

# OUTLINE OF PROPOSED AMENDMENTS TO BOWLS ACT CONSTITUTION

[**Note:** This is a detailed outline of significant proposed amendments to the Constitution. It is not an exhaustive outline of all proposed amendments.]

## PART I: INCORPORATION, BINDING DOCUMENTS AND PURPOSES

Part I addresses the key documents for Bowls ACT:

- the *Associations Incorporation Act 1991* [ACT] (“Associations Act”);
- the Constitution; and
- policies made by the Board.

Rules 1.1, 2.1 and 2.2 make clear there is a hierarchy which governs the relationship between the Associations Act, the Constitution and policies.

### SECTION 2: BINDING DOCUMENTS

#### 2.1 Constitution

Rule 2.1(b) expresses the legal effect of the Constitution. This point is made in rule 5.7(a)(i) in the current Constitution, which states that:

- (a) Members acknowledge and agree that:
  - (i) this Constitution constitutes a contract between each of them and the Association and that they are bound by this Constitution and the By-Laws;

Rule 2.1(b) elevates this important point in the text. It is based on section 48 of the Associations Act, as amended by the Red Tape Act, which provides that:

The rules of an incorporated association are taken to bind the association and its members from time to time as if the rules had been signed by each member and contained covenants on the part of each member to observe all the rules.

#### 2.2 Policies

Rule 2.2 deals with policies and is based on clause 20.2.1 of the Bowls Australia Constitution, which follows:

20.2.1 A policy:

20.2.1.1 is subject to this Constitution;

20.2.1.2 must be consistent with this Constitution; and

20.2.1.3 when in force, is binding on all Members and has the same effect as a provision in this Constitution.

The use of policies instead of by-laws requires the deletion of references to “by-laws” in the Constitution, for example, the removal of rule 33.

To avoid doubt, rule 2.2(b) provides that existing policies will remain valid to the extent that they can be applied consistently with the Constitution.

## **SECTION 3: PURPOSES**

### **3.1 Statement of purposes**

Part I also contains the revised purposes of Bowls ACT in rule 3.1. There are 27 purposes listed in rule 2 of the current Constitution. The number has been reduced to 8 in rule 3.1 by removing overlap, combining purposes and simplifying drafting.

## **PART II: DEFINITIONS, INTERPRETATION AND SEVERANCE**

Part II contains a list of defined terms and deals with the interpretation of the Constitution.

## **SECTION 4: DEFINITIONS AND INTERPRETATION**

### **4.1 List of defined terms**

There is a lengthy list of definitions in current rule 3.1. Many of the terms in the list are defined separately in the Constitution and do not need to be included in the rule dealing with definitions. Accordingly, rule 4.1 in the revised Constitution has been reduced to a small number of terms that are not otherwise defined in the Constitution.

### **4.2 Legislation Act 2001**

The Constitution currently contains detailed guidance on interpretation in rule 3.2. This rule has been deleted because it is unnecessary. In its place, rule 4.2 states that:

The *Legislation Act 2001* applies to this Constitution in the same way as it would if this Constitution were an instrument made under the Associations Act.

The Legislation Act contains principles to be used when interpreting legislation. Rule 4.2 requires these principles to be applied when interpreting the Constitution. The text of rule 4.2 is taken from rule 1A of the Model Rules (scheduled to the *Associations Incorporation Regulation 1991*).

## **PART III: MEMBERSHIP**

There are amendments proposed to various provisions dealing with Members that seek to clarify the use of the term “Member” and improve existing text where possible. Significant changes are addressed below.

### **SECTION 6: MEMBERSHIP OF BOWLS ACT**

#### **6.1 Membership categories**

Rule 6.1 is a streamlined version of the current rule 5.2. All references to voting found in rule 5.2 have been deleted. Voting by Nominees of Bowling Clubs and their attendance at General Meetings are dealt with in other provisions.

#### **6.2 Minimum numbers of Bowling Clubs**

Rule 6.2 states that “Bowls ACT must have at least 5 Bowling Clubs as Members”. The term “Bowling Clubs” does not have the ambiguity of the term “voting Members” used in current rule 5.1.

