

**CORPORATIONS ACT 2001**

**A COMPANY LIMITED BY GUARANTEE**

**CONSTITUTION**

of

**NATIONAL ASSOCIATION FOR MEDICAL DEPUTISING AUSTRALIA LTD ACN 057 597 949.**

**1. PRELIMINARY**

- 1.1 The replaceable rules contained in the Corporations Act do not apply to the Company except so far as the same are repeated or contained or are stated to apply in this Constitution.

**2. INTERPRETATION**

- 2.1 The following expressions shall have the following meanings unless the context requires otherwise:

“**Board**” means the board of Directors.

“**Company**” means National Association for Medical Deputising Australia Ltd ACN 057 597 949.

“**Constitution**” means this constitution as amended from time to time.

“**Corporations Act**” means the *Corporations Act 2001* (Cth) including any amendments for the time being in force in the Commonwealth of Australia.

“**Director**” means a person appointed or elected to the office of director of the Company in accordance with this Constitution and, where appropriate, includes an alternate director.

“**Industry**” means the industry connected with the conduct of Medical Deputising Services within the Commonwealth of Australia and elsewhere in the world.

“**Medical Deputising Services**” means organisations providing after hours medical services which meet the NAMDS definition of a Medical Deputising Service, accreditation and other requirements as determined by the Board from time to time.

“**Members**” means the persons admitted to the membership of the Company in accordance with this Constitution under the categories of membership set out in rule 4.1.

“**Register**” means the register of members of the Company kept pursuant to the Corporations Act.

“**Related Body Corporate**” has the meaning given to that term in section 50 of the Corporations Act.

- 2.2 Headings are for convenience only and do not affect interpretation. The following rules of interpretation apply unless any contrary intention appears in this Constitution or the context requires otherwise:

(a) Words importing the singular shall include the plural and vice versa.

(b) Words importing a gender shall include any gender.

(c) Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.

- (d) A reference to any legislation or to any provision of any legislation includes any modification or re-enactment of it, any legislative provision substituted for it, and all regulations and statutory instruments issued under it.
- (e) A reference to a month or a year is a reference to a calendar month or calendar year respectively.

### **3. OBJECTS OF THE COMPANY**

3.1 The Company is a non-profit organisation limited by guarantee.

3.2 The objects for which the Company is established are as follows:

- (a) To work in every proper and lawful manner to improve conditions within the Industry and to advance the interests of the participants in the Industry and the Members, especially through unity of action but excluding the trading or raising of pecuniary profits for the Members. Without limiting the generality of this provision, the Company will:
  - (i) represent the Members in negotiations, representations and dealings with government, the Australian Medical Association, the Royal College of General Practitioners and other relevant bodies;
  - (ii) monitor existing or proposed legislation, regulations or codes of practice affecting the Industry and the interests of Members and, where appropriate, propose new legislation or the amendment or repeal of existing legislation, regulations or codes of practice; and
  - (iii) endeavour to keep Members informed about developments likely to affect them or the Industry, for which purpose the Company:
    - (A) may publish and distribute a periodical magazine, newsletters and information; and
    - (B) may arrange, from time to time, seminars or information sessions.
- (b) To enhance the image of the Industry wherever and whenever possible and in any media or information forum.
- (c) To act as an employ organisation in regard to matters of a general industrial, employee or award nature, for which purpose and without limiting the generality of the foregoing, the Company may:
  - (i) take such steps as are necessary to enable it to represent its Members before any industrial commission, tribunal or registry in any State or Territory in the Commonwealth of Australia;
  - (ii) provide information of awards and other industrial matter to Members; and
  - (iii) arrange training programmes and packages aimed at enhancing the performance standards of management and staff within the Industry.
- (d) To promote open and healthy competition within the Industry.

3.3 The assets and income of the Company shall be applied solely in furtherance of the objects set out in rule 3.2 and no portion shall be distributed directly or indirectly to the Members except as bona fide compensation for services rendered or expenses incurred on behalf of the Company.

