
Association of Massage Therapists Ltd

ABN: 32 001 859 285

(a company limited by guarantee not having a share capital)



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Constitution (Rules)

PRELIMINARY

1. CONSTITUTION

The Constitution of the Association is these rules.

2. INTERPRETATION

2.1 Definitions

In these rules, unless the context suggests another meaning:

AGM means a general meeting held as required by the Law.

Annual Subscription means the amount determined under rule 6 as the current annual subscription.

Application Fee means the amount determined under rule 6 as the current application fee;

Association means the Association of Massage Therapists Limited, whatever its name may be at the relevant time.

Auditor means the Auditor of the Association for the time being;

The Board means the Directors acting collectively under this constitution.

Business Day means a day on which banks in Sydney are open for general banking business.

Common Seal means the common seal of the Association.

Constitution of the Association means the memorandum and these rules, as in force for the time being.

Director means a person holding office for the time being as a member of the Board;

General Meeting means any meeting called by the Board or the members under these rules and includes an AGM.

The Law means the Corporations Act 2001.

Member means a person whose name is entered on the register as a financial member of the Association.

Ordinary Resolution means a resolution of a General Meeting other than a special resolution;

Chairperson means the Chairperson of the Association for the time being.

Register means the register of Members kept as the Law requires.

Secretary means:

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

Special Resolution means a resolution to change this Constitution or any other resolution identified under these rules and requiring a 75% majority vote of acceptance at a General Meeting.

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2.2 In these rules:

- (a) a reference to a function includes a reference to a power, authority and duty, and
- (b) a reference to the exercise of a function include, if the function is a duty, a reference to the performance of the duty.

2.3 The provisions of the Interpretation Act 1987 apply to and in respect of these rules in the same manner as those provisions would so apply if these rules were an instrument made under the Act.

3. STATUS

3.1 Limited by guarantee

The Association is a company limited by guarantee.

3.2 Restriction on application of profits

All profits and income of the Association must be applied in promoting the Association's objects. They must not be paid, directly or indirectly, by way of dividend, bonus or otherwise, to Members.

4. DISPLACEMENT OF REPLACEABLE RULES

The provisions of the Law that apply to the Association as replaceable rules are displaced completely in relation to the Association.

MEMBERSHIP OF THE ASSOCIATION

5. MEMBERSHIP

5.1 Number of Members

The number of members is unlimited.

5.2 Classes of Membership

The Board may, by resolution, fix classes of Membership, and the qualifications needed to be admitted to each class.

6. APPLICATION FEES AND ANNUAL SUBSCRIPTIONS

6.1 Changing the Application Fee and Annual Subscriptions

The Board may, at its total discretion, determine the Application Fee and the amounts to be charged for Annual Subscriptions relating to the various levels of membership.

6.2 Different Annual Subscriptions for different classes

Different Annual Subscriptions may be fixed for different classes of Membership.

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7. HOW TO BECOME A MEMBER

7.1 The Board to admit

The Board may, on application by a person, admit the person as a Member.

7.2 Register of Members

- a) The public officer of the Association must establish and maintain a register of members of the Association specifying the name and address of each person who is a member of the Association
- b) The register of members must be kept at the principal place of administration and must be open to inspection, free of charge, by any member of the association at any reasonable hour.
- c) A member of the association may obtain a copy of any part of the register on payment of a fee for each page copied as determined by the Board.

7.3 Form of application for membership

The application must:

- a) be in a form approved or accepted by the Board;
- b) be accompanied by the amount of the Application Fee; and
- c) be accompanied by certified copies of all diplomas and other certificates relating to the applicant's training and academic record.

7.4 Applicants bound by these rules etc

By making an application, the applicant agrees that he or she will, if accepted, be bound by this constitution and by any code, rules of conduct or any other standard the Board may prescribe.

7.5 The Board may require more information

The Board may ask the applicant to give it more information before making a decision on the application. The request is to be in writing. The Board does not have to decide the application until the information is given.

7.6 The Board to decide application

The Board may accept or reject an application. If it accepts an application, it must decide what class of Membership the applicant is to have. The Board has an absolute discretion in making decisions under this rule 7.5.

7.7 Notification

The Board must give the applicant written notice if its decision on the application as soon as practicable after the decision is made.

If the Board decides to admit the applicant as a Member, the notice must set out the amount of the Annual Subscription and how and by when it is to be paid. The date cannot be earlier than 10 Business Days after the date of the notice.

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7.8 Entry on Register

If the Association receives payment of the Annual Subscription within the time specified, the Association must promptly enter the applicant's name (and the other details the Corporations Law requires) in the Register.

7.9 Member to notify changes

A Member must promptly notify the Board of any change in details respect to that Member recorded in the Register.

8. ANNUAL SUBSCRIPTIONS

8.1 Period covered by Annual Subscription

An Annual Subscription covers Membership for 12 months and is due each year on the first day of the anniversary month of joining.

8.2 Payment of Annual Subscriptions

The Board must send each Member an account for his or her Annual Subscription in the month before the subscription becomes due.

8.3 If Annual Subscription remains unpaid

So long as a Member's Annual Subscription remains due but unpaid, the Member has no right to be present at, be counted among the quorum for, or vote, whether in person or by proxy, attorney or representative, at a General Meeting.

