

Australian Capital Territory

Associations Incorporation Regulation 2023

Subordinate law SL2023–25

made under the

Associations Incorporation Act 1991, section 127 (Regulation-making power)

EXPLANATORY STATEMENT

OVERVIEW

The *Associations Incorporation Act 1991* (Associations Incorporation Act) provides for the incorporation of certain associations, and for related purposes.

The *Associations Incorporation Regulation 2023* (Associations Incorporation Regulation) prescribes matters to support the objects of the Associations Incorporation Act.

The Associations Incorporation Regulation also includes model rules for incorporated associations in Schedule 1.

APPLICATION OF THE REGULATION

The Regulation applies to all incorporated associations registered in the ACT.

CONSULTATION ON THE PROPOSED APPROACH

Prior to this Regulation, the model rules for incorporated associations had been in place since 1991 and had not had significant amendments since that time. Given this, the ACT Government undertook a project to update and modernise the model rules with a view to assisting associations to more easily meet their regulatory obligations.

Consultation occurred from January - April 2023. In total, 2,963 registered incorporated associations were informed of the consultation and invited to comment. The proposed Model Rules and an accompanying fact sheet were made available on the Better Regulation Taskforce webpage, with additional information also available on the Access Canberra webpage.

19 peak organisations were also contacted to advise them of the stakeholder consultation with a request that they advise their members.

As a result of the consultation, approximately 170 comments were received from stakeholders, raising 146 separate issues.

Extensive analysis was undertaken by the Better Regulation Taskforce, the Justice and Community Services Directorate and Access Canberra. Amendments were made to a number of provisions following the consultation in response to stakeholder feedback.

As some comments were considered to be specific to particular associations or members, not all suggested amendments were incorporated into the model rules implemented by this Regulation. It should be noted that if the template model rules do not meet the need of a particular Association, they retain the option of creating their own rules under the Associations Incorporation Act.

This Regulation includes new model rules (schedule 1) that provide a clearer structure and improved readability to better support Associations to achieve their objects.

The model rules now include:

- new provisions for dispute resolution between members or members and the committee (div 1.3.1);
- clearer provisions for disciplinary proceedings (div 1.3.2);
- the requirement for an independent decision-maker to be appointed where a dispute resolution procedure has started (clause 15) or where the committee has decided to propose disciplinary action (clause 24);
- virtual attendance at committee meetings, where an association's committee so decides (clause 49);
- virtual attendance at general meetings, where an association's committee or a requesting member so decides (clause 58);
- clearer descriptions of roles of committee members (clauses 38 to 41);
- new provisions for the president, vice president, secretary, or treasurer to delegate their functions to any other relevant committee member (clause 42); and
- revisions to proxy voting in general meetings (clause 61).

CONSISTENCY WITH HUMAN RIGHTS

All legislative regulations must be compatible with the *Human Rights Act 2004* (HR Act). The compatibility of the Associations Incorporation Regulation was considered during its development.

An assessment of the Regulation against the rights protected by the HR Act is provided below.

Rights engaged

Under the HR Act, human rights means:

- a. the civil and political rights in part 3 of the HR Act; and
- b. the economic, social and cultural rights in part 3A.

The Associations Incorporation Regulation engages the following rights:

- a. Privacy and reputation (s12); and
- b. Fair trial (s21).

Right affected

Privacy and reputation

The right to privacy and reputation under s12 of the HR Act states that everyone has the right not to have his or her privacy, family, home or correspondence interfered with unlawfully or arbitrarily, and not to have his or her reputation unlawfully attacked.

The Associations Incorporation Regulation provides model rules in Schedule 1. These rules contain a number of provisions that engage and may limit the right to privacy.

These include:

- requiring membership applicants to provide their name and contact details;
- requiring the Association to keep a register of members;
- requiring parties to a dispute to disclose their name and contact details (as well as details of the dispute) when submitting a notice of the dispute;
- requiring the disclosure of the name and contact details of a person subject to disciplinary proceedings to an independent decision-maker; and
- providing for the disclosure of the names of parties to a dispute, or parties to a disciplinary hearing, to be disclosed to the general membership in the event of an appeal of a dispute resolution decision or disciplinary action decision (as the general meeting will decide the outcome of the appeal).

These provisions have minor impacts on the right to privacy by requiring the disclosure of personal information, including a person's name and contact details. The purpose of requiring this information is so that the Association can keep an accurate record of their members and so that the Association can contact members to inform them about meetings of the Association and other matters related to the running of the Association. The purpose of requiring disclosure of name and contact details for dispute resolution and disciplinary proceedings is so that the parties to the proceedings can be identified and contacted in relation to the proceedings.