3.4 In the event of a winding up or dissolution of the Company, if there remains any property after the satisfaction of all the Company's debts and liabilities, the property must not be paid or distributed among the Member but must be transferred to one or more organisations selected by the Members at or before the time of dissolution:

- (a) with similar purposes or objects to the Company as set out in rule 3.2; and
- (b) which is required to apply its assets and income in promoting its objects and is not carried on for the profit or gain of its members.

#### **4. MEMBERSHIP**

4.1 The Members shall consist of:

- (a) Accredited Members;
- (b) Affiliated Members; and
- (c) Honorary Members.

4.2 The number of Members is unlimited.

4.3 Accredited Members shall comprise corporate bodies, related bodies corporate and incorporated associations that:

- (a) comply with the definition of a Medical Deputising Service;
- (b) are fully accredited by an independent and approved accreditation agency against the Standards of the Royal Australian College of General Practitioners; and
- (c) whose objects comprise working in and promoting the Industry

4.4 Related Bodies Corporate may only have one membership.

4.5 Affiliated Members shall comprise persons or bodies associated with the provision of, or delivery of, medical services whose membership the Board believes will enhance the objects of the Company.

4.6 Honorary Members shall comprise persons or bodies whose membership the Board believes will enhance the objects of the Company.

4.7 Each Member that is a corporate body or incorporated association shall appoint two persons as its representatives and shall advise the Company in writing of the names of its representatives. A representative (other than a representative who is also a Director) may be changed at any time upon notification in writing to the Company by the Member concerned but until the Company is notified in writing the Company may accept the named representative as a person entitled to vote on behalf of the corporate body or incorporated association at Company meetings.

4.8 Every Member shall be subject to this Constitution and to any subsequent amendments duly registered pursuant to the Corporations Act.

#### **5. MEMBERSHIP FEES**

5.1 The membership fees payable upon application to become a Member for each class of membership shall be such sum as is determined from time to time by the Board. The Board may set different fees for the different classes of membership.

#### **6. ANNUAL SUBSCRIPTIONS, DUES AND LEVIES**

6.1 Every Member shall pay an annual subscription to the Company of such amount as may be determined from time to time by the Board. The Board may set different subscriptions for each class of membership and may waive or decide not to set an annual subscription for any particular class of membership.

- 6.2 The annual subscription shall be payable annually in advance on the 1<sup>st</sup> day of July in each year provided that a Member admitted after the 1<sup>st</sup> day of August in each year shall pay the proportion of the annual subscription remaining for the period calculated to the nearest month.
- 6.3 If the annual subscription fee in respect of a Member remains unpaid two (2) months after it becomes due, the Company may notify the Member in writing that the annual subscription fee is overdue, and in the event of the annual subscription fee not being paid within one (1) month after such notification has been posted to the Member's then last known address, the Board shall have the power to terminate a Member's membership of the Company, but the Member shall not thereby be relieved of liability for any of the acts of the Company done prior to its membership being terminated, or of any other liability, actual or contingent, which may have been incurred by it.
- 6.4 All annual subscription fees due to the Company on the part of a Member may, after a period of two (2) months after the fees becoming due, be recovered by the Company.
- 6.5 Nothing in this Constitution shall preclude the Company by resolution at a general or Board meeting from suspending or waiving any or all of the outstanding fees of any Member when the circumstances warrant.
- 6.6 The Board shall, when it deems advisable, impose such levies and contributions upon the Accredited Members (or the Board may set different levies and contributions upon Accredited Members) as are required for the work of the Company, and such levies and contributions shall be payable to the Company within seven (7) days after they are imposed, provided always that all contributions and levies shall not exceed one (1) year's subscription in any financial year.

## **7. ADMISSION AND REJECTION OF MEMBERS**

- 7.1 Except in the case of Accredited Members and Honorary Members, every applicant for membership shall apply by written application in such form as is set from time to time by the Board. In considering an application for membership the Board may request further information from an applicant to support the application.
- 7.2 Any applicant who receives a majority of the votes of the Directors present at the meeting at which such application is being considered shall be accepted as a Member to the relevant class of membership.
- 7.3 Upon the acceptance or rejection of an application for any class of membership the Company shall give the applicant notice in writing of such acceptance or rejection.
- 7.4 The Board may refuse an application for membership without assigning any reasons.