9. HOW A PERSON STOPS BEING A MEMBER

This is an overview of how a person stops being a Member:

- a) the person **resigns** Membership;
- b) the person's Membership is **cancelled** for non-payment of Annual Subscriptions;
- c) the person **dies**;
- d) the person becomes a **bankrupt**;
- e) the person's Membership is **terminated**; or
- f) the person is **expelled** from the Association.

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10. CANCELLING MEMBERSHIP

10.1 The Board may cancel Membership

The Board may, by resolution, cancel a Member's Membership.

10.2 Preconditions to action by the Board

The Board must not cancel a Membership unless the Member has asked in writing or:

- a) the Member's Annual Subscription is due but has been unpaid for more than 2 months;
- b) the Board has given the Member written notice that:
 - i. sets out the amount of Annual Subscription outstanding (including interest and other costs and expenses incurred by the Association because of the non-payment);
 - ii. specifies a date at least 15 Business Days ahead as the last day for payment; and
 - iii. warns the Member that his or her Membership may be cancelled if the amount is not paid as required; and
- c) the amount remains unpaid at that date.

10.3 Effect of cancellation of Membership

Cancellation of Membership does not affect any other liability the Member may have to the Association (whether for unpaid amounts or otherwise).

10.4 Reinstating Membership

The Board may, in its discretion, reinstate a person's Membership that has been cancelled, but only if there are no amounts due by the person to the Association but unpaid. Reinstatement may be made subject to conditions as the Board, in its discretion, thinks fit.

11. TERMINATION OF MEMBERSHIP - GENERAL PROVISIONS

11.1 Resignation

A resignation is effective only if in writing and given to the Board.

11.2 Termination of Membership by the Board

The Board may, by resolution, terminate a person's Membership if, after reasonable inquiry:

- a) it is satisfied that the person is of **unsound mind** or incapable of managing his or her affairs;
- b) **it cannot find** the person;
- c) it is satisfied that the person is **not lawfully entitled** to practice as a massage therapist in Australia; or
- d) it is satisfied that the person is not **eligible** to be a Member of any class.

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12. DISCIPLINARY PROCEEDINGS

12.1 Overview

This rule sets out how the Board can censure, fine, suspend or expel a Member.

12.2 Powers of the Board

The Board may, by resolution, do any or all of the following (the resolution is called a “**disciplinary resolution**”):

- a) **censure** a Member;
- b) impose a **fine** of no more than \$500 on a Member;
- c) **suspend** a Member from Membership for a specified period;
- d) **expel** a Member.

12.3 Voting majority required for disciplinary resolution

A disciplinary resolution is not valid unless at least 75% of the Directors present and voting on the resolution vote in favour of it.

12.4 Preconditions to the Board acting

The Board must not make a disciplinary resolution unless all the following requirements are met:

- a) the Board, after reasonable inquiry, is satisfied that the Member:
 - i. has been convicted or found guilty of a criminal offence punishable by more than 6 months imprisonment; or
 - ii. has been convicted or found guilty of a criminal offence (except one covered by rule 12.4(a)(i)) committed in connection with the Member’s practice as a massage therapist; or
 - iii. has knowingly or recklessly:
 - (A) contravened these rules in a substantial respect; or
 - (B) acted contrary to the Association’s objects, or in a way that is unbecoming of a Member or prejudicial to the Association’s interests;
 - (C) breached the AMT Code of Ethics
- b) the Board has given the Member at least 5 Business Days written notice of:
 - i. the proposed resolution; and
 - ii. the facts on which it is based; and
 - iii. the meeting of the Board at which the proposed resolution is to be considered;
- c) the Board has given the Member a reasonable opportunity to make an oral or written submission (or both) to the Board on the matter, both before and at the Board meeting. If the Board considers it appropriate to do so to preserve the confidentiality of a complaint that has been made:

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- d) the notice given to the Member under paragraph (b) may exclude the name or other identifying details of the complainant;
- e) the Board may require the Member to enter into an agreement specified by the Board under which the Member will keep confidential, and not use, the complainant's identifying details except for the purposes of exercising the Member's rights under this rule 12.

A disciplinary resolution cannot impose a fine on a person on a basis set out in rule 12.4(a)(i) or (ii).

12.5 Notice to Member

The Board must, as soon as practicable after a disciplinary resolution is made, give the Member concerned written notice of the matter.

12.6 Effect of disciplinary resolution

A disciplinary resolution has effect according to its tenor. In particular:

- a) for a disciplinary resolution imposing a fine - the amount of the fine is due and payable by the Member to the Association on the day specified in the notice to the Member under Rule 12.5; and
- b) for a disciplinary resolution suspending a Member - the Member's Membership ceases during the period of suspension; and
- c) for a disciplinary resolution expelling Member - the Member ceases to be a Member on the day specified in the notice to the Member under rule 12.5.

12.7 Effect of suspension and expulsion

Suspension and expulsion do not affect any other liability the Member may have to the Association (whether for unpaid amounts or otherwise) but any money owed by the Member to the Association becomes payable immediately.

12.8 Reinstatement

If:

- a) a disciplinary resolution is passed on the basis of the Member's being convicted or found guilty of an offence; and
- b) the conviction or finding of guilt is later quashed or reversed, or the person is later pardoned for the offence concerned;

the Board must reinstate the person's Membership, or revoke the censure, without delay, and notify the person accordingly.

