



Constitution

The Scout Association of Australia New South Wales Branch

This amended and restated constitution was
adopted by the Corporation as its constitution on
16 July 2022

Contents

Table of contents

1	Preliminary	4
1.1	Definitions and interpretation	4
1.2	Application of the Act	9
1.3	Exercise of powers.....	9
1.4	Transitional arrangements	10
1.5	Status	11
1.6	Grievance procedure	11
2	Membership of Branch Council	12
2.1	Council Members	12
2.2	Cessation of membership	13
2.3	Expulsion of Council Member	13
2.4	Where Council Member is a Director	13
2.5	Membership not transferable	14
3	Branch Council meetings	14
3.1	Branch Council meetings	14
3.2	Notice of meetings of the Branch Council	14
3.3	Quorum at Branch Council meetings	15
3.4	Presiding over Branch Council meetings	16
3.5	Conduct of Branch Council meetings	16
3.6	Decisions at Branch Council meetings	17
3.7	Direct Votes	18
4	The Board	18
4.1	Membership of the Board	18
4.2	Nomination of Directors	19
4.3	Term of office of Directors	20
4.4	Cessation of office	21
4.5	Suspension and Expulsion	21
4.6	Powers and duties of Directors	21
5	Board proceedings	22
5.1	Proceedings of the Board	22
5.2	Convening of meetings of the Board	22
5.3	Notice of meetings of the Board	23
5.4	Quorum at meetings of the Board.....	23
5.5	Chair of the Board.....	24
5.6	Decisions of the Board.....	24
5.7	Decisions made without a meeting.....	25
5.8	Committees and delegates	25
5.9	Other delegations.....	25
5.10	Validity of acts.....	26
5.11	Reliance	26
5.12	Consultants and advisers	26
5.13	Other appointments	26

6	National Executive Committee	27
7	Officers	27
	7.1 Commissioners	27
	7.2 Chief Executive	27
	7.3 The Treasurer	27
8	Auditors and accounts	28
9	Life Councillors	28
10	Region Councils	28
11	Districts	28
12	By-laws	29
13	Property	29
14	Indemnity and insurance	29
	14.1 Persons to whom this clause applies	29
	14.2 Indemnity	29
	14.3 Limit on indemnity	30
	14.4 Extent of indemnity	30
	14.5 Insurance	31
	14.6 Savings	31
	14.7 Deed	31
	14.8 Other advice.....	31
15	Minutes and records	31
	15.1 Minutes of meetings	31
	15.2 Records of decisions made without a meeting	31
	15.3 Signing of minutes and records	32
	15.4 Minutes as evidence	32
	15.5 Inspection of records	32
16	Execution of documents	32
	16.1 Manner of execution	32
	16.2 Seals	32
	16.3 Safe custody of Seal	33
	16.4 Use of seal	33
	16.5 Seal register	33
17	Alteration of constitution	33
18	Notices	34
	18.1 Notices by the Branch Council to Council Members	34
	18.2 Notices by the Corporation to Directors	34
	18.3 Notices by Council Members or Directors to the Branch Council or Board	34
	18.4 Notices posted to addresses outside the Commonwealth	34
	18.5 Time of service.....	34
	18.6 Other communications and documents	35
	18.7 Notices in writing.....	35
19	General	35
	19.1 Submission to jurisdiction	35

19.2	Prohibition and enforceability.....	35
20	Deductible Gift Recipient status	35
20.1	Application of this clause	35
20.2	Establishment of Public Fund	36
20.3	Use of Public Fund.....	36
20.4	Winding up or ceasing to be a deductible gift recipient	36
20.5	Receipts	36
20.6	Notifying the ATO.....	37
20.7	Public Fund administration	37
20.8	Records and financial statements.....	37

Annexure A – Act of Incorporation

The Scout Association of Australia New South Wales Branch Constitution

Preamble

- A. The Scout Association (formerly known as the Boy Scouts Association) (the **British Association**) was incorporated in the United Kingdom by a Royal Charter granted on 4 January 1912.
- B. Pursuant to powers granted to it by the Royal Charter, the British Association established a local branch for the State of New South Wales.
- C. The Corporation was incorporated by the “*Scout Association of Australia (New South Wales Branch) Incorporation Act 1928*” (NSW) (the **Act**).
- D. Subsequently, the Scout Association of Australia (formerly known as the Australian Boy Scouts Association) (the **National Association**) was inaugurated on 15 December 1959 and incorporated by a Royal Charter granted on 23 August 1967 (the **Royal Charter**).
- E. Section 5 of the Act provides that the Corporation shall control the Scout Movement in New South Wales and shall have power to do all things deemed necessary or requisite for providing and maintaining an efficient organisation for the purposes of the National Association in New South Wales including the performance and exercise of all such duties as may be delegated to it by the National Association under the provisions of the Royal Charter.
- F. This constitution amends and restates the constitution of the Corporation with effect from 19 July 2014.

1 Preliminary

1.1 Definitions and interpretation

- (a) In this constitution:
 - Act** means the “*Scout Association of Australia (New South Wales Branch) Incorporation Act 1928*” (NSW), as amended (attached to this constitution as Annexure A);
 - Assistant Branch Commissioner** means a Scouter appointed by the Chief Commissioner;
 - Assistant Chief Commissioner** means a Scouter appointed by the Chief Commissioner;
 - Background Check** means an appropriate investigation into whether a person is fit and proper or suitable to hold a relevant office taking into account the purpose and objectives of the Scout Movement in New South Wales, including such queries as the Board may from time to time prescribe;
 - Baden Powell Guild, New South Wales Branch** means an assembly of former Scouters and friends of the Scout Movement;

Board means the board of Directors of the Corporation, formerly known as the State Executive Committee or the SEC and referred to in the Act as the Executive Committee;

Branch means the Scout Association of Australia New South Wales Branch;

Branch Commissioner means a Scouter appointed by the Chief Commissioner;

Branch Council means the council of the Corporation;

Branch Council AGM means the annual general meeting of the Branch Council held pursuant to this constitution;

Branch Council Special General Meeting means a general meeting of the Branch Council other than the AGM;

Business Day means a day other than Saturday, Sunday or a day gazetted as a public holiday in New South Wales;

Chief Commissioner means a Scouter appointed as such pursuant to clause 7.1;

Chief Executive means the chief executive appointed pursuant to clause 7.2;

Chief Scout means a position held by the Governor or an appointed alternative;

Commissioner means the Commissioner of Taxation, a Second Commissioner of Taxation or a Deputy Commissioner of Taxation for the purposes of ITAA 97;

Commonwealth means the Commonwealth of Australia and its external territories;

Corporation means The Scout Association of Australia, New South Wales Branch, incorporated under the Act, as amended;

Corporations Act means the Corporations Act 2001 (Cth);

Council Member means a member of the Branch Council;

Country Region Representative means a member appointed as such;

Deductible Contribution means a contribution of money or property as described in item 7 or item 8 of the table in section 30 15 of the ITAA 97 in relation to a fundraising event held for the principal purpose of the Corporation;

Deputy Chief Commissioner means a Scouter appointed by the Chief Commissioner;

Direct Vote means a vote cast at a Branch Council meeting pursuant to clause 3.7;

Director means a director of the Board (formerly known as an Executive Member);

District means an area of responsibility within a Region so designated by the Board and from time to time the by-laws;

Ex Officio Director means:

- (1) the Chief Commissioner;
- (2) a Deputy Chief Commissioner nominated for that purpose by the Chief Commissioner;
- (3) a Region Commissioner nominated for that purpose by the Region Commissioners' Forum;

- (4) a Region Chair nominated for that purpose by the Region Chairs' Forum;
- (5) a Country Region Representative nominated by the Region Commissioners' Forum; and
- (6) a Young Adult nominated by the Chief Commissioner for that purpose, and, except for the Chief Commissioner, elected in accordance with clause 3.1(b)(4);

Financial Year End of the Corporation is at midnight on 31 March in each year or such other time as the Board, with the approval of the Branch Council, shall determine;

Formation means a level within the Corporation registered as such by the Board;

Gift means a contribution of money or property as described in item 1 of the table in section 30-15 of the ITAA 97;

ITAA 97 means the *Income Tax Assessment Act 1997* (Cth);

Life Councillor means a life councillor appointed in accordance with clause 9;

Member means a person holding valid membership of the Corporation as defined in Policy and Rules published by the Scout Association of Australia;

Misconduct Event means an event that occurs in relation to a person if:

- (1) the person's membership of any section of the Scout Movement in New South Wales is finally cancelled (taking into account any appeal process) as a result of a complaint process established from time to time by the Corporation;
- (2) the person is convicted of a serious criminal offence or is dealt with under legislation relating to the protection of children;
- (3) if two thirds of the full Board agree that the person intentionally, recklessly or negligently breached a provision of this constitution (other than payment of any subscription fee); or
- (4) if two thirds of the full Board agree that the person conducted himself or herself in a way that is prejudicial to the interests or reputation of the Corporation;

National Association means The Scout Association of Australia incorporated by Royal Charter dated 23 August 1967;

National Chief Executive means the chief executive of the National Association;

National Executive Committee means the national executive committee of the National Association;

National Council means the national council of the National Association;

New South Wales Branch Rover Council means the assembly of New South Wales Branch Rover Scouts;

Non-Executive Director means a Director who is nominated pursuant to clause 4.2(b) and elected pursuant to clause 3.1(b)(4);

Officer has the meaning given to that expression in clause 14.1;

Proceedings means:

- (1) any hearing, conference, dispute, inquiry or investigation of a court, arbitrator, mediator, tribunal or governmental or administrative body; or
- (2) any procedural step preceding or otherwise relating to such a hearing, conference, dispute, inquiry or investigation,

in which the Officer is involved:

- (3) as a party, witness or otherwise; and
- (4) because the Officer is or was a Director or officer of the Corporation;

Region means an area of responsibility so designated by the Board and from time to time the by-laws;

Region Chair means a person elected as such by the Region;

Region Chairs' Forum means the assembly of Region Chairs;

Region Commissioner means a Scouter appointed by the Chief Commissioner;

Region Commissioners' Forum means the assembly of Region Commissioners;

Region Council means the regional councils constituted by the Board in accordance with clause 10;

Region President means a person elected by the Region in accordance with any applicable policy;

Responsible Person means an individual who:

- (1) performs a significant public function;
- (2) is a member of a professional body having a code of ethics or rules of conduct;
- (3) is officially charged with spiritual functions by a religious institution;
- (4) is a director of a company whose shares are listed on the Australian Securities Exchange;
- (5) has received formal recognition from government for services to the community;
- (6) is an individual before whom a statutory declaration may be made; or
- (7) is approved as a Responsible Person by the Commissioner.

