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**THE RULES OF TAFE DIRECTORS AUSTRALIA INCORPORATED**  
**A.R.B.N. 600 687 330**

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## **1 PRELIMINARY**

### **1.1 Interpretation**

In these rules, unless a contrary intention appears:

- (a) “Act” means the Associations Incorporation Act 1991;
- (b) “Association” means TAFE Directors Australia Inc., a body corporate incorporated under the Act;
- (c) “CEO” means the executive officer employed by the Association who is responsible for the day to day conduct of the Association’s business and affairs as directed by the National Board;
- (d) “Chair’s Council” means the committee constituted under rule 7.
- (e) “Financial Year” means for
  - (i) 2016, the period 1 January 2016 to 31 December 2016,
  - (ii) 2017, the period 1 January 2017 to 30 June 2017,
  - (iii) and thereafter from 1 July to 30 June.
- (f) “Higher Education Provider” has the same meaning as it does in the Higher Education Support Act 2003 (Cth);
- (g) “Insurance Policy” means the trade credit limit insurance policy held by the Association which insures the obligations of the TAS member;
- (h) “Member” means an ordinary member, associate member or TAS member of the Association;
- (i) “National Board” means the national board of the Association constituted under rule 6.2;
- (j) “National Board Members” means the members of the National Board and “National Board Member” means any one of them.
- (k) “Registered Training Organisation” has the same meaning as it does in the Higher Education Support Act 2003 (Cth);
- (l) “Regulation” means the Associations Incorporation Regulation 1991;
- (m) “TAFE” means technical and further education;
- (n) “TAFE Director” means the chief executive officer or equivalent in a TAFE Institute or the Head of the TAFE Division of a multi-sectoral university or other educational institution, but does not include the chief executive officer or equivalent officer of the State or Territory TAFE statutory authority that is not of itself a Registered Training Organisation, or the Head of a TAFE Institute’s campus;
- (o) “TAFE Institute” means a State or Territory TAFE statutory authority, a public sector institute of technical and further education including the TAFE component of a multi-sectoral university;
- (p) “Transition Date” means 1 January 2017.

### **1.2 Legislative Provisions**

The provisions of the Legislation Act 2001 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.

## 2 OBJECTS

The objects for which the Association is established are:

- (a) to advance tertiary education by promoting the role of the Australian public provider (TAFE) in delivering skills for individuals, industry and society;
- (b) to provide national leadership in advancing and promoting the positive impact of TAFE as an essential contributor to Australia's future economic and social development;
- (c) to undertake or commission research, develop policy and advocate the role of applied research;
- (d) to provide services to members as determined by the National Board including Tuition Assurance services;
- (e) to support international cooperation for members through policy advice and advocacy, expanded international networks, and facilitating engagement opportunities; and
- (f) to do all such other lawful things as are conducive to the attainment of the Association's objects.

## 3 INCOME AND PROPERTY

- (a) The income and property of the Association will only be applied towards the promotion of the objects of the Association.
- (b) No income or property will be paid or transferred directly or indirectly to any Member except for bona fide compensation for services rendered or expenses incurred on behalf of the Association.

## 4 MEMBERSHIP

### 4.1 Types of membership

The Association will consist of the following membership categories:

- (a) ordinary members who will have the right to attend all meetings of the Association and to vote with each ordinary member having one vote;
- (b) associate members who will have the right to attend any meetings of the Association but who have no right to vote; and
- (c) TAS members who are eligible to participate in the Association's higher education and/or vocational education and training tuition assurance schemes (TAS), and who have the right to attend any meetings of the Association but who have no right to vote.

### 4.2 Membership qualifications

- (a) Until the Transition Date, a person is qualified to be an ordinary member, if:
  - (i) the person is an inaugural member and has not ceased to be a member of the Association at any time after incorporation of the Association under the Act; or
  - (ii) the person holds the office of TAFE Director; and
  - (iii) the person:
    - A. has applied for membership in accordance with these rules; and
    - B. has been approved for membership of the Association.

