

# **Constitution**

**Under the Associations Incorporation Act 2009**

## **Theatre Network NSW**

*(As adopted at the 2018 Annual General Meeting on 8<sup>th</sup> May, 2018)*

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# Part 1 - Preliminary

## 1. Name

The name of the incorporated association is "Theatre Network NSW Incorporated".

*Note: Under section 23 of the Act, the name of the association and its registration number must appear on all its business documents.*

## 2. Purpose

- (1) The purposes of the association are:
  - (a) to work in partnership with similar organisations to lead, strengthen and support the professional theatre industry by building capacity in the small-to-medium and independent sectors,
  - (b) to connect and work with major theatre companies, and
  - (c) to provide cultural services to the community.
- (2) Solely for the purpose of carrying out the objects set out in sub-clause (1), the association may:
  - (a) raise funds or encourage contributions by way of gifts (by will or otherwise), grants, sponsorships or otherwise, by personal or public appeals or by any other manner,
  - (b) provide funds or other material benefits by way of grant or otherwise,
  - (c) accept and hold funds or property of any kind on or for any charitable objects or purposes specified or to be specified by any person or to be selected by the directors from a class of trusts, objects or purposes specified by any person,
  - (d) accept and undertake trusteeship, administration and management of trusts and funds, whether as trustee or as agent for the trustee or otherwise, and charge and accept fees, commission or other remuneration for doing so, and
  - (e) do all other things that are incidental or conducive to doing so.

## 3. Definitions

- (1) In this constitution:

**Director-General** means the Director-General of the Department of Services, Technology and Administration.

**member** means a member of the association referred to in clause 4 of this constitution.

**ordinary board member** means a member of the board who is not an office-bearer of the association.

**secretary** means:

- (a) the person holding office under this constitution as secretary of the association, or
- (b) if no such person holds that office - the public officer of the association.

**special general meeting** means a general meeting of the association other than an annual general meeting.

**the Act** means the *Associations Incorporation Act 2009*.

**the Regulation** means the *Associations Incorporation Regulation 2010*.

- (2) In this constitution:
  - (a) Capitalised terms that are not defined in clause 3(1) bear the meaning ascribed to them in the Act,
  - (b) a reference to a function includes a reference to a power, authority and duty,
  - (c) a reference to the exercise of a function includes, if the function is a duty, a reference to the performance of the duty, and
  - (d) and a reference to a law, regulation or an office-bearer acting under a law includes any amendments of that law from time to time.
- (3) The provisions of the *Interpretation Act 1987* apply to and in respect of this constitution in the same manner as those provisions would so apply if this constitution were an instrument made under the Act.

## **Part 2 - Membership**

### **4. Membership generally**

- (1) A person who supports the purposes of the association, as specified in clause 2, is eligible to apply to be a member of the association under clause 5.
- (2) In this clause, 'person' means an individual or incorporated body.

### **5. Application for membership**

- (1) An application of a person for membership of the association:
  - (a) must be made by in writing in the form set out in Appendix 1 to this constitution (or an equivalent electronic version of that form), and
  - (b) must be lodged with the secretary of the association (or another board member as the board may determine).
- (2) As soon as practicable after receiving an application for membership, the secretary may refer the application to the board which may determine whether to approve or to reject the application.
- (3) As soon as practicable after the board makes that determination, the association must:
  - (a) notify the applicant, in writing, that the board approved or rejected the application (whichever is applicable), and
  - (b) if the board approved the application, request the applicant to pay (within the period of 28 days after receipt by the applicant of the notification) the sum payable under this constitution by a member as entrance fee and annual subscription.
- (4) The secretary must, on payment by the applicant of the amounts referred to in subclause (4) (b) within the period referred to in that provision, enter or cause to be entered the applicant's name in the register of members and, on the name being so entered, the applicant becomes a member of the association.

### **6. Cessation of membership**

A person ceases to be a member of the association if the person:

- (a) dies, or
- (b) resigns membership, or

- (c) is expelled from the association, or
- (d) fails to pay the annual membership fee under clause 10 (2) within 3 months after the fee is due.

