in respect of membership of ACON as required by rule 13.

Disciplining of members

- 15 (1) Where the Board is of the opinion that a member of ACON:
- (a) has persistently refused or neglected to comply with a provision or provisions of these rules; or
 - (b) has persistently and wilfully acted in a manner prejudicial to the interests of ACON;
- the Board may, by resolution:
- (a) expel the member from membership of ACON; or
 - (b) suspend the member from membership of ACON for a specified period.
- (2) A resolution of the Board under clause (1) is of no effect unless the Board, at a meeting held not earlier than 14 days and not later than 28 days after service on the member of a notice under clause (3), confirms the resolution in accordance with this rule.
- (3) Where the Board passes a resolution under clause (1), the Secretary shall, as soon as practicable, cause a notice in writing to be served on the member:
- (a) setting out the resolution of the Board and the grounds on which it is based;
 - (b) stating that the member may address the Board at a meeting to be held not earlier than 14 days and not later than 28 days after service of the notice;
 - (c) stating the date, place and time of that meeting;
 - (d) informing the member that the member may do either or both of the following:
 - (i) attend and speak at that meeting;
 - (ii) submit to the Board at or prior to the date of that meeting written representations relating to the resolution.
- (4) At a meeting of the Board held as referred to in clause (3), the Board shall:
- (a) give to the member an opportunity to make oral representations;
 - (b) give due consideration to any written representations submitted to the Board by the member at or prior to the meeting; and
 - (c) by resolution determine whether to confirm or to revoke the resolution.
- (5) Where the Board confirms a resolution under clause (4), the Secretary shall, within 7 days of that confirmation, by notice in writing, inform the member of the fact and of the member's right of appeal under rule 16.
- (6) A resolution confirmed by the Board under clause (4) does not take effect:
- (a) until the expiration of the period within which the member is entitled to appeal against the resolution where the member does not exercise the right of appeal within that period; or
 - (b) where within that period the member exercises the right of appeal, unless and until the members of ACON in general meeting confirm the resolution pursuant to rule 16(4).

Right of appeal of disciplined member

- 16 (1) A member subjected to discipline under rule 15 may appeal to the members of ACON in a general meeting against a resolution of the Board which is confirmed under rule 15(4), within 7 days of notice of the resolution being served on the member, by lodging with the Secretary a notice to that effect.
- (2) Upon receipt of a notice from a member under clause (1), the Secretary shall notify the Board which shall convene a general meeting of the members of ACON to be held within 21 days after the date on which the Secretary received the notice.
- (3) At a general meeting of the members of ACON convened under clause (2):
- (a) no business other than the question of the appeal shall be transacted;
 - (b) the Board and the member shall be given the opportunity to state their respective cases orally or in writing, or both; and
 - (c) the members present shall vote by secret ballot on the question of whether the resolution should be confirmed or revoked.
- (4) If at the general meeting of the members of ACON a special resolution in favour of the confirmation of the resolution is passed, the resolution is confirmed.

PART III - THE BOARD

Powers and functions of the Board

- 17 The Board, subject to the Act, the Regulation and these rules and to any resolution passed by the members of ACON in a general meeting:
- (a) shall control and manage the affairs of ACON;
 - (b) may exercise all such functions as may be exercised by ACON other than those functions that are required by these rules to be exercised by a general meeting of the members of ACON; and
 - (c) has power to perform all such acts and do all such things as appear to the Board to be necessary or desirable for the proper management of the affairs of ACON.

Constitution and members

- 18 (1) The Board shall consist of:
- (a) the office-bearers; and
 - (b) 8 ordinary members each of whom shall be elected pursuant to rule 19; and
 - (c) [clause deleted 22 September 1997]
 - (d) the Chief Executive Officer of ACON as an ex officio member;
 - (e) [clause deleted 22 September 1997]
 - (f) a person elected by and from the permanent members of the staff of ACON who will fill the role in a voluntary capacity;
- and
- (2) The office-bearers shall be:
- (a) the President;
 - (b) the Vice-President;
 - (c) the Treasurer; and

- (d) the Secretary.
- (3) Each member of the Board shall, subject to these rules, hold office until the conclusion of the annual general meeting following the date of the member's election, but is eligible for re-election, or in the case of members under clause 1(d) and (f) for re-nomination.
- (4) In the event of a casual vacancy occurring in the membership of the Board, the Board may appoint a member of ACON to fill the vacancy and the member so appointed shall hold office, subject to these rules, until the conclusion of the annual general meeting next following the date of the appointment.

