

PHOTOACCESS INCORPORATED

CONSTITUTION

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PART 1 PRELIMINARY

1. Definitions

In these rules:

financial year means the year ending on 31 December

member means a member, however described, of the association

ordinary board member means a member of the board who is not an office-bearer of the association as referred to in rule 14 (1)

secretary means the person holding office under these rules as secretary of the association or, where no such person holds that office, the public officer of the association

the Act means the Associations Incorporation Act 1991

the Regulation means the Associations Incorporation Regulation 1991

PART 2 OBJECTS

2. Objects

The association's objects are to serve the ACT community by providing inspiration and the means for people to develop and create their own cultural statements through the photo based arts by:

- (1) encouraging and promoting the photo based arts:
 - (a) as a medium for community and individual expression
 - (b) as an educational resource
 - (c) as a documentary medium reflecting the ACT and region and the creative interests of the community
- (2) encouraging and promoting interest and participation in the photo based arts:
 - (a) by presenting exhibitions, displays, lectures, talks, publications and other activities based on the photo based arts and the arts generally to support these objectives
 - (b) by providing access to knowledge, advice and practical help on the processes and uses of and developments in the photo based arts
 - (c) by providing access to appropriate facilities
 - (d) by providing opportunities for groups and individuals whose access is limited by gender, geography, income, disability or other reasons
- (3) managing the facilities of PhotoAccess responsibly and imaginatively:
 - (a) to support these objectives
 - (b) to provide a safe, healthy and non discriminatory environment
 - (c) to provide a lively and interesting venue for activities that contribute to the development of the photo based arts and the arts more generally in the ACT and region.

3. Programs to support the objects

To these ends the association will pursue activities to support the objects, including but not limited to these principal activities:

- (1) maintain a gallery in its premises open to the public to show exhibitions of photo based work including works from the PhotoAccess Collection
- (2) maintain and encourage access to facilities to assist with the making of work in the photo based arts
- (3) maintain and encourage access to facilities to provide learning opportunities in the photo based arts
- (4) maintain bank accounts to properly safeguard and account for monies received by the association
- (5) maintain a public fund known as the PhotoAccess Donations Fund and a separate bank account in that name administered according to rules established by the association to receive gifts and apply donated funds for the objects of the association
- (6) obtain funding for its operations, activities and projects by charging for membership and the benefits associated with membership, charging for services, and securing grants, donations, sponsorships and other appropriate means of support
- (7) maintain practices and procedures to ensure proper and responsible use of its resources and appropriate accounting for and reporting on their use.

PART 3 MEMBERSHIP

4. Membership qualifications

A person or organisation is qualified to be a member if the person or organisation:

- (1) has been nominated for membership in accordance with rule 5 (1); and
- (2) has been approved for membership of the association by the board of the association or its delegate.

5. Nomination for membership

- (1) A nomination of a person or organisation for membership of the association:
 - (a) will be made by a prospective member in writing in the form set out in Appendix 1 accompanied by the sum payable under these rules as the entrance fee and the first year's annual subscription, and
 - (b) will be lodged with the secretary of the association or a person delegated to accept the nomination, or
 - (c) will be made by the board in relation to a person or organisation whose outstanding contribution to the association merits the award of honorary life membership, or
 - (d) will be made by the board for a person or organisation whose contribution to the association merits the award of honorary membership or membership on other terms and conditions determined appropriate by the board.
- (2) As soon as is practicable after receiving a nomination for membership the nomination will be referred to the board or its delegate for a decision whether to approve or to reject the nomination.
- (3) The secretary or a person delegated to do so will upon approval enter the nominee's name in the register of members and, on the name being entered, the nominee will become a member of the association.

- (4) Where the board or a person delegated to do so determines not to approve a nomination for membership, the secretary or a person delegated to do so shall as soon as practicable after that determination notify the nominee of the decision and arrange a refund of the sum paid.