## **7. Membership entitlements not transferable**

A right, privilege or obligation that a person has by reason of being a member of the association:

- (a) is not capable of being transferred or transmitted to another person, and
- (b) terminates on cessation of the person's membership.

## **8. Resignation of membership**

- (1) A member of the association may resign from membership of the association by first giving to the secretary written notice of at least one month (or such other period as the board may determine) of the member's intention to resign and, on the expiration of the period of notice, the member ceases to be a member.
- (2) If a member of the association ceases to be a member under subclause (1), and in every other case where a member ceases to hold membership, the secretary must make an appropriate entry in the register of members recording the date on which the member ceased to be a member.

## **9. Register of members**

- (1) The public officer of the association must establish and maintain a register of members of the association specifying the name and postal or residential address of each person who is a member of the association together with the date on which the person became a member.
- (2) The register of members must be kept in New South Wales:
  - (a) at the main premises of the association, or
  - (b) if the association has no premises, at the association's official address.
- (3) The register of members must be open for inspection, free of charge, by any member of the association at any reasonable hour.
- (4) A member of the association may obtain a copy of any part of the register on payment of a fee of not more than \$1 for each page copied.
- (5) If a member requests that any information contained on the register about the member (other than the member's name) not be available for inspection, that information must not be made available for inspection.
- (6) A member must not use information about a person obtained from the register to contact or send material to the person, other than for:
  - (a) the purposes of sending the person a newsletter, a notice in respect of a meeting or other event relating to the association or other material relating to the association, or
  - (b) any other purpose necessary to comply with a requirement of the Act or the Regulation.

## **10. Fees and subscriptions**

- (1) A member of the association must, on admission to membership, pay to the association a fee of \$30 plus GST or, if some other amount is determined by the board, that other amount.

- (2) In addition to any amount payable by the member under subclause (1), a member of the association must pay to the association an annual membership fee of \$30 plus GST or, if some other amount is determined by the board, that other amount:
  - (a) except as provided by paragraph (b), before 1 January in each calendar year, or
  - (b) if the member becomes a member on or after 1 January in any calendar year - on becoming a member and before 1 January in each succeeding calendar year.

### **11. Members' liabilities**

The liability of a member of the association 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 clause 10.

### **12. Resolution of disputes**

- (1) A dispute between a member and another member (in their capacity as members) of the association, or a dispute between a member or members and the association, are to be referred to the Arts Law Centre of Australia for mediation.
- (2) If a dispute is not resolved by mediation within 3 months of the referral to a community justice centre, the dispute is to be referred to arbitration.
- (3) The *Commercial Arbitration Act 1984* applies to any such dispute referred to arbitration.

### **13. Disciplining of members**

- (1) A complaint may be made to the board by any person that a member of the association:
  - (a) has refused or neglected to comply with a provision or provisions of this constitution, or
  - (b) has wilfully acted in a manner prejudicial to the interests of the association.
- (2) The board may refuse to deal with a complaint if it considers the complaint to be trivial or vexatious in nature.
- (3) If the board decides to deal with the complaint, the board:
  - (a) must cause notice of the complaint to be served on the member concerned, and
  - (b) must give the member at least 14 days from the time the notice is served within which to make submissions to the board in connection with the complaint, and
  - (c) must take into consideration any submissions made by the member in connection with the complaint.
- (4) The board may, by resolution, expel the member from the association or suspend the member from membership of the association if, after considering the complaint and any submissions made in connection with the complaint, it is satisfied that the facts alleged in the complaint have been proved and the expulsion or suspension is warranted in the circumstances.

- (5) If the board expels or suspends a member, the secretary must, within 7 days after the action is taken, cause written notice to be given to the member of the action taken, of the reasons given by the board for having taken that action and of the member's right of appeal under clause 14.
- (6) The expulsion or suspension does not take effect:
  - (a) until the expiration of the period within which the member is entitled to appeal against the resolution concerned, or
  - (b) if within that period the member exercises the right of appeal, unless and until the association confirms the resolution under clause 14, whichever is the later.