Royal Charter means the Royal Charter of the Australian Boy Scouts Association granted by Her Majesty Queen Elizabeth II on 23 August 1967;

Rover Scout means a member of a Rover Scout Crew between the age of 18 years and 25 years;

Rover Crew means an assembly of Rover Scouts registered as such by the Board;

Scouter means an adult appointed as such;

Scout Movement means the Scout Movement as defined in the policy and rules issued by the National Association, as amended from time to time;

Seal means any common seal or duplicate seal of the Corporation;

Special Business of a meeting means business of which specific notice must be given;

Supporter means a person identified as a supporter of the Corporation as defined in Policy and Rules published by the Scout Association of Australia;

Treasurer means a person elected by the Branch Council in accordance with 3.1(b)(5) and who must be a Non-Executive Director; and

Young Adult means a Scouter or Rover Scout who is under 30 years of age at the time of his or her relevant appointment.

- (b) Where a provision of this constitution establishes an office of chair, the chair may be referred to as chair, chairperson, chairman or chairwoman, as the case requires.
- (c) Where a provision of this constitution refers to the 'Branch', the Branch may be referred to for any purpose as the 'State'. For instance, the person holding the role of the Branch Commissioner may be referred to as the 'State Commissioner'.
- (d) Where a provision of this constitution refers to a vote by Council Members being 'at' or 'present at' a meeting of the Branch Council, the vote may be cast by Direct Vote pursuant to clause 3.7.
- (e) A reference in a clause to a position, such as Chief Executive or National Chief Executive, includes a reference to an equivalent position if differently described from time to time. For instance, the person holding the role of the Chief Executive or National Chief Executive may be referred to as the 'General Manager'.
- (f) A reference in a clause in general terms to a person holding or occupying a particular office or position includes a reference to any person who occupies or performs the duties of that office or position for the time being.
- (g) Unless the contrary intention appears, in this constitution:
 - (1) words importing the singular include the plural and vice versa;
 - (2) words importing a gender include every other gender;
 - (3) words used to denote persons generally or importing a natural person include any company, body corporate, body politic, partnership, joint venture, association, board, group or other body (whether or not the body is incorporated);
 - (4) a reference to a person includes that person's successors and legal personal representatives;
 - (5) a reference to a statute, regulation, proclamation, ordinance or by-law includes all statutes, regulations, proclamations, ordinances or by-laws amending, consolidating or replacing it, whether passed by the same or another government agency with legal power to do so, and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute; and
 - (6) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.
- (h) In this constitution headings and bold type are for convenience only and do not affect its interpretation.
- (i) A period of notice shall not include the day on which notice is sent but shall include the day on which it is received or deemed to be received.
- (j) Subject to the Act and the Royal Charter, this constitution takes effect as a contract between:

- (1) each Council Member;
- (2) each Council Member and the Corporation; and
- (3) each Director and the Corporation.

1.2 Application of the Act

- (a) This constitution is to be interpreted subject to the Act and the Royal Charter.
- (b) Unless the contrary intention appears, an expression in a clause that deals with a matter dealt with by a provision of the Act has the same meaning as in that provision of the Act.
- (c) Subject to clause 1.2(a), unless the contrary intention appears, an expression in a clause that is defined for the purposes of the Act has the same meaning as in the Act.

1.3 Exercise of powers

- (a) The Corporation may, in any manner permitted by the Act or the Royal Charter:
 - (1) exercise any power;
 - (2) take any action; or
 - (3) engage in any conduct or procedure,
 which under the Act or the Royal Charter the Corporation may exercise, take or engage in if authorised by its constitution.
- (b) To the extent permitted by law, no act or decision of the Corporation taken in what the Directors decide is in the Corporation's best interests shall be invalid or ultra vires the Corporation.
- (c) Where this constitution provides that a person or body may do a particular act or thing and the word "may" is used, the act or thing may be done at the discretion of the person or body.
- (d) Where this constitution confers a power to do a particular act or thing the power includes an ability to repeal, rescind, revoke or vary that act or thing, unless the contrary intention appears.
- (e) Where this constitution confers a power to do a particular act or thing with respect to particular matters, the power allows an act or thing to be done with respect to some of those matters and to make different provisions for other matters, unless the contrary intention appears
- (f) Where this constitution confers a power to make appointments to any office or position, the power is, unless the contrary intention appears, to be taken to include a power:
 - (1) to appoint a person to act in the office or position until a person is appointed to the office or position;
 - (2) subject to any contract between the Corporation and the relevant person, to remove or suspend any person appointed, with or without cause; and
 - (3) to appoint another person temporarily in the place of any person so removed or suspended or in place of any sick or absent holder of such office or position.

- (g) Where this constitution confers a power or imposes a duty then, unless the contrary intention appears, the power may be exercised and the duty must be performed from time to time as the occasion requires.
- (h) Where this constitution confers a power or imposes a duty on the holder of an office as such then, unless the contrary intention appears, the power may be exercised and the duty must be performed by the holder for the time being of the office.
- (i) Where this constitution confers power on a person or body to delegate a function or power:
 - (1) the delegation may be concurrent with, or to the exclusion of, the performance or exercise of that function or power by the person or body;
 - (2) the delegation may be either general or limited in any manner provided in the terms of delegation;
 - (3) the delegation need not be to a specified person but may be to any person from time to time holding, occupying or performing the duties of, a specified office or position;
 - (4) the delegation may include the power to delegate for such purposes and with such limits as is set out in the delegation or any amendment of or additional to it;
 - (5) where the performance or exercise of that function or power is dependent upon the opinion, belief or state of mind of that person or body in relation to a matter, that function or power may be performed or exercised by the delegate upon the opinion, belief or state of mind of the delegate in relation to that matter; and
 - (6) the function or power so delegated, when performed or exercised by the delegate, is to be taken to have been performed or exercised by the person or body.

1.4 Transitional arrangements

- (a) A Council Member holding office immediately prior to the coming into operation of this constitution will continue to be a Council Member but will, from that date, be subject to the provisions of this constitution.
- (b) A person who is a member of the Board and known as an Executive Member of the State Executive Committee or the SEC immediately prior to the coming into operation of this constitution will continue to be a Director and will be subject to the provisions of this constitution from the time it takes effect.
- (c) The body known as the State Executive Committee or SEC immediately prior to the coming into operation of this constitution will continue in existence and be known as the Board from the time this constitution comes into operation and, from that date, will be subject to the provisions of this constitution.
- (d) A person holding the position of President of the Branch Council, Vice President of the Branch Council, Treasurer, Chief Commissioner, Assistant Chief Commissioner, Deputy Chief Commissioner or Chief Executive immediately prior to the coming into operation of this constitution will continue to hold that position and will be subject to the provisions of this constitution from the time it takes effect.

1.5 Status

- (a) The Corporation is established for the public charitable purposes as provided for under the Act.
- (b) The Corporation's income and property must be applied solely towards promoting the Corporation's purposes, save that the indemnification of, or payment of premiums on contracts of insurance to the extent permitted by law or as provided for in clause 14 and payments to Board members for reimbursement of expenses approved by the Board are permitted.
- (c) If, on the winding up or dissolution of the Corporation, any property remains after satisfaction of all its debts and liabilities, this property must only be given or transferred to a fund, authority or institution that is charitable at law.
- (d) Unless the identity of the fund, authority or institution referred to in rule 1.5(c) is specified in applicable legislation that provides for the winding up or dissolution of the Corporation, it must be decided by the Directors, or if the Directors do not wish to decide or do not decide, it must be decided by the Branch Council at or before the time of winding up or dissolution of the Corporation and, if the Branch Council cannot decide, by the Supreme Court of New South Wales.

1.6 Grievance procedure

- (a) Any dispute under this constitution between Council Members (in their capacity as Council Members) or between a Council Member (in that capacity) and the Corporation (other than arising under clause 2.3 or clause 4.5) must, unless the parties otherwise agree, be dealt with by the procedure in this clause 1.6.
- (b) If there is a dispute between Council Members, either party may, within 30 days of a party notifying the other party of the dispute, refer the dispute to the Board for determination (in which case the Board's determination is final and binding on all parties) or mediation. The Board may act as a mediator (provided they are unbiased) or may appoint an independent third party as a mediator (after consulting with the parties).
- (c) If there is a dispute between the Corporation and a Council Member, either party may, within 30 days of a party notifying the other party of the dispute, require the dispute be referred to mediation. The mediator must be an unbiased decision maker and:
 - (1) a person chosen by agreement between the parties to the dispute; or
 - (2) in the absence of agreement within 14 days of a party requiring mediation, a person who is a mediator nominated at the request of the Board by a government or non-profit organisation operating in New South Wales that offers mediation services.
- (d) A Council Member can be a mediator, provided they are an unbiased decision-maker.
- (e) The mediator cannot be a party to the dispute.
- (f) Any party to a dispute may appoint any person to act on behalf of that party in the process of determination by the Board or mediator.
- (g) The Board or Council Member, if acting as a mediator, in conducting the mediation, must:
 - (1) give the parties to the dispute every reasonable opportunity to be heard;

- (2) allow due consideration by all parties of any written statement submitted by a party; and
- (3) ensure that natural justice is accorded to the parties to the dispute throughout the process.
- (h) If the mediation process does not result in the dispute being resolved, within a reasonable time as decided by the mediator, or failing this decision, within 2 months of the party requiring mediation, any party to the dispute may seek to resolve the dispute in accordance with another dispute resolution procedure or at law.
- (i) To the extent applicable, any Board determination or mediation process and outcome under this clause 1.6 must be consistent with the relevant provisions of any by-law, policy, code of conduct or other procedural requirement established by the Board or applicable to the Scout Movement in New South Wales. The Board must provide a copy of the relevant documents to the mediator.