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GENERAL MEETINGS

13. The AGM is to be held between 1 March and 31 May each year.

13.1 MEMBERS' ENTITLEMENTS IN RELATION TO GENERAL MEETINGS

Subject to these rules:

- a) each Member is entitled to notice of each General Meeting and to be present and to speak at the Meeting; and
- b) each Member is entitled to be present personally, or by proxy or attorney, or, in the case of a Member that is a body corporate, by representative.

14. CALLING GENERAL MEETINGS

A General Meeting may be called at any time by:

- a) the Board;
- b) the Members, provided that 100 members ask for it or 5% of the membership entitled to vote (whichever is the lesser) in which case the Board must call a General Meeting within 21 days after the request and the Meeting itself must be held within 2 months of the date of the request.

15. NOTICE OF GENERAL MEETINGS

15.1 How notice of meeting is given

The Association may give notice of a General Meeting to a Member by leaving the notice, addressed to the Member, at the address for the Member in the Register, or at an alternative address the Member has nominated or by fax or e-mail.

15.2 Notice of adjourned General Meeting

Notice of an adjourned General Meeting must be given if the adjournment is for more than 1 month.

15.3 Omission to give notice

A General Meeting, a resolution passed at a General Meeting or the cancellation or postponement of a General Meeting is not invalid merely because:

- a) of an accidental omission to give notice to a member or person entitled to receive the notice; or
- b) a member or a person entitled to receive notice did not actually receive the notice.

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16. CANCELLING, POSTPONING AND ADJOURNING GENERAL MEETINGS

16.1 Cancelling and postponing General Meetings

The Board may, by notice to everyone entitled to notice of the meeting:

- a) postpone an AGM, or a General Meeting called by the Board but not so as to contravene the Law; and
- b) postpone or cancel any other General Meeting called by the Board. A General Meeting called by the Members under Rule 14 b) cannot be postponed or cancelled under this Rule.

16.2 Adjourning Meetings

The chairperson of a General Meeting at which a quorum is present:

- a) may adjourn the meeting with the consent of the meeting by Ordinary Resolution; and
- b) must adjourn the meeting if directed by Ordinary Resolution.

16.3 Business at adjourned General Meeting

The only business that an adjourned General Meeting may deal with is business left unfinished from the General Meeting that was adjourned.

17. PROCEEDINGS AT GENERAL MEETINGS

17.1 Quorum

The quorum for a General Meeting is 20 natural persons each of whom is:

- a) a Voting Member; or
 - b) a proxy or attorney for a Voting Member; or
 - c) or a Voting Member that is a body corporate - a representative of a Voting Member;
- or 20% of the total number of Members, whichever is less. However, if 2 or more proxies, attorneys or representatives for a Voting Member are present, count only 1 of them for the purposes of this rule 17.1.

17.2 Failure of quorum

If a quorum is not present for a General Meeting within 30 minutes after the time set out in the notice of Meeting:

- a) if the meeting was called by or on request by Members - the meeting is dissolved;
- b) in any other case the meeting is adjourned to:
 - i) the same day in the next week at the same time and place; or
 - ii) if the Board fixes another day, time or place – that day, time and place; and
 - iii) if a quorum is not present at the adjourned meeting within 30 minutes after the time for it to start - the meeting is dissolved and the matter may be determined by the Board.

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17.3 Chairing a Meeting

A General Meeting is to be chaired by:

- a) a person appointed by the Board to chair the Meeting (the person need not be a Director or a Member); or
- b) if there is no appointment - the Chairperson; or
- c) if there is no Chairperson, or the Chairperson is not present within 30 minutes after the time the Meeting is to start or is unwilling or unable to chair the Meeting - the Vice-Chairperson; or
- d) if paragraph (c) applies but the Vice-Chairperson is not present within 30 minutes after the time the Meeting is to start or is unwilling or unable to chair the Meeting - a person appointed by the Directors present at the Meeting; or
- e) If paragraph (d) applies but there are no Directors present, or the person appointed is unwilling or unable to chair the Meeting, the Voting Members present must elect one of their number to chair the Meeting.

17.4 Chairing part of a General Meeting

The person chairing a General Meeting may withdraw as chairperson for part of the business of the Meeting. If so:

- a) he or she must nominate a person who would be entitled to chair the Meeting for that part of the business; and
- b) if that person is unwilling or unable to chair the Meeting, rule 17.3 applies for that part of the Meeting; and
- c) after that part of the business is completed, the person chairing must stop, and the first chairperson resumes as the chairperson of the Meeting.

17.5 Responsibilities of the Chairperson

The person chairing a General Meeting is responsible for the general conduct of the Meeting and for determining the sense of the Meeting concerning the business transacted at it.

For these purposes the person has the following powers:

- a) to prescribe procedures and make rulings, in each case finally and conclusively;
- b) if he or she determines it is desirable for the orderly conduct of the meeting or of a poll - to adjourn the Meeting, or an item of business of the Meeting, without the concurrence of the Meeting;
- c) to determine conclusively any dispute concerning the admission, validity or rejection of a vote.

18. WORKING OUT VOTING ENTITLEMENTS

To determine, for the purposes of a particular General Meeting, who are Members, the Association must have regard only to the position disclosed by the Register at:

- a) a time the Directors determine (either generally or for a particular Meeting), which must be not more than 48 hours before the Meeting; or
- b) if the Board has not determined a time for the purposes for a particular Meeting - the earliest time the Board might have determined.

