



AMALGAMATION OF AUSTRALIAN HOTELS ASSOCIATION AND ACCOMMODATION ASSOCIATION OF AUSTRALIA

SCHEME OF AMALGAMATION

1. PARTIES TO THE AMALGAMATION

The parties to the amalgamation are the:

- (i) Australian Hotels Association, of 27 Murray Crescent, Griffiths, Australian Capital Territory 2603, an organisation of employers registered under the *Fair Work (Registered Organisations) Act 2009* (Cth) ("AHA"); and
- (ii) Accommodation Association of Australia, of Level 26, 44 Market Street, Sydney NSW 2000, also an organisation of employers registered under the said Act ("AAA").

(A reference to "the parties" hereafter is a reference to AHA and AAA.)

2. NATURE OF THE AMALGAMATION

- (i) The proposed amalgamation is intended to be a merger of AHA and AAA, pursuant to Part 2 in Chapter 3 of the *Fair Work (Registered Organisations) Act 2009* (Cth) such that they become upon completion of the amalgamation one amalgamated organisation under that Act ("the RO Act")
- (ii) To facilitate that intention in as simple a manner as is possible AHA is proposed by the parties to be the amalgamated organisation and AAA is proposed to be the deregistered organisation. This arrangement is proposed by the parties for convenience, rather than utilising the alternative of forming a new association and deregistering both AHA and AAA.
- (iii) The parties recognise and accept that the ultimate outcome of this amalgamation process (if approved by the members) will be that AHA and AAA are replaced by one registered organisation of employers, which will be the Amalgamated Organisation.

3. PROPOSED NAME FOR THE AMALGAMATED ORGANISATION

The name of the proposed Amalgamated Organisation will be "Australian Hotels Association".

4. PROPOSED ELIGIBILITY RULE OF THE AMALGAMATED ORGANISATION

The parties agree that the eligibility rule of the proposed Amalgamated Organisation will combine their respective eligibility rules as at the Amalgamation Day, so that the membership coverage of the Amalgamated Organisation will be the same as the previous separate coverage of the parties.

(i) *The current eligibility rule of AHA (Rule 5) provides as follows:-*

- “(1) Any person, partnership or corporation who employs or usually employs labour in any State or Territory of the Commonwealth of Australia shall be eligible for membership of the Association provided that the labour is employed in establishments in respect of which any of the following licences have been granted:
- (a) A publican's victuallers, public house, hotel, tavern, bar or general licence issued under the Licensing Legislation; or
 - (b) In the State of South Australia any licence which has been granted pursuant to the Licensing Legislation; or
 - (c) In the State of New South Wales any licence, other than a club licence, issued under the Licensing Legislation; or
 - (ca) In the Australian Capital Territory any licence, other than a club licence, issued under the Licensing Legislation; or
 - (d) In the State of Victoria any licence, other than a club licence, issued under the Licensing Legislation; or
 - (e) In the State of Queensland any licence, other than a club licence, which has been granted pursuant to the Licensing Legislation; or
 - (f) In the State of Western Australia any licence issued under the Licensing Legislation; or
 - (g) In the Northern Territory any licence issued under the Licensing Legislation; or
 - (h) In any other Territory of the Commonwealth of Australia, any licence, other than a club licence, issued under the Licensing Legislation.
- (1A) Where a partnership applies for membership each member of that partnership shall apply.
- (2) Any person, partnership or corporation who or which employs or usually employs labour in the State of Tasmania shall be eligible for membership of the Association provided that:
- (i) the labour is employed in an establishment in respect of which a licence, other than a club licence, has been issued under the Licensing Legislation; or

- (ii) the employer is engaged in the hospitality industry in that State including (without limitation) any employer that carries on a catering business or operates an accommodation hotel, or a motel, or a restaurant, or a café.
- (3) Without limiting the effect of any of the preceding provisions of this Rule, and without being limited by any such provisions, every person, partnership or corporation who or which employs or usually employs labour in any State or Territory of the Commonwealth of Australia shall be eligible for membership of the Association provided that the employer is engaged in the hospitality industry carrying on a business that provides accommodation including (without limitation):
 - (i) An accommodation hotel; or
 - (ii) A guest house; or
 - (iii) A motel; or
 - (iv) Serviced apartments."