2 Membership of Branch Council

2.1 Council Members

The Branch Council shall comprise of:

- (a) the Chief Scout;
- (b) the Chief Commissioner;
- (c) the President of the Branch Council, who shall have a term of office of three (3) years;
- (d) the Vice President of the Branch Council, who shall have a term of office of three (3) years;
- (e) the Treasurer;
- (f) the Deputy Chief Commissioners, Assistant Chief Commissioners, Branch Commissioners and Assistant Branch Commissioners;
- (g) the Chair of the Board;
- (h) each Director not otherwise specified above;
- (i) six delegates from each Region Council, one of whom shall be the Region Commissioner, one of whom shall be the Region President and one of whom shall be a Young Adult;
- (j) such Life Councillors, not exceeding twenty (20) as may be elected in accordance with clause 9;
- (k) the Chair and three (3) other representatives of the New South Wales Branch Rover Council, as nominated by the Branch Rover Council;
- (l) the Guildmaster and two (2) other representatives of the Baden Powell Guild, New South Wales Branch (the Guild), as nominated by the Guild; and
- (m) such additional supporters of the Scout Movement in New South Wales as may be recommended and nominated by the Board, and approved and elected by the Branch Council for such period or indefinitely as it decides, subject to a maximum of forty (40) at any one time.

2.2 Cessation of membership

A person will cease to be a Council Member:

- (a) if the person no longer holds the position identified in clause 2.1 being the position by reason of which that person was a Council Member;
- (b) if the Council Member resigns from membership by notice in writing to the Branch Council;
- (c) if the Council Member dies;
- (d) if the Council Member becomes of unsound mind or a person who is, or whose estate is, liable to be dealt with in any way under the law relating to mental health;
- (e) if the Council Member becomes bankrupt or insolvent or makes any arrangement or composition with his or her creditors;
- (f) if a Misconduct Event occurs in relation to the Council Member and the Board resolves to expel the Council Member in accordance with clause 2.3;
- (g) in any other circumstances prescribed in the terms of membership applicable to the Council Member or in any undertaking given by the Council Member upon his or her admission to membership; or
- (h) if the Board, by a majority of two-thirds of the full Board, resolves that such Council Member shall cease to be a Council Member.

2.3 Expulsion of Council Member

- (a) If a Misconduct Event occurs in relation to a Council Member, the Board may expel that Council Member by giving notice in writing of that expulsion to the Council Member.
- (b) The Board must establish an appeals process by which a decision under clause 2.3 or clause 4.5 (other than a decision as a result of an event described in paragraphs (1) or (2) of the definition of a Misconduct Event) may be challenged. Any such appeals process must be consistent with the relevant provisions of any by-law, policy, code of conduct or other procedural requirement established by the Board or applicable to the Scout Movement in New South Wales.
- (c) Until any such appeals process is finalised:
 - (1) the Council Member shall be suspended from membership of the Branch Council or the Director shall be suspended from the Board, as applicable; and
 - (2) expulsion of the Council Member or the Director, as applicable, shall not take effect.

2.4 Where Council Member is a Director

If a Council Member ceases to be a Council Member in accordance with clause 2.2 or clause 2.3 and that Council Member is also Director, the Council Member will also cease to be a Director at the same time his or her membership of the Branch Council ceases.

2.5 Membership not transferable

Unless otherwise provided by the terms of membership, membership of the Branch Council is personal to the Council Member and is not transferable.

3 Branch Council meetings

3.1 Branch Council meetings

- (a) A Branch Council AGM must be called and arranged to be held not later than four (4) calendar months after the Financial Year End of the Corporation in each year.
- (b) The business to be transacted at the Branch Council AGM shall be to:
 - (1) receive and consider the Annual Report of the Corporation;
 - (2) consider the accounts of the Corporation;
 - (3) elect such Council Members as are required, including, where applicable, the President and the Vice President;
 - (4) elect the Directors as applicable in accordance with clause 4.2;
 - (5) elect the Treasurer, where applicable; and
 - (6) confer on any matters that may be brought before the Branch Council.
- (c) The venue for, and date of, the Branch Council AGM shall be fixed and arranged by the Board.
- (d) A Branch Council Special General Meeting must be called and arranged as soon as practicable and at a place within 30km of the Sydney City GPO, by the Chief Executive, where requested in writing to do so by:
 - (1) the President of the Branch Council;
 - (2) the Chair of the Board;
 - (3) the Chief Commissioner; or
 - (4) at least twenty five (25) members of the Branch Council.
- (e) The person or persons requesting a Branch Council Special Meeting:
 - (1) must each sign the written request for the meeting. For the avoidance of doubt, it is not necessary for all signatures to appear on the same document and the provision of an email by a person is taken for this purpose to constitute a signature by that person; and
 - (2) are not entitled to call or arrange the meeting.
- (f) All business transacted at a Branch Council Special General Meeting shall be deemed to be Special Business.

3.2 Notice of meetings of the Branch Council

- (a) Subject to this constitution, notice of a Branch Council AGM must be given at least thirty (30) days prior to the AGM and state the business to be transacted at the meeting including the matters referred to in clause 3.1(b).

- (b) A notice of a Branch Council Special General Meeting must be given by the Chief Executive at least seven (7) days prior to the meeting and must specify the date, time and place of the meeting, and the general nature of the business to be transacted at the meeting.
- (c) Notice of a meeting shall be given by the Chief Executive to all Council Members whose names and addresses have been communicated to the Chief Executive.
- (d) It shall not in any case be necessary to give notice of a Branch Council AGM or of a Branch Council Special General Meeting to a Council Member who has not communicated their name and address to the Chief Executive.
- (e) A person may waive notice of any meeting by notice in writing to the Branch Council.
- (f) The non-receipt of notice of a meeting by, or a failure to give notice of a meeting to, any person entitled to receive notice of a meeting under this clause 3.2 does not invalidate any act, matter or thing done or resolution passed at the meeting if:
 - (1) the non-receipt or failure occurred by accident or error; or
 - (2) before or after the meeting, the person has waived or waives notice of that meeting under clause 3.2(e).
- (g) A person's attendance at a meeting:
 - (1) waives any objection that person may have to a failure to give notice, or the giving of a defective notice, of the meeting unless the person at the beginning of the meeting objects to the holding of the meeting; and
 - (2) waives any objection that person may have to the consideration of a particular matter at the meeting which is not within the business referred to in the notice of the meeting or in clause 3.1(b), unless the person objects to considering the matter when it is presented.

3.3 Quorum at Branch Council meetings

- (a) No business may be transacted at any Branch Council meeting, except the adjournment of the meeting, unless a quorum of Council Members is present when the meeting proceeds to business.
- (b) A quorum consists of twenty five (25) Council Members present at the meeting.
- (c) If a quorum is not present within thirty (30) minutes after the time appointed for a meeting:
 - (1) where the meeting was convened upon the requisition of Council Members in accordance with clause 3.1(d)(4), the meeting must be dissolved; or
 - (2) in any other case the meeting stands adjourned to such day, and at such time and place, as the Board determines or, if no determination is made by the Board, to the same day in the week which is two weeks after the time originally appointed at the same time and place and if, at the adjourned meeting, a quorum is not present within thirty (30) minutes after the time appointed for the meeting, the meeting must be dissolved.
- (d) In the event that the meeting is dissolved pursuant to clause 3.3(c) (2) and the Board considers it to be necessary to have a decision on any matter included in

the business for the meeting originally appointed, then the Board may make the necessary decision which shall take effect until the Branch Council decides to the contrary or differently, but no such later decision of the Branch Council shall operate retrospectively to invalidate the Board's decision or action on it.

3.4 Presiding over Branch Council meetings

- (a) The President must (if present within fifteen (15) minutes after the time appointed for the meeting and willing to act as chair) preside as chair at each Branch Council meeting.
- (b) If at any Branch Council meeting the President is not present within fifteen (15) minutes after the time appointed for the meeting or is not willing to act as chair, the Vice President must (if present within fifteen (15) minutes after the time appointed for the meeting and willing to act as chair) preside as chair at that meeting.
- (c) If at a Branch Council meeting:
 - (1) there is no President or Vice President;
 - (2) the President or Vice President is not present within fifteen (15) minutes after the time appointed for the meeting; or
 - (3) each of the President and Vice President is present within that time but is not willing to act as chair of the meeting,
 then the chair of the Board, if present and willing to act, shall chair the Branch Council meeting.
- (d) If the chair of the Board is not present or is unwilling to act, then the members present must elect as chair of the meeting another Council Member who is present and willing to act.
- (e) If no other Council Member willing to act as chair is present at the meeting, the meeting is dissolved.

3.5 Conduct of Branch Council meetings

- (a) The chair of the meeting is responsible for the general conduct of the meeting and for the procedures to be adopted at the Branch Council meeting.
- (b) The chair may, at any time the chair considers it necessary or desirable for the efficient and orderly conduct of the Branch Council meeting:
 - (1) impose a limit on the time that a person may speak on each motion or other item of business and terminate debate or discussion on any business, question, motion or resolution being considered by the meeting and require the business, question, motion or resolution to be put to a vote of the Council Members; and
 - (2) adopt any procedures for casting or recording votes at the meeting, subject in the case of Direct Votes to clause 3.7 and any processes or policies made by the Board regarding Direct Votes.
- (c) Any question arising at a meeting relating to the order of business, procedure or conduct of the meeting must be referred to the chair of the meeting.
- (d) A decision by the chair under clauses 3.5(a) - 3.5(c) is final.
- (e) The chair of a meeting may, and must if so directed by the majority of the Council Members present at the meeting, adjourn the meeting from time to time and from place to place subject to giving the period of notice prescribed in

clause 3.3, but no business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

- (f) Where a meeting is adjourned for two (2) weeks or more, seven (7) days' notice of the adjourned meeting must be given.
- (g) It is not necessary to give any notice of the business to be transacted at an adjourned meeting.
- (h) Where a meeting is adjourned, the Board may change the venue of, postpone or cancel the adjourned meeting unless the meeting was called and arranged to be held by Council Members in accordance with clause 3.1(d)(4) or by a court and provided that the venue is a place within 20km of the Sydney City GPO.