6. Membership entitlements are not transferable

A right, privilege or obligation which a person has by reason of being a member of the association is not capable of being transferred or transmitted to another person and terminates on cessation of the person's membership.

7. Cessation of membership

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

- (1) dies or, in the case of a body corporate, is wound up; or
- (2) resigns from membership of the association; or
- (3) is expelled from the association; or
- (4) fails to renew membership of the association.

8. Resignation of membership

A member may resign from membership of the association in accordance with this rule:

- (1) a member who has paid all amounts payable to the association may resign from membership by giving notice (being not less than one month or, if the board has determined a shorter period, that shorter period) in writing to the secretary of the member's intention to resign and, on the expiration of the period of notice, the member ceases to be a member
- (2) where a person ceases to be a member, the secretary shall make an appropriate entry in the register of members recording the date on which the member ceased to be a member.

9. Fee, subscriptions etc

- (1) The entrance fee to the association is the amount determined by resolution of the board from time to time.
- (2) The annual membership fee of the association is the amount determined by resolution of the board from time to time.
- (3) The annual membership fee is payable except as otherwise provided by rule 5 (1) on the day before the anniversary of the date on which the member first joined the association in each calendar year.

10. Members' liabilities

The liability of a member to contribute towards the payment of the debts and liabilities of the association or the costs, charges and expenses of the winding up of the association is limited to the amount (if any) unpaid by the member in respect of membership of the association as required by rule 9.

11. Disciplining of members

- (1) The board may by resolution expel a member from the association or suspend the member from such rights and privileges of membership of the association as the board may determine for a specified period if it is of the opinion that the member:

- (a) has persistently refused or neglected to comply with a provision of these rules; or
 - (b) has persistently and wilfully acted in a manner prejudicial to the interests of the association.
- (2) A resolution of the board under rule 11 (1) is of no effect unless the board, at a meeting held not earlier than 14 days and not later than 28 days after service on the member of a notice under rule 11 (3) confirms the resolution in accordance with this rule.
- (3) Where the board passes a resolution under rule 11 (1) the secretary shall, as soon as practicable, cause a notice in writing to be served on the member:
- (a) setting out the resolution of the board and the grounds on which it is based; and
 - (b) stating that the member may address the board at a meeting to be held not earlier than 14 days and not later than 28 days after service of the notice; and
 - (c) stating the date, place and time of that meeting; and
 - (d) informing the member that the member may attend and speak at that meeting and/or submit to the board at or prior to the date of that meeting written representations relating to the resolution.
- (4) Subject to the Act, section 50, at a meeting of the board mentioned in rule 11 (2) the board shall:
- (a) give to the member mentioned in rule 11 (1) an opportunity to make oral representations; and
 - (b) give due consideration to any written representations submitted to the board by that member at or prior to the meeting; and
 - (c) by resolution determine whether to confirm or to revoke the resolution of the board made under rule 11 (1)
- (5) Where the board confirms a resolution under rule 11 (4) the secretary shall, within seven days after that confirmation, by notice in writing inform the member of that confirmation and of the member's right of appeal under rule 12.
- (6) A resolution confirmed by the board under rule 11 (4) does not take effect:
- (a) until the expiration of the period within which the member is entitled to appeal against the resolution where the member does not exercise the right of appeal within that period; or
 - (b) where within that period the member exercises the right of appeal, unless and until the association confirms the resolution in accordance with rule 11 (4).