#### **6.5 Life Members**

Rule 6.5 goes beyond current rule 5.5 by addressing the resignation of Life Members, although this may happen infrequently.

#### **6.6 Nominees of Bowling Clubs**

Rule 6.6 deals with the Nominees of Bowling Clubs and replaces current rule 5.6. It goes beyond rule 5.6 by drawing together text relating to Nominees found in other provisions.

In drafting rule 6.6, it became clear that there is a conflict between current rule 14.1(b) and current rule 5.2(a). The former states:

[A] Member Club having both men and women members is entitled to two nominees who may attend and vote at general meetings. Otherwise, a member club is entitled to one nominee who may attend and vote at general meetings.

The latter states:

Clubs, which shall be represented at General Meetings by two Nominees, one male and one female, if possible. Each Nominee shall (subject to this Constitution and **rule 14.1** in particular) have the right to be present, to debate and to vote at General Meetings.

The conflict arises because rule 14.1(b) provides that, if a Member Club does not have both men and women members, it is only entitled to one Nominee and rule 5.2(a) provides to the contrary that each Member Club is entitled to two Nominees.

Rule 6.6(a) reflects the position under current rule 14.1(b).

Rule 6.6(b) is a new provision. It prevents a Bowling Club from appointing a member of the Board or an employee of Bowls ACT as its Nominee.

Rule 6.6(c) is based on current rule 14.2(e). It reflects the approach of drawing together, where appropriate, provisions on Nominees into one rule.

Rule 6.6(d) incorporates current rule 5.6(a) and adds text that reflects a Bowling Club is entitled to either 1 or 2 Nominees, depending on its membership. If a Bowling Club is entitled to 1 Nominee, the default Nominee for that Club will be the president. If a Bowling Club is entitled to 2 Nominees, the default Nominees for that Club will be the president and the secretary.

Rule 6.6(f) replaces current rule 5.6(d). It adds text that reflects a Bowling Club is entitled to either 1 or 2 Nominees, depending on its membership.

## **6.7 Effect of membership**

Rule 6.7(a) incorporates current rule 5.7(a)(ii) and (iii), which are key points. The substance of current rule 5.7(a)(i) is now addressed in rule 2.1(b). Rule 5.7(a)(iv) and (v) are not necessary and have not been added to rule 6.7(a).

Rule 6.7(b)(iii) combines and simplifies current rule 5.7(b)(iii) and (iv). The word “engage” in rule 6.7(b)(iii) has sufficient breadth to cover both “participate” used in rule 5.7(b)(iii) and “conduct” used in rule 5.7(b)(iv).

## **SECTION 7: REGISTER OF MEMBERS**

### **7.2 Inspection of Register of Members**

Rule 7.2 has been drafted to address amendments to the Associations Act made by the Red Tape Act, in particular, the insertion of a new section 67A dealing with the inspection of registers of members.

### **7.3 Restricting access to personal information**

Rule 7.3 incorporates the requirements of a new section 67B which has been inserted into the Associations Act by the Red Tape Act. The new section allows a Member to apply to the Board to restrict access to their personal information recorded in the Register of Members.

## **SECTION 8: PROCESS FOR A BOWLING CLUB OR AN AFFILIATED MEMBER TO LEAVE BOWLS ACT**

### **8.1 Notice to be given by a Bowling Club**

As rule 8.1 currently stands in the Constitution, it deals with the resignation of a “Member”. It is proposed to deal separately with the process for Members from each category to leave Bowls ACT. This allows for an appropriate process to be specified

for each category (see, for example, rule 6.5 in relation to resignation by a Life Member).

Rule 8.1 as amended deals with Bowling Clubs and rule 8.3 as amended covers Affiliated Members.

Rule 8.1 now contains two conditions which have to be satisfied before a Bowling Club can leave Bowls ACT. The first is the payment by the Club of all monies due and payable to Bowls ACT and the second is that the Club must not be the subject of disciplinary action under Part IV of the Constitution.