(ii) The current eligibility rules of AAA (Rules 3 and 4) provide as follows:-

"3 - INDUSTRY

- A. Motor inns and or motels and without limiting the generality of the foregoing.
 - B. Unlicensed private hotels, serviced apartments, time share facilities, health or recreational farms, guest houses, ski lodges (except in the State of Victoria), holiday flats/units, holiday ranches or farms, condominiums, and establishments of a like nature to any of the foregoing whilst primarily providing short term accommodation.
 - C. Restaurants, function centres, convention centres or like facilities, ancillary to or part of any of the above.
- Provided that B and C shall not include - registered or licensed clubs providing accommodation to members and/or members guests on club premises or at premises owned and operated by such a club solely for the use and enjoyment of members and/or their guests which are not available to the general public.
- D. Accommodation parks, including:
 - (a) caravan parks (land, including camping ground, on which caravans, or caravans and other moveable dwellings, have been or are to be placed, installed or erected) or
 - (b) manufactured home estates (land on which manufactured homes have been, are, or are to be placed)."

"4 – CONSTITUTION

The Association shall consist of an unlimited number of employers engaged in the industry."

(iii) *The proposed Rule 5 of the Rules of the proposed Amalgamated Organisation provides as follows:-*

"I Without being limited by Part II of this Rule, or limiting the meaning, scope or operation of that Part, the eligibility for membership of the Association shall be as follows.

- (1) Any person, partnership or corporation who employs or usually employs labour in any State or Territory of the Commonwealth of Australia shall be eligible for membership of the Association provided that the labour is employed in establishments in respect of which any of the following licences have been granted:
- (a) A publican's victuallers, public house, hotel, tavern, bar or general licence issued under the Licensing Legislation; or
 - (b) In the State of South Australia any licence which has been granted pursuant to the Licensing Legislation; or
 - (c) In the State of New South Wales any licence, other than a club licence, issued under the Licensing Legislation; or
 - (ca) In the Australian Capital Territory any licence, other than a club licence, issued under the Licensing Legislation; or
 - (d) In the State of Victoria any licence, other than a club licence, issued under the Licensing Legislation; or
 - (e) In the State of Queensland any licence, other than a club licence, which has been granted pursuant to the Licensing Legislation; or
 - (f) In the State of Western Australia any licence issued under the Licensing Legislation; or
 - (g) In the Northern Territory any licence issued under the Licensing Legislation; or
 - (h) In any other Territory of the Commonwealth of Australia, any licence, other than a club licence, issued under the Licensing Legislation.
- (1A) Where a partnership applies for membership each member of that partnership shall apply.

- (2) Any person, partnership or corporation who or which employs or usually employs labour in the State of Tasmania shall be eligible for membership of the Association provided that:
- (i) the labour is employed in an establishment in respect of which a licence, other than a club licence, has been issued under the Licensing Legislation; or
 - (ii) the employer is engaged in the hospitality industry in that State including (without limitation) any employer that carries on a catering business or operates an accommodation hotel, or a motel, or a restaurant, or a café.
- (3) Without limiting the effect of any of the preceding provisions of this Rule, and without being limited by any such provisions, every person, partnership or corporation who or which employs or usually employs labour in any State or Territory of the Commonwealth of Australia shall be eligible for membership of the Association provided that the employer is engaged in the hospitality industry carrying on a business that provides accommodation including (without limitation):
- (i) An accommodation hotel; or
 - (ii) A guest house; or
 - (iii) A motel; or
 - (iv) Serviced apartments.

- II Without being limited by Part I of this Rule, or limiting the meaning, scope or operation of that Part, the eligibility for membership of the Association shall also extend to an unlimited number of employers engaged in the industry situated within the Commonwealth of Australia and its Territories in or in connection with the conduct of:

- “
- A. Motor inns and or motels and without limiting the generality of the foregoing.
 - B. Unlicensed private hotels, serviced apartments, time share facilities, health or recreational farms, guest houses, ski lodges (except in the State of Victoria), holiday flats/units, holiday ranches or farms, condominiums, and establishments of a like nature to any of the foregoing whilst primarily providing short term accommodation.
 - C. Restaurants, function centres, convention centres or like facilities, ancillary to or part of any of the above.
- Provided that B and C shall not include - registered or licensed clubs providing accommodation to members and/or members guests on club premises or at premises owned and operated by such a club solely for the

use and enjoyment of members and/or their guests which are not available to the general public.