Election of members

- 19 (1) A notice shall be sent to all members of ACON at least 35 days prior to the date appointed for the annual general meeting calling for nominations for election as office bearers and Board members.
- (2) Nominations shall be in writing addressed to the Secretary and shall be signed by the nominee, the proposer and the seconder, all of whom must be financial members of ACON at the time nominations close. Nominees may submit a statement in support of their candidature in a form as determined by the Board.
- (3) Nominations must be lodged with the Secretary before a time fixed by the Board but at least 21 days prior to the date appointed for the annual general meeting.
- (4) In any case where there shall not be a sufficient number of candidates nominated, those duly nominated shall be declared elected, effective from the conclusion of the annual general meeting, and the annual general meeting may fill the remaining vacancy or vacancies.
- (5) If more nominations are received than there are vacancies for office bearers or Board members, an election shall be held by postal ballot as follows:
- (a) A Returning Officer shall be appointed by the Board to conduct the count of votes in the ballot.
- (b) (i) The ballot paper shall list candidates' names in an order determined by lot by the Returning Officer.
(ii) The ballot papers for election of office-bearers and ordinary Board members shall indicate the HIV positive serostatus of HIV positive candidates who choose to so identify themselves on the ballot paper (hereafter "openly HIV+ candidates").
(iii) The date on which the poll closes must also be stated on the ballot paper.
(iv) The ballot paper shall also contain requisite information and directions as to the method of recording votes.
- (c) The preferential voting system shall be used to elect office bearers and the office bearers declared elected accordingly.
- (d) The following voting system shall be used to elect ordinary Board members.
- (i) ACON members voting shall number 8 candidates in order of preference.
(ii) The vote for ordinary Board members shall be tallied after the vote for office-bearers has been tallied.
(iii) To tally the vote, voters' preferences shall be weighted – ie, "1" shall count as 8, "2" shall count as 7, etc.
(iv) All weighted votes against each candidate shall be added and a list prepared of candidates in descending numerical order of total weighted votes.
(v) If there are 2 office bearers declared elected whose HIV positive serostatus was indicated on the ballot paper ("openly HIV+ office bearers"), the top 8 candidates for ordinary Board member on the list referred to above shall be declared elected.
(vi) In the case of a tie for the last position(s), the candidate with the highest number of first preference votes shall be placed on the list ahead of the candidate(s) with whom they tied; if those are equal, second preferences shall be counted, etc.
(vii) If there are not :
 - 2 openly HIV+ office bearers declared elected, and
 - among the 8 top scoring candidates in the list prepared under sub-clause 4 enough openly HIV+ candidates total, including any openly HIV+ office bearers, 2 openly HIV+ Board members,
then of the top 8 on the list the lowest scoring 2 candidates who are not openly HIV+ candidates (or if there is 1 openly HIV+ office bearer, lowest scoring such candidate) shall be eliminated and their places taken on the list by the 2 (or 1) openly HIV+ candidates with the highest total weighted vote below those 8.
(viii) If there are 2 HIV+ candidates among the 8 candidates with the highest total votes left on the list referred to in sub-clauses 4 and 6 after the procedure prescribed by these sub-clauses has been followed, those 8 candidates shall be declared elected.
(ix) If there is 1 HIV+ candidate among the top 7 of the 8 candidates with the highest total votes left on the list after the procedure prescribed by these sub-clauses has been followed, those top 7 candidates shall be declared elected, and the remaining position shall be treated as a vacancy and filled as a casual vacancy.
(x) If there are no HIV+ candidates among the 8 candidates with the highest total votes left on the list after the procedure prescribed by these sub-clauses has been followed, the 6 candidates with the highest total votes shall be declared elected, and the remaining 2 positions shall be treated as vacancies and filled as casual vacancies.
- (e) Ballot papers and any information about candidates shall be posted to each financial member of ACON at least 14 days prior to the close of the ballot. The close of the ballot shall be at 6:00pm, at the business address of ACON, two business days preceding the day of the annual general meeting.
- (f) (i) With the ballot paper there shall be sent to each member two different sized envelopes.
(ii) The larger envelope shall be addressed to the Returning Officer.
(iii) [*Clause deleted 30 November 2000*]
(iv) When the member who is voting has marked the ballot paper, the member shall seal same in the smaller envelope (marked "Vote").
(v) The vote of an organisation, association or other body shall be exercised by a person authorised to do so by that organisation, association or other body pursuant to rule 4 (2).
(vi) When the envelopes containing votes are received, the Returning Officer (or such person or persons appointed by the Returning Officer) shall open the larger envelope and place the smaller envelope in a locked ballot box.
- (g) A member may choose to place the smaller envelope marked "Vote" directly into the locked ballot box.
- (h) (i) The envelope marked "Vote" shall be opened after the close of the poll and the number of votes cast for each candidate for office bearer and the Board shall be counted and the results recorded by the Returning Officer.
(ii) The Returning Officer shall certify the results of the ballot and this shall be conveyed to the President or other officer acting in place of the President.
(iii) The results of the ballot shall be announced at the annual general meeting.
- (i) If, in the counting of votes in any election, it is necessary to decide between two or more candidates receiving the same number of votes, the matter shall be determined by lot supervised by the Returning Officer.
- (6) [*section deleted 22 September 1997*]