## **8.2 Expiration of notice period**

Rule 8.2 states expressly that, when a Bowling Club ceases to be a Member of Bowls ACT, its Affiliated Members also cease to be Members.

## **8.3 Process for an Affiliated Member**

The revised rule 8.3 applies to Affiliated Members (see comment under rule 8.1 above). In line with rule 8.1, rule 8.3 sets two conditions which have to be satisfied before an Affiliated Member can leave Bowls ACT. The first is the payment by the Affiliated Member of any monies due and payable to Bowls ACT and the second is that the Affiliated Member must not be the subject of disciplinary action under Part IV of the Constitution.

# **PART IV: DISCIPLINARY ACTION, APPEAL AND DISPUTE RESOLUTION**

## **SECTION 9: DISCIPLINARY ACTION**

### **9.1 Members subject to disciplinary action**

Rule 9.1 makes clear that “Members of all categories may be subject to disciplinary action”. There is no equivalent provision in the current Constitution.

### **9.2 Grounds for disciplinary action**

Rule 9.2 contains the grounds for disciplinary action listed in current rule 9.1(b). The word “reputation” has been inserted in rule 9.2(c). It does not appear in current rule 9.1(b)(iii).

### **9.3 Conduct of disciplinary action**

Rule 9.3 does not have an equivalent in the current Constitution. Rule 9.3(a) allows the Board, as provided for in Rule 22.1, to delegate the conduct of disciplinary action to a committee. Rule 9.3(b) deals specifically with a Board member facing disciplinary action. Appropriately, it prohibits a member in that situation from participating in any discussion or decision by the Board in relation to the disciplinary action.

## **9.5 Procedure**

Rule 9.5(c)(iii) has no equivalent in the current Constitution. It provides that a Member may be assisted at the disciplinary hearing by a person of their choice, who may be an advocate for that Member. This provision goes to the fairness of the hearing.

## **9.7 Penalties and other actions**

Rule 9.7 includes the penalties set out in current rule 9.1(a). Moving the issue of penalties to a later rule has been done to assist with the ordering of the disciplinary process in the rules.

Rule 9.7 elaborates on current rule 9.1(a)(iv), which provides that the Board may “impose such other penalty, action or educative process as it sees fit”. Rule 9.7(a)(iv) refers to “a warning or a period of probation” as examples of other penalties. Rule 9.7(a)(v) refers to making “an apology” as an example of an “action” that may be required by the Board.

## **9.8 Notice of decision**

Rule 9.8 has no equivalent in the current Constitution. It has been drafted to incorporate some of the requirements of a new section 65C which has been inserted into the Associations Act by the Red Tape Act. Section 65C(3)(c) requires that a member be informed in writing of the decision taken and the reasons for that decision.

Section 65C(3)(d) requires that the disciplinary process include an appeal. Rule 9.8 responds to this by providing that a Member has to be informed of the right of appeal under rule 10.1.

The text of rule 9.8 is drawn, in part, from rule 9(5) of the Model Rules.

## **9.9 Effect of decision**

Rule 9.9 has no equivalent in the current Constitution. It draws on rule 9(6) of the Model Rules. It prevents a decision of the Board under rule 9.6(c) taking effect until an appeal process is completed.

## **9.10 Bar on dispute settlement procedure**

Rule 9.10 has no equivalent in the current Constitution. It has been inserted to comply with section 65C(4) which has been inserted into the Associations Act by the Red Tape Act.

## **SECTION 10: APPEAL**

### **10.1 Right of appeal**

Rule 10.1 has no equivalent in the current Constitution. It gives effect to the requirement in section 65C(3)(d), which has been inserted into the Associations Act

by the Red Tape Act, that the disciplinary process include an appeal. Rule 10.1(b) provides that two grounds of appeal are open to a Member.

## **10.2 Convening a General Meeting**

Rule 10.2 has no equivalent in the current Constitution. It draws on rule 10(2) of the Model Rules.

## **10.3 Business at General Meeting**

Rule 10.3 has no equivalent in the current Constitution. It draws on elements of rule 10(3) of the Model Rules. Rule 10.3(a) limits the business of the General Meeting to the grounds of appeal identified in the notice of appeal under rule 10.1(a).