D. Accommodation parks, including:

- (a) caravan parks (land, including camping ground, on which caravans, or caravans and other moveable dwellings, have been or are to be placed, installed or erected) or
- (b) manufactured home estates (land on which manufactured homes have been, are, or are to be placed)."

(iv) Thus proposed Rule 5 of the Rules of the proposed Amalgamated Organisation provides eligibility coverage as wide as but no wider than the combined effect of the eligibility rules of AHA and AAA.

5. PROPOSED OTHER RULES OF THE AMALGAMATED ORGANISATION

The Rules of the proposed Amalgamated Organisation (including the eligibility rule) are Attachment "AHA/AAA 1" to this Scheme of Amalgamation.

6. PROPOSED MEMBERSHIP ARRANGEMENTS

Subject to the rights of members of organisations under the RO Act, upon the Amalgamation Day all members of the respective parties shall become members of the Amalgamated Organisation without payment of entrance fee.

7. PROPOSED DIVISIONAL AND BRANCH STRUCTURE

From the Amalgamation Day there shall be a National Accommodation Division ("NAD") of the Amalgamated Organisation, which shall be established and governed by Part B of the Rules of the Amalgamated Organisation. The interim officers of the NAD are specified in Clause 8 and hold office, subject to the Rules of the Amalgamated Organisation and the provisions of the RO Act, until elections to be completed two years after the Amalgamation Day.

The members of the NAD shall consist of those members of the Amalgamated Organisation that are members of the Accommodation Divisions of the various Branches of the Amalgamated Organisation, as specified in Part B of its Rules.

8. PROPOSED INTERIM OFFICERS OF THE AMALGAMATED ORGANISATION

- (I) Subject to the succeeding paragraphs of this Clause, any person who held an office in AHA immediately prior to the Amalgamation Day shall continue to hold that office in the Amalgamated Organisation until the conclusion of the term of that office, subject to the Rules of that Organisation and the provisions of the RO Act.
- (II) Any person who held office in AAA or the National Accommodation Division of the AHA immediately prior to the Amalgamation Day shall cease to hold that office on the Amalgamation Day.
- (III) The interim office holders of the proposed NAD of the Amalgamated Organisation from the Amalgamation Day are as follows:

Name	Constituent organisation (AHA or AAA)	Office/offices
Leanne Harwood	AAA	NAD Board member and NAD Chair, and delegate to the National Board and delegate to the National Executive
Sean Hunt	AHA	NAD Board member and NAD Deputy Chair, and delegate to the National Board
Bruce Copland	AAA	NAD Board member and NAD Secretary/Treasurer, and delegate to the National Board
Norman Arundel	AHA	NAD Board member and delegate to the National Board
Barry Robinson	AAA	NAD Board member and delegate to the National Board
Robert Dawson	AHA	NAD Board member and delegate to the National Board
Sarah Derry	AAA	NAD Board member and delegate to the National Board
Tracey Atherton	AHA	NAD Board member and delegate to the National Board
Julian Clark	AAA	NAD Board member
Geoffrey York	AHA	NAD Board member

Paul Hutton	AAA	NAD Board member
David Baswel	AHA	NAD Board member
David Mansfield	AAA	NAD Board member
Graham Perry	AHA	NAD Board member

9. PROPOSED ARRANGEMENTS IN RELATION TO PROPERTY AND ASSETS

- (I) On the Amalgamation Day all of the property and assets of the parties (including without limitation all Business Names) shall become the property and assets of the proposed Amalgamated Organisation, and that Organisation will take such steps as it may be advised to perfect such transfers as may be required.
- (II) To facilitate the prompt and effective achievement of paragraph (I), between the date of the adoption of this Scheme and the day immediately prior to the Amalgamation Day the parties will exercise their best endeavours to ensure that all properties and assets held or controlled by any entity of AAA are transferred to AAA.
- (III) If the transfer of property and assets contemplated by paragraph (II) is not fully completed before the Amalgamation Day, those officers of the Amalgamated Organisation who constitute the Board of the NAD shall take all such steps as are necessary and lawfully available to them to procure or facilitate the transfer of such remaining property and assets to the Amalgamated Organisation.