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19. VOTING

19.1 How votes taken

Every resolution put to a vote at a General Meeting (except on an election of Directors by ballot) must be decided by a show of hands unless a poll is demanded.

19.2 Resolutions determined by majority

Both on a show of hands and on a poll, an Ordinary Resolution is passed only if more than half the total number of votes cast on the resolution are for it or, if a Special Resolution, by a 75% majority.

19.3 Votes on show of hands

On a show of hands:

- a) the person chairing the meeting need only declare that the resolution has been carried or lost (as the case may be) and
- b) a declaration of the result by the person chairing the meeting, and the entry of the minutes recording that declaration, if the declaration fairly reflects the vote, are each conclusive of the matter; and
- c) the minutes need only record that the resolution was carried or lost (as the case may be) and need not say the number or proportion of votes for or against it.

19.4 Demand for poll

The minimum number of Voting Members, who may demand a poll is 3.

19.5 No poll on election of chairperson

A poll cannot be demanded on a resolution concerning:

- a) the election of the person to chair the Meeting; or
- b) the adjournment of the Meeting.

19.6 Effect of demand for poll

A demand for a poll on a resolution does not prevent the General Meeting transacting other business.

19.7 Conduct of poll

A poll demanded on a resolution must be taken when and how the person chairing the Meeting directs.

The person chairing the Meeting must declare the results of the poll, including the number of votes cast for and against.

The declaration of the result, and the entry in the minutes recording that declaration, if the declaration fairly reflects the vote, are each conclusive of the matter.

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19.8 Casting vote of Chairperson

On an Ordinary Resolution at a General Meeting (whether on a show of hands or on a poll), the person chairing the meeting has a casting vote as well as any other vote he or she may have.

However, if, for whatever reason, the person is not entitled to vote on the resolution, or his or her vote is not to be counted:

- a) the persons does not have a casting vote; and
- b) if the votes for and against the resolution are equal, the resolution is lost.

20. WHO CAN VOTE AT GENERAL MEETINGS

20.1 Application

This rule 20 applies subject to the rest of this constitution

20.2 Entitlement to vote

General Meeting each natural person present who is:

- a) a Voting Member; or
- b) a proxy or attorney for a Voting Member; or
- c) if the Voting Member is a body corporate - a representative of a Member;

has 1 vote, whether on a poll or on a show of hands. However, if 2 or more attorneys or representatives for a Voting Member are present, count only the vote of the one appointed last.

20.3 Vote of Member of unsound mind

If a Member is made the subject of guardianship or administration order, or a similar order, under a law relating to the protection of the person or property of a person on the grounds of infirmity, age or disability, the Member's guardian, or other person who properly has the management of the Member's estate, may exercise any rights of the Member in relation to a General Meeting as if he or she were the Member.

This rule 20.3 only applies if the Board is satisfied, at least 48 hours before the time fixed for the meeting, of the person's right or power.

21. PROXIES

21.1 Proxy form

The form of appointment of a proxy is the form in Appendix A, or another form acceptable to the Board.

21.2 Effect of incomplete proxy form

An appointment of a proxy is not invalid merely because it does not contain all the information required for valid proxy appointment.

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21.3 Time for receipt of proxy documents.

Proxy documents must be received at the Association's registered office no later than 24 hours before the meeting is due to commence.

22. ATTORNEYS

A person cannot exercise, as a Voting Member's attorney, the Voting Member's powers and functions for a General Meeting (including the function of being counted for quorum purposes unless the Association has received, at least 24 hours before the time notified for the meeting, the power of attorney or an office copy or notarially certified copy of the power of attorney.

The document must be received:

- a) at the Association's registered office; or
- b) by fax or e-mail at the Association's registered office; or
- c) at a place specified in the notice of meeting; or
- d) by fax or e-mail to an address specified in the notice of meeting.

23. WHERE VOTING MEMBER PRESENT

If a Voting Member is present at a General Meeting in person or by a representative, a proxy or attorney for the Member:

- a) cannot speak or vote for the Member; and
- b) is not counted for quorum purposes.

24. EFFECT OF DEATH ETC OF MEMBER

The validity of anything done or omitted to be done by or in relation to a proxy, attorney or representative of a Voting Member (including the validity of a vote or a quorum) is not affected by any of the following:

- a) the death of the Voting Member;
- b) the mental incapacity of the Voting Member;
- c) the revocation or modification of the appointment or the power of attorney;
- d) the revocation or modification of the authority of the person appointing the proxy, attorney or representative to do so;

unless the Association has actual notice in writing of the matter before the act or omission.

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25. OBJECTIONS TO RIGHTS TO BE PRESENT, SPEAK OR VOTE

An objection to a person's right to be present, speak or vote at a General Meeting:

- a) must be made at the Meeting when the vote is or is to be taken; and
- b) is to be determined by the person chairing the meeting, whose decision on the matter is conclusive.

BOARD MEMBERS

26. BOARD MEMBERS

26.1 Offices

The offices of the Directors are:

- a) Chairperson;
- b) Vice-Chairperson (more than one can be appointed to meet special functional needs of the Association);
- c) Treasurer;
- d) Secretary;
- e) Directors (without a specified office).