Following the Transition Date, a person who would otherwise be qualified to be an ordinary member will no longer be qualified to be an ordinary member.

- (b) After the Transition Date, a body corporate is qualified to be an ordinary member, if:
  - (i) the body corporate is a TAFE Institute; and
  - (ii) the body corporate:
    - A. has applied for membership in accordance with these rules; and
    - B. has been approved for membership of the Association.
- (c) A person or body corporate is qualified to be an associate member if:
  - (i) the person is a current or former TAFE Director; or
  - (ii) the person who currently occupies or formerly occupied a senior executive or governance position in the tertiary education sector; or
  - (iii) the person has a keen interest in tertiary education; or
  - (iv) the person or body corporate has in the opinion of the National Board made a distinguished contribution to tertiary education; and
  - (v) the person or body corporate:
    - A. has applied for associate membership in accordance with these rules; and
    - B. has been approved for associate membership of the Association.
- (d) A body corporate is qualified to be a TAS member if:
  - (i) the body corporate is a Registered Training Organisation and/or a Higher Education Provider;
  - (ii) the body corporate is in the opinion of the National Board appropriate to be eligible to participate in the association's higher education tuition assurance and/or vocational education and training tuition assurance schemes;
  - (iii) the body corporate continues to meet and satisfy the requirements of the Insurance Policy; and
  - (iv) the body corporate:
    - A. has applied for TAS membership in accordance with these rules; and
    - B. has been approved for TAS membership of the Association by the National Board of the Association.

#### 4.3 Application for Membership

- (a) Applications for membership must be in writing, signed by the applicant, and in a form approved by the National Board.
- (b) The National Board will consider all applications for membership and determine whether to approve or reject the application.
- (c) The National Board may delegate the authority to consider and approve or reject applications for membership to the CEO on terms it considers appropriate.

#### 4.4 Transfer of membership rights

- (a) A right, privilege or obligation that a Member has:
  - (i) cannot be transferred to another person or body corporate; and
  - (ii) terminates on cessation of the Member's membership.

#### 4.5 Cessation of membership

- (a) Where the Member is a person, that Member's membership will cease if the Member:
  - (i) dies;
  - (ii) resigns from membership of the Association in accordance with rule 4.6;
  - (iii) is expelled from the Association in accordance with rule 4.9;
  - (iv) fails to pay their membership fees or renew their membership in accordance with rule 4.7; or
  - (v) ceases to meet the qualification requirements outlined at rule 4.2.
- (b) Where a Member is a body corporate, a Member's membership will cease if:
  - (i) a liquidator is appointed in connection with the winding up of the Member; or
  - (ii) the Australian Securities and Investments Commission ('ASIC') deregisters the Member; or
  - (iii) ceases to meet the qualification requirements outlined at rule 4.2(d).

#### 4.6 Resignation of membership

- (a) A Member may resign from the Association by giving notice (being not less than one month or, if the National Board has determined a shorter period, that shorter period) in writing to the CEO of the Member's intention to resign and, upon the expiration of the period of notice, the Member ceases to be a Member.
- (b) Where a person ceases to be a Member, the CEO will make an appropriate entry in the register of members recording the date on which the Member ceased to be a Member.
- (c) A Member is not entitled to the refund of all or a proportion of any payment made to the Association.

#### 4.7 Fees and Levy

- (a) The National Board may decide whether to impose a fee and/or levy on Members, and, if so, the type of fee and/or levy, frequency and amount.
- (b) The National Board may make rules relating to the collection and payment of any fees and/or levy imposed in accordance with subrule 4.7(a).

#### 4.8 Members' liabilities

The liability of a Member to contribute towards the payment of the debts and liabilities of the Association or the costs, charges and expenses of the winding up of the Association is limited to the amount if any, unpaid by the Member in respect of membership of the Association as required by rule 4.7.