## **8. TERMINATION OF MEMBERSHIP**

- 8.1 Any Member who desires to resign from the Company shall give not less than one (1) month's notice to the Company of its desire to do so, but no Member shall be allowed to withdraw or cease to be a Member until all subscriptions or liabilities, actual or contingent, which may have been incurred on the part of such Member up to the date of expiration of such notice have been fully liquidated or discharged.
- 8.2 If a Member:
- (a) is convicted of an indictable offence;
  - (b) fails to comply with any of the provisions of this Constitution;
  - (c) has membership fees in arrears for a period of two (2) months or more; or

- (d) conducts itself in a manner considered to be injurious or prejudicial to the character or interests of the Company or in the opinion of the Board acts otherwise than in accordance with the policy and practice of the Company or any decisions of the Board,

the Board may consider whether the Member's membership shall be terminated and the Member concerned shall be given a full and fair opportunity of presenting its case and if the Board resolves to terminate its membership the Company shall advise the Member in writing accordingly.

## **9. APPEAL AGAINST REJECTION OR TERMINATION OF MEMBERSHIP**

- 9.1 A person whose application for membership has been rejected or whose membership has been terminated may within one (1) month of receiving written notification thereof, lodge with the Company written notice of his or her intention to appeal against the decision of the Board.
- 9.2 Upon receipt of a notification of intention to appeal against rejection or termination of membership the Directors shall convene, within three (3) months of the date of receipt of such notice, a special general meeting to determine the appeal. At any such meeting the applicant shall be given the opportunity to fully present their case and the Board or those Directors who rejected the application for membership or terminated the membership subsequently shall likewise have the opportunity of presenting their case. The appeal shall be determined by the vote of the Members present and entitled to vote at such meeting.
- 9.3 Where a person whose application is rejected, does not appeal against the decision of the Board within the time prescribed by this Constitution or so appeals but the appeal is unsuccessful, the Company shall forthwith refund the proportional amount of any membership fee paid.

## **10. REGISTER OF MEMBERS**

- 10.1 The Company shall cause to be kept, in one or more books the Register, and shall cause to be entered the following particulars:
  - (a) Name and address of each Member and class of membership and, in the case of incorporated bodies, of its representative.
  - (b) The date upon which such Member was approved as a Member by the Board and on which the entry of the Member's name in the Register is made.
  - (c) The date upon which any Member terminated, resigned or was reinstated to membership.
  - (d) Any further particulars as the Board or the Members at any general meeting may require from time to time.
- 10.2 The Register shall be open for inspection at all reasonable times by any Member who previously applies to the Company for such inspection.

## **11. GENERAL MEETINGS**

- 11.1 Annual general meetings of the Company shall be held in accordance with the Corporations Act.
- 11.2 In addition to the annual general meeting the Directors may convene a meeting of the Members whenever they think fit.
- 11.3 The Company shall convene a special general meeting on being given notice in writing of an intention to appeal against the decision of the Board to reject an application for membership or to terminate the membership of any person.

- 11.4 A meeting shall be convened on such requisition by Members as provided by section 249D of the Corporations Act
- 11.5 In default of a meeting being convened pursuant to rule 11.4, the Members may convene a meeting as provided by the Corporations Act. Otherwise a Member has no right to convene a meeting of the Company.
- 11.6 Subject to the short notice provisions of the Corporations Act, a notice convening a meeting of the Company shall specify the date, time and place of the meeting and, where applicable, the general nature of any special business. This notice shall be sent to all Members.
- 11.7 At all meetings of the Members, 55% of the total current Members present and entitled to exercise a vote shall constitute a quorum.
- 11.8 The President will chair all meetings of the Members, provided that if at any meeting:
- (a) the President is not present within fifteen (15) minutes after the time appointed for the meeting or does not wish to act as chair, the Vice President shall chair the meeting;
  - (b) if the Vice President is not present within fifteen (15) minutes after the time appointed for the meeting or does not wish to act as chair, the Directors present may elect one of their number to chair the meeting; and
  - (c) if no Directors are present within fifteen (15) minutes after the time appointed for the meeting or if no Directors wish to act as chair, the Members present may elect one of their number to chair the meeting.