26.2 Number of Directors

The number of the Directors must be not less than 5 or more than 9..

However, the Association may from time to time by Ordinary Resolution increase or reduce the maximum number of Directors permitted.

26.3 Eligibility to hold office as Director

A person is eligible to be a Director only if:

- a) the person is a Member; and
- b) the person does not owe the Association any money.

26.4 Appointment of Directors

This is how Directors are appointed.

- a) No later than 1 February the Board must call for nominations for candidates for all positions, by giving written notice to all Members.
- b) The Association must receive, at its registered office, by 21 February (or at a later date the Board determines), both:
 - i. a nomination of the person signed by at least 2 Members; and
 - ii. a consent to nomination signed by the person.

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- c) If the number of eligible nominees for a position on the Board is the same as the number of positions to be filled, the nominees are appointed to that office with effect from the close of the next AGM.
- d) If the number of eligible nominees for a position on the Board is **less than** the number of positions to be filled, the nominees are appointed to that office **with effect from the close of the next AGM**. The Board must call for further nominations at the AGM and the AGM may, by Ordinary Resolution, appoint to fill the outstanding positions with effect from the close of the AGM.
- e) If the number of eligible nominees for a position as Director is **more than** the number of positions to be filled, the Board must conduct a postal ballot, as follows:
 - i. Subject to the rest of this constitution, all Members are eligible to vote except Members who's Annual Subscriptions are due but unpaid on 1 February in the relevant year.
 - ii. The Board must send ballot papers to Members no later than 1 February, or a later date it determines.
 - iii. Ballot papers must be returned to the Association no later than 14 March, or on a date the Board determines.
 - iv. The ballot is to be conducted on a first past the post basis.
 - v. A vote is to be counted if it discloses the voter's intentions, even if it does not conform strictly to any instructions as to voting sent with the ballot paper.
 - vi. On any dispute in relation to the ballot, the decision of the Chairperson is final, unless the dispute is about a ballot for Chairperson.

26.5 Vacation of office

The office of a Director automatically becomes vacant at the end of an AGM. It also becomes vacant if the Director:

- a) becomes a **bankrupt**; or
- b) is **not permitted** by the Law (or an order made under the Corporation Law) to be a Director; or
- c) is the subject of a **guardianship** or administration order, or a similar order, under a law relating to the protection of the person or property of a person on the grounds of infirmity, age or disability; or
- d) is **removed** as a Director under the Corporation Laws or these rules; or
- e) **fails to attend** Board meetings in a continuous period of 6 months without leave of absence from the Board; or
- f) **resigns** by notice in writing to the Association; or
- g) holds an **office of profit** in the Association unless approved by the Board; or
- h) **ceases** to be a Member of the Association.

A Director also ceases to be a Director if he or she is directly or indirectly interested in a contract or proposed contract with the Association unless the Director declared the nature of his or her interest as required by the Law.

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26.6 Removal of Directors

The Association may, by Ordinary Resolution, remove a Director before his or her period of office has ended, despite the rest of these rules and despite any agreement between the Director and the Association.

A Meeting that removes any Director may, by Ordinary Resolution, appoint another person qualified to be a Director to be a Director in his or her place, to hold office until the end of the next AGM.

Removal of a Director under this rule 26.6 does not affect any right or claim the Director may have against the Association.

The Board is not to subsequently reverse any decision made under this rule 26.6.

26.7 Casual vacancy

The Board may at any time (except from the opening to the closing of a General Meeting) appoint a person eligible to be a Director as a Director to fill a casual vacancy or as an addition to the Board.

A Director appointed under this clause ceases to hold office at the end of the next AGM, unless re-appointed.

26.8 Fewer than minimum number of Directors

If the office of a Director becomes vacant, the continuing Directors may continue to act unless the number falls below the minimum number of five. In that case, they may act **only**:

- a) to appoint Directors up to the minimum number of five;
- b) to call a General Meeting; or
- c) in emergencies.

27. PAYMENTS TO DIRECTORS

27.1 General prohibition

Except as provided in this rule 28, the Association may not make any payment to a Director.

27.2 Reimbursement of expenses

The Association must pay a Director all reasonable out-of-pocket expenses ("**expenses**") incurred by the Member in carrying out his or her duties as a Director.

However, if the Board has fixed the maximum total amount for expenses for a specified period (the "**expense limit**") (the Board may not fix an expense limit to have retrospective effect), the Association must not pay a Director's expenses for a period beyond the expense limit for the period.

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28. BOARD MEMBERS' MATERIAL INTERESTS

28.1 Purpose of this rule 28

The purpose of this rule 28 is:

- a) to provide a means by which Board Members may not be in breach of their general law duties to the Association by reason of conflict of interest or duty once they have made disclosure and the Board has independently considered the matter, and
- b) to provide that to the extent that the Law contains requirements which relate to the same matter, compliance with those requirements will also have the effect of relieving Board Members for a breach of those general law duties.

This rule 28 does not relieve the Board Members of obligations in relation to those matters which the Law may impose on them, but only makes the requirements of these rules consistent with those obligations.

28.2 Declaration of Board Members' Material Interest

A Director who has a Material Interest must:

- a) declare to the Board the fact of the Material Interest and its nature, character and extent; and
- b) make any other declarations and disclosures to the Board required by the Law.