#### 4.9 Disciplining of Members

- (a) The National Board can expel a Member or suspend a Member's membership rights for a specified period, where the National Board is of the opinion that a Member:
  - (i) has persistently refused or neglected to comply with a provision of these rules; or
  - (ii) has persistently and wilfully acted in a manner prejudicial to the interests of the Association.
- (b) The National Board may determine policies and procedures that will apply to the expulsion of a Member or suspension of a Member's membership rights, as long as the rules of natural justice apply to the expulsion or suspension.

### 5 APPOINTMENT OF REPRESENTATIVE

#### 5.1 Appointment of a Representative

Any member who is a body corporate must by written notice to the National Board appoint an individual to act as its representative in all matters connected with the Association.

#### 5.2 Qualification

Unless the National Board decides otherwise, a representative must be:

- (a) the chief executive officer or equivalent officer of a State or Territory TAFE statutory authority; or
- (b) a TAFE Director; or
- (c) a person who has direct management responsibility of a TAFE Institute.

#### 5.3 Rights of the representative

A representative is entitled to, subject to any restrictions imposed by the Member:

- (a) exercise at a general meeting all the powers which the Member which appointed them could exercise, as if they were a natural person; and
- (b) be counted towards a quorum on the basis that the Member is to be considered personally present at a general meeting by its representative.

### 6 THE NATIONAL BOARD

#### 6.1 Powers of the National Board

The National Board, subject to the Act, the Regulation, these rules, and to any resolution passed by the Association in a general meeting:

- (a) will control and manage the affairs of the Association;
- (b) may exercise all such functions as may be exercised by the Association other than those functions that are required by these rules to be exercised by the Association in a general meeting; and
- (c) has power to perform all such acts and do all such things as appear to the National Board to be necessary or desirable for the proper management of the affairs of the Association.

#### 6.2 Constitution and membership

- (a) The National Board will be made up of the following persons:



- (i) One person from each State and Territory nominated by the Association's ordinary members from the respective State or Territory and appointed by the National Board, as provided for in rule 6.3.
  - (ii) A member of the Chair's Council, nominated by the Chair's Council from amongst their number, and appointed by the National Board; and
  - (iii) Up to 2 additional persons appointed by the National Board in accordance with subrule 6.2(g).
- (b) A National Board member will serve for a term commencing from the conclusion of the AGM at which the National Board Member is appointed and finishing at the conclusion of the third AGM following their appointment.
- (c) A National Board Member is not restricted to the number of terms they can be appointed to.
- (d) The National Board will amongst itself elect the office-bearers being the:
- (i) chairperson; and
  - (ii) deputy chairperson.
- who will hold office for the same term for which they have been appointed as a National Board Member.
- (e) A National Board Member may only be elected as an office bearer for no more than 2 consecutive terms.
- (f) The office-bearers elected as a result of a nomination from a State or Territory continue to represent the State or Territory from which they are nominated.
- (g) The National Board may appoint 2 persons who need not be a member of the Association to the National Board on terms it considers appropriate.
- (h) Notwithstanding the provisions in this sub-rule 6.2, on the Transition Date, the National Board will be comprised of the same office-bearers and National Board Members, as before the Transition Date.
- (i) Despite sub-rule 6.2(b), the terms of all office-bearers and National Board Members appointed on the Transition Date will begin on the Transition Date and will finish at the conclusion of the third AGM following their appointment, subject to sub-rule 6.2(j).
- (j) At the first National Board meeting held after the Transition Date, the National Board will decide which National Board Member will serve a term concluding at the next AGM, or concluding at the second AGM following their appointment of the third AGM following their appointment.

### 6.3 Appointment of National Board Members and election of Office-Bearers

- (a) The National Board will appoint to the National Board the person from each State and Territory who is nominated by the Association's ordinary members from each State or Territory. Where no nomination is made from a State or Territory, the National Board may appoint any representative from that State or Territory to the National Board.
- (b) The National Board will appoint the Chair's Council's nominee to the National Board.
- (c) The National Board will notify the Association's ordinary members from each State or Territory and the Chair's Council in writing that their National Board

Member's term is nearing completion and whether their National Board Member is eligible or not eligible for re-nomination.