12. Right of appeal of disciplined member

- (1) A member may appeal to the association in general meeting against a resolution of the board which is confirmed under rule 11 (4) within seven days after notice of the resolution is served on the member, by lodging with the secretary a notice to that effect.
- (2) On receipt of a notice under rule 12 (1) the secretary shall notify the board which shall convene a general meeting of the association to be held within 21 days after the date on which the secretary received the notice or as soon as possible after that date.
- (3) Subject to the Act, section 50, at a general meeting of the association convened under rule 12 (2):

- (a) no business other than the question of the appeal shall be transacted; and
 - (b) the board and the member shall be given the opportunity to make representations in relation to the appeal orally or in writing, or both; and
 - (c) the members present shall vote by secret ballot on the question of whether the resolution made under rule 11 (4) (c) should be confirmed or revoked.
- (4) If the meeting passes a special resolution in favour of the confirmation of the resolution made under rule 11 (4) (c) that resolution is confirmed.

PART 4 BOARD

13. Powers of the board

The board, subject to the Act, the regulations, these rules, and to any resolution passed by the association in general meeting:

- (1) shall control and manage the affairs of the association; and
- (2) may exercise all such functions as may be exercised by the association other than those functions that are required by these rules to be exercised by the association in general meeting; and
- (3) 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.

14. Constitution and membership

- (1) The board shall consist of:
 - (a) the office-bearers of the association; and
 - (b) between 3 and 6 ordinary board members;
 - (c) each of whom shall be elected under rule 15 or appointed in accordance with rule 14 (4).
- (2) The office-bearers of the association shall be the:
 - (a) chair; and
 - (b) vice-chair; and
 - (c) treasurer; and
 - (d) secretary.
- (3) Each member of the board shall, subject to these rules, hold office until the conclusion of the annual general meeting following the date of the member's election, but is eligible for re-election.
- (4) In the event of a vacancy in the membership of the board, the board may appoint a member of the association to fill the vacancy and the member so appointed shall hold office, subject to these rules, until the conclusion of the annual general meeting next following the date of the appointment.

15. Election of board members

- (1) Nominations of candidates for election as office-bearers of the association or as ordinary board members shall be made at 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 shall be deemed to be elected.

- (3) If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated shall be taken to be elected.
- (4) If the number of nominations received exceeds the number of vacancies to be filled, a ballot shall be held.
- (5) In the ballot for the election of office-bearers and ordinary board members
 - (a) candidates names shall be put to the meeting in the order of their nomination, first as office-bearers and then as ordinary members
 - (b) a candidate will be declared elected if he or she receives a majority of the votes of members present at the annual general meeting
 - (c) when the number of candidates elected equals the number of vacancies to be filled the board will be deemed to be elected.
- (6) A person is not eligible to simultaneously hold more than one position on the board.

16. Secretary

- (1) The secretary of the association shall as soon as practicable after being appointed as secretary notify the association of his or her residential and, if different, postal address.
- (2) The secretary shall ensure minutes are kept of:
 - (a) all elections and appointments of office-bearers and ordinary board members; and
 - (b) the names of members of the board present at a board meeting or a general meeting; and
 - (c) proceedings at board meetings and general meetings.
- (3) Minutes of proceedings at a meeting shall be signed by the person presiding at the meeting or by the person presiding at the next succeeding meeting.

17. Treasurer

The treasurer of the association shall ensure appropriate procedures are in place and observed for:

- (1) collecting and receiving all moneys due to the association and making all payments authorised by the association; and
- (2) keeping correct accounts and books showing the financial affairs of the association with full details of all receipts and expenditure connected with the activities of the association.

18. Vacancies

For these rules, a vacancy in the office of a member of the board occurs if the member:

- (1) dies; or
- (2) ceases to be a member of the association; or
- (3) resigns the office; or
- (4) is removed from office under rule 19; or
- (5) becomes an insolvent under administration within the meaning of the Corporations Act; or
- (6) suffers from mental or physical incapacity; or
- (7) is disqualified from office under the Act, section 63 (1); or

- (8) is absent without the consent of the board from all meetings of the board held during a period of six months.

19. Removal of board members

The association in general meeting may by resolution, subject to the Act, section 50, remove any member of the board from the office of member of the board before the expiration of the member's term of office.