#### ***14. Right of appeal of disciplined member***

- (1) A member may appeal to the association in general meeting against a resolution of the board under clause 13, within 7 days after notice of the resolution is served on the member, by lodging with the secretary a notice to that effect.
- (2) The notice may, but need not, be accompanied by a statement of the grounds on which the member intends to rely for the purposes of the appeal.
- (3) On receipt of a notice from a member under subclause (1), the secretary must notify the board which is to convene a general meeting of the association to be held within 28 days after the date on which the secretary received the notice.
- (4) At a general meeting of the association convened under subclause (3):
  - (a) no business other than the question of the appeal is to be transacted, and
  - (b) the board and the member must be given the opportunity to state their respective cases orally or in writing, or both, and
  - (c) the members present are to vote by secret ballot on the question of whether the resolution should be confirmed or revoked.
- (5) The appeal is to be determined by a simple majority of votes cast by members of the association.

### **Part 3 - The board**

#### ***15. Powers of the board***

Subject to the Act, the Regulation and this constitution and to any resolution passed by the association in general meeting, the board:

- (a) is to control and manage the affairs of the association, and
- (b) may exercise all such functions as may be exercised by the association, other than those functions that are required by this constitution to be exercised by a general meeting of members of the association, 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 the association.

#### ***16. Composition and membership of board***

- (1) The board is to consist of:
  - (a) the office-bearers of the association, and
  - (b) at least 3 ordinary board members, each of whom is to be elected at the annual general meeting of the association under clause 18.

- (2) The total number of board members is to between 7 and 14.
- (3) The office-bearers of the association are as follows:
  - (a) the chairperson,
  - (b) the deputy-chairperson,
  - (c) the treasurer,
  - (d) the secretary.
- (4) A board member may hold up to 2 offices (other than both the chairperson and deputy-chairperson offices).
- (5) Each member of the board is, subject to this constitution, to hold office until the conclusion of the annual general meeting following the date of the member's election, but is eligible for re-election.

### **17. General duties**

- (1) As soon as reasonably practical after being elected or appointed to the board, each board member must become familiar with this constitution and the Act.
- (2) Without affecting any obligations or remedies available at law, in equity or under statute, Committee members must:
  - (a) exercise their powers and discharge their duties with reasonable care and diligence,
  - (b) exercise their powers and discharge their duties in good faith in the best interests of the association as a whole and for a proper purpose, and
  - (c) not make improper use of their position, or information acquired by virtue of holding their position, so as to gain an advantage for themselves or any other person or to cause detriment to the association.

**Note:** see also Division 3 of Part 6 of the Act which sets out the general duties of the office holders of an incorporated association.

### **18. Election of board members**

- (1) Nominations of candidates for election as office-bearers of the association or as ordinary board members:
  - (a) must be made in writing, signed by 2 members of the association and accompanied by the written consent of the candidate (which may be endorsed on the form of the nomination), and
  - (b) must be delivered to the secretary of the association at least 7 days before the date fixed for the holding of the annual general meeting at which the election is to take place.
- (2) If insufficient nominations are received to fill all vacancies on the board, the candidates nominated are taken to be elected and further nominations are to be received at the annual general meeting.
- (3) If insufficient further nominations are received, any vacant positions remaining on the board are taken to be casual vacancies.
- (4) If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated are taken to be elected.



- (5) If the number of nominations received exceeds the number of vacancies to be filled, a ballot is to be held.
- (6) The ballot for the election of office-bearers and ordinary board members of the board is to be conducted at the annual general meeting in such usual and proper manner as the board may direct.
- (7) A person nominated as a candidate for election as an office-bearer or as an ordinary board member of the association must be a member of the association.

## **19. Secretary**

- (1) The secretary of the association must, as soon as practicable after being appointed as secretary, lodge notice with the association of his or her address.
- (2) It is the duty of the secretary to keep minutes of:
  - (a) all appointments of office-bearers and members of the board, and
  - (b) the names of members of the board present at a board meeting or a general meeting, and
  - (c) all proceedings at board meetings and general meetings.
- (3) Minutes of proceedings at a meeting must be signed by the chairperson of the meeting or by the chairperson of the next succeeding meeting.