10. PROPOSED STAFF ARRANGEMENTS

While the employment of staff by the proposed Amalgamated Organisation is a matter for it to decide after the Amalgamation Day, it is intended by the parties that all members of staff of either AHA or AAA on that date would become employees of the proposed Amalgamated Organisation from the Amalgamation Day.

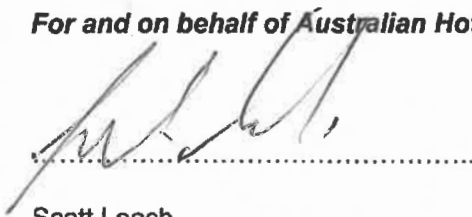
11. INTERPRETATION

In this Scheme:

"Amalgamation Day" means the day fixed by the Fair Work Commission pursuant to Section 70 of the RO Act as the day upon which the amalgamation of the parties the subject of this Scheme takes effect.

Date: 30 September 2022

For and on behalf of Australian Hotels Association



Scott Leach

President



David Basheer

Secretary/Treasurer

For and on behalf of Accommodation Association of Australia

DocuSigned by:

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Leanne Harwood

President

AHA/AAA 1

~~024N: Incorporates alterations of 12 February 2021 [R2020/170]
(replaces rulebook dated 24 December 2020 [R2020/171])~~

Proposed complete set of national rules of the Australian Hotels Association
upon amalgamation with Accommodation Association of Australia

- with alterations marked-up

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PART A – GENERAL

OBJECTS AND RULES

1 - TITLE

This Association shall be known as "Australian Hotels Association" and its short title shall be "A.H.A.".

2 - REGISTERED OFFICE

The Registered Office shall be at 27 Murray Crescent, Griffith, ACT 2603, or at such other place as the Committee of Management of the Association may from time to time determine.

3 - OBJECTS

The objects for which the Association is established are:-

- (a) The maintenance of the status of the Accommodation, Licensed Hotel and Retail Liquor Industry (hereinafter referred to **in this Rule** as "~~The Industry~~ **the industry**"); the furtherance of service through the avenues of accommodation, food, beverages, entertainment, wagering and gaming; the maintenance of the law; to promote commerce, education and training and the industry to the advantage of both the industry and the community; to promote and protect the rights of persons engaged in the Industry and members of the Association in the Commonwealth of Australia.
- (b) To watch all proceedings in all Australian Parliaments and measures introduced therein affecting any branch of the industry and to take such steps as may from time to time be deemed necessary to initiate, promote, amend, modify or reject, as the case may be, all or any of such measures.
- (c) To represent effectively the views and requirements of the industry in all matters and questions touching or affecting its interests by means of periodical conferences, deputations, meetings, petitions and otherwise.
- (d) To afford members of the Association all such assistance, legal or otherwise, as shall appear proper or desirable to the Committee of Management for the time being and in accordance with the Rules of the Association.
- (e) To form Branches and Sub-Branchees in any States or Territory of the Commonwealth of Australia.
- (f) To consider any decisions of any Court which may affect the industry adversely and, if considered desirable or necessary by the Committee of Management, to institute proceedings to secure a view of or appeal against such decision. The Committee of Management may, in the interests of the members, institute, carry on or subsidise any action at law not hereinbefore provided for.
- (g) To establish Employment Agencies, Information Bureaux, Literary, Social, Educational, Sporting or Trading Institutions for the benefit of members.
- (h) To print, publish, issue and circulate such newspapers and other papers, periodicals, books, circulars and other literary undertakings as may be deemed desirable or expedient for the diffusion amongst the members of the Association on matters affecting the industry, or as may seem calculated directly or indirectly to advance or contribute to the interests of the Association or of its members.
- (i) To take such action as may be necessary or advisable to regulate and determine the rates of pay and conditions of employment of employees of members or of employees in the industry either under the ~~Fair Work Act 2009 (as amended)~~ or under the laws of the States or Territories of the Commonwealth or otherwise.