- (d) The Association's ordinary members from each State and Territory and the Chair's Council must submit their nomination in writing and deliver it to the CEO in the form provided by the National Board not less than 7 days prior to the AGM.
- (e) The National Board will at each first meeting of the National Board after the annual general meeting, fill any vacant office bearer positions.
- (f) The National Board may make policies and procedures governing the nomination, appointment and retirement process for National Board Members, and the election of office-bearers.

#### 6.4 Appointment of Proxy

A National Board Member may appoint a representative from their State, Territory or Chair's Council to attend National Board meetings and act as proxy on behalf of that National Board Member in all respects subject to the terms and conditions decided by the National Board.

#### 6.5 Vacancy of National Board position

- (a) For the purposes of these rules, a vacancy in the office of a National Board Member occurs if the National Board Member:
  - (i) dies;
  - (ii) ceases to be a Member of the Association;
  - (iii) resigns the office;
  - (iv) suffers from mental or physical incapacity;
  - (v) is disqualified from office under subsection 63(1) of the Act; or
  - (vi) is absent without the consent of the National Board from two consecutive meetings of the National Board.
- (b) The National Board may appoint any representative from the outgoing member's State or Territory or the Chair's Council to fill a vacancy in the membership of the National Board.
- (c) The National Board Member appointed to fill a vacancy holds office for the remainder of the outgoing member's term.
- (d) Where a vacancy occurs for an office-bearer position, the National Board may appoint any National Board Member to fill the vacancy for the remainder of that office-bearer's term.

#### 6.6 National Board Meetings and Quorum

- (a) The National Board will meet as and when required at the place and time as the National Board determines.
- (b) Written notice of a meeting of the National Board will be given by the CEO to each National Board Member at least 48 hours (or such other period as may be unanimously agreed upon by the National Board Members) before the time appointed for the holding of the meeting.
- (c) Any 5 National Board Members constitute a quorum for the transaction of the business of a meeting of the National Board.
- (d) No business will be transacted by the National Board unless a quorum is present and if within half an hour after the time appointed for the meeting a

quorum is not present the meeting stands adjourned to a place and time determined by the National Board.

- (e) If at the adjourned meeting a quorum is not present within half an hour after the time appointed for the meeting, the meeting will be dissolved.
- (f) At meetings of the National Board:
  - (i) the chairperson or in the absence of the chairperson, the deputy chairperson will preside; or
  - (ii) if the chairperson and the deputy chairperson are absent, one of the remaining National Board Members may be chosen by the members present to preside.
- (g) Meetings of the National Board may be held at two or more venues using any technology that gives each person a reasonable opportunity to participate.

#### 6.7 Delegation by National Board to committee and CEO

- (a) The National Board may, by instrument in writing, delegate to one or more committees (consisting of such members of the Association or other persons as the National Board thinks fit) or to the CEO the exercise of such of the functions of the National Board as are specified in the instrument, other than
  - (i) this power of delegation; and
  - (ii) a function which is a function imposed on the National Board by the Act, by any other law of the Territory, or by resolution of the Association in general meeting.
- (b) A function, the exercise of which has been delegated to a committee or the CEO (as applicable) under this rule may, while the delegation remains unrevoked, be exercised from time to time by the committee or CEO (as applicable) in accordance with the terms of the delegation.
- (c) A delegation under this rule may be made subject to such conditions or limitations as to the exercise of any function, or as to time or circumstances, as may be specified in the instrument of delegation.
- (d) Notwithstanding any delegation under this rule, the National Board may continue to exercise any function delegated.
- (e) Any act or thing done or suffered by a committee or the CEO (as applicable) 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 National Board.
- (f) The National Board may, by instrument in writing, revoke wholly or in part any delegation under this rule.
- (g) A committee may meet and adjourn as it thinks proper.