- (7) The person elected to the Board by the staff of ACON pursuant to rule 18(1)(f) shall be elected by and from staff, in such manner as the Returning Officer shall determine.

Secretary

- 20 (1) The Secretary shall, as soon as practicable after being appointed as Secretary, lodge notice with ACON of his or her address.
- (2) The Secretary is responsible for the keeping of minutes of:
- all appointments of office-bearers and Board members;
 - the names of Board members present at a meeting of the Board; and
 - all proceedings at Board meetings and general meetings.
- (3) Minutes of proceedings at a meeting shall be signed by the chairperson of the meeting or by the chairperson of the next succeeding meeting.

Treasurer

- 21 It is the duty of the Treasurer to ensure that:
- all money due to ACON is collected and received and that all payments authorised by ACON are made;
 - correct books and accounts are kept showing the financial affairs of ACON including full details of all receipts and expenditure connected with the activities of ACON.

President

- 21A (1) The President is the principal executive officer of ACON.
- (2) It is the duty of the President, subject to the direction of the membership and the Board:
- to represent ACON in its relations to State and federal governments and government agencies;
 - to represent ACON on State and federal bodies;
 - to represent ACON to other AIDS Councils and to the Australian Federation of AIDS Organisations;
 - to represent ACON in relation to other community organisations;
 - to represent ACON publicly, to make public statements on behalf of ACON, and to speak to the media on behalf of ACON;
- (3) The President may, with the approval of the Board, and subject to the provisions of the constitution, delegate the exercise of such of the functions of the President other than:
- this power of delegation; and
 - a function which is a duty imposed on the President by an Act or by any other law.
- (4) A function the exercise of which has been delegated under this rule may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation.
- (5) A function the exercise of which has been delegated under this section may be made the subject of such conditions or limitations as to the exercise of the duty the subject thereof as to time or circumstances as may be specified by the President.
- (6) Notwithstanding any delegation under this rule, the President may continue to exercise any function delegated.
- (7) Any act or thing done or suffered by a person acting in the exercise of a delegation under this rule has the same force and effect as it would have if it had been done or suffered by the President.
- (8) The President may revoke wholly or in part any delegation made under this rule.

Vice-President

- 21B The duties of the Vice-President shall be:
- to act as President during the absence or incapacity of the President; and
 - to carry out such functions as the President shall delegate to him or her pursuant to rule 21A.

Casual vacancies

- 22 For the purposes of these rules, a casual vacancy in the office of a Board member occurs if the member:
- dies;
 - ceases to be a financial member of ACON;
 - becomes an insolvent under administration within the meaning of the Corporations Law;
 - resigns office by notice in writing given to the Secretary;
 - is removed from office under rule 23;
 - becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health; or
 - is absent without the consent of the Board from 3 consecutive meetings of the Board.
 - being a member pursuant to rule 18(1)(d) and (f), ceases to be eligible to be a member under those sub-clauses.

Removal of member

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

Pecuniary interest

- 24 (1) No person who is in receipt of any fee or honorarium from ACON, or who has any other direct pecuniary interest for services rendered to ACON, shall be eligible to be a Board member whether as an office bearer or elected member, except as provided by rule 18(1)(d) and (f) as these members serve in an ex officio or voluntary capacity.
- (2) Where any member, after becoming a Board member seeks any fee, honorarium or any other direct pecuniary interest for services rendered to ACON, she or he shall immediately have her or his membership of the Board withdrawn. If such a member does not receive such a pecuniary interest she or he will be eligible to be re-appointed to the Board.