3.6 Decisions at Branch Council meetings

- (a) Except in the case of any resolution which as a matter of law or by this constitution requires a special majority, questions arising at a meeting are to be decided by a majority of the aggregate votes cast:
 - (1) as Direct Votes under clause 3.7; and
 - (2) by Council Members present at the meeting,
 and any such decision is for all purposes a decision of the Council Members.
- (b) In the case of an equality of votes upon any proposed resolution the chair of the meeting, in addition to his or her deliberative vote, has a casting vote.
- (c) Subject to clause 3.6(d), a resolution put to the vote of a meeting may be decided in such a manner as the chair determines, unless, before the vote is taken or before or immediately after the declaration of the result of the vote, a poll is demanded by:
 - (1) the chair of the meeting; or
 - (2) at least five (5) Council Members present and having the right to vote on the resolution.
- (d) Any voting procedure determined under clause 3.6(c) must provide for all Direct Votes to be counted.
- (e) A demand for a poll does not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll has been demanded.
- (f) Unless a poll is duly demanded, a declaration by the chair of the meeting that a resolution has been carried or carried unanimously, or carried by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Branch Council, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- (g) If a poll utilising voting papers is duly demanded at a meeting, it will be taken in such manner and either at once or after an interval or adjournment or otherwise as the chair of the meeting directs, and the result of the poll will be the resolution of the meeting at which the poll was demanded.
- (h) A poll demanded at a meeting on the election of the chair of the meeting or on a question of adjournment must be taken immediately.
- (i) The demand for a poll may be withdrawn.

- (j) Each Council Member is entitled to vote at a Branch Council meeting either:
 - (1) in person at the meeting; or
 - (2) by lodging a Direct Vote in accordance with clause 3.7 and any processes or policies made by the Board regarding Direct Voting.
- (k) No Council Member may appoint an attorney to vote or vote through a proxy.
- (l) If a vote is taken using voting papers, those papers shall be destroyed not later than 7 days after the conclusion of the meeting in the absolute discretion of the chair of the meeting.

3.7 Direct Votes

- (a) A Direct Vote may be cast in any form decided or accepted by the Board but is not valid unless it is received by the returning officer no later than twenty-four (24) hours before the time of the meeting.
- (b) The chair must ensure that a certificate, signed by the returning officer, of any Direct Votes validly received is available at the meeting ahead of any vote taken.
- (c) If a vote is taken at a meeting on a resolution on which a Direct Vote was cast, the chair of the meeting must:
 - (1) where the voting is conducted other than by a poll (ie by way of a show of hands) ensure that Direct Votes of Council Members are counted as if those Council Members were physically present at the meeting; and
 - (2) on a poll, count the votes cast by each Council Member who has submitted a Direct Vote for or against the resolution.
- (d) A Council Member who has cast a Direct Vote is entitled to attend a meeting of the Branch Council. However, they are not able to vote on a poll or on a show of hands in respect of any resolutions to which their Direct Vote relates.
- (e) The Board may make processes or policies for the application of direct voting from time to time consistent with the rights of Council Members to cast a Direct Vote under the constitution.

4 The Board

4.1 Membership of the Board

- (a) Subject to clause 4.1(b), the Board shall comprise the following twelve (12) members:
 - (1) the six (6) Ex Officio Directors, each of whom, other than the Chief Commissioner, must be nominated and elected, when applicable, in accordance with clause 4.2(a); and
 - (2) six (6) Non-Executive Directors, one of whom must be the Treasurer, nominated on the basis of appropriate qualifications, experience and skills in any one or more of the following areas:
 - education and child development;
 - public relations and marketing;

- audit, compliance or risk management;
- business law, investment or finance;
- government liaison; or
- such other skills areas as the Board from time to time considers desirable for a Board member to have,

each of whom is nominated in accordance with clause 4.2(b).

- (b) Provided there are sufficient Directors on the Board to constitute a quorum in accordance with clause 5.4(b), the fact that there is not at any time twelve (12) members on the Board will not invalidate the proceedings of the Board.
- (c) Subject to clause 4.1(d), clause 4.1(e) and clause 4.1(f), if a position on the Board, other than the Chief Commissioner, becomes vacant for any reason, the Board may appoint a person to that position and such appointment will last until the next Branch Council AGM.
- (d) If the Board appoints a person as an Ex Officio Director pursuant to clause 4.1(c), that appointment is subject to the applicable nominator of that position referred to in clause 4.2(a) not objecting to that appointment, and in the event of an objection, that position on the Board becomes vacant and the Board may appoint another person acceptable to the nominator of that position.
- (e) If a position on the Board that becomes vacant was held by a person who was the Treasurer, the Board must not appoint a person to fill that vacancy on the Board unless that person is willing to act as Treasurer and in the Board's opinion has the necessary skills and experience to act as Treasurer.
- (f) The Board must not appoint a person to a position on the Board that has become vacant unless the Chief Executive has procured a Background Check of the person and the results of the Background Check indicate that the person is a fit and proper person to hold office as a Director of the Corporation.
- (g) There is no limit on how many times a person elected to the Board under clause 4.1(a)(2) may be re-elected.

4.2 Nomination of Directors

(a) Ex Officio Directors

- (1) A Region Commissioner shall be nominated by the Region Commissioners' Forum and, subject to clause 4.2(a)(6), the person so nominated shall be put to the Branch Council for election in accordance with clause 3.1(b)(4).
- (2) A Region Chair shall be nominated by the Region Chairs' Forum and, subject to clause 4.2(a)(6), the person so nominated shall be put to the Branch Council for election in accordance with clause 3.1(b)(4).
- (3) A Country Region Representative shall be nominated by the Region Commissioners' Forum and, subject to clause 4.2(a)(6), the person so nominated shall be put to the Branch Council for election in accordance with clause 3.1(b)(4).
- (4) A Young Adult shall be nominated by the Chief Commissioner and, subject to clause 4.2(a)(6), the person so nominated shall be put to the Branch Council for election in accordance with clause 3.1(b)(4).
- (5) A Deputy Chief Commissioner shall be nominated by the Chief Commissioner and, subject to clause 4.2(a)(6), the person so

nominated shall be put to the Branch Council for election in accordance with clause 3.1(b)(4).

- (6) Upon receipt of a nomination in clause 4.2(a), the Chief Executive must procure a Background Check of the candidate. A nomination of a candidate for election as a Director received in accordance with clause 4.2(a) will be treated as a valid nomination provided the results of the Background Check indicate that the candidate is a fit and proper person to hold office as a Director of the Corporation.

(b) **Non-Executive Directors**

- (1) This clause 4.2(b) applies only to Non-Executive Directors and does not apply to Ex Officio Directors.
- (2) Where there are vacancies on the Board due to the expiry of the term of a Director or by reason of clause 4.4, the Chief Executive must ensure that nominations are called for candidates for election as Directors not less than ninety (90) days before the date fixed for the holding of the Branch Council AGM, or such shorter period as approved by the Board from time to time.
- (3) Nominations of candidates for election as a Director must:
 - (A) be made in writing;
 - (B) be signed by two (2) Council Members and accompanied by the written consent of the candidate (which may be endorsed on the form of nomination) together with a statement of that candidate's relevant qualifications, experience and skills and state whether the candidate is additionally a candidate for the office of treasurer; and
 - (C) be delivered to the Chief Executive not less than sixty (60) days before the date fixed for the holding of the Branch Council AGM, or such shorter period as approved by the Board from time to time.
- (4) Upon receipt of a nomination, the Chief Executive must procure a Background Check of the candidate.
- (5) A nomination of a candidate for election as a Director received in accordance with clause 4.2(b)(3) will be treated as a valid nomination provided the results of the Background Check indicate that the candidate is a fit and proper person to hold office as a Director of the Corporation.

4.3 Term of office of Directors

- (a) Other than the Chief Commissioner who will remain a Director for the term of his or her office, an Ex Officio Director will remain a Director until the earliest of:
 - (1) three (3) years from the date of election or, if re-elected, three (3) years from the date of any such re-election (of which there may be more than one);
 - (2) the person ceasing to hold the relevant office; and
 - (3) the person ceasing to be a Director by operation of clause 4.4.
- (b) A Non-Executive Director will remain a Director until the earliest of:

- (1) three years (3) from the date of election or, if re-elected, three (3) years from the date of any such re-election (of which there may be more than one); and
- (2) the person ceasing to be a Director by operation of clause 4.4.

4.4 Cessation of office

- (a) A person will cease to be a Director:
 - (1) if the Director resigns his or her membership of the Board by notice in writing;
 - (2) if the Director dies;
 - (3) if the Director becomes of unsound mind or a person who is, or whose estate is, liable to be dealt with in any way under a law relating to mental health;
 - (4) if the Director becomes bankrupt, insolvent or makes any arrangement or composition with his or her creditors;
 - (5) if a Misconduct Event occurs in relation to the Director and the Board resolves to expel the Director in accordance with clause 4.5;
 - (6) if the Director breaches a term prescribed in the terms of membership for the Scout Movement that are applicable to the Director (if any) or in any undertaking given by the Director upon his or her admission to the Board; or
 - (7) if the Board resolves, by a majority of two-thirds of the full Board, that such Director will cease to be a Director.

4.5 Suspension and Expulsion

If:

- (a) a Misconduct Event occurs in relation to a Director, clause 2.3(b) and clause 2.3(c) apply; and
- (b) a Director fails to attend three (3) or more consecutive Board meetings without leave from the Board, which leave must not be unreasonably withheld, the Board may suspend or expel the Director from the Board.

4.6 Powers and duties of Directors

- (a) The Directors acting as the Board have the power and responsibility to manage the business of the Corporation and may exercise to the exclusion of the Branch Council all powers they consider necessary or desirable and the responsibility of the Corporation which are not required by the Act, the Royal Charter or this constitution to be exercised by a meeting of the Branch Council. The Branch Council is not empowered to direct the Board how it must exercise the powers conferred on the Board by this clause.
- (b) Each Director will:
 - (1) bring an independent judgement to bear on Board decisions;
 - (2) exercise their powers and discharge their duties with the degree of care and diligence of a reasonable person in their position;

- (3) act in good faith, in the best interests of the Corporation and to further its purposes;
- (4) not misuse their position, for example not use the position as a Director to gain an advantage for a Director or someone else or to the detriment of the Corporation;
- (5) not misuse information obtained in the performance of being a Director, for example, only use this information to further the Corporation's purposes in its interests and not for the benefit of the Director or someone else, nor for the detriment of the Corporation;
- (6) disclose perceived, potential or actual conflicts of interest in accordance with the policy and procedures established by the Board and not vote or participate in Board discussions if requested not to;
- (7) ensure the Corporation's financial affairs are managed responsibly by considering the systems and processes in place to ensure the finances are effectively applied for the purposes of the Corporation; and
- (8) not allow the Corporation to operate while insolvent and must adequately understand the finances and ensure there are sufficient resources to pay debts as and when they are due.