#### 6.8 Voting and decisions

- (a) Questions arising at a meeting of the National Board or of any committee appointed by the National Board will be determined by a majority of the votes of the National Board Members or committee members present at the meeting.
- (b) Each National Board Member present at a meeting of the National Board or of any committee appointed by the National Board (including the person presiding at the meeting) is entitled to one vote but, in the event of an equality of votes on any question, the person presiding may exercise a second or casting vote.

- (c) Where all National Board Members or any committee members appointed by the National Board entitled to vote on a resolution have signed a document (or two or more separate documents in identical terms) containing a statement that they are in favour of a resolution, a resolution in those terms is deemed to have been passed.
- (d) Subject to subrule 6.6(c), the National Board may act notwithstanding any vacancy on the National Board.
- (e) Any act or thing done or suffered, or purporting to have been done or suffered, by the National Board, by a committee appointed by the National Board or by the CEO pursuant to delegation from the National Board, is valid and effectual notwithstanding any defect that may afterwards be discovered in the appointment or qualification of any member of the National Board or committee or delegation to the CEO.

## **7 CHAIR'S COUNCIL**

### **7.1 Formation**

There will be a Chair's Council.

### **7.2 Membership**

The National Board may appoint to the Chair's Council, any chair of a State or Territory TAFE statutory authority who will be a member for as long as that person holds the chair's position.

### **7.3 National Board nomination**

The Chair's Council may nominate one of its members to a position on the National Board.

### **7.4 Function**

- (a) The function of a Chair's Council will be agreed by the National Board and subject to the National Board's direction is to advocate on behalf of the tertiary sector.
- (b) The National Board may specify:
  - (i) the manner in which proceedings of the Chair's Council is to be conducted;
  - (ii) the matters which the Chair's Council must have regard to in carrying out its functions; and
  - (iii) any other matters concerning the Chair's Council or its functions that the National Board decides.

## **8 GENERAL MEETINGS**

### **8.1 Annual general meetings-holding of**

- (a) With the exception of the first annual general meeting of the Association, the Association will, at least once in each Financial Year and within the period of 5 months after the expiration of each Financial Year of the Association, convene an annual general meeting of its Members.
- (b) The Association will hold its first annual general meeting:
  - (i) within the period of 18 months after its incorporation under the Act; or
  - (ii) within the period of 5 months after the expiration of the first Financial Year of the Association.

## 8.2 Annual general meetings-calling of and business at

- (a) The annual general meeting of the Association will, subject to the Act, be convened on such date and at such place and time as the National Board thinks fit.
- (b) In addition to any other business which may be transacted at an annual general meeting, the business of an annual general meeting will be:
  - (i) to confirm the minutes of the last preceding annual general meeting and of any general meeting held since that meeting;
  - (ii) to receive from the National Board reports on the activities of the Association during the last preceding Financial Year; and
  - (iii) to receive and consider the statement of accounts and the reports that are required to be submitted to Members pursuant to subsection 73 (1) of the Act.
- (c) An annual general meeting will be specified as such in the notice convening it in accordance with rule 8.4.

## 8.3 General Meetings - Calling Of

- (a) The National Board may, whenever it thinks fit, convene a general meeting of the Association.
- (b) The National Board will, on the requisition in writing of not less than 20 per cent of the total number of ordinary members, convene a general meeting of the Association.
- (c) A requisition of ordinary members for a general meeting:
  - (i) will state the purpose or purposes of the meeting;
  - (ii) will be signed by the members making the requisition;
  - (iii) will be lodged with the CEO; and
  - (iv) may consist of several documents in a similar form, each signed by one or more of the Members making the requisition.

## 8.4 Notice

- (a) Except where the nature of the business proposed to be dealt with at a general meeting requires a special resolution of the Association, the CEO will, at least 14 days before the date fixed for the holding of the general meeting, cause to be sent by pre-paid post, email, fax or other technology determined by the National Board to each Member at the Member's address appearing in the register of Members, a notice specifying the place, date and time of the meeting and the nature of the business proposed to be transacted at the meeting.
- (b) Where the nature of the business proposed to be dealt with at a general meeting requires a special resolution of the Association, the CEO will, at least 21 days before the date fixed for the holding of the general meeting, cause notice to be sent to each Member in the manner provided in subrule 8.4(a) specifying, in addition to the matter required under that subrule, the intention to propose the resolution as a special resolution.