4 – INTERPRETATION

- (j) ~~To do and execute all such other acts, matters and instruments incidental to or in extension of the foregoing objects as may be deemed necessary from time to time in the interests of the industry, and generally to perform all necessary acts for the advancement of the Association or its members.~~
- To purchase, sell, lease, mortgage, charge, exchange, or otherwise dispose of any real or personal property as may be determined by the Board and to apply both capital and income therefrom and the proceeds of the sale or mortgage thereof, for or towards all or any of the objects herein specified.
- (k) To borrow, raise or give security for any money on such terms as the Association may think fit.
- (l) To invest and deal with the funds and moneys of the Association in and upon such securities and investments and in such manner and on such terms and conditions as may from time to time be determined and from time to time vary and release such securities and investments.
- (m) To establish and to accept Trusts having for their objects the welfare and benefit if any member or members, their dependants, or to enable the Association to effectively attain the objects herein mentioned.
- (n) To pay out of the funds of the Association all expenses of or incidental to the formation and management of the Association or carrying out of its objects including the payment of salaries to persons employed.
- (k o) To promote, form and/or conduct an organisation to purchase commodities and products of all types used in the conduct of accommodation, catering and licensed premises and to sell or otherwise dispose of such products and commodities for the benefit of members upon such terms and at such prices as it may from time to time determine.
- (l p) To bargain with current and prospective suppliers of commodities (whether tangible or intangible), products or services of all types used in the conduct of accommodation, catering and licensed premises businesses and to introduce any such suppliers that are willing to supply commodities, products or services upon terms advantageous to members, as negotiated between the Association and the supplier, to members for their mutual benefit and for the benefit of the Association.
- (q) To do and execute all such other acts, matters and instruments incidental to or in extension of the foregoing objects as may be deemed necessary from time to time in the interests of the industry, and generally to perform all necessary acts for the advancement of the Association or its members.

4 – INTERPRETATION

- 4.1 In the interpretation of ~~these Rules~~ the Rules contained in this Part A of the Rules of the Association, unless the contrary intention appears:
- (a) “General Manager” means the General Manager of the Fair Work Commission;
- (b) “Licensing Legislation” means any law of any State or Territory of the Commonwealth of Australia or any law of the Commonwealth of Australia which permits the sale or supply of liquor including, but not limited to:
- (i) In the Australian Capital Territory the Liquor Act 2010;
 - (ii) In the State of New South Wales the Liquor Act 2007;
 - (iii) In the Northern Territory the Liquor Act;
 - (iv) In the State of Queensland the Liquor Act 1992;
 - (v) In the State of South Australia the Liquor Licensing Act 1997;

- (vi) In the State of Tasmania the Liquor Licensing Act 1990;
 - (vii) In the State of Victoria the Liquor Control Reform Act 1998;
 - (viii) In the State of Western Australia the Liquor Control Act 1988; or
 - (ix) Any legislation amending, replacing or succeeding the aforementioned.
- (c) “Returning Officer” means in relation to elections conducted by the Australian Electoral Commission, ~~and~~ **an** employee of the Australian Electoral Commission. In other cases, it means the person appointed under **Rule 11B**;
- (d) “the Association Rules” means the Rules of the Association at the national level, as together prescribed by the Part A Rules and the NAD Rules;
- (e) “The NAD Rules” shall mean the Rules contained in Part B;
- (f) “These Rules” shall mean the Rules contained in Part A;
- (~~d~~ **g**) The singular shall include the plural, and vice versa;
- (~~e~~ **h**) A reference to one gender shall include a reference to all other genders;
- (~~f~~ **i**) Headings are for convenience and do not affect meaning;
- (~~g~~ **j**) A reference to a communication “in writing” or “written” includes email or any other form of electronic communication, including facsimile transmission or short message service (SMS);
- (~~h~~ **k**) A reference to “the Act” shall be taken to be a reference to the *Fair Work (Registered Organisations) Act 2009* (Cth), subject to paragraph (~~k~~ **n**) of this Rule;
- (~~i~~ **l**) Any schedule to these Rules shall form part of these Rules;
- (~~j~~ **m**) The word “shall” is a word meaning mandatory requirement; and
- (~~k~~ **n**) A reference to a statute shall include any amendments to that statute and any statutory instruments made pursuant to that statute, and shall also include any successors to such statute, whether in whole or in part.