There are several safeguards to ensure the limitation to the right to privacy is proportionate. First, the information an individual is required to disclose is limited to their name and contact details. These details are not considered to be sensitive personal information. Further, the Associations Incorporation Act at s67B permits members of the Association to apply to the committee to restrict access to their personal information contained in the register of members. If such a request is agreed, access to the individual's information will only be available to the public officer and members of the committee other than stated member(s) of the committee. The limitation on the amount of information required, the non-sensitive

nature of the information, as well as the ability to apply to have access to this information restricted, ensure that any limitation on the right to privacy is proportionate in the circumstances.

Fair trial

The right to fair trial under s21 of the HR Act provides that everyone has the right to have criminal charges, and rights and obligations recognised by law decided by a competent, independent and impartial court or tribunal after a fair and public hearing.

Although not strictly administrative proceedings, the model rules set out procedures for the resolution of disputes between members and disciplinary hearings with respect to members. These proceedings can determine outcomes which may relate to the member's exercise of rights and privileges within the Association. The model rules include provisions to support the right to fair hearing in these proceedings, which engages and promotes the right to fair trial.

Provisions which support the right to fair hearing include:

- limiting the grounds on which proceedings can be brought to:
 - disputes arising in relation to the Act or Association's rules; and
 - disciplinary proceedings in relation to a failure to comply with the Act or Association's rules or conduct that may be harmful to the Association;
- requiring parties to be notified of the proceedings;
- providing the opportunity for members involved in dispute or disciplinary proceedings to be heard by affording them an opportunity to put forward their position;
- providing for the appointment of an unbiased decision-maker who is required to make a decision in a timely manner;
- providing opportunities for disputes to be ended by agreement or for disciplinary procedures to be stopped by resolution of the committee; and
- allowing for reconsideration of the initial decision by providing for an appeals process.

CLAUSE NOTES

Clause 1 – Name of Regulation

This clause names the Regulation the *Associations Incorporation Regulation 2023*.

Clause 2 – Commencement

This clause specifies the commencement date of this regulation.

The Associations Incorporation Regulation has been notified, but it will not commence until 1 February 2024 to allow Associations time to consider the new model rules (schedule 1) before they come into effect.

Clause 3 – Copies required—Act, s 73 (2)

Section 73 (2) of the Associations Incorporation Act provides for the number of copies of the documents referred to in s73 (1) (a) and (b) of the Act that must be made available for perusal by members of the Association immediately before and during the annual general meeting.

This clause prescribes the number of copies as 20.

Clause 4 – Rate of commission—Act, s 95 (3)

Section 95 (3) of the Act provides that the Territory will be entitled to a commission where the registrar-general has exercised its power to sell or otherwise dispose of property or interest of a former association where it has vested in the registrar-general.

This clause prescribes the commission payable under s 95 (3) of the Associations Incorporation Act to be an amount calculated at the rate of 5%.

Clause 5 – Model rules—Act, s 127 (2) (a)

This clause states that the model rules in schedule 1 of the Regulation are prescribed.

Clause 6 – Legislation repealed

This clause states that the *Associations Incorporation Regulation 1991* is repealed.

Parts 1–3 of the previous Regulation are amended to form one part of this Regulation for clarity.

Schedule 1 – Model rules

Schedule 1 provides the model rules for an incorporated association.

The Associations Incorporation Act provides in s 31 (1) (a) and 33 (1) (a) that an association may adopt the model rules to be the rules of the association.

The model rules also include forms for application for membership and proxy for meeting.

Part 1.1 – Preliminary

Part 1.1 of the model rules deal with preliminary matters. It sets out when the model rules apply as well as how certain Acts apply to the model rules.

Clause 1 – Model rules – application

Clause 1 sets out when the model rules apply. It provides that the model rules, as in force from time to time, will apply to the named Association. This means that if the model rules are updated, any updates will apply to Associations who have adopted the model rules from the time the amended model rules come into force.

Clause 2 – Association objects

This clause provides for an Association to insert its objects. The note informs that the objects of an Association are the objects appearing in the statement of the Association's objects lodged with the registrar-general, as required by the Associations Incorporation Act under section 18 (1) (b) (i) or 26 (2) (b) (i).

Clause 3 – Application of certain Acts

This clause reflects the application of certain Acts to the Association's rules. This includes the *Legislation Act 2001* and the *Electronic Transactions Act 2001*. The *Electronic Transactions Act 2001* allows information that is given in writing to be given electronically (e.g. by email). The *Legislation Act 2001* contains definitions and other provisions that are relevant to an Association's rules.