This must be done at the first meeting of the Board after the Director:

- a) takes office; or
 - b) becomes aware of the facts which give rise to that Material Interest;
- whichever is later.

28.3 How declarations made

A declaration may be oral or written. It is enough for this purpose if the existence, nature, character and extent of the Material Interest appear on the face of a document tabled before the Board.

28.4 Recording of declarations

The terms of each declaration must be included in a book of the Association maintained for the purpose and be available for examination by the Directors at every meeting of the Board.

28.5 Consequence of Material Interest

If a Director who has a Material Interest acts as a Director in a matter involving the Material Interest and the Director has either:

- a) not made the declarations and disclosures required by rule 28.2 in relation to the Material Interest; or
- b) made those declarations and disclosures but the Board has not approved the Director acting in the matter;

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the Director is in breach of duty to the Association.

28.6 Non-Material Interests and Board approval of Material Interests

This rule 28.6 applies if:

- a) a Director has an interest or duty that is not a Material Interest and acts as an Board Member in a matter involving that interest or duty; or
- b) each of the following applies:
 - i. the Director has made the declarations and disclosures in relation to a Material Interest required by rule 28.2;
 - ii. the Board approves the Director acting as an Board Member in a matter involving that Material Interest;
 - iii. the Director complies with all the terms and conditions of that approval.

In that case:

- c) the Director is not in breach of duty to the Association merely because he or she so acts; and
- d) the validity, the enforceability and the performance of an agreement or arrangement that relates to the Director so acting is not adversely affected by the interest, duty or Material Interest; and
- e) the Director does not hold property that he or she receives as a consequence of acting in that matter on trust (actual, resulting or constructive for the Association because of the interest, duty or Material Interest; and
- f) the Director is not liable to account for profit derived, or to compensate the Association for loss or damage suffered by it, by his or her so acting.

28.7 Limit on Board approval

The Board must not give approval under rule 29.6 that would purport to entitle the Director, contrary to the Law to vote on, or be present at meetings of the Board that consider resolutions that involve a Material Interest of the Director.

If a Director is present at such a meeting, or purports to vote on such a resolution disregard his or her presence and vote.

28.8 Voting restrictions

When the Board is considering an approval, or a matter relating to an approval, under this rule 28:

- a) the Director concerned may not cast a vote on a resolution on the matter; and
- b) disregard a purported vote by the Director; and
- c) the Director, if present, may continue to be counted for quorum purposes, unless the Law requires that he or she not be present.

28.9 Execution of instruments

A Director may, despite a Material Interest and whether or not rules 29.2 and 29.6 have been complied with,

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participate in the execution of an instrument by or on behalf of the Association.

29. DIRECTORS HOLDING OFFICE

The Board may:

- a) appoint a Director to hold an office in, or place of profit in respect of, the Association (except that of Auditor); and
- b) appoint or engage a Director or a firm of which a Director is a member to act in a professional or technical capacity;

on terms determined by the Board.

The amount payable under such an appointment or engagement must not be more than what would commercially be a reasonable payment.

30. INDEMNITIES FOR OFFICERS AND FORMER OFFICERS

30.1 Indemnity for Officers etc

To the extent that the Law permits, the Association must indemnify each, Director, officer, Auditor and agent of the Association (each an "Officer") against any liability that the Officer may incur by being an Officer or in carrying out the business or exercising the powers of the Association.

30.2 Specific indemnities

Those liabilities include, without limitation:

- a) a liability to another person (except the Association or a related body corporate); and
- b) a liability for costs or expenses incurred by that Officer:
 - i. in defending a proceeding, whether civil or criminal, in which judgment is given in favour of the Officer or in which the Officer is acquitted; or
 - ii. in connection with an application, in relation to such a proceeding, in which the court grants relief to the Officer under the Law;

but do not include a liability arising out of conduct that involves a lack of good faith.

30.3 Former Officers

Those indemnities conferred on Officers by rules 31.1 and 31.2 apply in relation to each person who is at any time an Officer for all that period that person is an Officer. The person may claim on the indemnities in respect of that period even though the person is not an Officer at the time the claim is made.

30.4 Further power to indemnify

The Association may indemnify or agree to indemnify or enter into (and pay premiums on) a contract of insurance in respect of a person (whether or not that person is, or has been, an Officer) to the extent permitted by the Law. This power is not restricted by rule 30.1 or 30.2.

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THE BOARD

31. POWERS OF THE BOARD

31.1 Powers generally

Subject to the Law, the rest of this constitution and any Ordinary or Special Resolution:

the Board is to manage the business of the Association and may exercise each right, power, capacity or function of the Association. A resolution of the Association or these rules does not invalidate an earlier act of the Board that would have been valid if the resolution had not been passed or the alteration had not been made.

The Board's powers are exercisable only:

- a) by resolution at a meeting of the Board at which a quorum is present; or
- b) by a written resolution of the Directors.

31.2 Specific powers

Without limiting rule 31.1:

- a) the Board must, each year by June, review the business activities of the Association and direct the Secretary as to the number of Directors for which nominations are to be called; and
- b) the Board may undertake a universal suffrage advisory postal poll of the Members to see if there is a majority concurrence among the Members in relation to a matter of importance for which the Board thinks calling a general meeting would involve undue expense or the majority of Members could not reasonably be expected to be able to attend; and
- c) the Board may pay all expenses incurred in promoting the Association.