Meetings and quorum

- 25 (1) The Board shall meet at least 10 times in each period of 12 months at such place and time as the Board may determine.
- (2) Additional meetings of the Board may be convened by the President or by the Secretary.

- (3) Written notice of ordinary meetings of the Board shall be given by the Secretary to each Board member at least 7 days before the time appointed for the holding of the meeting and shall include the date, time and place of the meeting.
- (4) (a) Notice of special meetings of the Board shall be given orally or in writing to each Board member at least 48 hours (or such other period as may be unanimously agreed upon by the Board members) before the time appointed for the holding of the meeting.
- (b) Notice of a special Board meeting given under clause (4)(a) shall specify the general nature of the business to be transacted at the meeting and no business other than that business shall be transacted at the meeting, except business which the Board members present at the meeting unanimously agree to treat as urgent business.
- (5) Any 5 members of the Board constitute a quorum for the transaction of the business of a meeting of the Board.
- (6) No business shall 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 stands adjourned to the same place and at the same hour of the same day in the following week.
- (7) If at the adjourned meeting a quorum is not present within half an hour of the time appointed for the meeting, the meeting shall be dissolved.
- (8) The President shall preside at meetings of the Board, or, if the President is absent or unwilling to preside, the Vice-President shall preside.
- (9) If neither the President nor the Vice-President is able or willing to preside at a meeting of the Board, the Board shall elect from amongst its members who are elected members of the Board a person to chair the meeting of the Board.

Branches and Offices

- 25A (1) ACON may form and operate by way of branches and offices.
- (2) Subject to the Board, branches shall have a consultative committee which shall operate in relation to the staff of the branch by way of advice and policy guidance.

Delegation by the Board to sub-committees of the Board

- 26 (1) The Board may delegate to one or more sub-committees (consisting of such persons as the Board thinks fit) the exercise of such of the functions of the Board as the Board thinks fit, other than:
- (a) this power of delegation; and
 - (b) a function which is a duty imposed on the Board by the Act or by any other law.
- (2) A function the exercise of which has been delegated to a sub-committee under this rule may, while the delegation remains unrevoked, be exercised from time to time by the sub-committee in accordance with the terms of the delegation.
- (3) A delegation under this section may be made subject to such conditions or limitations as to the exercise of any function the subject thereof, or as to time or circumstances, as may be specified by the Board.
- (4) Notwithstanding any delegation under this rule, the Board may continue to exercise any function delegated.
- (5) Any act or thing done or suffered by a sub-committee acting in the exercise of a delegation under this rule has the same force and effect as it would have if it had been done or suffered by the Board.
- (6) The Board may revoke wholly or in part any delegation under this rule.
- (7) A sub-committee may meet and adjourn as it thinks proper.

Voting and decisions

- 27 (1) Questions arising at a Board meeting or of any sub-committee appointed by the Board shall be determined by a majority of the votes of members of the Board or sub-committee present at the meeting.
- (2) Except as provided in 27(5) and (6), each member present at a meeting of the Board or of any sub-committee appointed by the Board (including the person presiding at the meeting) is entitled to one vote but, in the event of any equality of votes on any question, the question shall be resolved in the negative.
- (3) Subject to rule 25(5), the Board may act notwithstanding any vacancy on the Board.
- (4) Any act or thing done or suffered, or purporting to have been done or suffered, by the Board or by a sub-committee appointed by the Board, is valid and effectual notwithstanding any defect that may afterwards be discovered in the appointment or qualification of any member of the Board or sub-committee.
- (5) (a) *[Clause deleted 8 December 2004]*
- (b) *[Clause deleted 23 November 1998]*
- (c) *[Clause deleted 23 November 1998]*
- (d) *[Clause deleted 23 November 1998]*
- (e) *[Clause deleted 23 November 1998]*
- (f) *[Clause deleted 23 November 1998]*
- (g) *[Clause deleted 22 September 1997]*
- (6) (a) The CEO, serving in an ex officio capacity under rule 18(1)(d), shall not have a vote;
- (b) *[clause deleted 22 September 1997]*
- (c) A member of the Board appointed pursuant to rule 18(1)(f) shall not be entitled to vote on any question concerning salaries or other remuneration paid to staff of ACON.