Rule 10.3(b) provides that if the Member making the appeal is a Nominee of a Bowling Club, he or she will not be allowed to vote at the General Meeting and will not be counted for the purposes of a quorum under rule 13.5(b) or rule 13.5(c)(ii). If the Member making the appeal is a Bowling Club, its Nominee or Nominees will not be allowed to vote at the General Meeting. In such a case, the Nominee or Nominees of the Bowling Club will not be counted for the purposes of a quorum under rule 13.5(b) or rule 13.5(c)(ii). No Member should be able to vote on their own appeal.

## **10.4 Vote at General Meeting**

Rule 10.4 has no equivalent in the current Constitution. Rule 10.4(a) requires a secret ballot to be held on whether to allow or disallow a ground of appeal. The ground will be allowed if it is supported by a majority of votes cast in the ballot.

Setting the requirement at a “majority of the votes cast” differs from rule 10(4) of the Model Rules, which requires a “special resolution”. Section 70 of the Associations Act states that a special resolution must be passed by at least three-quarters of the votes cast at a General Meeting. By way of example, rule 2.1(c) provides that the Constitution cannot be altered except by special resolution. Confirming disciplinary action is an important step, but does not rise to the same level as changing the Constitution. Accordingly, it is appropriate to adopt the “majority of votes cast” as the requirement.

The Associations Act does not prevent this approach being taken. Section 31 of the Associations Act recognises that an association may choose the Model Rules as its constitution or adopt its own rules. Section 32 applies to the latter case. It requires the rules adopted by an association to provide for the matters listed in Schedule 1 of the Associations Act. The requirements in Schedule 1 are stated in broad terms. As Schedule 1 does not require a particular majority for confirming disciplinary action, it is open for an association to determine the majority required.

Rule 10.4(d) provides that, where a Member raises a ground of appeal under rule 10.1(b)(ii), which goes to the severity of the penalty imposed, and it is supported by a majority of the votes cast in a secret ballot, the matter of the penalty must be remitted to the Board or committee for reconsideration. In recognition of the outcome of the vote, rule 10.4(e) requires the Board or committee to impose a less severe

penalty. The revised penalty is final and not subject to appeal (rule 10.4(f)).

## **SECTION 11: DISPUTE RESOLUTION**

Rule 23 of the current Constitution establishes a process for handling grievances. The Red Tape Act has inserted a new section 65B into the Associations Act, which requires associations to have a dispute resolution procedure in their constitutions. Given the substantive differences between rule 23 and section 65B, the best course of action is to delete rule 23 and replace it with a dispute procedure that meets the requirements of section 65B. Aspects of rule 23 have been retained if they do not conflict with section 65B. The procedure is set out in rules 11.1 to 11.13.

### **11.1 Use of dispute resolution procedures**

Rule 11.1 provides that Members of all categories may use the dispute settlement procedure.

### **11.2 Disputes covered by procedure**

Rule 11.2(a) states that the dispute resolution procedure is established to satisfy the requirements of the Associations Act. Rule 11.2(b) identifies the types of disputes covered by the procedure: disputes concerning the application of the Associations Act to Bowls ACT, the Constitution or any policies made by the Board. Those disputes must be between Members or between a Member and Bowls ACT.

Rule 11.2(d) deals with the issue of costs, which is not addressed in section 65B of the Associations Act. If costs are involved, it is appropriate for those costs to be borne equally between the parties to the dispute.

### **11.3 Dispute involving a Board member**

Rule 11.3 prevents a member of the Board who is involved in a dispute from participating in any discussion or decision by the Board in relation to that dispute. This reflects the approach taken in rule 9.3(b) which deals with a member of the Board facing disciplinary action.

### **11.4 Meeting between parties to dispute**

Rule 11.4(a) is based on current rule 23(b). It is better if a dispute can be resolved at a meeting between the parties, instead of engaging the full dispute resolution procedure. Section 65B does not provide for the parties to meet in an attempt to resolve the dispute prior to submitting it to a decision-maker. That said, section 65B does not prohibit such a step.