## 8.5 General meetings-procedure and quorum

- (a) No item of business will be transacted at a general meeting unless a quorum of ordinary members, represented by their representative, entitled under

these rules to vote is present during the time the meeting is considering that item.

- (b) 5 representatives of ordinary members present in person (constitute a quorum for the transaction of the business of a general meeting).

#### 8.6 Making of decisions

- (a) A question arising at a general meeting of the Association will be determined on a show of hands and, unless before or on the declaration of the show of hands a poll is demanded, a declaration by the person presiding that a resolution has, on a show of hands, been carried or carried unanimously or carried by a particular majority or lost, or an entry to that effect in the minute book of the Association, is evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against that resolution.
- (b) At a general meeting of the Association, a poll may be demanded by the person presiding or by not less than 3 representatives of ordinary members present in person or by proxy at the meeting (being Members entitled under these rules to vote at a general meeting).
- (c) Where the poll is demanded at a general meeting, the poll will be taken:
  - (i) immediately in the case of a poll which relates to the election of the person to preside at the meeting or to the question of an adjournment; or
  - (ii) in any other case, in such manner and at such time before the close of the meeting as the person presiding directs, and the resolution of the poll on the matter will be deemed to be the resolution of the meeting on that matter.

#### 8.7 Appointment of proxies

- (a) A representative appointed by an ordinary member will be entitled to appoint a proxy, by notice given to the CEO no later than 24 hours before the time of the meeting in respect of which the proxy is appointed.
- (b) The notice appointing the proxy will be in the form set out in Appendix 3 to these rules.

#### 8.8 Voting

- (a) All votes will be given by the representative or by proxy but no representative may hold more than 5 proxies.
- (b) In the case of an equality of votes on a question at a general meeting, the person presiding is entitled to exercise a second or casting vote.
- (c) A representative or proxy is not entitled to vote at any general meeting of the Association unless all money due and payable by the Member or proxy to the Association has been paid, other than the amount of the annual subscription payable in respect of the then current year.
- (d) For the avoidance of doubt, only ordinary members will have the right to vote at a general meeting of the Association, through representative, with each ordinary member having one vote.

### 9 MISCELLANEOUS

#### 9.1 Public Officer

- (a) The Association must appoint a person, who resides in the Australian Capital Territory, as public officer of the Association.

(b) The public officer does not need to be a Member of the Association.

## 9.2 Funds-source

(a) The funds of the Association will be derived from annual subscriptions of Members, donations, fee-for-service activities and, subject to any resolution passed by the Association in general meeting and subject to section 114 of the Act, such other sources as the National Board determines.

(b) All money received by the Association will be deposited as soon as practicable and without deduction to the credit of the Association's bank account.

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

## 9.3 Funds-management

(a) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments will be signed by any two National Board Members or employees of the Association, being National Board Members or employees authorised to do so by the National Board.

(b) The CEO may enter into contracts relating to the running of the Association and be the sole signatory for the Association, where this is in accordance with delegation instruments agreed by the National Board.

## 9.4 Alteration of objects and rules

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

## 9.5 Common seal

(a) The common seal of the Association will be kept in the custody of the CEO.

(b) The common seal will not be affixed to any instrument except by the authority of the National Board and the affixing of the common seal will be attested by the signatures of any two National Board Members.

## 9.6 Custody of books

Subject to the Act, the Regulations and these rules, the CEO will keep in his or her custody or under his or her control all records, books, and other documents relating to the Association.

## 9.7 Inspection of books

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

## 9.8 Winding Up

If the Association is wound up, any surplus property of the Association must vest in a fund, authority or institution in Australia named or described in Section 30-15 of the Income Tax Assessment Act 1997 which is charitable at law, as nominated by a special resolution of the Association.

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