Part 1.2 – Membership

Part 1.2 of the model rules deals with matters relating to membership of the Association. The structure in this Part is simplified to provide greater clarity to Associations and those seeking to become a member of an Association. The language has been modified across this Part to be more inclusive.

Rules relating to the disciplining of members and right of appeal have been integrated into new part 1.3 which introduces dispute resolution and disciplinary procedures for Associations.

Clause 4 – Membership application

This clause specifies the process for making an application to become a member of the Association. As part of the application process, the applicant must include a statement that the applicant supports the Association's objects and agrees to comply with the Associations Incorporation Act and the Association's rules.

Clause 5 – Membership decision

This clause requires the committee to consider and decide on a membership application and then requires the committee to notify the applicant as soon as practicable regarding its decision. It provides the circumstances under which an application may be rejected. Where an application is accepted, the committee must ask the member to pay the joining fee (see clause 7 which provides joining fee may be \$0) and add the member to the register.

Clause 6 – Membership – when membership begins

This clause provides when a person's membership begins. If the joining fee is \$0, membership begins on the day the committee accepts the person's application for membership. Where there joining fee is not \$0, membership is taken to begin on the later of the following:

- (i) the day the committee accepts the person's application for membership
- (ii) the day the person pays the joining fee.

Clause 7 – Membership – joining fee and annual membership fee

This clause allows Associations to set a joining fee and an annual membership fee, and also to state when the fees are due. The provision has been drafted to give Associations flexibility regarding fee setting and due dates for fees. Fees can be \$0 or set to an amount as decided by the committee. A due date for an annual membership fee may be 1 July or any other date as decided by the committee.

Clause 8 – Membership – when membership ends

This clause sets out the circumstances under which a person's membership ends. It includes but is not limited to when a person's membership is cancelled as a result of disciplinary action taken under part 1.3. It also includes circumstances where the Association itself is wound up or the incorporation of the Association is cancelled.

Clause 9 – Membership – resigning

This clause allows a member to resign their membership by providing written notice to the committee.

This clause clarifies when the resignation takes effect and requires the committee to remove the information about the member from the register as soon as practicable after the member's resignation takes effect.

It also provides that the person remains liable for any annual membership fee owed when the resignation takes effect.

Clause 10 – Membership – rights and liabilities not transferrable

This clause provides that a member's rights and liabilities are not transferable and end when the member's membership ends.

Part 1.3 – Dispute Resolution and Disciplinary Procedure

Part 1.3 of the model rules introduces dispute resolution and disciplinary action procedures for Associations, including provisions for appealing decisions.

Where a dispute resolution procedure has started or where the committee has resolved to propose disciplinary action, the model rules require the committee to appoint an independent decision-maker. The rules stipulate that committee must ensure the decision-maker is unbiased, has knowledge of the Act and the Association, and does not have a conflict of interest.

Most clauses require that action by the committee, the secretary and/or the decision-maker must occur 'as soon as practicable' after the preceding action has been completed to support swift resolution of these matters.

Taken together, these divisions create a comprehensive framework for dispute resolution and disciplinary procedures designed to ensure procedural fairness for those involved and to have these matters resolved in a timely fashion.

Division 1.3.1 – Dispute resolution procedure

Clause 11 – Application – div 1.3.1

This clause provides that the dispute resolution procedures set out in division 1.3.1 are to be applied where there is a dispute under the Associations Incorporation Act or the Associations rules between either a member and another member or the committee and a member. Examples of disputes under the Act or the Associations rules where dispute resolution procedures would be applied have been provided for reference purposes.

Clause 12 – Meaning of *party* to a dispute – div 1.3.1

This provision clarifies that a party to a dispute is:

- the members, if the dispute is between members; or
- the member and the committee, if the dispute is between the member and the committee.

The note to this clause explains that the Associations Incorporation Act provides that a member may appoint someone to act on their behalf in a dispute resolution process (s 65B (2)).

Clause 13 – Resolving dispute by agreement

The purpose of this clause is to encourage resolution of the dispute by agreement. It requires that parties attempt to reach agreement on the dispute themselves before starting dispute resolution procedures. To help facilitate the parties to reach an agreement, the committee can be asked to help at this stage under certain circumstances.

This is not the only opportunity for the parties to come to an agreement. Clause 19 provides that the parties can reach agreement at any time before the decision-maker decides the outcome of the dispute and sets out the requirements when agreement is reached.

Clause 14 – Dispute resolution procedure – starting the procedure

This clause sets out the procedures for starting a dispute resolution procedure where the parties have been unable to reach agreement under Clause 13. The committee must be given written notice by the parties which includes, among other things, a dispute summary setting out the matters in dispute.