Rule 11.4(b) deals with the appointment of a decision-maker by the parties.

Rule 11.4(c) prevents a member of the Board from being appointed as a decision-maker. A Board member should not be a decision-maker in a dispute between Members because the Board may be called upon to review the decision made in such a dispute. It would not be appropriate for a Board member to be a decision-maker in a dispute between a Member and Bowls ACT.

### **11.5 Appointment of decision-maker by the Board in a dispute between Members**

Section 65B does not specify a process for appointing a decision-maker. Rule 11.5 provides for the Board to appoint a decision-maker if the Members in dispute cannot do so.

### **11.6 Appointment of decision-maker by Bowls Australia in a dispute between a Member and Bowls ACT**

Rule 11.6 provides for Bowls Australia to appoint the decision-maker in a dispute between a Member and Bowls ACT. It would not be appropriate for the Board to do so.

### **11.7 Role of decision-maker**

Section 65B(3)(b) requires the decision-maker to be “unbiased”. Rule 11.7(a) requires the decision-maker to be “impartial”, which has an equivalent meaning to “unbiased”. Rule 11.7(c) and (d) are based on current rule 23(h)(i) and (ii) and are also in accord with section 65B.

### **11.8 Decision**

Rule 11.8(a) incorporates section 65B(3)(c), which requires the decision-maker to notify each party to the dispute, in writing, about their decision and give reasons for that decision. Rule 11.8(b) provides that, if there is no appeal, the decision is final and binding on the parties to the dispute.

### **11.9 Review in a dispute between Members**

As noted above, section 65B requires there to be an appeal process. However, it does not elaborate on that process, leaving associations to determine its content.

In the case of disputes between Members, rule 11.9 provides for the Board to review the decision of a decision-maker. Rule 11.9(e) states that the Board must decide whether to confirm the decision or reject the decision, in whole or in part, and substitute its own decision, in whole or in part. Rule 11.9(g) provides that the Board’s decision is final and binding on the parties to the dispute.

### **11.10 Review in a dispute between a Member and Bowls ACT**

It would not be appropriate for the Board to review a decision in a dispute between a Member and Bowls ACT. Accordingly, rule 11.10 provides for Bowls Australia to be approached to appoint a person to review a decision in such a dispute.

### **11.11 Role of reviewer**

Rule 11.11 addresses the role of a reviewer and reflects the content of rule 11.7 on decision-makers.

### **11.12 Decision of a reviewer**

Rule 11.12 draws on rule 11.9(e), (f) and (g).

### **11.13 Bar on disciplinary action**

Rule 11.13 implements section 65B(4). It mirrors rule 9.10 which prevents a dispute resolution procedure being commenced during disciplinary action.

## **PART V: GENERAL MEETINGS**

### **SECTION 12: ANNUAL GENERAL MEETING**

#### **12.2 Business**

Rule 12.2(b) requires the Board to submit the accounts of Bowls ACT to the Annual General Meeting. This requirement is currently contained in rule 32.5 of the Constitution.

### **SECTION 13: GENERAL MEETINGS**

#### **13.3 Business at a General Meeting**

Rule 12.2(c) of the Constitution currently provides that an unsuccessful motion, or other motion of similar effect, cannot be moved again at a subsequent General Meeting for 12 months. Rule 13.3(c) reduces that time period to 3 months. It does so to allow for circumstances where the subject matter of an unsuccessful resolution is time sensitive and must be revisited well before 12 months have expired.

#### **13.4 Request by Bowling Clubs for a General Meeting**

Rule 13.4(a) states that the Board must convene a General Meeting on a request in writing from not less than 5 Bowling Clubs. Current rule 11.2 requires that 6 Clubs must request a General Meeting. This number exceeds the minimum number of 5 Bowling Clubs required to constitute Bowls ACT, hence the change to 5 Clubs in rule 13.4(a).