5 Board proceedings

5.1 Proceedings of the Board

- (a) The Directors may meet together for the despatch of business and adjourn and otherwise regulate their meetings as they think fit.
- (b) The contemporaneous linking together by telephone or other electronic means of a number of the Directors sufficient to constitute a quorum, constitutes a meeting of the Directors and all the provisions in this constitution relating to meetings of the Directors apply, so far as they can and with such changes as are necessary, to meetings of the Directors by telephone or other electronic means.
- (c) A Director participating in a meeting by telephone or other electronic means is to be taken to be present in person at the meeting.
- (d) A meeting may be held if it consists in part of Directors physically present at a place and in part of Directors in contact by telephone.
- (e) If a Director present at a Board meeting by telephone is present for part only of the meeting, continuance of the meeting is not thereby invalidated save that a decision of the Directors cannot be made if there is not a quorum by reason of the Director's absence at the time the decision is considered.

5.2 Convening of meetings of the Board

Subject to clause 5.3, a Director, may whenever the Director thinks fit, convene a meeting of the Board.

5.3 Notice of meetings of the Board

- (a) Subject to this constitution, notice of a meeting of the Board must be given to each person who is at the time of giving the notice:
 - (1) a Director, other than a Director on leave of absence approved by the Directors; or
 - (2) a Director, other than a Director who at the time of the notice cannot be contacted in an expeditious manner and in sufficient time, at a postal, email or facsimile address, or by a telephone number, notified to the Chief Executive.
- (b) A notice of a meeting of the Board:
 - (1) must specify the date, time and place of the meeting;
 - (2) need not state the nature of the business to be transacted at the meeting;
 - (3) must not be given less than seven (7) days before the meeting unless a matter of urgency exists in which case such notice as can be given in good faith must be given; and
 - (4) may be given in person or by post, or by telephone, facsimile or other electronic means.
- (c) A Director may waive notice of any meeting of the Board by notifying the Board to that effect in person or by post, or by telephone, facsimile or other electronic means.
- (d) The non-receipt of notice of a meeting of the Board by, or a failure to give notice of a meeting of the Board to, a Director does not invalidate any act, matter or thing done or decision made at the meeting if:
 - (1) the non-receipt or failure occurred by accident or error;
 - (2) before or after the meeting, the Director has waived or waives notice of that meeting under clause 5.3(c); or
 - (3) the Director attended the meeting.
- (e) A Director who attends a meeting of the Board:
 - (1) waives any objection that the person may have to a failure to give notice of the meeting, or the giving of defective notice, of the meeting unless the person at the beginning of the meeting objects to the holding of the meeting; and
 - (2) waives any objection that person may have to the consideration of a particular matter at the meeting which is not within the business referred to in the notice of the meeting, unless the person objects to considering the matter when it is presented.

5.4 Quorum at meetings of the Board

- (a) No business may be concluded at a meeting of the Board unless a quorum of Directors is present at the time the business is dealt with.
- (b) A quorum consists of seven (7) Directors.
- (c) If the number of Directors in office at any time is not sufficient to constitute a quorum at a meeting of the Board the remaining Director or Directors must act as soon as possible:

- (1) to increase the number of Directors to a number sufficient to constitute a quorum; or
- (2) to convene a Branch Council Special General Meeting for that purpose,

and, until that has happened, must only act if and to the extent that there is an emergency requiring them to act.

- (d) Notwithstanding clause 5.4(c), no person may be appointed as a Director unless the Chief Executive has procured a Background Check of the person and the results of the Background Check indicate that the person is a fit and proper person to hold office as a Director of the Corporation.

5.5 Chair of the Board

- (a) The Board shall elect one (1) of its Directors to the office of chair of the Board and one (1) other of its Directors to the office of deputy chair of the Board and may determine the period for which those Directors are to be chair and deputy chair of the Board. The Chief Commissioner is not eligible to hold the office of chair or deputy chair.
- (b) The chair of the Board must (if present within ten (10) minutes after the time appointed for the holding of the meeting and willing to act) preside as chair at each meeting of the Board.
- (c) If at a meeting of the Board:
 - (1) there is no chair of the Board;
 - (2) the chair of the Board is not present within ten (10) minutes after the time appointed for the holding of the meeting; or
 - (3) the chair of the Board is present within that time but is not willing to act as chair of the meeting,
 the deputy chair must preside as chair at the meeting.
- (d) Subject to clause 5.5(a) if:
 - (1) there is no deputy chair at that meeting; or
 - (2) the deputy chair is not present within ten (10) minutes after the time appointed for the holding of the meeting; or
 - (3) the deputy chair is present within that time but is not willing to act as chair of the meeting,
 the Directors present must elect one (1) of their number to be chair of the particular meeting.

5.6 Decisions of the Board

- (a) A meeting of the Board at which a quorum is present is competent to exercise all or any of the authorities, powers and discretions vested in or exercisable by the Board under this constitution.
- (b) Questions arising at a meeting of the Board are to be decided by a majority of votes cast by the Directors present and any such decision is for all purposes a determination of the Board.
- (c) In the case of an equality of votes upon any proposed decision:
 - (1) the chair of the meeting will not have a second or casting vote; and

- (2) the proposed decision is to be taken as having been lost.
- (d) No Director shall be permitted to vote by attorney or proxy.

5.7 Decisions made without a meeting

- (a) Where a Board meeting is not held, a decision is taken to have been made by a meeting of the Board if:
 - (1) not less than 75% of the Directors (other than any Director on approved leave of absence, any Director who disqualifies himself or herself from considering the proposed decision, and any Board member who the Board reasonably believes is not entitled at law to vote on the decision in question) consent to a decision; and
 - (2) the Directors who consent to the decision would have constituted a quorum at a meeting of the Board held to consider that decision.
- (b) A Director may consent to a decision by:
 - (1) signing a document on which the decision is set out; or
 - (2) notifying the Board of the Director's consent to the decision and either setting out its terms or otherwise clearly identifying those terms in person or by post, or by telephone, facsimile or other electronic means.

5.8 Committees and delegates

- (a) Subject to clause 5.8(d), the Board may delegate any of its powers to one or more committees consisting of the number of the Directors and other individuals they think fit.
- (b) A committee to which any powers have been so delegated must exercise the powers delegated in accordance with the by-laws and directions of the Board.
- (c) The provisions of this constitution applying to meetings and decisions of the Board apply, so far as they can and with such changes as are necessary, to meetings and decisions of a committee of the Board.
- (d) The Board must not appoint a person to a position on a committee nor delegate any of its powers to an individual unless the Chief Executive has procured a Background Check of the person and the results of the Background Check indicate that the person is a fit and proper person to hold membership of that committee.

5.9 Other delegations

- (a) Subject to clause 5.9(f), the Board may delegate any of its powers to a Director, an employee of the Corporation or any other person the Board determines.
- (b) A person to whom any powers have been so delegated must exercise the powers delegated in accordance with any directions given by the Board.
- (c) In the absence of an express restriction imposed by the Board and subject to clause 5.9(f), any delegate appointed pursuant to this clause 5.9 has a right of sub-delegation within its delegated powers.
- (d) Despite clause 5.9(b), the Directors remain responsible for the:
 - (1) exercise of the Directors' powers and duties;

- (2) discharge of Directors' responsibilities; and
- (3) actions and omissions of a delegate appointed under clause 5.9(a), provided they are within the terms of the delegation.
- (e) Any person to whom the Board has delegated its powers, other than a Director, is not eligible to be a Council Member, a Director or a member of a committee by reason only of that delegation.
- (f) The Board must not delegate any of its powers to a person, and no power of sub-delegation may be exercised in favour of a person, unless the Chief Executive has procured a Background Check of the person and the results of the Background Check indicate that the person is a fit and proper person to carry out the powers so delegated.

5.10 Validity of acts

An act done by a person acting as a Director or by a meeting of Directors or a committee under clause 5.8(a), is not invalidated by reason only of:

- (a) a defect in the appointment of the person as an Director;
- (b) the person having vacated office; or
- (c) the person not being entitled to vote.

5.11 Reliance

A Director may rely on information, in good faith, when making decisions if:

- (a) the Director makes an independent assessment of the information;
- (b) the information is given by:
 - (1) an employee that the Director believes on reasonable grounds to be reliable and competent in relation to the matters concerned;
 - (2) a professional adviser or expert on matters the Director believes on reasonable grounds to be within their competence; or
 - (3) another Director or committee in relation to matters within their authority or area of responsibility.

5.12 Consultants and advisers

The Board may, from time to time, appoint consultants or advisers to the Corporation on such terms and conditions as it sees fit and may at any time revoke any such appointment.

5.13 Other appointments

The Board may appoint or employ any person to be an officer, secretary, clerk, agent or attorney of the Corporation (whether temporary or permanent) for such purposes with such powers, discretions and duties for such period and upon such conditions (including remuneration) as the Board thinks fit and, subject to the terms of contract with such person or to law, may remove or dismiss them at any time, with or without cause.

6 National Executive Committee

The National Executive Committee, on giving reasonable notice to the President of the Branch Council or the chair of the Board (as the case may be), shall have the right to send a representative to attend any meeting of the Branch Council or a meeting of the Board and such representative shall be entitled to raise any matter at such a meeting at a point in the agenda chosen by the chair of the meeting, but he or she will not have the right to vote on any issue raised at such meetings.

7 Officers

7.1 Commissioners

- (a) The Board shall determine a process for the selection of a chief commissioner (**Chief Commissioner**) and, upon that position becoming vacant, and following the completion of such process, shall recommend a candidate for appointment by the Chief Scout of Australia.
- (b) The Chief Commissioner will be responsible to, and removable by, the Board but without prejudice to any remedies which the Chief Commissioner may have under any contract or arrangement to which he or she is a party.
- (c) If the position of Chief Commissioner becomes vacant for any reason, the Board will appoint a person who in the Board's opinion, having obtained a satisfactory Background Check of that person, is a suitable person to act as Chief Commissioner until such time as a new Chief Commissioner is appointed in accordance with clause 7.1(a).