## 12. VOTE OF MEMBERS

- 12.1 Only Accredited Members whose fees, subscriptions and levies are fully paid are entitled to vote in accordance with this rule 12.
- 12.2 On a show of hands at a meeting, subject to rule **Error! Reference source not found.**, each Accredited Member present or proxy or attorney of an Accredited Member present is entitled to 2 votes. If two representatives have been appointed in accordance with Clause 4.7, and both are present, then each representative is entitled to one (1) vote.
- 12.3 On a poll each Accredited Member or attorney, proxy or representative of an Accredited Member is entitled to two (2) votes. If two representatives have been appointed in accordance with Clause 4.7, and both are present, then each representative is entitled to one (1) vote.
- 12.4 In any case where there is an equality of votes for or against a resolution the chair of the meeting shall have a second or casting vote, and shall cast that vote in the negative.
- 12.5 If a poll is demanded, the poll shall be conducted in a manner and at the time and place which the chair shall direct and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded. A poll demanded on the election of a chair or on a question of adjournment shall be taken immediately.
- 12.6 Subject to statute and this Constitution, the Directors may make regulations governing voting by post or by electronic means.
- 12.7 Any instrument appointing an attorney, a proxy or representative must be in the form from time to time determined by the Directors and must be valid according to law. The instrument shall be deposited with the Company no later than 5.00pm on the last working day which is not less than seven (7) days before the day for holding the meeting or the adjourned meeting or the poll at which the person named in the instrument proposes

to vote. In the event of the Member desiring to vote for or against any resolution the Member shall imprint its proxy form accordingly. Unless otherwise instructed, the proxy may vote as he/she thinks fit.

12.8 Prior to admission to a general meeting or participating in a poll, a proxy holder shall produce such proof of his or her identity as the chair of the meeting or the Directors shall from time to time direct.

### **13. DIRECTORS**

13.1 Until otherwise determined by a general meeting the number of Directors shall be five (5) in total, including a President and Vice President.

13.2 Directors are appointed for a term of one (1) year.

13.3 Each Director must:

(a) be a Member; or

(b) hold the position of chief executive officer, managing director, chief operating officer, medical director, non-executive director or an equivalent position of a Member that is a body corporate (as determined by the Board in its sole discretion); or

(c) have evident professional experience in the Industry (as determined by the Board in its sole discretion).

13.4 In the year when a Director's term expires, or when a Director retires, each Accredited Member is entitled to nominate one (1) candidate for the position of Director provided this nomination is received by the Company at least one (1) week before the annual general meeting. Except as provided in this Constitution, no other nominations for Director shall be accepted by the Company. The person nominated by an Accredited Member automatically becomes the sole representative of that Accredited Member.

13.5 In the event that an Accredited Member fails to nominate a candidate for election as Director to replace a retiring Director, when that Director retires, a casual vacancy shall exist and the Directors may appoint a person to fill that casual vacancy.

13.6 A retiring Director is eligible for re-election if nominated, and shall continue to act as Director until the moment the new Director is declared and elected.

13.7 If at any time there is no greater number of candidates nominated than vacancies to be filled the election shall be conducted at the annual general meeting or a meeting convened for that purpose in such a manner as the Directors decide and a poll shall not be held.

13.8 A Director may be elected to the Board by a simple majority vote of the Accredited Members.

13.9 The Accredited Members at each annual general meeting shall elect, among the Directors, who shall be the President and who shall be the Vice President, for a term until the next annual general meeting.

13.10 Upon a casual vacancy resulting from the resignation, death or termination of a Director other than the President or Vice President, the Accredited Member which originally nominated that Director shall be entitled, within thirty (30) days from the date of resignation, death or termination, to nominate a person to fill that casual vacancy. Where the casual vacancy results from the resignation or termination of a Director that person cannot be reappointed to fill the casual vacancy. Where the Accredited Member does not nominate a person within the prescribed period or where the resigned or terminated Director is either President or Vice President, then the Board shall appoint a person to fill the casual vacancy until the next annual general meeting.