The note to this clause explains that a member who is the subject of a disciplinary procedure must not start a dispute resolution procedure in relation to the same matter until the disciplinary procedure (including any appeal) is complete (see Associations Incorporation Act, s 65C (4)).

Clause 15 – Dispute resolution procedure – appointing decision-maker

This clause requires the committee to appoint an independent decision-maker to decide the outcome of the dispute. The requirements of this clause are intended to

ensure that the dispute is dealt with by an unbiased and knowledgeable decision-maker who has no conflict of interest.

Clause 16 – Dispute resolution procedure – notice to parties about decision-maker

This clause requires the secretary to give notice to the parties that the dispute resolution procedure has started (except where the committee is a party). The notice must include, among other things, information about the name and contact details of the decision-maker, information about the dispute resolution procedure, and the dispute summary. Clause 14 provides the requirements for the dispute summary.

Clause 17 – Dispute resolution procedure – opportunity to be heard

This clause provides parties with the opportunity to be heard before the decision-maker determines the outcome of the dispute.

Parties are invited to make an oral and/or written submission to the decision-maker. This not only helps facilitate the decision-maker to reach a fully informed decision, but it also provides both parties with the opportunity to have their say.

Clause 17 further provides the timeframes in which these submissions are to be made, thereby facilitating timely resolution of the dispute.

Clause 18 – Dispute resolution procedure – outcome

This clause ensures that the decision-maker's decision on the outcome of the dispute resolution procedure takes into account any submissions from the parties and is determined in a timely manner. The decision-maker is required to ensure the parties are informed of the dispute decision, made aware of the reasons for the decision and are also informed about their appeal rights.

The decision-maker must also provide the committee aware of these matters, except where the committee is a party to the dispute.

Clause 19 – Dispute resolution procedure – ending dispute by agreement

This clause allows the parties to reach agreement at any time up until the decision-maker reaches a decision on the dispute.

For transparency, the parties must give written notice to the committee and, (if appointed) the decision-maker, that agreement has been reached and the terms of the agreement.

Division 1.3.2 – Disciplinary procedure

Clause 20 – Definitions – div 1.3.2

This clause defines the actions that are included as disciplinary actions in relation to a member's status as a member. These include any of the following:

- demoting the member to a level of membership with fewer rights and privileges;
- suspending the member's entitlement to exercise some or all of the member's rights and privileges as a member for a stated period;
- suspending the member's membership for a stated period;
- cancelling the member's membership and disqualifying the member from applying for membership for a stated period.

This clause also explains that a ground for disciplinary action is provided in clause 22.

Clause 21 – Application – div 1.3.2

This clause provides that if an Association proposes to take disciplinary action against a member, it must use the disciplinary procedure set out in this division.

The notes for this clause mention further requirements for disciplinary procedures in the Associations Incorporation Act (s 65C). It is also noted that a court may direct a person to comply with the Association's rules and may declare and enforce the rights or obligations of members or the Association (see Act, s 53).

Note 3 highlights that the Association may (but need not) also use the disciplinary procedure set out in this division if it proposes to take other disciplinary action against a member.

Clause 22 – Disciplinary procedure – grounds for disciplinary action

This clause provides grounds for disciplinary action against a member in relation to the member's status as a member. A ground is where a member has failed to comply with the Associations Incorporation Act or the Association's rules. Another ground is where a member has acted in a way that is likely to be harmful to the Association.

Clause 23 – Disciplinary procedure – proposed disciplinary action

This clause allows a committee to, by resolution, propose to take disciplinary action in relation to a member's status as a member, if satisfied that a ground exists (see Clause 22 for the grounds).

The requirement the committee to satisfy itself that a ground exists and to decide by resolution to propose disciplinary action are important safeguards against arbitrary action by a committee member or members against a member.

Clause 24 – Disciplinary procedure – appointing decision-maker

This clause requires the committee to appoint a decision-maker to decide whether to take the proposed disciplinary action. This is intended to ensure that the decision whether to take disciplinary action is not in the hands of the committee. Rather, it is a matter for an unbiased decision-maker who has no conflict of interest.

This clause also requires that the decision-maker has certain capabilities including knowledge of the Associations Incorporation Act and rules and is informed by the committee about the proposed disciplinary action and the grounds. This will ensure that the disciplinary procedure can be dealt with swiftly and capably.

Clause 25 – Disciplinary procedure – notice to member about proposed disciplinary action

This clause requires the committee, as soon as practicable after appointing the decision-maker, to inform the member by written notice that the disciplinary procedure has commenced. The notice is to include details about the proposed disciplinary action, the grounds for that action, name and contact details of the decision-maker, and information about the disciplinary procedure.

Ensuring that the member is informed in a timely manner and is provided with the information regarding the proposed disciplinary action are important to facilitate the member's right to fair hearing.