7.2 Chief Executive

- (a) The Board shall determine a process for the selection of a chief executive (**Chief Executive**) and, upon that position becoming vacant, and following the completion of such process, shall appoint a candidate as Chief Executive for such period and on such conditions or contract as the Board may determine.
- (b) The Chief Executive shall be directly responsible to, and removable by, the Board in its absolute discretion but without prejudice to any remedies which the Chief Executive may have under any contract to which he or she is party.
- (c) The Chief Executive shall perform all such duties as may be required by the Chief Commissioner and the Board.

7.3 The Treasurer

The Treasurer shall be responsible for the management of the finances and accounts of the Corporation under the direction of the Board and shall report on such matters to the Board as it requires. He or she shall superintend the ordinary management of the receipts and expenditure of the Corporation carried out by the Chief Executive. The Treasurer shall submit at the Branch Council AGM a statement of accounts approved by the Board and duly audited by the Auditor(s).

8 Auditors and accounts

- (a) The Board shall appoint a registered auditor or company of registered auditors to be the auditor(s) of the Corporation (the **Auditor**).
- (b) The financial statements and accounts of the Corporation shall be prepared in accordance with the appropriate accounting standards, as amended from time to time.

9 Life Councillors

- (a) The Branch Council may confer membership of the Branch Council for life upon a Council Member or a former Council Member who has given long and distinguished service to the Scout Movement in New South Wales. Such a member shall be known as a Life Councillor.
- (b) There shall be no more than twenty (20) Life Councillors at any one time.
- (c) The Board shall determine a process for the nomination of any proposed appointment under this clause 9.
- (d) No person shall be appointed a Life Councillor except by decision of two-thirds of the Council Members present at the Branch Council AGM at which the proposed appointment shall have been considered, and then only on the recommendation of the Board.
- (e) Notice of any proposed appointment under this clause 9 shall be given by the Chief Executive in the notice of the Branch Council AGM.
- (f) A certificate in such form and in such terms as may be approved by the Board shall be presented by the Chief Scout, the President or by some person nominated by the President on its behalf to any person appointed as a Life Councillor.
- (g) A person will cease to be a Life Councillor if the Life Councillor ceases to be a Council Member under clause 2.2.

10 Region Councils

- (a) The Board may, as deemed necessary and as it sees fit, constitute Region Councils.
- (b) Each Region Council so constituted shall be under the control of and responsible to the Board and shall be subject to such by-laws as may be prescribed by the Board from time to time pursuant to clause 12.

11 Districts

- (a) The Board may, as deemed necessary and as it sees fit, constitute Districts.

- (b) Each District so constituted shall be under the control of and responsible to the Board and shall be subject to such by-laws as may be prescribed by the Board from time to time pursuant to clause 12.
- (c) If a District is constituted within a Region where a Region Council has been constituted in accordance with clause 10, the District shall be under the control of and responsible to the Board, through the appropriate Region Council.

12 By-laws

- (a) The Board may from time to time, enact certain by-laws pursuant to this clause 12, which the Board considers necessary or convenient for carrying out the purposes and powers of the Corporation and may amend or rescind any such by-law.
- (b) Any such by-laws so enacted must be consistent with the terms of this constitution, the Act and the Royal Charter.
- (c) Any by-laws in force immediately before the adoption of this constitution shall, provided they are consistent with the provision of this constitution, continue in force until they are amended or rescinded pursuant to clause 12(a).

13 Property

All real and personal property in New South Wales held by the National Association on behalf of the Corporation or received for the benefit of or on behalf of the Corporation or any Formation of the Corporation shall by virtue of the Act, vest in the Corporation and shall otherwise be dealt with by the Board or persons authorised on behalf of the Board to so act, in accordance with the provisions of the Act and any by-laws of the Board enacted pursuant to clause 12 and legal title shall be held in such manner as the Board decides and the Board shall have full powers and discretion to sell, dispose of or convert same subject to the provisions of the Act.

14 Indemnity and insurance

14.1 Persons to whom this clause applies

This clause 14 applies:

- (a) to each person who is or has been a Director of the Corporation; and
- (b) to such other officers or former officers of the Corporation as the Directors in each case determine,

(each an **Officer** for the purposes of this clause).

14.2 Indemnity

Subject to clause 14.3, the Corporation must indemnify each Officer on a full indemnity basis and to the full extent permitted by law against all losses, liabilities, costs, charges

and expenses (**Liabilities**) incurred by the Officer as an officer of the Corporation as a result of Proceedings.

14.3 Limit on indemnity

- (a) The indemnity in clause 14.2 does not operate in relation to any Liability which:
 - (1) is a Liability to the Corporation; or
 - (2) arises out of conduct of the Officer which was not in good faith, or which involves wilful misconduct, gross negligence, reckless misbehaviour or fraud,

provided that this clause 14.3(a) does not apply to a Liability for legal costs.
- (b) The indemnity in clause 14.2 does not operate in relation to legal costs incurred by the Officer in defending Proceedings for a Liability if the costs are incurred:
 - (1) in defending or resisting Proceedings in which the Officer is found to have a Liability referred to in clause 14.3(a);
 - (2) in defending or resisting criminal Proceedings in which the Officer is found guilty;
 - (3) in defending or resisting proceedings brought by any government regulatory body or a liquidator for a court order if the grounds for making the order are found by the court to have been established. For the avoidance of doubt, this includes costs incurred in responding to actions taken by a regulator or a liquidator as part of an investigation before commencing proceedings for any tribunal, mediation or court order;
 - (4) in connection with proceedings for relief of the Officer on application to a court in respect of which the court denies the relief; or
 - (5) to the extent the Board determines the legal costs were not reasonable or were not reasonably incurred.
- (c) If there is any appeal in relation to any Proceedings referred to in clause 14.3(b), it is the outcome of the final appeal that is relevant for the purposes of clause 14.3(b).
- (d) The indemnity in clause 14.2:
 - (1) does not extend to, and is not an indemnity against, any amount in respect of which the indemnity would otherwise be illegal, void, unenforceable or not permitted by law; and
 - (2) does not operate in respect of any Liability of the Officer to the extent that Liability is covered by insurance.

14.4 Extent of indemnity

The indemnity in clause 14.2:

- (a) is enforceable without the Officer having first to incur any expense or make any payment but the Officer must repay any amount which is later found not to have the benefit of such indemnity;
- (b) is a continuing obligation and is enforceable by the Officer if the liability is claimed to have arisen in respect of conduct of the Officer while an officer even though the Officer may have ceased to be an officer of the Corporation; and
- (c) applies to Liabilities incurred both before and after the date of this constitution.

14.5 Insurance

The Corporation shall, to the extent permitted by law:

- (a) purchase and maintain direct insurance or insurance to reimburse the Corporation in respect of its payment for any Liabilities under the indemnities it grants under clause 14; or
- (b) pay or agree to pay a premium for insurance,

for each Officer against any Liability incurred by the Officer as an officer of the Corporation including, but not limited to, a liability for negligence or for reasonable costs and expenses incurred in defending Proceedings, whether civil or criminal and whatever their outcome and the insured Officer does not have to pay any part of the insurance premium.

14.6 Savings

Nothing in clause 14.2 or clause 14.5:

- (a) affects any other right or remedy that a person to whom those clauses apply may have in respect of any Liability referred to in those clauses; or
- (b) limits the capacity of the Corporation to indemnify or provide or pay for insurance for any person to whom those clauses do not apply.

14.7 Deed

The Corporation may enter into a deed with an Officer to give effect to the rights conferred by this rule 14 or the exercise of a discretion under this rule 14 on such terms as the Board thinks fit which are not inconsistent with this rule 14.

14.8 Other advice

The Board may in its absolute discretion agree to fund, from the funds of the Corporation, the provision of legal advice to an Officer on terms and conditions imposed by the Board in relation to a matter incurred by the Officer as an officer of the Corporation and where Proceedings have not commenced. The Board may itself obtain legal advice on whether to fund such a matter.

15 Minutes and records

15.1 Minutes of meetings

The Directors must ensure minutes of proceedings and resolutions of Branch Council meetings and of meetings of the Board (including committees of the Board) are recorded within one (1) month after the relevant meeting is held.

15.2 Records of decisions made without a meeting

The Directors must ensure that the record of decisions made by the Board (and committees of the Board) without a meeting are recorded in books kept for the purpose within one (1) month after the decision is made.

15.3 Signing of minutes and records

- (a) The minutes of a meeting must be signed within a reasonable time by the chair of the meeting or by the chair of the next meeting.
- (b) A record of decision made without a meeting must be signed by the chair within a reasonable time after the final document recording that decision is tabled at a Board meeting.

15.4 Minutes as evidence

A minute or record that is recorded and signed under clauses 15.1, 15.2 and 15.3 is evidence of the proceeding or decision to which it relates unless the contrary is proved.

15.5 Inspection of records

- (a) The Directors must ensure the minute books for Branch Council meetings are open for inspection by Council Members free of charge.
- (b) Subject to clause 15.5(a), the Board may determine whether and to what extent, and at what time and places and under what conditions, the minute books, financial records and other documents of the Corporation or any of them will be open to the inspection of Council Members.
- (c) A Council Member has no right to inspect any records of the Corporation except the minutes of Branch Council meetings (including documents tabled at Branch Council meetings).

16 Execution of documents

16.1 Manner of execution

The Corporation may execute a document if it is signed by:

- (a) any person authorised by the Board for that purpose. For avoidance of doubt the Board's authorisation may be a specific authorisation for a particular document or a general authorisation for a specified class of documents; or
- (b) two (2) Directors.

16.2 Seals

- (a) The Corporation may have a common seal. If the Corporation has a common seal, clauses 16.3 to 16.5 will apply.
- (b) The Corporation may have for use in place of its common seal outside the state or territory where its common seal is kept one (1) or more duplicate seals, each of which must be a facsimile of the common seal of the Corporation with the addition on its face of the words "duplicate seal" and the name of the place where it is to be used.
- (c) A document sealed with a duplicate seal is to be taken as having been sealed with the common seal of the Corporation.

16.3 Safe custody of Seal

The Directors must provide for the safe custody of its Seals.

16.4 Use of seal

- (a) Seals must be used only by the authority of a decision of the Board.
- (b) Every document to which a Seal is fixed must be signed by three (3) Directors.