### **14. VACATION OF OFFICE**

14.1 A Director shall cease to hold office if:

- (a) the Director is appointed to any salaried office of the Company;
- (b) the Accredited Member represented by the Director ceases to be a Member;
- (c) the Director ceases to hold the required qualifications to be a Director (including as set out in rule 13.3);
- (d) the Director becomes bankrupt or compromises or compounds with or makes any assignment for the benefit of the Director's creditors;
- (e) the Director becomes of unsound mind or incapable of managing his affairs or becomes a person whose estate is liable to be dealt with in any way under the law relating to mental health;
- (f) the Director, by notice in writing to the Company, resigns his office or if his action in the opinion of a majority of the other Directors constitutes a refusal to act as a Director;
- (g) without the permission of the Board, the Director absents himself from the meetings of the Board on three (3) consecutive occasions;
- (h) the Director is convicted of any felony;
- (i) the Director becomes prohibited from being a Director or is removed from his office pursuant to the Corporations Act;
- (j) the Director, not being a full-time employee of the Company, becomes indebted to the Company by way of loan; or
- (k) the Director attains the age of seventy-two (72) years.

## **15. CONFLICT OF INTEREST**

15.1 No Director shall be disqualified by his office from holding any office or place of profit of the Company or under any company in which the Company is a shareholder or otherwise interested, or from contracting with the Company either as vendor, purchaser or otherwise nor shall any such contract or any contract or arrangement entered into by or on behalf of the Company in which any Director is in any way interested be avoided nor shall any Director be liable to account to the Company for any profit arising from such office or place of profit or realised by any such contract or arrangement by reason only of such Director holding that office or of the fiduciary relationship thereby established, but the nature and extent of the Director's interest must be disclosed as required by section 191 of the Corporations Act. No Director shall, as a Director, vote in respect of any contract or arrangement in which he is interested as aforesaid, and if he does vote his vote shall not be counted.

## **16. POWERS OF DIRECTORS**

16.1 The management of the business of the Company vests in the Directors. The Directors may exercise and do all acts that the Company is able to exercise (including the ability to delegate powers) and do which are not by this Constitution or by statute required to be exercised or done by the Company in general meeting, provided that any regulations made by the Directors are not inconsistent with this Constitution. Any regulations made by the Directors may not invalidate any act of the Directors made prior to those regulations becoming effective.

16.2 The Company in general meeting or the Directors may delegate such powers as the Company is, or the Directors are, respectively, capable of exercising (including the power to further delegate such power) to such officer or officers as it or they think fit.



16.3 The Directors may at any time appoint any person to be an attorney of the Company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Directors under this Constitution) and for such period and subject to such conditions as the Directors may from time to time think fit and any such power of attorney may contain such provisions for the protection or convenience of persons dealing with such attorney as the Directors may think fit.

## **17. PROCEEDINGS OF DIRECTORS**

17.1 The Directors may meet together for the despatch of business at such time and place as they may determine and adjourn and otherwise regulate their meetings and proceedings as they think fit. Questions arising at a meeting shall be decided by a majority of votes. In case of an equality of votes the chair of the meeting shall have a second casting vote to be cast in the negative.

17.2 The President or Vice President may at any time convene a special meeting of the Directors.

17.3 At all meetings of the Board the presence of four (4) Directors shall constitute a quorum and a Director interested in any contract or arrangement within the meaning of this Constitution or the Corporations Act is to be counted in a quorum notwithstanding his or her interest.

17.4 The President will chair all meetings of the Board, provided that if at any meeting:

- (a) the President is not present within fifteen (15) minutes after the time appointed for the meeting or does not wish to act as chair, the Vice President shall chair the meeting; and
- (b) if the Vice President is not present within fifteen (15) minutes after the time appointed for the meeting or does not wish to act as chair, the Directors present may elect one of their number to chair the meeting.

17.5 A meeting of the Directors at which a quorum is present shall be competent to exercise all or any of the authorities, powers and discretions by or under this Constitution vested in or exercisable by the Directors generally.