20. Board meetings and quorum

- (1) The board will meet at least three times in each calendar year at such place in the Australian Capital Territory, or elsewhere with the agreement of all board members, and at such time as the board may determine.
- (2) Additional meetings of the board may be convened by any member of the board.
- (3) Oral or written notice of a meeting of the board will 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 rule 20 (3) will specify the general nature of the business to be transacted at the meeting and no business other than that business shall be transacted at the meeting, except business which the board members present at the meeting unanimously agree to treat as urgent business.
- (5) A majority of members of the board constitute a quorum for the transaction of the business of a meeting of the board.
- (6) No business will be transacted by the board unless a quorum is present and, if within half an hour after the time appointed for the meeting a quorum is not present, the meeting stands adjourned to 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 after the time appointed for the meeting, the meeting will be dissolved.
- (8) At meetings of the board:
 - (a) the chair or, in the absence of the chair, the vice-chair shall preside; or
 - (b) if the chair and the vice-chair are absent, one of the remaining members of the board may be chosen by the members present to preside.

21. Delegation by board to committees

- (1) The board may, by instrument in writing, delegate to one or more committees (consisting of such member or members of the association as the board thinks fit) or a person where appropriate 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 function imposed on the board by the Act, by any other Territory law, or by resolution of the association in general meeting.
- (2) A function, the exercise of which has been delegated to a committee or person under this rule may, while the delegation remains unrevoked, be exercised from time to time by the committee or person in accordance with the terms of the delegation.
- (3) A delegation under this rule may be made subject to such conditions or limitations as to the exercise of any function, or as to time or circumstances, as may be specified in the instrument of delegation.

- (4) Notwithstanding any delegation under this rule, the board may continue to exercise any function delegated.
- (5) Any act or thing done or suffered by a committee or person acting in the exercise of a delegation under this rule has the same force and effect as it would have if it had been done or suffered by the board.
- (6) The board may, by instrument in writing, revoke wholly or in part any delegation under this rule.
- (7) A committee may meet and adjourn as it thinks proper.

22. Voting and decisions

- (1) Questions arising at a meeting of the board or of any committee appointed by the board shall be determined by a majority of the votes of members of the board or committee present at the meeting.
- (2) Each member present at a meeting of the board or of any committee appointed by the board (including the person presiding at the meeting) is entitled to 1 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 rule 20 (5) the board may act notwithstanding any vacancy on the board. Any act or thing done or suffered, or purporting to have been done or suffered, by the board or by a committee appointed by the board, is valid and effectual notwithstanding any defect that may afterwards be discovered in the appointment or qualification of any member of the board or committee.

PART 5 GENERAL MEETINGS

23. Annual general meetings—holding of

- (1) With the exception of the first annual general meeting of the association, the association shall, at least once in each calendar year and within the period of five months after the expiration of each financial year of the association, convene an annual general meeting of its members.
- (2) The association shall hold its first annual general meeting:
 - (a) within the period of 18 months after its incorporation under the Act; and
 - (b) within the period of five months after the expiration of the first financial year of the association.
- (3) Rules 23 (1) and 23 (2) have effect subject to the powers of the Registrar-General under the Act, section 120 in relation to extensions of time.

24. Annual general meetings—calling of and business at

- (1) The annual general meeting of the association shall, subject to the Act, 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 shall be:
 - (a) to confirm the minutes of the last preceding annual general meeting and of any general meeting held since that meeting; and
 - (b) to receive from the board reports on the activities of the association during the last preceding financial year; and
 - (c) to elect members of the board, including office-bearers; and

- (d) to receive and consider the statement of accounts and the reports that are required to be submitted to members under the Act, section 73 (1).
- (3) An annual general meeting shall be specified as such in the notice convening it in accordance with rule 25.
- (4) An annual general meeting shall be conducted in accordance with the provisions of this part.