5 - ELIGIBILITY FOR MEMBERSHIP

I. Without being limited by Part II of this Rule, or limiting the meaning, scope or operation of that Part, the eligibility for membership of the Association shall be as follows.

- (1) Any person, partnership or corporation who employs or usually employs labour in any State or Territory of the Commonwealth of Australia shall be eligible for membership of the Association provided that the labour is employed in establishments in respect of which any of the following licences have been granted:
 - (a) A publican's victuallers, public house, hotel, tavern, bar or general licence issued under the Licensing Legislation; or

- (b) In the State of South Australia any licence which has been granted pursuant to the Licensing Legislation; or
 - (c) In the State of New South Wales any licence, other than a club licence, issued under the Licensing Legislation; or
 - (ca) In the Australian Capital Territory any licence, other than a club licence, issued under the Licensing Legislation; or
 - (d) In the State of Victoria any licence, other than a club licence, issued under the Licensing Legislation; or
 - (e) In the State of Queensland any licence, other than a club licence, which has been granted pursuant to the Licensing Legislation; or
 - (f) In the State of Western Australia any licence issued under the Licensing Legislation; or
 - (g) In the Northern Territory any licence issued under the Licensing Legislation; or
 - (h) In any other Territory of the Commonwealth of Australia, any licence, other than a club licence, issued under the Licensing Legislation.
- (1A) Where a partnership applies for membership each member of that partnership shall apply.
- (2) Any person, partnership or corporation who or which employs or usually employs labour in the State of Tasmania shall be eligible for membership of the Association provided that:
- (i) the labour is employed in an establishment in respect of which a licence, other than a club licence, has been issued under the Licensing Legislation; or
 - (ii) the employer is engaged in the hospitality industry in that State including (without limitation) any employer that carries on a catering business or operates an accommodation hotel, or a motel, or a restaurant, or a café.
- (3) Without limiting the effect of any of the preceding provisions of this Rule, and without being limited by any such provisions, every person, partnership or corporation who or which employs or usually employs labour in any State or Territory of the Commonwealth of Australia shall be eligible for membership of the Association provided that the employer is engaged in the hospitality industry carrying on a business that provides accommodation including (without limitation):
- (i) An accommodation hotel; or
 - (ii) A guest house; or
 - (iii) A motel; or
 - (iv) Serviced apartments.

II Without being limited by Part I of this Rule, or limiting the meaning, scope or operation of that Part, the eligibility for membership of the Association shall also extend to an unlimited number of employers engaged in the industry situated within the Commonwealth of Australia and its Territories in or in connection with the conduct of:

- A. Motor inns and or motels and without limiting the generality of the foregoing.
- B. Unlicensed private hotels, serviced apartments, time share facilities, health or recreational farms, guest houses, ski lodges (except in the State of Victoria), holiday flats/units, holiday ranches or farms, condominiums, and establishments of a like nature to any of the foregoing whilst primarily providing short term accommodation.
- C. Restaurants, function centres, convention centres or like facilities, ancillary to or part of any of the above.

Provided that B and C shall not include - registered or licensed clubs providing accommodation to members and/or members guests on club premises or at premises owned and operated by such a club solely for the use and enjoyment of members and/or their guests which are not available to the general public.

- D. Accommodation parks, including:
 - (a) caravan parks (land, including camping ground, on which caravans, or caravans and other moveable dwellings, have been or are to be placed, installed or erected) or
 - (b) manufactured home estates (land on which manufactured homes have been, are, or are to be placed).