## **20. Treasurer**

It is the duty of the treasurer of the association to ensure:

- (a) that all money due to the association is collected and received and that all payments authorised by the association are made, and
- (b) that correct books and accounts are kept showing the financial affairs of the association, including full details of all receipts and expenditure connected with the activities of the association.

## **21. Casual vacancies**

- (1) In the event of a casual vacancy occurring in the membership of the board, the board may appoint a member of the association to fill the vacancy and the member so appointed is to hold office, subject to this constitution, until the conclusion of the annual general meeting next following the date of the appointment.
- (2) A casual vacancy in the office of a member of the board occurs if the member:
  - (a) dies, or
  - (b) ceases to be a member of the association, or
  - (c) becomes an insolvent under administration within the meaning of the *Corporations Act 2001* of the Commonwealth, or
  - (d) resigns office by notice in writing given to the secretary, or
  - (e) is removed from office under clause 23, or
  - (f) becomes a mentally incapacitated person, or
  - (g) is absent without the consent of the board from 3 consecutive meetings of the board, or
  - (h) is convicted of an offence involving fraud or dishonesty for which the maximum penalty on conviction is imprisonment for not less than 3 months, or

- (i) is prohibited from being a director of a company under Part 2D.6 (Disqualification from managing corporations) of the *Corporations Act 2001* of the Commonwealth.

## **22. Term of office**

- (1) In the event that a board member has held office for a period of five (5) years (whether or not continuously), that board member will not be eligible to hold office again until a continuous period of two (2) years has elapsed.
- (2) The period that a board member can hold office before becoming ineligible as per subclause (1) may be extended by one (1) year by the association by resolution in general meeting.

## **23. Removal of board members**

- (1) The association in general meeting may by resolution remove any member of the board from the office of member 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) If a member of the board to whom a proposed resolution referred to in subclause (1) relates makes representations in writing to the secretary or chairperson (not exceeding a reasonable length) and requests that the representations be notified to the members of the association, the secretary or the chairperson may send a copy of the representations to each member of the association or, if the representations 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.

## **24. Board meetings and quorum**

- (1) The board must meet at least 3 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 chairperson or by any member of the board.
- (3) Oral or written notice of a meeting of the board must be given by the secretary to each member of the board at least 48 hours (or such other period as may be unanimously agreed on by the members of the board) before the time appointed for the holding of the meeting.
- (4) Notice of a meeting given under subclause (3) must specify the general nature of the business to be transacted at the meeting and no business other than that business is to be transacted at the meeting, except business which the board members present at the meeting unanimously agree to treat as urgent business.
- (5) Any 3 members of the board constitute a quorum for the transaction of the business of a meeting of the board.
- (6) No business is to be transacted by the board unless a quorum is present and if, within half an hour of the time appointed for the meeting, a quorum is not present, the meeting is to stand adjourned to the same place and at the same hour of the same day in the following week.
- (7) If at the adjourned meeting a quorum is not present within half an hour of the time appointed for the meeting, the meeting is to be dissolved.
- (8) At a meeting of the board:

- (a) the chairperson or, in the chairperson's absence, the deputy-chairperson is to preside, or
- (b) if the chairperson and the deputy-chairperson are absent or unwilling to act, such one of the remaining members of the board as may be chosen by the members present at the meeting is to preside.

## **25. Use of technology for board meetings**

- (1) A board member not physically present at a general meeting may be permitted to participate in the meeting by the use of technology that allows that member and the members present at the meeting to clearly and simultaneously understand each other.
- (2) For the purposes of this clause, a board member participating in a board meeting as permitted under subclause (1) is taken to be present at the meeting and, if the member votes at the meeting, is taken to have voted in person.

## **26. Delegation by board to sub-committee**

- (1) The board may, by instrument in writing, delegate to one or more sub-committees (consisting of such member or members of the association as the board thinks fit) the exercise of such of the functions of the board as are specified in the instrument, 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 clause 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 clause 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.
- (4) Despite any delegation under this clause, 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 clause has the same force and effect as it would have if it had been done or suffered by the board.
- (6) The board may, by instrument in writing, revoke wholly or in part any delegation under this clause.
- (7) A sub-committee may meet and adjourn as it thinks proper.