25. General meetings—calling of

- (1) The board may, whenever it thinks fit, convene a general meeting of the association.
- (2) The board shall, on the requisition in writing of not less than five per cent of the total number of members, convene a general meeting of the association.
- (3) A requisition of members for a general meeting:
 - (a) shall state the purpose or purposes of the meeting; and
 - (b) shall be signed by the members making the requisition; and
 - (c) shall 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 general meeting within one month after the 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 general meeting to be held not later than three months after that date.
- (5) A general meeting convened by a member or members referred to in rule 25 (4) shall be convened as nearly as is practicable in the same manner as general meetings are convened by the board and any member who thereby incurs expense is entitled to be reimbursed by the association for any reasonable expense so incurred.

26. Notice

- (1) Except where the nature of the business proposed to be dealt with at a general meeting requires a special resolution of the association, the secretary shall, at least 14 days before the date fixed for the holding of the general meeting, cause to be sent by email or prepaid post to each member at the member's email or postal address appearing in the register of members, a notice specifying the place, date and time of the meeting and the nature of the business proposed to be transacted at the meeting.
- (2) Where the nature of the business proposed to be dealt with at a general meeting requires a special resolution of the association, the secretary shall, at least 21 days before the date fixed for the holding of the general meeting, cause notice to be sent to each member in the manner provided in rule 26 (1) specifying, in addition to the matter required under that rule, the intention to propose the resolution as a special resolution.
- (3) No business other than that specified in the notice convening a general meeting shall be transacted at the meeting except, in the case of an annual general meeting, business which may be transacted under rule 24 (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 shall include that business in the next notice calling a general meeting given after receipt of the notice from the member.

27. General meetings—procedure and quorum

- (1) No item of business shall be transacted at a general meeting unless a quorum of members entitled under these rules to vote is present during the time the meeting is considering that item.
- (2) 10 members present in person (being members entitled under these rules to vote at a general meeting) constitute a quorum for the transaction of the business of a general meeting.
- (3) If within 30 minutes after the appointed time for the commencement of a general meeting a quorum is not present, the meeting if convened on the requisition of members shall be dissolved and in any other case shall stand adjourned to the same day in the following week at the same time and (unless another place is specified at the time of 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.
- (4) If at the adjourned meeting a quorum is not present within 30 minutes after the time appointed for the commencement of the meeting, the members present (being not less than six) shall constitute a quorum.

28. Presiding member

- (1) The chair, or in the absence of the chair, the vice-chair, shall preside at each general meeting of the association.
- (2) If the chair and the vice-chair are absent from a general meeting, the members present shall elect one of their number to preside at the meeting.

29. Adjournment

- (1) The person presiding at 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 shall be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.
- (2) Where a general meeting is adjourned for 14 days or more, the secretary shall 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 rules 29 (1) and 29 (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.

30. Making of decisions

- (1) A question arising at a general meeting of the association shall be determined on a show of hands and, unless before or on the declaration of the show of hands a poll is demanded, a declaration by the person presiding that a resolution has, on a show of hands, been carried or carried unanimously or carried by a particular majority or lost, or an entry to that effect in the minute book of the association, is evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against that resolution.
- (2) At a general meeting of the association, a poll may be demanded by the person presiding or by not less than six members present in person or by proxy at the meeting.
- (3) Where the poll is demanded at a general meeting, the poll shall be taken:

- (a) immediately in the case of a poll which relates to the election of the person to preside at the meeting or to the question of an adjournment; or
- (b) in any other case, in such manner and at such time before the close of the meeting as the person presiding directs, and the resolution of the poll on the matter shall be deemed to be the resolution of the meeting on that matter.

31. Voting

- (1) Subject to rule 31 (3) on any question arising at a general meeting of the association a member has one vote only.
- (2) All votes shall be given personally or by proxy but no member may hold more than five proxies.
- (3) In the case of an equality of votes on a question at a general meeting, the person presiding is entitled to exercise a second or casting vote.
- (4) A member or proxy is not entitled to vote at any general meeting of the association unless all money due and payable by the member or proxy to the association in respect of their membership has been paid.