Clause 26 – Disciplinary procedure – opportunity to be heard

This clause further facilitates the right to a fair hearing by providing the member with the opportunity to be heard before the decision-maker decides whether to take the proposed disciplinary action.

Allowing the member to make an oral and/or written submission not only helps facilitate the decision-maker to reach a fully informed decision, but it also provides the member with the opportunity to state their case and be heard.

Clause 26 further provides the timeframes in which these submissions are to be made, thereby facilitating timely resolution of the dispute.

Clause 27 – Disciplinary procedure – outcome

This clause provides for a decision on the outcome of the disciplinary procedure to be made in a timely manner by requiring the decision-maker to take certain actions as soon as practicable after the submission period has ended.

Importantly, the decision-maker must decide and inform the committee and the member of the decision-maker's decision to take the proposed disciplinary action, to take another disciplinary action or not to take disciplinary action against the member. The actions that are included as disciplinary actions are set out in clause 20.

Clause 27 further requires the committee to remove the information about the member from the register of members where membership has been cancelled. In all other cases, the disciplinary action must be recorded in the register of members.

Where the decision-maker has decided to suspend a member's membership, clause 27 provides that a person is not a member during the period of suspension, but the member is still liable for the annual membership fee.

Clause 28 – Disciplinary procedure – stopping

This clause allows for disciplinary procedures to be stopped by a resolution of the committee before a decision by the decision-maker has been made.

For transparency and in accordance with best practice record keeping, the committee must give written notice to the member and the decision-maker that the procedure has been stopped and the reasons why.

Clause 29 – Disciplinary procedure – no further action by committee

This clause prevents the committee from continuing to pursue disciplinary action against a member where a decision has been made by the decision-maker in relation to that matter.

Division 1.3.3 – Appealing decisions

Following from divisions 1.3.1 and 1.3.2 which provide for decisions to be made by a decision-maker for dispute resolution and disciplinary actions, division 1.3.3 then sets out the appeals processes in relation to those decisions.

Clause 30 – Appeal outcome – setting aside decision-maker’s decision

This clause establishes that a decision-maker’s decision in relation a dispute or disciplinary action may only be set aside by special resolution of the Association.

The notes to this clause refer to the procedures for a special resolution which are set out in the Associations Incorporation Act (s 70). They also clarify that a further appeal right exists. Where a decision of the Association deprives a member of a right provided by the Association’s rules, the member may apply to the court for an order to vary or set aside the decision (Act, s 49)

Clause 31 – Who can appeal a decision?

This clause clarifies who may appeal a decision of the decision-maker. It provides that a dispute decision can be appealed by either party to a dispute and a disciplinary action decision by the member who is the subject of a disciplinary action or the committee.

Clause 32 – Appeal notices

This provision requires that the person appealing must, within 7 business days after notice of the decision has been given, provide a written appeal notice to the secretary, stating the grounds of appeal.

Clause 33 – Withdrawing an appeal

The person making the appeal can also withdraw the appeal. The clause provides the process for withdrawing an appeal. An appeal must be withdrawn before an appeal decision is made.

Clause 34 – General meeting to decide appeal

This clause provides for how an appeal will be decided.

Notably, it must be decided at a general meeting by special resolution. Section 70 of the Associations Incorporation Act provides the requirements for a special resolution.

For an appeal decision, the chair of the general meeting must ensure that the special resolution is the only item of business. The parties to the appeal must also be given the opportunity to be heard. Parties to the appeal are defined in Clause 34 (4).

Furthermore, the vote must be by secret ballot and the parties to the appeal are not permitted to vote. These requirements reflect the solemn nature of an appeal and the importance of due process in the Association's consideration of the appeal.

Part 1.4 – Committee

Part 1.4 contains model rules relating to the committee of an Association. It sets out the membership and functions of the committee, provides rules on how members can be elected to, or removed from the committee and sets out requirements for committee meetings.

Previously, the model rules detailed the functions only of the treasurer and secretary roles of a committee. These model rules are expanded to include functions of the president, and vice-president (if any).

The model rules also make provision for virtual meeting attendance at a committee meeting, should the committee wish to do so.

Division 1.4.1 – Committee – membership and functions

Clause 35 – Committee – members

This clause outlines committee officer-bearers, which must include the president, secretary, and treasurer for the Association. Previously, the model rules required the vice president as an office-bearer, and three ordinary committee members, as part of a committee. Clause 35 (2) now states that the committee may also include a vice president and ordinary committee members in addition to the office-bearers of the Association.

Clause 35 (3) requires that a member must not hold more than 1 position on the committee at the same time.