31.3 Appointment of attorney

The Board may, by power of attorney, appoint a person to be an attorney of the Association for the purposes, with the powers (being powers of the Board), for the period and subject to the conditions it determines.

A power of attorney may:

- a) contain any provisions for the protection and convenience of persons dealing with the attorney as the Board determines; and
- b) authorise the attorney to delegate any or all of the powers vested in the attorney.

32. QUORUM FOR BOARD MEETINGS

The quorum for a Board meeting is:

- a) the number of Directors fixed by resolution of the Board; or

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b) if no number has been fixed – 5 Directors.

33. CALLING BOARD MEETINGS

33.1 Who may call Board Meetings?

The Secretary must, on request from any Director, call a Board meeting.

33.2 Notice of meeting

At least 24 hours notice of each Board meeting must be given to each Director. Oral, faxed or e-mail notice is sufficient. The Board may, by resolution, fix another period as the period of notice and the majority of Directors present at a Board meeting may agree that the notice actually given for the meeting, even if less than the period fixed by or under this rule 34.2, is enough.

33.3 Omission to give notice

A Board meeting and a resolution passed at a Board meeting are not invalid merely because:

- a) of an accidental omission to give notice of the meeting to a person entitled to receive the notice; or
- b) a person entitled to receive the notice did not actually receive the notice.

34. CHAIRING BOARD MEETINGS

34.1 Who chairs Board Meetings?

A Board meeting is to be chaired by:

- a) the Chairperson; or
- b) if there is no Chairperson, or the Chairperson is not present within 10 minutes after the time the meeting is to start or is unwilling or unable to chair the meeting - the Vice-Chairperson; or
- c) if paragraph (b) applies but the Vice-Chairperson is not present within 10 minutes after the time the meeting is to start or is unwilling or unable to chair the meeting - a person appointed by the Directors present at the meeting.

This rule 34.1 applies to part of a meeting in the same way as it applies to the whole meeting.

34.2 Majority decisions

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Every question arising at a Board meeting is to be decided by a majority of votes of the Directors present and voting on the question.

34.3 Votes of Directors

Subject to these rules:

- a) each Director present at a meeting of the Board has one vote on every question or resolution at that meeting.
- b) if there is an equality of votes on any question or resolution, the person chairing the meeting, if entitled to vote on the question, may exercise a casting vote in addition to any other vote he or she may have.

35. WRITTEN RESOLUTIONS

If all the Directors entitled to receive notice of a Board meeting, and to vote on a resolution, sign a document to the effect that they support the resolution, the resolution is taken to be passed by the Board. The terms of the resolution must be set out in the document. The resolution is passed when the last Director signs. For the purpose of this rule 35, separate documents in identical terms are treated as one document.

36. SUBCOMMITTEES, REGIONAL COMMITTEES

36.1 Establishing committees

The Board may establish Regional Committees, or such other name the Board determines.

A subcommittee's membership must be fixed by the Board.

36.2 Functions and membership of subcommittees

The functions and membership of a subcommittee are as the Board determines.

36.3 Delegation to subcommittees

Subject to this constitution, the Board may delegate any of its powers to a subcommittee. A power may be delegated to be concurrent with, or to the exclusion of, the Board's powers and the effect of a subcommittee exercising a power is the same as if the Board had exercised it.

36.4 Subcommittee powers and meetings

The following provisions apply to a sub-committee.

- a) It must comply with directions of the Board.
- b) The chair of the committee is a person nominated by the Board.
- c) If the chair is not present at a subcommittee meeting, or is unwilling or unable to act, the members present at the meeting must choose one of their numbers to chair the meeting.
- d) In other respects the subcommittee is to regulate its own procedure.

37. VALIDITY OF ACTS OF BOARD MEMBERS

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The validity of the acts of a Director is not affected by a later discovery that the person was not entitled to do the act.

ADMINISTRATION

38. SECRETARY

38.1 Appointment of Secretary

The Board may:

- a) appoint a person to be a Secretary of the Association;
- b) determine the term of appointment, powers, duties and remuneration of that person as a Secretary;
- c) vary any determination so made; and
- d) terminate or suspend any appointment of a person as Secretary.

38.2 Despite rule 38.1, the Board may appoint a Member of the Association to be Honorary Secretary. The person is to become a Director of the Association if not already one.

39. MINUTES

As well as the matters the Law requires to be recorded in the Association's minute books, the Board must cause the following to be recorded:

- a) the names of the Directors present at each Board meeting;
- b) the names of the subcommittee members present at each meeting of a subcommittee;
- c) the proceedings and resolutions of each meeting of a subcommittee.

39.1 Custody and use

If the Association has a Common Seal, the Board is responsible for its safe custody; and it may only be used with the permission of the Board or a subcommittee that has power to do so.

39.2 Mode of execution by Common Seal

An instrument is validly executed under the Common Seal if the Common Seal is affixed to it in the presence of:

- a) A Board Member; and

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b) another person who is either a Director, the Secretary or a person appointed by the Board for the purpose; and each of those persons signs the instrument to attest the affixing of the Common Seal.

40. NEGOTIABLE INSTRUMENTS ETC

A negotiable instrument of the Association, an order for payment by the Association and a receipt for money paid to the Association bind the Association only if signed by the persons, and in the way, the Board determines.