#### **13.5 Quorum**

Rule 13.1(b) of the Constitution currently sets the quorum for a General Meeting as 25% of registered Nominees being present. This requirement has been increased in rule 13.5(b) to 12 registered Nominees being present to ensure that there are an appropriate number of Nominees present to vote on important issues. The use of a number rather than a percentage also assists clarity.

In the event that a quorum is not present, leading to a General Meeting being adjourned, rule 13.1(c)(ii) of the Constitution currently sets the quorum for the resumed meeting at 4 Members being present. The use of "Members" is confusing as it departs from the use of "Nominees" in rule 13.1(b).

Rule 13.5(c)(ii) addresses this point by setting the quorum for the resumed meeting at 10 registered Nominees being present.

### **13.9 Voting procedure**

Rule 13.9(b) provides that, apart from when secret ballots are required, all questions arising at a General Meeting will be determined on a “show of hands”. This is the approach taken in current rule 14.2(c). In order to recognise that a Nominee of a Bowling Club may have a disability which makes it difficult to raise their hand to vote, the following text has been included in rule 13.9(b):

A Nominee who has a disability may use other means to register their vote.

Rule 13.9(c) deals with the holding of secret ballots.

## **PART VI: BOARD**

### **SECTION 14: FUNCTIONS, POWERS AND RESPONSIBILITIES OF THE BOARD**

#### **14.1 Functions and powers**

Current rule 16.1 states that the Board:

has power to perform all such acts and things as appear to the Board to be **essential** for the proper management of the business and affairs of the Association.

Rule 14.1 deletes “essential” and substitutes the words “necessary or desirable” to reflect the use of these words in rule 14.2(a) relating to the making of policies by the Board.

#### **14.2 Board may make policies**

Rule 14.2 has no equivalent in the current Constitution. It allows the Board to adopt policies for the purposes listed in rule 3.1.

Rule 14.2(b) states that Executive Officer has to inform Bowling Clubs of action taken by the Board on policies and also has to maintain a register of policies.

#### **14.3 Collective responsibility of the Board**

Rule 14.3 is based on current rule 22.1.

#### **14.4 Review of Constitution**

Rule 14.4 requires the board to keep the Constitution under review. The current Constitution does not impose this obligation.

## **SECTION 15: DUTIES OF BOARD MEMBERS**

### **15.1 Duty of care and diligence**

Rule 15.1 incorporates section 66A inserted by the Red Tape Act.

### **15.2 Duty of good faith and proper purpose**

Rule 15.2 incorporates section 66B inserted by the Red Tape Act.

### **15.3 Use of position**

Rule 15.3 incorporates section 66C inserted by the Red Tape Act.

### **15.4 Use of information**

Rule 15.4 incorporates section 66D inserted by the Red Tape Act.

## **SECTION 16: COMPOSITION OF THE BOARD**

### **16.4 Appointed Director**

Rule 16.4(c) of the Constitution currently states that the term of an Appointed Director commences 4 weeks after the Annual General Meeting at which their appointment is confirmed and runs until 4 weeks after the second Annual General Meeting following their appointment. Rule 16.4(b) removes the delay of 4 weeks for the term to commence and finish.

### **16.5 Requirements following election or appointment to the Board**

Rule 16.5 is based on current rule 22.1(a).

## **SECTION 17: PROCESS FOR ELECTING DIRECTORS**

### **17.2 Ballot process**

Rule 17(f) of the Constitution currently states that, in the event of an equality of votes between two or more candidates, the returning officers will determine the outcome by drawing lots. Rule 17.2(c) departs from this approach by requiring another secret ballot to be conducted to determine who is elected.

## **SECTION 18: VACANCY ON THE BOARD**

### **18.1 Resignation of Director**

Rule 18.1 reflects section 64A which has been inserted into the Associations Act by the Red Tape Act.

## **18.2 Grounds requiring a Director to vacate their office**

Rule 18.2 is based on current rule 18.1.

Rule 18.1(c) dealing with the resignation of a Director has been deleted with the insertion of rule 18.1.