The Note in this clause provides that committee members have duties of care and diligence, good faith and proper purpose and duties about the use of their position and the use of information obtained because of their position in accordance with division 4.2 of the Associations Incorporation Act.

Clause 36 – Committee – functions

This clause outlines the committee's exercise of the Association's functions under the Associations Incorporation Act and the Association's rules, with the exclusion of the Association's business provided for under section 59 (Annual general meetings – notice and business) and section 60 (Other general meetings – notice and business).

This clause clarifies the exercise of these powers from the previous model rules to expressly exclude committee's exercise over the Association's business mentioned in sections 59 and 60 of the model rules.

Note 1 in this clause reflects section 60 (2) of the Associations Incorporation Act, in which the committee of an Association has management of that Association.

Clause 37 – Committee – delegating functions to subcommittees

This clause allows a committee to delegate a function of the committee under the Association's rules to 1 or more subcommittees. Clause 37 (2) ensures this power does not extend to any functions given to the committee under the Associations Incorporation Act or another territory law, or by resolution of the members at a general meeting.

A function delegated by a committee to a subcommittee under this clause enables the subcommittee to meet on the dates, times and places agreed to by the subcommittee, and to decide its own procedures. This may occur subject to any limitation or condition set out in the committee's delegation.

Clause 38 – Committee – functions of president

This clause outlines the functions of the president. The functions are specified to include chairing committee meetings, general meetings (including annual general meetings); and exercising any other function given to the president under the Associations Incorporation Act or the Associations rules, or by the committee or the members to achieve the Association's objects.

Clause 39 – Committee – functions of vice president

This clause outlines the functions of the vice president (if any). The functions are specified to include exercising the functions of the president if the president is unavailable to exercise those functions for any reason; and exercising any other function given to the vice president under the Associations Incorporation Act or the Association's rules, or by the committee or the members to achieve the Association's objects.

Clause 40 – Committee – functions of secretary

Clause 40 (1) outlines the functions of the secretary. The functions are specified to include keeping minutes of committee meetings and general meetings (including annual general meetings); and exercising any other function given to the secretary

under the Associations Incorporation Act or the Association's rules, or by the committee or the members to achieve the Association's objects.

Clause 40 (2) provides that the secretary must also lodge the notice mentioned in section 62 (1) of the Act (Notice of changes in committee) with the registrar-general.

Clause 41 – Committee – functions of treasurer

This clause outlines the functions of the treasurer. The functions are specified to include:

- keeping the accounting records mentioned in the Act, section 71 (Accounting records); and
- preparing the statement of accounts mentioned in the Act, section 72 (Annual statement of accounts); and
- presenting the documents mentioned in the Act, section 73 (Presentation of statement to members) at the annual general meeting; and
- lodging with the registrar-general the documents mentioned in the Act, section 79 (Annual returns); and
- exercising any other function given to the treasurer under the Act or the Association's rules, or by the committee or members to achieve the Association's objects.

Clause 42 – Committee – delegating functions of committee members

This clause introduces a new power for the president, vice-president, secretary or treasurer (*relevant committee members*) to delegate their functions to any other committee member. This does not extend to functions given to a committee member under the Act or another territory law or by resolution of the members at a general meeting.

Division 1.4.2 – Committee – election and removal

This Division outlines the rules of a committee's election and removal of its membership. The model rules separate committee functions into divisions 1.4.1 and 1.4.2 to provide improved clarity and accessibility for Associations.

Clause 43 – Committee – membership

This clause provides that a member of an Association becomes a committee member by way of election at a general meeting (under clause 45) or is appointed to the committee to fill a casual vacancy on the committee under clause 48 of the model rules.

The establishment of the inaugural committee of an Association remains in accordance with section 61 of the Associations Incorporation Act .

Clause 44 – Committee – nominating members for election

This clause simplifies the process of nominations for election to an Association's committee. Clause 44 (1) requires the secretary to give written notice to members calling for nominations at least 28 days before an annual general meeting. The introduction of this written notice period provides certainty and clarity on the election process for members where previously not provided for.

The nomination of a member for election to a committee must also be in accordance with clause 44 (2) including a requirement that the nomination be in writing; be signed by 2 other members; and include the written consent of the nominated member. It must further be provided to the secretary no later than 14 days after the day the notice under clause 44 (1) was given.

Clause 44 (3) provides that a committee must not accept the nomination of a member if that member is either disqualified from election to the committee under s 63, s 63A or s 63B of the Associations Incorporation Act; or where disciplinary action has been taken against the member under division 1.3.2 – Disciplinary Procedure in the previous 2 years.