32. Appointment of proxies

- (1) Each member shall be entitled to appoint another member as proxy by notice given to the secretary no later than 24 hours before the time of the meeting in respect of which the proxy is appointed.
- (2) The notice appointing the proxy shall be in the form set out in Appendix 2.

PART 6 MISCELLANEOUS

33. Funds—source

- (1) The funds of the association shall be derived from entrance fees and annual subscriptions of members, donations, grants, fees for services and, subject to any resolution passed by the association in general meeting and subject to the Act, section 114, such other sources as the board determines.
- (2) All money received by the association shall be deposited as soon as practicable and without deduction to the credit of the association's bank accounts.
- (3) The association shall, as soon as practicable after receiving any money, issue an appropriate receipt.

34. Funds—management

- (1) The assets and income of the association shall be applied exclusively to the promotion of its objects and no portion shall be paid or distributed directly or indirectly to the members of the association except as bona fide remuneration for services rendered or expenses incurred on behalf of the association.
- (2) All cheques, drafts, bills of exchange, promissory notes, other negotiable instruments and electronic transfers of funds shall be signed or authorised as appropriate by any two members of the board or employees of the association, being members of the board or employees authorised to do so by the board.

35. Alteration of objects and rules

Neither the objects of the association referred to in the Act, section 29 nor these rules shall be altered except in accordance with the Act.

36. Common seal

- (1) The common seal of the association shall be kept in the custody of the secretary.
- (2) The common seal shall not be affixed to any instrument except by the authority of the board and the affixing of the common seal shall be attested by the signatures of two members of the board.

37. Custody of books

Subject to the Act, the regulations and these rules, the secretary shall keep in his or her custody or under his or her control all records, books, and other documents relating to the association.

38. Inspection of books

The records, books and other documents of the association shall be open to inspection at a place in the ACT, free of charge, by a member of the association at any reasonable hour.

39. Service of notice

- (1) For these rules, a notice may be served by or on behalf of the association on any member either personally or by sending it by email or by post to the member at the member's address shown in the register of members.
- (2) Where a document is sent to a person by properly addressing, prepaying and posting to the person an email or letter containing the document, the document shall, unless the contrary is proved, be deemed for these rules to have been served on the person at the time at which the letter would have been delivered in the ordinary course of email or post.

40. Winding up

- (1) If the association is wound up or if the endorsement (if any) of the association as a deductible gift recipient is revoked, any surplus assets of the association remaining after the payment of liabilities attributable to it shall be transferred to a fund, authority or institution to which income tax deductible gifts can be made.
- (2) A fund, authority or institution nominated under rule 40 (1) must fulfil the requirements specified in the Act, section 92 (2).

APPLICATION FOR MEMBERSHIP OF PHOTOACCESS INCORPORATED

(incorporated under the *Associations Incorporation Act 1991*)

I,
(full name of applicant)

of
(address)

hereby apply to become a member of PhotoAccess Incorporated. In the event of my admission as a member, I agree to be bound by the rules and code of conduct of the association for the time being in force.

.....
(Signature of applicant)

Date

I,
(full name)
properly delegated for the purpose by the board of PhotoAccess, approve the nomination of the applicant for membership of the association

.....
(Signature of delegate)

Date

FORM OF APPOINTMENT OF PROXY (see rule 32)

I,
(full name)

of
(address)

a member of PhotoAccess hereby appoint

.....
(full name of proxy)

of
(address)

a member of PhotoAccess, as my proxy to vote for me on my behalf at the general meeting of the association (annual general meeting or other general meeting, as the case may be) to be held on

.....and at any adjournment of that meeting.

*My proxy is authorised to vote in favour of/against (delete as appropriate) the resolution (insert details).

.....
(Signature of member appointing proxy)

Date

*To be inserted if appropriate