WINDING UP

41. DISTRIBUTION ON WINDING UP

On the winding up of the Association, its assets available for distribution are not to be distributed to Members but are to be distributed to bodies that, in the opinion of the Board, have objects similar to the Association's objects.

MISCELLANEOUS

42. INSPECTION OF DOCUMENTS ETC

A Member is not entitled to require discovery of, inspection of, or any information concerning, the books or affairs of the Association, except as required by the Law or permitted by the Board or an Ordinary Resolution.

Permission may be subject to conditions or restrictions.

43. NOTICES

43.1 Application

This rule 43 applies to serving a notice or document (called a **"notice"**) on a Member for the purposes of this constitution, whether the expression "serve", "give", "send" or a similar expression is used.

43.2 Australia

For the purposes of this rule 43, Australia's external Territories are not within Australia.

43.3 How to serve

Subject to the rest of this rule 43, a notice may be served on a Member in any of the following ways:

- a) by **giving** it to the Member;
- b) by **leaving** it at the Member's address;
- c) by **post**, that is, by sending it by pre-paid post addressed to the Member at the Member's address;
- d) by **fax**, that is, by sending it by fax addressed to the Member at the Member's fax number;
- e) by **e-mail**, that is, by sending it by e-mail to the Member at the Member's e-mail address;

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- f) as set out in rule 43.13;
- g) in any other way the law provides for service on the Member.

43.4 Members' addresses

A Member's address is:

- a) the address shown in the Register as the Member's address;
- b) if the address shown in the Register as the Member's address is outside Australia - either that address or an address within Australia that the Member has notified the Company is to be used for service of notices.

43.5 Sending notices by post to overseas Members

A notice to be served by post on a Member to an address outside Australia must be sent by airmail.

43.6 When notices sent by post received

A notice served by post to an address in Australia is taken to be received the next Business Day.

If sent to an address outside Australia, it is taken to be received 3 Business Days later.

43.7 Members' fax numbers and e-mail addresses

A Member's fax number is the number shown in the Register as the Member's fax number. A Member's e-mail address is the electronic address shown in the Register as the Member's e-mail address.

43.8 Service by fax

A notice served by fax is taken not to be served unless a complete and correct transmission report is received. It is taken to be received by the Member by (whether it is in fact received or not) on the day of transmission, if a Business Day; otherwise, on the next Business Day.

43.9 Service by e-mail

A notice served by e-mail is taken not to be served if the computer system used to send it reports that it was not received by anyone.

It is taken to be received by the Member (whether it is in fact received or not) on the day of transmission if a Business Day; otherwise, on the next Business Day.

43.10 Signature of notice

The Company may sign a notice in any way it determines.

43.11 Counting days

Where a specified period must elapse after giving a notice before an action may be taken, neither the day the notice is given nor the day the action is to be taken is counted in reckoning the period.

43.12 Certificate of Director

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A certificate signed by a Director that a notice was given by the Company as set out in the certificate is admissible as evidence, and is conclusive evidence that the notice was so served.

43.13 Deemed service of notices

If:

- a) a Director believes on reasonable grounds that a member is not at the Member's address; or
- b) on 2 or more consecutive occasions a notice served on the Member at that address is returned with an indication that the Member is not known at the address;

notice may be effectively served on the Member by exhibiting it at the Association's registered office for at least 48 hours. However, this does not apply if before the end of the 48 hours, the Member gives the Association notice of a new address.

44. GENERAL AUTHORISATION

This rule 44 authorises the Company to do anything the Law authorises or permits a company to do if so authorised by its constitution.

Constitution (Rules)

APPENDIX A - PROXY FORM

ASSOCIATION OF MASSAGE THERAPISTS LIMITED

Proxy Form

(Name of Member or Members)

of

(Address of Member or Members)

(the **"Member"**), a member of Association of Massage Therapists Limited, appoints

(Name of proxy)

of

(Address of proxy)

or, failing that person, the chairperson of the meeting, as the Member's proxy to vote for the Member and on the Member's behalf at the General Meeting to be held on [] at [] am/pm and at any adjournment of that meeting.

The proxy is directed to vote in the following manner:

Resolution #:

(Mark the appropriate box to direct the proxy to vote in a particular way on the above resolutions. If no direction is given, the proxy may vote or not as he or she sees fit.)

This form must be signed by the Member or by an attorney of the Member.

Dated:

Signed:

Signature of Director/Secretary

Name of Director/Secretary

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<p>SIGNED for [name] under power of attorney in the presence of:</p> <p>Signature of witness:</p> <hr/> <p>Name of witness:</p> <hr/>	<p>Signature of attorney:</p> <hr/> <p>Name of attorney:</p> <hr/> <p>Date of power of attorney:</p> <hr/>
<p>THE COMMON SEAL of [name], the fixing of which was witnessed by:</p> <p>Signature of Director:</p> <hr/> <p>Name of Director:</p> <hr/>	<p>Signature of Director/Secretary:</p> <hr/> <p>Name of Director/Secretary:</p> <hr/>
<p>SIGNED for and on behalf of [name] by:</p> <p>Signature of Director:</p> <hr/> <p>Name of Director:</p> <hr/>	<p>Signature of Director/Secretary:</p> <hr/> <p>Name of Director/Secretary:</p> <hr/>