Rule 18.1(d) currently provides for a Director to lose office if they are subject to sanction by the Board “except under **rule 9.1(a)(iii) and (iv)**”. The former provision relates to fines and the latter provision is a catch-all covering “such other penalty, action or educative process” as the Board sees fit. Rule 18.2(c) makes no such exceptions. It requires a Director to vacate their office if they are “subject to the application of a penalty or other action under **rule 9.7**”.

Rule 18.1(e) currently provides for a Director to lose office if they fail to declare a direct or indirect interest in a contract or proposed contract with Bowls ACT. Rule 18.2(d) is broader in scope providing that a Director must vacate their office if they breach the rules on the interests of Directors contained in Section 21 of the Constitution.

Rule 18.1(g) currently provides for termination when a Director:

dies or becomes of unsound mind or a person whose person or estate is liable to be dealt with in anyway under the law relating to mental health.

The text of rule 18.1(g) has been amended in rule 18.2(f) to read:

is not physically or mentally fit to exercise the functions of the office.

This text is inserted in the Associations Act by the Red Tape Act (see amendment to section 64(2)(e) of the Associations Act dealing with a vacancy in the office of Public Officer).

The reference to “dies” has also been deleted, as it is self-evident that a vacancy will occur if a Director dies while in office.

## **18.3 Removal of Elected or Appointed Director at a General Meeting**

Rule 18.3 replaces current rule 18.2. Rule 18.3(d) contains the following wording:

An Affiliated Member cannot be appointed by resolution unless he or she meets the requirements to be a Director under the Associations Act, this Constitution and any policies made by the Board.

This wording puts Members on notice that an Affiliated Member chosen to replace an Elected Director must meet the requirements of the Associations Act, the Constitution and any policies made by the Board.

## **18.5 Procedure to fill vacancy in the office of an Appointed Director**

Rule 18.5 is a new provision dealing with the replacement of an Appointed Director. Rule 18.5(b) allows a person appointed prior to an Annual General Meeting to be

confirmed for a further term of 2 years at that Annual General Meeting.

## **SECTION 20: QUORUM AND PROCEDURE AT BOARD MEETINGS**

### **20.3 Procedure at Board meetings**

Rule 20.3(b) provides that questions arising at a Board meeting will be determined on a “show of hands”. This is the approach taken in current rule 20.3(b). In order to recognise that a Director may have a disability which makes it difficult to raise their hand to vote, the following text has been included in rule 20.3(b):

A Director who has a disability may use other means to register their vote.

## **SECTION 21: INTERESTS OF DIRECTORS**

### **21.1 Material personal interests**

Rule 21.1 replaces current rule 21.1 and incorporates elements of the new section 65 inserted into the Associations Act by the Red Tape Act. Rule 21.1(d) is not found in the new section 65A. It has been added in to ensure that Directors advise the Board of changes in their material personal interests.

### **21.2 Place of profit or employment**

Rule 21.2 is based on current rule 21.2(a).

### **21.3 Contracts**

Rule 21.3 deals with the issue of contracts and Directors. It draws on current rule 21.2(b).

Rule 21.3(b) addresses the circumstance where a Director is not contracting with Bowls ACT but will benefit from a contract or proposed contract that another person or entity concludes with Bowls ACT. In such a case, the Director must declare that benefit as a material personal interest.

### **21.4 Conduct of Board meetings**

Rule 21.4 is based on section 65A inserted by the Red Tape Act into the Associations Act.

## **SECTION 22: DELEGATION BY THE BOARD AND THE ROLES OF OTHER OFFICERS**

There is a reordering proposed of the rules under the heading “DELEGATED POWERS AND DUTIES” in the current Constitution.

Current rule 22.1 deals with general duties of the Board. The elements of rule 22.1 have been moved to other provisions.

## **22.1 Committees**

Current rule 22.4(a) states that the Board may delegate any of its functions, powers or **duties** (except this power to delegate) to a committee. Rule 22.1 deletes the reference to the delegation of duties. The reference to duties may overlap with the duties listed in rules 15.1 15.2, 15.3 and 15.4. These duties cannot be delegated.

## **22.2 Executive Officer**

Rule 22.2 draws on current rule 22.3. There are changes.