PART IV - GENERAL MEETINGS

Annual general meetings - holding of

- 28 (1) ACON shall, at least once in each calendar year and within the period of six months after the expiration of each financial year, convene an annual general meeting of its members.
- (2) *[Clause deleted 23 November 1998]*
- (3) Clause (1) has effect subject to any extension or permission granted by the Director-General under section 26(3) of the Act.

Annual general meetings - calling of and business at

- 29 (1) The annual general meeting shall, subject to the Act and to rule 28, be convened on such date and at such place and time as the Board thinks fit.
- (2) In addition to any other business which may be transacted at an annual general meeting, the business of an annual general meeting shall be:
- (a) to confirm the minutes of the last preceding annual general meeting and of any special general meeting held since that meeting;
 - (b) to receive from the Board reports upon the activities of ACON during the last preceding financial year;
 - (c) to receive the declaration of the election of office bearers and Board members; and

- (d) to receive and consider the statement which is required to be submitted to members pursuant to section 26(6) of the Act.
- (3) An annual general meeting shall be specified as such in the notice convening it.

Special general meetings - calling of

- 30 (1) The Board may, whenever it thinks fit, convene a special general meeting of the members of ACON.
- (2) The Board shall, on the requisition in writing of not less than 5 per cent of the total number of members, convene a special general meeting of the members of ACON.
- (3) A requisition of members for a special general meeting:
- shall state the purpose or purposes of the meeting;
 - shall be signed by the members making the requisition;
 - shall be lodged with the Secretary; and
 - may consist of several documents in a similar form, each signed by one or more of the members making the requisition.
- (4) If the Board fails to convene a special general meeting to be held within 1 month after the date on which a requisition of members for the meeting is lodged with the Secretary, any one or more of the members who made the requisition may convene a special general meeting to be held not later than 3 months after that date.
- (5) A special general meeting convened by a member or members as referred to in clause (4) shall be convened as nearly as is practicable in the same manner as general meetings are convened by the Board and any member who thereby incurs expense is entitled to be reimbursed by ACON for any reasonable expense so incurred.

Notice

- 31 (1) Except where the nature of the business proposed to be dealt with at a general meeting requires a special resolution, the Secretary shall, at least 14 days before the date fixed for the holding of the general meeting, cause to be sent by pre-paid post or by electronic means in accordance with rule 45(1) and (1A), a notice specifying the place, date and time of the meeting and the nature of the business proposed to be transacted at the meeting.
- (2) Where the nature of the business proposed to be dealt with at a general meeting requires a special resolution, the Secretary shall, at least 21 days before the date fixed for the holding of the general meeting, cause notice to be sent to each member in the manner provided in clause (1) specifying, in addition to the matter required under clause (1), the intention to propose the resolution as a special resolution.
- (3) No business other than that specified in the notice convening a general meeting shall be transacted at the meeting except, in the case of an annual general meeting, business which may be transacted pursuant to rule 29(2).
- (4) A member desiring to bring any business before a general meeting may give notice in writing of that business to the Secretary who shall include that business in the next notice calling a general meeting given after receipt of the notice from the member.

Procedure

- 32 (1) No item of business shall be transacted at a general meeting unless a quorum of members entitled under these rules to vote is present during the time the meeting is considering that item.
- (2) 10 per cent of the total number of members, or 30 members (whichever is the less) present in person (being members entitled under these rules to vote at a general meeting) constitute a quorum for the transaction of the business of a general meeting.
- (3) If within half an hour after the appointed time for the commencement of a general meeting a quorum is not present, the meeting if convened upon the requisition of members shall be dissolved and in any other case shall stand adjourned to the same day in the following week at the same time and (unless another place is specified at the time of the adjournment by the person presiding at the meeting or communicated by written notice to members given before the day to which the meeting is adjourned) at the same place.
- (4) If at the adjourned meeting a quorum is not present within half an hour after the time appointed for the commencement of the meeting, the members present (being not less than 3) shall constitute a quorum.

Presiding member

- 33 (1) The President shall preside as chairperson at each general meeting.
- (2) If the President is absent from a general meeting or unwilling to act, the Vice-President shall preside, or, if the Vice-President is absent, or unwilling to act, the members present shall elect one of their number to preside as chairperson at the meeting.