## **27. Voting and decisions**

- (1) Questions arising at a meeting of the board or of any sub-committee appointed by the board are to be determined by a majority of the votes of members of the board or sub-committee present at the meeting.
- (2) 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 an equality of votes on any question, the person presiding may exercise a second or casting vote.

- (3) Subject to clause 24 (5), the board may act despite 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 despite any defect that may afterwards be discovered in the appointment or qualification of any member of the board or sub-committee.

## **Part 4 - General meetings**

### **28. Annual general meetings – holding of**

- (1) The association must hold its first annual general meeting within 18 months after its registration under the Act.
- (2) The association must hold its annual general meetings:
  - (a) within 6 months after the close of the association's financial year, or
  - (b) within such later time as may be allowed by the Director-General or prescribed by the Regulation.

### **29. Annual general meetings – calling of and business at**

- (1) The annual general meeting of the association is, subject to the Act and to clause 30, to 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 is to include the following:
  - (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 on the activities of the association during the last preceding financial year,
  - (c) to elect office-bearers of the association and ordinary board members,
  - (d) to receive and consider any financial statement or report required to be submitted to members under the Act.
- (3) An annual general meeting must be specified as such in the notice convening it.

### **30. Special general meetings – calling of**

- (1) The board may, whenever it thinks fit, convene a special general meeting of the association.
- (2) The board must, on the requisition in writing of at least 5 per cent of the total number of members, convene a special general meeting of the association.
- (3) A requisition of members for a special general meeting:
  - (a) must state the purpose or purposes of the meeting, and
  - (b) must be signed by the members making the requisition, and
  - (c) must be lodged with the secretary, and
  - (d) 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 that 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 subclause (4) must be convened as nearly as is practicable in the same manner as general meetings are convened by the board.

### **31. Notice**

- (1) Except if the nature of the business proposed to be dealt with at a general meeting requires a special resolution of the association, the secretary must, at least 14 days before the date fixed for the holding of the general meeting, give a notice to each member specifying the place, date and time of the meeting and the nature of the business proposed to be transacted at the meeting.
- (2) If the nature of the business proposed to be dealt with at a general meeting requires a special resolution of the association, the secretary must, at least 21 days before the date fixed for the holding of the general meeting, cause notice to be given to each member specifying, in addition to the matter required under subclause (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 is to be transacted at the meeting except, in the case of an annual general meeting, business which may be transacted under clause 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 must include that business in the next notice calling a general meeting given after receipt of the notice from the member.

### **32. Quorum for general meetings**

- (1) No item of business is to be transacted at a general meeting unless a quorum of members entitled under this constitution to vote is present during the time the meeting is considering that item.
- (2) Thirty percent (30%) (rounded down to the nearest whole number) of the total number of members entitled under this constitution to vote at a general meeting constitutes 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 members present, being at least twenty percent (20%) (rounded down to the nearest whole number) of the total number of members entitled under this constitution to vote at a general meeting, are to constitute a quorum.
- (4) If at least twenty percent (20%) (rounded down to the nearest whole number) of members are not present within half an hour after the appointed time as per subclause (3) above, then the general meeting is to be dissolved and 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.

### **33. Use of technology for general meetings**

- (1) A member not physically present at a general meeting may be permitted to participate in the meeting by the use of technology that allows that member and the members present at the meeting to clearly and simultaneously understand each other.
- (2) For the purposes of this clause, a member participating in a board meeting as permitted under subclause (1) is taken to be present at the meeting and, if the member votes at the meeting, is taken to have voted in person.

### **34. Presiding member**

- (1) The chairperson or, in the chairperson's absence, the deputy-chairperson, is to preside as chairperson at each general meeting of the association.
- (2) If the chairperson and the vice- chairperson are absent or unwilling to act, the members present must elect one of their number to preside as chairperson at the meeting.

### **35. Adjournment**

- (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 is to be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.
- (2) If a general meeting is adjourned for 14 days or more, the secretary must give written or oral notice of the adjourned meeting to each member of the association 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 subclauses (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.