Clause 45 – Committee – electing members

This clause outlines the process of electing nominated members for election to the committee, including a requirement for members at the annual general meeting to vote for a particular committee member position where more than 1 member is nominated for that particular position. If only 1 member is nominated for a particular committee member position, that member is taken to be elected to the position (clause 45 (2)). If no member is nominated for a particular committee member position, the chair must call for further nominations to fill that position (clause 45 (3)).

If no member is nominated for the position after the chair calls for further nominations, the position is taken to be vacant

Clause 46 – Committee – term of office

This clause outlines the commencement and the end of office terms of a committee member either elected to the committee or appointed to the committee to fill a casual vacancy under clause 48.

Clause 47 – Committee – removal of member from office

This clause provides that a member may be removed from office by resolution passed at a general meeting and details the circumstances under which a committee member may be removed from office.

Clause 48 – Committee – filling casual vacancies

This clause provides the circumstances under which the committee may appoint a member to fill a vacant position.

Division 1.4.3 – Committee meetings

Division 1.4.3 sets out the procedure for committee meetings and introduces methods by which committee members may participate in committee meetings without being physically in each other's presence.

Clause 49 – Committee meetings

This clause provides that the committee must meet at least 3 times during its term at a date, time and place determined by the committee.

The clause introduces the option for committees to host a committee meeting via virtual attendance. The committee may decide to hold a meeting using a method of a communication or a combination of methods of communication to provide for virtual attendance.

Clause 49 (4) makes it clear that where a committee member attends a committee meeting virtually, the committee member is taken to be present at the meeting.

The note provides examples of methods of communication to include video conferencing software, instant messaging and/or telephone conferencing.

Clause 50 – Committee meetings—notice and business

This clause sets out the procedure for giving notice of committee meetings and the requirements for conducting business at a meeting.

Clause 51 – Committee meetings—chair

This clause specifies that a committee meeting must be chaired by the president, or in the president's absence, any vice president. In the absence of a vice president, a committee member may be elected to chair the meeting by the committee members at the meeting.

Clause 52 – Committee meetings—quorum

The committee may only conduct business at a committee meeting if there is a quorum of 3 committee members present. Where virtual attendance at a committee meeting has been permitted, a committee member is taken to be present at the committee meeting if attending virtually (clauses 49 (3) and 49 (4)).

This clause also provides the procedures when quorum for a committee cannot be achieved.

Clause 53 – Committee meetings—voting

This clause specifies the procedure for voting and carrying a motion and introduces that committee members may vote on a question at the meeting orally, in writing or by a show of hands to provide for virtual attendance at meetings. This clause clarifies that voting personally includes voting while taking part in a meeting which allows for virtual attendance (see clause 49 (3)).

Clause 54 – Committee meetings–minutes

This clause states that minutes must be taken and kept for each meeting, and establishes what must be recorded in the minutes.

The note reflects the provisions of the Act which require a summary of the committee minutes to be provided to members on request (see Act, s 35) but the committee may refuse access if prejudicial to the Association’s interests (see Act, s 35A).

Clause 55 – Committee meetings–records

This clause establishes that committee meeting notices, minutes of committee meetings, and copies of documents considered at committee meetings must be kept as records for each committee meeting.

Part 1.5 – Annual and other general meetings

Part 1.5 contains model rules relating to annual and other general meetings of an Association. It sets out when general meetings can be called and sets out rules in respect to the required notice for general meetings and in relation to the business that is required or permitted to be conducted at meetings. Part 1.5 also contains provisions relating to quorum, voting at meetings (including when proxy voting is permitted) and rules relating to chairing and adjourning meetings and the keeping of minutes.

This Part introduces the option for Associations to host general meetings via virtual attendance. This is intended to assist members who wish to retain the right to attend a general meeting, including an Annual General Meeting but who are unable to attend in person by allowing them to attend virtually.

Clause 56 – General meetings – called by committee

This clause provides that the committee may call a general meeting whenever it considers appropriate. The notes for this clause refer to the relevant provisions in the Associations Incorporation Act that relate to the holding of annual general meetings.

Clause 57 – General meetings – called at request of members

General meetings, other than annual general meetings, may also be called by members of the Association. Clause 57 sets out the requirements for this to occur and the actions requesting members can take if the committee does not respond within a specified time. In these circumstances, the committee is obliged reimburse the requesting members for reasonable expenses.

Clause 58 – General meetings – virtual attendance

The option to hold general meetings allowing for virtual attendance was inserted into the *Associations Incorporation Act 1991* as a COVID-19 emergency measure. This measure has since expired.

To continue to permit Associations to provide for virtual attendance at general meetings, this clause introduces the option for Associations to hold a general meeting which allows members to attend virtually and, through clause 58 (2), be taken to be present at the meeting.