Adjournment

- 34 (1) The chairperson of a general meeting at which a quorum is present may, with the consent of the majority of members present at the meeting, adjourn the meeting from time to time and place to place, but no business shall be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.
- (2) Where a general meeting is adjourned for 14 days or more, the Secretary shall give written or oral notice of the adjourned meeting to each member of ACON stating the place, date and time of the meeting and the nature of the business to be transacted at the meeting.
- (3) Except as provided in clauses (1) and (2), notice of an adjournment of a general meeting or of the business to be transacted at an adjourned meeting is not required to be given.

Making of decisions

- 35 (1) A question arising at a general meeting of the members of ACON shall be determined on a show of hands. Unless a poll is demanded before or on the declaration by the chairperson that a resolution has, on a show of hands, been carried or carried unanimously or carried by a particular majority or lost, or an entry to that effect has been made in the minute book, the show of hands is evidence of the determination of the questions without proof of the number or proportion of the votes recorded in favour of or against that resolution.
- (2) At a general meeting of the members of ACON, a poll may be demanded by the chairperson or by not fewer than 3 members present in person at the meeting.
- (3) Where a poll is demanded at a general meeting, the poll shall be taken -
- 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
 - 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 shall be deemed to be the resolution of the meeting on that matter.

Special resolution

- 36 A resolution is a special resolution if:

- (a) it is passed by a majority which comprises not less than three-quarters of such members of ACON as, being entitled under these rules so to do, vote in person at a general meeting of which at least 21 days' written notice specifying the intention to propose the resolution as a special resolution was given in accordance with these rules; or
- (b) where it is made to appear to the Director-General that it is not possible or practicable for the resolution to be passed in the manner specified in paragraph (a), the resolution is passed in a manner specified by the Director-General.

Voting

- 37 (1) Upon any question arising at a general meeting of the members of ACON, a member has one vote only.
- (2) A member may vote in person or by proxy.
- (a) A proxy shall be in writing and shall bear the signatures both of the person giving the proxy and the person authorised to exercise it.
 - (b) A proxy shall be lodged with the Secretary prior to any meeting at which it is proposed to exercise it and the secretary shall keep a register of such proxies.
 - (c) A proxy may specify the circumstances under which it shall be exercised and the vote which shall be cast.
 - (d) A person issuing a proxy may cancel it or from time to time vary the proxy by notice in writing lodged with the Secretary.
 - (e) Notwithstanding that a proxy has been issued, a person may attend a meeting and exercise a personal vote provided that the person presiding at the meeting is notified prior to the casting of any such vote, in which case the proxy shall not be exercised.
 - (f) No person shall exercise more than one proxy at any one meeting or an adjournment thereof.
- (3) (a) Except as provided in this section, no natural person being a member of ACON shall exercise more than one vote at any general or other meeting of ACON, or the Board or its sub-committees.
- (b) A natural person being a member of ACON and being the designated person of a member under rule 4(2) shall be entitled to exercise not more than two votes at any general meeting of the members of ACON.
- (4) In the case of an equality of votes on a question at a general meeting, the question shall be resolved in the negative.
- (5) A member is not entitled to vote at any general meeting of the members of ACON unless all money due and payable by the member to ACON has been paid.

PART V - MISCELLANEOUS

Complaints System

- 37A Complaints (including comments, suggestions and feedback) about any aspect of any ACON policy, service or program, about the conduct of any staff, Board member or office bearer, shall be made and dealt with in accordance with the ACON complaints resolution system adopted by the Board from time to time.

Insurance

- 38 (1) ACON shall effect and maintain insurance pursuant to section 44 of the Act.
- (2) In addition to the insurance required under clause (1), ACON may effect and maintain other insurance.

Source of Funds

- 39 (1) The funds of ACON shall be derived from entrance fees and annual subscriptions of members, grants, donations and, subject to any resolution passed by the members of ACON in a general meeting, such other sources as the Board determines.
- (2) All money received by ACON shall be deposited as soon as practicable and without deduction to the credit of ACON's bank accounts.
- (3) ACON shall, as soon as practicable after receiving any money, issue an appropriate receipt.