Current rule 22.3(b) states that:

The Executive Officer shall be responsible to the Board for the management of the affairs of the Association, and for this purpose may exercise all powers of the Association which are not, under the Act or this Constitution, required to be exercised by the Board or by the Members.

This has been amended in rule 22.2(b) to read:

The Executive Officer will be responsible to the Board for the management of the affairs of Bowls ACT and for this purpose will exercise the powers and undertake the duties determined by the Board.

The text draws on clause 17.2.1 and clause 17.2.3 of the Bowls Australia Constitution, which follow:

17.2.1 The CEO holds office on the terms and conditions (including as to remuneration) and with the powers, duties and authorities, determined by the board.

...

17.2.3 The CEO's role will be to implement the strategies, plans and policies approved by the board and will be responsible for the management and direction of Bowls Australia and its finances.

The amended text requires the Board to specify the powers and duties of the Executive Officer.

Current rule 22.3(d) is moved to rule 22.3 on the Public Officer.

## **22.3 Public Officer**

The current Constitution does not contain a separate rule on the Public Officer of Bowls ACT. Rule 23 deals with the Public Officer and identifies the importance of meeting the requirements of the Association Act in relation to the position.

## **PART VII: FUNDING AND INCOME**

The current rules on funding and income are contained in the "Miscellaneous" part of the Constitution. The revised draft collects the rules together in a separate part.

## **SECTION 23: SOURCES AND APPLICATION OF FUNDS**

### **23.1 Sources of funds**

Rule 23.1 draws on current rule 24.

### **23.2 Application of funds**

Rule 23.2(a) draws on current rule 26(a).

Rule 23.2(b) draws on current rule 26(b).

Rule 23.2(c) is a new provision.

## **SECTION 24: CONTROL OF FUNDS**

### **24.1 Accounts**

Rule 24.1 is current rule 25.

### **24.2 Negotiable instruments and receipts**

Rule 24.2 draws on current rule 32.6.

### **24.3 Credit and debit cards**

Rule 24.3 is a new provision.

## **PART VIII: RECORDS**

The current rules on records are contained in the “Miscellaneous” part of the Constitution. The revised draft collects the rules together in a separate part.

## **SECTION 25: KEEPING RECORDS**

### **25.1 Executive officer to keep records**

Rule 25.1 is current rule 32.1.

### **25.2 Financial records**

Rule 25.2 is current rule 32.2.

### **25.3 Financial statements**

Rule 25.3 is current rule 22.1(c).

### **25.4 Records kept in accordance with Associations Act**

Rule 25.4 is current rule 32.3.

#### **25.5 Bowls ACT to retain records**

Rule 25.5 is current rule 32.4.

### **SECTION 26: INSPECTION OF RECORDS**

#### **26.1 Inspection of records**

Rule 26.1 is based, with changes, on current rule 32.7.

Rule 26.1(e) allows the Board to require the payment of a reasonable fee if processing a request to inspect records leads to a significant amount of work by the Executive Officer.

### **PART IX: MISCELLANEOUS**

Part IX contains various provisions from the current “Miscellaneous” part of the Constitution.

### **SECTION 27: REGISTERED ADDRESS, SERVICE OF NOTICES AND COMMON SEAL**

#### **27.1 Registered address**

Rule 27.1 is current rule 4.

#### **27.2 Service of notices**

Rule 27.2 is current rule 31.

#### **27.3 Common seal**

Rule 27.3 is current rule 27.

### **SECTION 28: INDEMNITY AND LIABILITY ON WINDING UP OR DISSOLUTION OF BOWLS ACT**

#### **28.1 Indemnity of Directors and employees**

Rule 28.1 is current rule 30.

#### **28.2 Liability of Members on winding up or dissolution of Bowls ACT**

Rule 28.2 is based on current rule 29(a).

### **28.3 Property remaining after winding up or dissolution of Bowls ACT**

Rule 28.3 draws on current rule 29(b). It removes the reference to a Judge of the ACT Supreme Court found in rule 29(b) because this reference does not accord with the Associations Act. Rule 28.3(c) is in accord with section 92(1)(c) of the Associations Act.