### **36. Making decisions**

- (1) A question arising at a general meeting of the association is to be determined by either:
  - (a) a show of hands, or
  - (b) if on the motion of the chairperson or if 5 or more members present at the meeting decide that the question should be determined by a written ballot—a written ballot.
- (2) If the question is to be determined by a show of hands, a 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 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.
- (3) If the question is to be determined by a written ballot, the ballot is to be conducted in accordance with the directions of the chairperson.

### **37. Special resolutions**

A special resolution may only be passed by the association in accordance with section 39 of the Act.

### **38. Voting**

- (1) On any question arising at a general meeting of the association a member has one vote only.
- (2) In the case of an equality of votes on a question at a general meeting, the chairperson of the meeting is entitled to exercise a second or casting vote.
- (3) A member is not entitled to vote at any general meeting of the association unless all money due and payable by the member to the association has been paid.
- (4) A member is not entitled to vote at any general meeting of the association if the member is under 18 years of age.

### **39. Proxy votes permitted**

- (1) A member may appoint a proxy to attend and vote at a general meeting on their behalf.
- (2) A proxy does not need to be a member.
- (3) A proxy appointed to attend and vote for a member has the same rights as the member to speak and vote at the meeting.
- (4) An appointment of proxy (a "proxy form") must be in writing in the form set out in Appendix 2 to this constitution and must contain:
  - (a) the member's name, address and signature,
  - (b) the association's name,
  - (c) the proxy's name, and
  - (d) the meeting(s) at which the appointment may be used.
- (5) A proxy appointment may be standing (ongoing).
- (6) Proxy forms must be received by the association at least 24 hours before a meeting.
- (7) A proxy does not have the authority to speak and vote for a member at a meeting while the member is at the meeting.
- (8) A proxy appointment may specify the way the proxy must vote on a particular resolution.

### **40. Postal ballots or electronic ballots**

- (1) The association may hold a postal ballot or electronic ballot (as the board determines) to determine any issue or proposal (other than an appeal under clause 14).
- (2) A postal ballot or electronic ballot is to be conducted in accordance with Schedule 3 to the Regulation.

## **Part 5 - Miscellaneous**

### **41. Insurance**

The association may effect and maintain insurance.

## **42. Funds – source**

- (1) The funds of the association are to be derived from entrance fees and annual subscriptions of members, donations, non-member subscriptions, funding-raising activities, grants, interest and, subject to any resolution passed by the association in general meeting, such other sources as the board determines.
- (2) The association will establish and maintain a public fund.
  - (a) Donations will be deposited into the public fund listed on the Register of Cultural Organisations. These monies will be kept separate from other funds of the association and will only be used to further the principal purpose of the association. Investment of monies in this fund will be made in accordance with guidelines for public funds as specified by the Australian Taxation Office.
  - (b) The fund will be administered by a management board or a sub-committee of the management board, the majority of whom will be appointed because their tenure of some public office, professional standing and/or independent involvement in the community beyond the Theatre Network NSW Inc.
  - (c) No monies/assets in this fund will be distributed to members or office bearers of the association, except as reimbursement of out-of-pocket expenses incurred on behalf of the fund or proper remuneration for administrative services.
  - (d) The Department responsible for the administration of the Register of Cultural Organisations will be notified of any proposed amendments or alterations to provisions for the public fund, to assess the effect of any amendments on the public fund's continuing Deductible Gift Recipient status.
  - (e) Receipts for gifts to the public fund must state:
    - (i) the name of the public fund and that the receipt is for a gift made to the public fund;
    - (ii) the Australian Business Number of the company;
    - (iii) the fact that the receipt is for a gift; and
    - (iv) any other matter required to be included on the receipt pursuant to the requirements of the *Income Tax Assessment Act 1997*.
  - (f) The association agrees to comply with any rules made by the Australian Commonwealth Government to ensure that gifts made to the fund are used only for its principal purpose including providing statistical information to the Department every six months on gifts received to the public fund.
- (3) All money received by the association must be deposited as soon as practicable and without deduction to the credit of the association's bank or other authorised deposit-taking institution account.
- (4) The association must, as soon as practicable after receiving any money, issue an appropriate receipt.