16.5 Seal register

- (a) The Corporation may keep a Seal register. If the Corporation does keep a Seal register the Corporation must enter in the register particulars of any document on which a Seal is fixed, giving in each case:
 - (1) the date of the document;
 - (2) the names of the parties to the document;
 - (3) a short description of the document; and
 - (4) the names of the persons signing the document under clause 16.4(b).
- (b) The Seal register must be produced at meetings of the Board for confirmation of the use of a Seal since confirmation was last given under this clause 16.5.
- (c) Failure to comply with clause 16.5(a) or (b) does not invalidate any document to which a Seal is properly fixed.

17 Alteration of constitution

- (a) The constitution of the Corporation may only be altered or amended by a vote in favour of that alteration or amendment by three-quarters of the Council Members at any meeting of the Branch Council duly convened pursuant to this constitution.
- (b) The Corporation must not pass a resolution altering or amending the constitution if, as a result, the Corporation will cease to be a charity.
- (c) Without limiting clause 3.2, notice of the meeting of the Branch Council at which the amendment is to be considered must set out the terms of the alteration or amendment proposed together with an explanatory note about the proposed alteration and amendments and the recommendation of the Board.
- (d) Notice, together with the text, of any proposed alteration or amendment to the constitution, must be sent to the Chief Executive not later than two (2) months prior to the date on which the proposed alteration or amendment of the constitution is proposed to be put before the Branch Council for approval at a Branch Council meeting duly convened.
- (e) The Chief Executive must send a copy of the notice and text referred to in clause 17(d) within seven (7) days of receiving them to the National Chief Executive for the information of the National Council and the National Executive Committee.

18 Notices

18.1 Notices by the Branch Council to Council Members

- (a) Subject to clause 18.2, a notice may be given by the President, or by the Chief Executive on the instructions of the President, to a Council Member:
 - (1) by serving it personally at, or by sending it by post in a prepaid envelope to, the Council Member's address as communicated to the Chief Executive, or by sending it to the facsimile number or electronic address, or such other address the Council Member has supplied to the Chief Executive for the giving of notices; or
 - (2) if the Council Member does not have a registered address and has not supplied another address to the Branch Council for the giving of notices, by exhibiting it at the Corporation Headquarters.
- (b) The fact that a person has supplied a facsimile number or electronic address for the giving of notices does not require the Branch Council or the Board to give any notice to that person by facsimile or electronic means.
- (c) A signature to any notice given to a Council Member under this clause 18.1 or by the Board to a Director under clause 18.2 may be in writing or a facsimile printed or affixed by some mechanical or other means.
- (d) A certificate signed by a Director to the effect that a notice has been given in accordance with this constitution is conclusive evidence of that fact.

18.2 Notices by the Corporation to Directors

Subject to this constitution, a notice may be given by the Board to any Director either by serving it personally at, or by sending it by post in a prepaid envelope to, the Director's usual residential or business address, or by sending it to the facsimile number or electronic address, or such other address as the Director has supplied to the Board for the giving of notices.

18.3 Notices by Council Members or Directors to the Branch Council or Board

Subject to this constitution, a notice may be given by a Council Member or a Director to the Branch Council or Board (as the case may be) by serving it on the Branch Council or Board (as the case may be) at, or by sending it by post in a prepaid envelope to, the Corporation Headquarters or by sending it to the principal facsimile number or principal electronic address of the Branch Council or Board (as the case may be) at Corporation Headquarters.

18.4 Notices posted to addresses outside the Commonwealth

A notice sent by post to an address outside the Commonwealth must be sent by airmail or by facsimile or email to an address notified to the President or the Chief Executive.

18.5 Time of service

- (a) Where a notice is sent by post, service of the notice is to be taken to be effected if a prepaid envelope containing the notice is properly addressed and placed in the post and to have been effected:

- (1) in the case of a notice of a Branch Council AGM or Branch Council Special General Meeting, on the second day after the date of its posting; or
- (2) in any other case, at the time at which the letter would be delivered in the ordinary course of post.
- (b) Where a notice is sent by facsimile or electronic means service of the notice is to be taken to be effected on the day after the date it is sent.
- (c) Where the Branch Council gives a notice under clause 18.1(a)(2) by exhibiting it at the Corporation Headquarters, service of the notice is to be taken to be effected when the notice was first so exhibited.

18.6 Other communications and documents

Clauses 18.1 to 18.5 (inclusive) apply, so far as they can and with such changes as are necessary, to the service of any communication or document.

18.7 Notices in writing

A reference in this constitution to a notice in writing includes a notice given by facsimile or electronic means.

19 General

19.1 Submission to jurisdiction

Each member of the Branch Council and each Director by his or her acceptance of the position shall be deemed to submit to the non-exclusive jurisdiction of the Courts of New South Wales.

19.2 Prohibition and enforceability

- (a) Any provision of, or the application of any provision of, this constitution which is prohibited in any place is, in that place, ineffective only to the extent of that prohibition.
- (b) Any provision of, or the application of any provision of, this constitution which is void, illegal or unenforceable in any place does not affect the validity, legality or enforceability of that provision in any other place or of the remaining provisions in that or any other place.

20 Deductible Gift Recipient status

20.1 Application of this clause

This clause only applies if the Corporation is a deductible gift recipient under ITAA97.

20.2 Establishment of Public Fund

- (a) There is established a public fund to be known as The Scout Association of Australia New South Wales Branch Public Fund (**Public Fund**) for the purpose of receiving Gifts and Deductible Contributions to the Corporation for the furtherance of the Corporation's purposes as set out in clause 1.5(a).
- (b) The Corporation must establish a bank account in the name of the Public Fund into which all Gifts and Deductible Contributions of money and money earned from the Gifts and Deductible Contributions must be deposited (**Public Fund Bank Account**). No other money is to be deposited into the Public Fund Bank Account.
- (c) The Corporation must invite the public to make Gifts and Deductible Contributions to the Public Fund.
- (d) The Public Fund must be operated in accordance with this clause 20.

20.3 Use of Public Fund

The Corporation must ensure that:

- (a) the Public Fund does not contain any property other than the Gifts and Deductible Contributions and all money (including interest) derived from money or property in the Public Fund; and
- (b) the Public Fund is only used in furtherance of the Corporation's purposes as set out in clause 1.5(a).

20.4 Winding up or ceasing to be a deductible gift recipient

- (a) At the first occurrence of:
 - (1) the winding up of the Corporation; or
 - (2) the Corporation ceasing to be a deductible gift recipient under the ITAA 97,
 any surplus assets of the Public Fund must be transferred to a fund, authority or institution:
 - (3) which is charitable at law; and
 - (4) Gifts to which can be deducted under Division 30 of the ITAA 97.
- (b) Unless the identity of the fund, authority or institution referred to in clause 20.4(a) is specified in applicable legislation that provides for the winding up or dissolution of the Corporation, it must be decided by the Directors, or if the Directors do not wish to decide or do not decide, it must be decided by the Branch Council and, if the Branch Council cannot decide, by the Supreme Court of New South Wales.

20.5 Receipts

Receipts for Gifts and Deductible Contributions of money or property to the Public Fund must:

- (a) be issued in the name of the Public Fund; and
- (b) state the information required in the applicable provisions of section 30-228 of the ITAA 97.

20.6 Notifying the ATO

The Corporation must notify the Commissioner, as soon as practicable, of:

- (a) any changes to the purposes or the constitution or the Public Fund; and
- (b) any change to the name of the Corporation or the Public Fund.

20.7 Public Fund administration

- (a) The Public Fund must be administered by the Board. If there is not a majority of the Directors who are Responsible Persons, the Board may delegate the power to administer the Public Fund to a committee of at least 3 people, the majority of whom are Responsible Persons.
- (b) If at any time the requirement in clause 20.7(a) is not met, the subcommittee must not exercise any discretion or power until the requirement is met, except:
 - (1) to protect the Public Fund; or
 - (2) in the case of urgency.
- (c) The Board may specify:
 - (1) the manner in which the committee's proceedings are to be conducted;
 - (2) the matters which the committee must have regard to in carrying out its functions; and
 - (3) any other matters concerning the committee or its functions that the Board decides.

20.8 Records and financial statements

- (a) The Corporation must keep and maintain proper books of account and records (which are written up in accordance with generally accepted accounting standards and principles consistently applied) relating to all receipts and outgoings for the Public Fund.
- (b) For each Financial Year, the Corporation must have financial statements (including a profit and loss account and balance sheet) prepared by a suitably qualified person (in accordance with generally accepted accounting standards and principles consistently applied) which detail the affairs of the Public Fund for that Financial Year.

Annexure A – Act of Incorporation

THE "SCOUT ASSOCIATION OF AUSTRALIA" (NEW SOUTH WALES BRANCH) INCORPORATION ACT 1928. NEW SOUTH WALES

Constitution

ANNO UNDEVICESIMO

GEORGII V REGIS

Act No.26, 1928, as amended by Act No.45, 1968 and Act No.148, 1986

An Act to incorporate the Executive Committee of the Boy Scouts Association, New South Wales Branch; to confer and impose upon that body certain powers, duties, rights and liabilities; to vest in it the property of the said Association in New South Wales; and for purposes connected therewith. [Assented to, 12th October, 1928.]

Be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same as follows: -

Short title

1. This Act may be cited as the "Scout Association of Australia (New South Wales Branch) Incorporation Act 1928"

Interpretation

2. In this Act, unless the context or subject-matter otherwise requires, -
"The Association" means -
 - (a) the Boy Scouts Association incorporated in the United Kingdom by Royal Charter dated 4 January 1912; or
 - (b) from the commencement of the Boy Scouts Association (Amendment) Act 1986 - The Scout Association of Australia (previously styled The Australian Boy Scouts Association) incorporated by Royal Charter dated 17 October 1967.
"The Branch" means "The Corporation."
"The Constitution" means the instrument, as amended and in force from time to time, by which powers are delegated by the Association to the Branch.

"The Corporation" means the body incorporated by this Act.