The note gives examples of methods of communication to include video conferencing software, instant messaging and/or telephone conferencing.

Clause 59 – Annual general meetings – notice and business

This clause requires the committee to give each member a minimum of 14 days' notice before the annual general meeting. The clause promotes best practice by requiring the committee to provide members with information to support their attendance and decision-making, including an agenda, the previous minutes, information and documents relevant to any matter to be covered at the meeting.

This clause also specifies the business that must be done at an annual general meeting, including the election of the committee, as well as other actions required by the Act.

Clause 60 – Other general meetings – notice and business

This clause sets out the requirements for providing notice of a general meeting called by the committee or requesting member under 57(2) to members, the procedures for including business on the agenda by written notice to the secretary, and the obligations of the chair regarding the business that can be conducted.

Clause 61 – General meetings – authorising proxy

This clause sets out the process for authorising proxy for a general meeting. A member of an Association may authorise another member to vote on their behalf. The member who is authorised to vote is known as the proxy.

A member must not be proxy for more than five other members

The authorising member may instruct the proxy on how to vote. If there are no instructions given the proxy can vote in a way the proxy considers appropriate.

The proxy may vote on the authorising member's behalf only if the authorising member gives the authorisation to the secretary not later than 24 hours before the general meeting; and the committee accepts the authorisation

The committee must not accept the authorisation of a proxy if the committee has already accepted 5 authorisations for that proxy. In this case, the committee must advise the member that the authorisation has not been accepted.

Clause 61 (9) makes it clear that an authorising member is not taken to be present at a general meeting only because they authorised a proxy vote.

Clause 62 – General meetings – chair

This clause sets out who is to chair a general meeting.

Clause 63 – General meetings – quorum

Business of an Association may only be conducted if there is a quorum of 5 members present. Where virtual attendance at a general meeting has been permitted, a person is taken to be present at the meeting (Clause 58).

This clause also provides the procedures when quorum cannot be achieved. It provides that the meeting may be adjourned by the Chair within a stated timeframe, and that within 48 hours of adjourning that the committee must provide written notice to members that the meeting was adjourned and the new date, time, and place of the meeting.

Clause 64 – General meetings – voting

This clause provides rules regarding voting at general meetings. Each member has 1 vote.

Voting can be done personally or by proxy (clause 61 sets out the requirements and procedure for proxy).

This clause supports virtual attendance at meeting by allowing for different methods of voting which do not require a person to be physically present.

This clause also makes it clear that voting personally includes voting while attending the meeting virtually, if virtual attendance is permitted at the meeting in accordance with clause 58.

Clause 65 – General meetings – minutes

This clause provides for how minutes are to be kept.

Clause 66 – General meetings – adjournment

This provision sets out when a general meeting may be adjourned.

Part 1.6 – Financial matters

Part 1.6 contains model rules relating the financial matters of an Association. It sets out where an Association's funds may come from and how they may be used.

Clause 67 – Funds – source

This clause explains the funds an Association may receive. Clause 67 (2) requires that all money received is to be deposited in the Association's account with a deposit taking institution, and that the Association issue a receipt for funds where practical to do so.

Clause 68 – Funds – use and management

This clause provides how funds must be used and managed by the Association and the committee. The clause imposes obligations for transparent and best practice financial management. Importantly, it restricts use of the Association's funds for the purposes of the Association's objects.

Part 1.7 – Miscellaneous

This part contains additional model rules that deal with other matters not covered by the above clauses.

Clause 69 – Records and other documents

This provision sets out the obligations of the secretary and the treasurer regarding the provision and keeping of records, including accounting records.

For example, the secretary must ensure that all of the Association's records and other documents (other than the register of members) are available for inspection by a member free of charge at a place in the ACT at a reasonable time.

The notes to this clause refer to provisions of the Associations Incorporation Act which are relevant to record keeping and member access to records.

Clause 70 – Common seal

The requirement for a common seal was removed from the Associations Incorporation Act in 2018. Accordingly, this clause deals with how the common seal must be kept and used, if an Association has one.

Clause 71 – Property of defunct association

This clause allows an Association to deal with surplus property of the Association if the Association is dissolved or wound up. An Association may pass a special resolution nominating another Association, fund, authority or institution in which surplus property will vest in the case of winding up or dissolution.

Part 1.8 – Forms

Part 1.8 contains template forms for membership applications and the nomination or a proxy.

Templates in this Part have been revised for consistency.

Part 1.9 – Dictionary

Part 1.9 contains the Dictionary. It contains defined terms for the model rules.

The Dictionary has been moved to the end of Schedule 1 and the Endnotes have been simplified for clarity.