## **43. Funds – management**

- (1) Subject to any resolution passed by the association in general meeting, the funds of the association are to be used in pursuance of the objects of the association in such manner as the board determines.
- (2) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by any 2 members of the board or employees of the association, being members or employees authorised to do so by the board.



#### **44. Change of name, objects and constitution**

An application to the Director -General for registration of a change in the association's name, objects or constitution in accordance with section 10 of the Act is to be made by the public officer or a board member.

#### **45. Custody of books etc**

Except as otherwise provided by this constitution, the public officer must keep in his or her custody or under his or her control all records, books and other documents relating to the association.

#### **46. Inspection of books etc**

- (1) The following documents must be open to inspection, free of charge, by a member of the association at any reasonable hour:
  - (a) records, books and other financial documents of the association,
  - (b) this constitution,
  - (c) minutes of all board meetings and general meetings of the association.
- (2) A member of the association may obtain a copy of any of the documents referred to in subclause (1) on payment of a fee of not more than \$1 for each page copied.

#### **47. Service of notices**

- (1) For the purpose of this constitution, a notice may be served on or given to a person:
  - (a) by delivering it to the person personally, or
  - (b) by sending it by pre-paid post to the address of the person, or by sending it by facsimile transmission or some other form of electronic transmission to an address specified by the person for giving or serving the notice.
- (2) For the purpose of this constitution, a notice is taken, unless the contrary is proved, to have been given or served:
  - (a) in the case of a notice given or served personally, on the date on which it is received by the addressee, and
  - (b) in the case of a notice sent by pre-paid post, on the date when it would have been delivered in the ordinary course of post, and
  - (c) in the case of a notice sent by facsimile transmission or some other form of electronic transmission, on the date it was sent or, if the machine from which the transmission was sent produces a report indicating that the notice was sent on a later date, on that date.

#### **48. Financial year**

The financial year of the association is:

- (a) the period of time commencing on the date of incorporation of the association and ending on the following 31 December, and
- (b) each period of 12 months after the expiration of the previous financial year of the association, commencing on 1 January and ending on the following 31 December.

**Note:** Schedule 1 of the Act provides that an association's constitution is to address the association's financial year.

#### **49. Winding up and cancellation**

- (1) The Association may be wound up voluntarily by special resolution.
- (2) If the organisation is wound up or its endorsement as a deductible gift recipient is revoked (whichever occurs first), any surplus of the following assets shall be transferred to another organisation with similar objects, which is charitable at law, to which income tax deductible gifts can be made:
  - (a) gifts of money or property for the principal purpose of the organisation,
  - (b) contributions made in relation to an eligible fundraising event held for the principal purpose of the organisation, and
  - (c) money received by the organisation because of such gifts and contributions.
- (3) The body to which any surplus assets are to be given must be capable of receiving DGR funding, and will be determined by special resolution.

## Appendix 1 Application for membership of association

(Clause 5 (1))

### APPLICATION FOR MEMBERSHIP OF ASSOCIATION

I, **(name of applicant)**,

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of

*(residential address:)*

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*(postcode:)*

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*(best address for postal correspondence:)*

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*(email and phone number:)*

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*(occupation of applicant:)*

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desire to become a member of Theatre Network NSW Inc.

In the event of my admission as a member, I agree to be bound by the rules of Association for the time being in force.

**Signature of applicant:**

**Date:**

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## Appendix 2 Proxy voting form

(Clause 39 (4))

### PROXY VOTING FORM

For the use of a member of the association who is unable to attend a general meeting of Theatre Network NSW Inc.

I, \_\_\_\_\_ of \_\_\_\_\_  
(Print name of member) (Address)

\_\_\_\_\_ Phone: \_\_\_\_\_

being the duly notified member Theatre Network NSW Inc. hereby authorise:

\_\_\_\_\_ of \_\_\_\_\_  
(Print name of proxy) (Address)

\_\_\_\_\_ to act FOR AND ON MY BEHALF at the general meeting of the

above Association on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
(Registered Member)

Additional comments/instructions:

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#### Authorised by:

Print Name: \_\_\_\_\_ Office held: Secretary / Chairperson

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

**This form must be received at the Theatre Network NSW office at least 24 hours prior to the scheduled commencement of the meeting.**