17.6 The Directors may delegate any of their powers to committees consisting of one or more Directors and may from time to time revoke the delegation.

17.7 Any committee so formed shall in the exercise of the powers so delegated conform to any regulations that may from time to time be imposed upon it by the Directors.

17.8 The meetings and proceedings of any such committee consisting of two (2) or more Directors shall be governed by the provisions herein contained for regulating the meetings and proceedings of the Directors so far as the same are applicable thereto and are not superseded by any regulations made by the Directors under this Constitution.

17.9 A resolution in writing signed by all Directors for the time being in Australia or by all Directors in a committee shall be as valid and effectual as if it had been passed at a meeting of Directors duly convened and held. Any such resolution may consist of several documents in like form each signed by one or more Directors.

## **18. MINUTES**

18.1 Minutes of meetings shall be made and kept in accordance with the provisions of the Corporations Act.

## **19. ALTERNATE DIRECTORS**

19.1 The Directors may appoint a person to act only in the absence of a Director from a meeting of the Board as the alternate of the Director. The person appointed shall be proposed for appointment by the Director and shall be subject to retirement at the same time as the Director in whose place he or she is acting would have retired in

accordance with this Constitution or at such earlier date as may be determined by the Board. The appointee shall possess the necessary qualifications to be a Director (including as set out in rule 13.3).

- 19.2 Where the Director by whom an alternate Director was appointed retires by rotation but is re-elected by the meeting at which he retires or continues in office pursuant to this Constitution, the appointment of the alternate Director continues to operate after his re-election as if he had not so retired.

## **20. ACCOUNTS**

- 20.1 The Directors shall cause financial accounts of the Company to be kept in accordance with the law.

## **21. AUDIT**

- 21.1 Auditors shall be appointed (if required) and their duties shall be regulated in accordance with the Corporations Act.
- 21.2 No person shall be qualified to be appointed as auditor if the person does not meet the requirements to be an auditor of the Company under the Corporations Act.
- 21.3 The office of auditor shall automatically be vacated if the auditor no longer meets the requirements to be an auditor of the Company under the Corporations Act.

## **22. NOTICES**

- 22.1 A notice may be given by the Company to any Member either personally or by sending it by prepaid post to his or her registered address, or, where he or she has directed the notices be sent to any other addresses, to such other addresses.
- 22.2 A notice may be given by the Company to any representative of a Member either personally or by sending it by prepaid post to his or her address, or, address last known to the Company.
- 22.3 A Member who has no registered place of address in Australia or who has not directed that notices be sent to another address in Australia is not entitled to any notice.
- 22.4 Any notice sent by post shall be deemed to have been served on the day following that on which the notice is posted. A certificate in writing signed by any Director or other officer of the Company that the notice was properly addressed and posted shall be conclusive evidence of that fact.
- 22.5 The signature to any notice given by or on behalf of the Company may be written, printed or stamped.

## **23. INDEMNITY**

- 23.1 To the extent permitted by law, every person who is or has been an officer of the Company shall be indemnified by the Company against any liability incurred by that person:
- (a) in his or her capacity as such an officer of the Company; and
  - (b) to a person other than the Company or a Related Body Corporate of the Company,
- unless the liability arises out of conduct on the part of the officer which:
- (c) involves a lack of good faith; or
  - (d) is contrary to the Company's express instructions.

- 23.2 Every person who is or has been an officer of the Company shall be indemnified by the Company against any liability for costs and expenses incurred by that person in his or her capacity as such an officer of the Company:
- (a) in defending any proceedings, whether civil or criminal, in which judgment is given in favour of the person or in which the person is acquitted; or
  - (b) in connection with an application, in relation to such proceedings, in which the Court grants relief to the person under the Corporations Act.
- 23.3 The Company may pay a premium in respect of a contract insuring a person who is or has been an officer of the Company against any liability incurred by the person as such an officer, except in circumstances prohibited by the Corporations Act.

## **24. GENERAL**

- 24.1 Where any duties are required or authorised by the Corporations Act or this Constitution to be performed by any officer the same may be performed by any person appointed by the Directors for that purpose.