Incorporation

3. The Honourable Sir William Portus Cullen, K.C.M.G., L.L.D., Lieutenant Governor of New South Wales; The Right Honourable Sir Adrian Knox, P.C., K.C.M.G., Chief Justice of Australia; The Honourable Sir Philip Whistler Street, K.C.M.G., Chief Justice of the State of New South Wales; Sir Hugh Robert Denison, K.B.E., company director; John McLean Arnott, C.M.G., manufacturer; John Smith Purdy, D.S.O., doctor of medicine; William Archibald Windeyer, M.B.E., solicitor and notary public; Kelso King, manager; Ernest Trenchard Miller, importer; Benjamin Richard Gelling, accountant; George Montague Merivale, accountant; Walter Linton, solicitor; Robert Knight Allport, importer; Ernest Gladstone Blanshard, accountant; Henry Campbell Budge, civil servant; Robert Vicars, manufacturer; Kenneth MacKenzie, accountant; Alfred Spain, architect; Alfred Fletcher Twine, civil servant; Henry Robert Lee, secretary; Fred Danvers Power, mining engineer; and Colin Doust, engineer; (or other members from time to time of the executive committee of the said branch) are hereby incorporated under the name of "The Boy Scouts Association, New South Wales Branch."

Name

4. The Corporation constituted by this Act shall be known as "The Boy Scouts Association,

New South Wales Branch" and by that name shall have perpetual succession, and a common seal, and may sue and be sued or otherwise appear and answer and be answered or proceed, or be proceeded against in all courts.

Change of name of Corporation

- 4A. (1) As from the commencement of the Boy Scouts Association - New South Wales Branch Incorporation (Amendment) Act, 1968 -
- (a) the name of the Corporation constituted by section three of this Act shall be "The Australian Boy Scouts Association, New South Wales Branch";
 - (b) a reference in this or any other Act or by-law, regulation, ordinance or any other instrument or document whatsoever, of the same or a different kind or nature, to The Boy Scouts Association, New South Wales Branch shall be read and construed as a reference to The Australian Boy Scouts Association, New South Wales Branch.
- (2) Nothing contained in the Boy Scouts Association - New South Wales Branch Incorporation (Amendment) Act, 1968, shall prejudice or affect in any way the continuity of the Corporation but the same shall continue notwithstanding the provisions of the said Act.
- (3) The alteration of name effected by subsection one of this section shall not affect any property, powers, rights, authorities, duties, functions, liabilities or obligations of the Corporation, or render defective any legal or other proceedings instituted by or against the said Corporation. Any legal or other proceedings may be continued or commenced by or against the Corporation by the name of The Australian Boy Scouts Association, New South Wales Branch, that might have been continued or commenced by or against the Corporation by the name of The Boy Scouts Association, New South Wales Branch.
- 4B. (1) From the commencement of the Boy Scouts Association (Amendment) Act 1986, the name of the Corporation shall be The Scout Association of Australia, New South Wales Branch.
- (2) From that commencement, a reference in any other Act or statutory instrument, or in any other instrument, or in any contract or agreement to the Corporation under either of its former names shall be read as a reference to The Scout Association of Australia, New South Wales Branch.
 - (3) The Corporation's former names are The Boy Scouts Association, New South Wales Branch, and The Australian Boy Scouts Association, New South Wales Branch.
 - (4) The Scout Association of Australia, New South Wales Branch, is a continuation of, and the same legal entity as, The Boy Scouts Association, New South Wales Branch, and The Australian Boy Scouts Association, New South Wales Branch.

Powers

5. The Corporation shall control the Scout Movement in New South Wales and shall have power to do all things deemed necessary or requisite for providing and maintaining an efficient organisation for the purposes of the Association in New South Wales including without restricting the generality of this provision the performance and exercise of all such duties or powers as may be delegated to it by the Association under the provisions of the Royal Charter.

Unauthorised use of name

6. Any person who without authority of the Corporation uses the name "Boy Scouts Association, Australian Boy Scouts Association, Scout Association of Australia, Boy Scout, Scout, Cub Scout, Venturer Scout or Rover Scout" or the name of any local branch of the Association or any name implying that any other society or body is the Association or a branch of the Association or falsely pretends that he is connected with the Association shall be liable to a penalty not exceeding \$200.

Use of Uniforms: Unauthorised sale, supply, or distribution of emblems or badges

7. (1) Any person who, except with the authority of the Corporation -
- (a) wears or uses any uniform, emblem, badge, decoration, descriptive or designating mark or title used either before or after the commencement of this Act by the Association or any branch of the Association for carrying out the purposes of the Association in such manner as to suggest that the wearer or user is authorised by the Association or such branch or is connected with the operations thereof; or
 - (b) sells, supplies or distributes any such emblem or badge, shall be liable to a penalty not exceeding \$200.
- (2) Subsection one of this section shall not extend to the sale, supply or distribution of any part of a Scout's equipment other than an emblem or badge.

Property vested in the Corporation

8. (1) All real and personal property in New South Wales which is now vested in or held by or which may hereafter at any time be given, devised, or bequeathed to any person in trust for or on behalf of or for the benefit of the Association or any Branch, Area Council, District Association, Group, Section or Committee in New South Wales shall by virtue of this Act vest in the Corporation subject to the conditions or trusts upon which it is now held, or may hereafter be given, devised, or bequeathed; and all other persons are hereby divested of all such property of which they are seised or possessed.
- (2) Property vested in, held by or on behalf of, or given, devised or bequeathed to, any Sponsored Group, Section or Committee shall, subject to any express trust affecting the property, be held by the Corporation in trust for such purposes and be disposed of in such manner as the Sponsoring Authority may from time to time direct in writing.
- (3) The Sponsoring Authority is the Sponsoring Authority of the relevant Group, Section or Committee, as defined in the document published by the Association and styled the Policy Organisation and Rules of the Association.
- (4) All rights accrued or accruing to any person in New South Wales on behalf of the Association are hereby vested in and may be enforced by and all liabilities of the Association in New South Wales or any person in New South Wales on behalf of the Association may be enforced against the said Corporation.

The Corporation capable of holding and disposing of property

9. The said corporation shall be capable in law of taking, purchasing, and holding to it and its successors land and other real estate, chattels real, and chattel and other personal

property, and of selling, mortgaging, demising, or otherwise disposing thereof, and shall have power to do or suffer all things which a body corporate may lawfully do or suffer.

Mode of dealing with property

10. (1) The Corporation shall deal with or dispose of the real and personal property of the Corporation, subject to any express trust affecting the property, in such manner as the Executive Committee appointed under the Constitution thinks fit.
- (2) A proposed mortgage or sale of real property shall be submitted to an ordinary meeting of the Executive Committee.
- (3) Notice of that meeting shall specially mention the proposal.
- (4) If the proposal is approved by resolution passed by a majority comprising not less than two-thirds of the members present when the motion is put, the Executive Committee may give effect to the proposal.
- (5) A copy of the resolution, sealed by the Corporation, is conclusive evidence in favour of a person claiming by, through or under the mortgage or sale that the resolution was duly passed in compliance with this Act and the Constitution.
- (6) A purchaser or mortgagor is not bound to see to the application of money paid or advanced.

Powers and duties as aid granted

11. The Corporation shall receive all gifts, grants of money or contributions made by the Government of New South Wales or by any municipality, incorporated body, society or person to the Association or the Branch, and shall apply the same in accordance with the terms, provisions and conditions of such gifts, grants or contributions; or if there be none such, or on such terms, provisions or conditions becoming impossible of performance, then in accordance with the objects of the Association.

Documents to be lodged with Corporate Affairs Commission

12. (1) Within 1 month after the commencement of the Boy Scouts Association (Amendment) Act 1986, the Corporation shall lodge with the Corporate Affairs Commission -
 - (a) a copy, sealed by the Corporation, of the Royal Charter, dated 17th October 1967 incorporating the Association;
 - (b) a copy, sealed by the Corporation, of any by-laws made under that Royal Charter;
 - (c) a copy, sealed by the Corporation, of the Constitution; and
 - (d) a notice in a form approved by the Commission of the address of the office of the Corporation.
- (2) The Corporation shall also lodge with the Corporate Affairs Commission-
 - (a) a copy, sealed by the Corporation, of any Royal Charter which subsequently affects the Association;
 - (b) a copy, sealed by the Corporation, of any instrument which subsequently changes the Constitution; and
 - (c) a notice in a form approved by the Commission of any change in address of the office of the Corporation, within 1 month after the Royal Charter or instrument becomes available to the Corporation or the change occurs.

Constitution

- (3) Documents shall be lodged in the form and manner, and be accompanied by the fee, required by the Commission.
- (4) A copy of a document lodged with the Commission under this section and certified by the Commission to be a true copy is evidence (except of the address of the Corporation) in any proceedings, in the absence of evidence to the contrary, of the contents of the original of the document.

Penalty: \$100.

Common seal

- 13. It shall be lawful for the Executive Committee to design at any time and to change or alter the common seal of the Corporation; such seal shall be in the custody of the Chief Executive and shall not be affixed to any document except pursuant to a resolution of the Executive Committee.

The fixing of the said common seal to any document shall not be complete without the signature of three members of the Executive Committee:

Providing that it shall not be necessary to require such seal to be affixed as evidence of the appointment by the said Corporation of any attorney, solicitor, or proctor in or for the prosecution or defence of any action, suit or other proceeding.

Service on or notice to the Corporation

- 14. (1) A document may be served on the Corporation -
 - (a) by delivering a copy of the document personally to the Chief Executive or acting Chief Executive; or
 - (b) by leaving it at, or by sending it by post to, the office of the Corporation.
- (2) For that purpose, the address of the office of the Corporation shall be deemed to be the address most recently notified to the Corporate Affairs Commission under section 12.
- (3) A certificate of the Commission as to the address most recently notified is in any proceedings conclusive evidence of the address of the Corporation.
- (4) Notice given to the Chief Executive or acting Chief Executive of the Corporation shall be deemed to have been given to the Corporation.

Proceedings for offences

- 15. Proceedings for an offence against this Act may be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

Savings and transitional provisions

- 16. Schedule 1 has effect.

SCHEDULE 1

(Sec. 16)

SAVINGS AND TRANSITIONAL PROVISIONS

Boy Scouts Association (Amendment) Act 1986

Gifts, etc, of property

Constitution

1. After the commencement of the Boy Scouts Association (Amendment) Act 1986, a reference to a troop or pack in a gift, devise or bequest to, or to any person for or on behalf of, the troop or pack shall be read as a reference to a group or section specified by the Corporation for the purpose.

Prior lodgement of documents with C.A.C.

2. A copy of a document lodged by the Corporation with the Corporate Affairs Commission before the commencement of the Boy Scouts Association (Amendment) Act 1986 shall be deemed to have been lodged under section 12.