Funds management

- 40 (1)(a) Subject to rules 40(1)(b) and 40(3), the income and property of ACON must be used and applied solely in promoting its purposes and exercising its powers as set out in this constitution. No part of the income or property of ACON may be distributed, paid or transferred directly or indirectly by way of dividend, bonus or otherwise by way of profit to or among the members of ACON.
- (b) Rule 40(1)(a) does not prevent the payment in good faith of:
- (i) interest to a member of ACON on money advanced by the member or otherwise owing by ACON to the member ;
 - (ii) reasonable and proper charges for goods hired by ACON from a member of ACON;
 - (iii) remuneration to any officer or employee of ACON or to a member of ACON or other person in return for any services actually rendered to ACON; or
 - (iv) money representing reimbursement to a member of ACON of out of pocket expenses incurred by the member, to which the member of ACON would be entitled if he, she or it were not a member of ACON.
- (2) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments shall be signed by any two persons being authorised to do so by the Board.
- (3)(a) ACON must maintain for its principal purposes as set out in rule 2(1) and (2) a Gift Fund:
- (i) to which gifts of money or property for those purposes are to be made; and
 - (ii) to which any money received by ACON because of such gifts is to be credited; and
 - (iii) that does not receive any other money or property.
- (b) ACON must use the following only for its principal purposes as set out in rule 2(1) and (2):
- (i) gifts made to the Gift Fund; and
 - (ii) any money received because of such gifts.
- (c) At the first occurrence of:
- (i) the winding up of the Gift Fund; or
 - (ii) ACON ceasing to be endorsed as a deductible gift recipient under Subdivision 30-BA of the Income Tax Assessment Act 1997;
- any surplus assets of the Gift Fund must be transferred to an institution:
- (iii) which is charitable at law; and
 - (iv) gifts to which can be deducted under Division 30 of the Income Tax Assessment Act 1997 by virtue of the institution being a public benevolent institution under item 4.1.1 of section 30-45.
- The identity of the institution must be decided by the Board.

Alteration of objects and rules

- 41 The statement of objects and these rules may be altered, rescinded or added to only by a special resolution of the members of ACON.

Common seal

- 42 (1) The common seal of ACON shall be kept in the custody of the public officer.
 (2) The common seal shall not be affixed to any instrument except by the authority of the Board and the affixing of the common seal shall be attested by the signatures either of 2 members of the Board or of 1 member of the Board and of the public officer.

Custody of books

- 43 Except as otherwise provided by these rules, the public officer shall keep in his or her custody or under his or her control all records, books and other documents relating to ACON.

Inspection of books

- 44 The records, books and other documents of ACON shall not be open to inspection, unless the member or other person satisfies the Board that he or she has a legitimate need to know the content of such records, books or other documents.

Service of notices

- 45 (1) For the purpose of these rules, a notice may be served by or on behalf of ACON upon any member either personally or by sending it by post to the member at the member's address shown in the register of members.
 (1A) Notwithstanding sub-rule (1), a notice may be sent by email or facsimile to the member at the member's email or facsimile address shown in the register of members.
 (2) Where a document is sent to a person by properly addressing, preparing and posting to the person a letter containing the document, the document shall, unless the contrary is proved, be deemed for the purposes of these rules to have been served on the person at the time at which the letter would have been delivered in the ordinary course of post.
 (2A) Where a document is sent to a person by properly addressing and emailing or faxing to the person an email or facsimile which includes or attaches the document, the document shall, unless the contrary is proved, be deemed for the purposes of these rules to have been served on the person 1 business day after the email or facsimile was sent.

Patrons

- 46 The Board shall have the power to appoint a person or persons to be patrons of ACON. Patrons, unless they are financial members of ACON, shall have no voting or other rights in ACON.

Surplus property

- 47 If on the dissolution of ACON and satisfaction of all its debts and liabilities any money or property remains, that money or property must not be paid to or distributed among the members of ACON, but must be given or transferred to institutions:
 (a) which are charitable at law; and
 (b) which prohibit the distribution of income and property among its members to an extent at least as great as is outlined in rule 40(1); and
 (c) gifts to which can be deducted under Division 30 of the Income Tax Assessment Act 1997 by virtue of the institutions being public benevolent institutions under item 4.1.1 of section 30-45.
 The identity of the institutions are to be decided by the Board.

I certify that this is a true and correct copy of the Constitution of the AIDS Council of New South Wales Incorporated.

Public Officer

As amended 24 September 1990, 30 September 1992, 29 November 1993, 2 November 1994, 22 September 1997, 23 November 1998, 30 September 1999, 30 November 2000, 28 November 2001, 8 December 2004, 12 December 2005