6 - VOTING REPRESENTATIVES AND PROXIES

- (a) A member which is a corporation ~~or an unincorporated partnership~~ shall from time to time nominate, in respect of each membership held by it, some person as its ~~proxy~~ **representative** to represent it, in respect of each membership, at all such meetings as it would be entitled to attend if it were an individual member and such person or persons, as the case may be, shall be entitled to be heard and vote at such meetings and to vote at elections and ballots as such ~~proxy~~ **representative**. For the purpose of exercising a vote at an election, the appointment of a proxy ~~by that representative~~ shall be restricted to another elected member of the committee from which the election is to be conducted.
- (b) An individual member who does not intend or is not capable of taking an active personal part in the conduct of the affairs of the Association may in writing delivered to ~~his~~ **their** State Branch Secretary appoint some other person to be ~~his proxy~~ **their representative** to represent ~~him~~ **the member** at all such meetings at which ~~he~~ **the member** would be entitled to attend and such person shall be entitled to attend and be heard and vote at such meetings and at elections and ballots as such ~~proxy~~ **representative**. The member appointing such ~~proxy~~ **representative** shall not be entitled to attend meetings or to vote or nominate for or be nominated for or hold office while such ~~proxy~~ **representative** **appointment** is unrevoked. For the purpose of exercising a vote at an election, the appointment of a proxy ~~by that representative~~ shall be restricted to another elected member of the committee from which the election is to be conducted.
- (c) Any ~~of~~ such ~~proxies~~ **representative** as aforesaid shall be entitled ~~as such proxy~~ to be nominated for and to be elected to and hold any office in the Association. Should ~~such proxy~~ **a member change its representative** while ~~that representative is~~ the holder of any such office ~~be changed, he~~ **that representative** shall be deemed to have and shall vacate such office, and ~~his~~ **the** successor as such ~~proxy~~ **representative** shall not be entitled ~~ipso facto~~ to hold the office to which ~~his~~ **the** predecessor was elected.

- (d) No such ~~proxy~~ **representative appointment** shall be valid or effective unless and until the person appointed by ~~proxy as aforesaid~~ **the member** has been approved as such by a resolution of the Member's Branch Committee of Management. **Any proxy voting in an election for office must not be subject to direction about how they cast their vote.**
- (e) Members of a partnership or corporation shall between them have one vote for each membership held by them or on their behalf. **Subject to Sub-Rule (c), an unincorporated partnership shall advise the Branch of which it is a member which of the partners will serve as the partnership's representative.**

7 - LIFE MEMBERS

- (a) The National Board shall have the power to elect as an Honorary Life Member any member of the Association who, in the opinion of the said Board has rendered distinguished service to the Association during ~~his~~ **their** period of membership.
- (b) Such power aforesaid shall be exercised only after the prior consideration of a nominee by the National Executive at a properly constituted Meeting of such Executive and on the recommendation of a 2/3rds majority of such Meeting.
- (c) Provided that Honorary Life Membership as previously referred to shall normally be restricted to persons who hold Branch HONORARY Life Membership; provided further that in special cases the National Executive may dispense with such a requirement in its recommendation to the National Board.
- (d) Honorary Life Members elected in accordance with this Rule shall be entitled to attend all Branch general meetings of the Association and take part in the discussion on any matter under consideration and shall be entitled to vote at all such meetings.

8 - BRANCHES

- (a) Branches of the Association have been formed in the State of New South Wales, Victoria, Queensland, South Australia, Western Australia, Tasmania, Northern Territory and the Australian Capital Territory. The members resident in each State or Territory shall be attached to the Branch formed in that State or Territory. **Residency of each member, whether corporate or otherwise, is determined by its principal place of business.**
- (b) **Each Branch shall establish from among its members an Accommodation Division, which Division may in turn be comprised of one or more Accommodation Sub Divisions organised on a geographic basis as determined by that Branch. A Branch Accommodation Division shall consist of such members as are financial members of the Association resident in the State or territory in which the Branch has constituted same, having bedrooms available to the public in such number as the Branch may from time to time determine, and which members consent in writing to be that Division's members.**
- (aa c) Notwithstanding ~~sub-rule~~ **Sub-Rule** 8(a), members resident in each of the following Territories of the Commonwealth of Australia shall be attached to the designated State or Territory Branch as follows:
 - (i) Christmas Island: Western Australian Branch
 - (ii) Cocos (Keeling) Islands: Western Australian Branch
 - (iii) Jervis Bay Territory: New South Wales Branch
 - (iv) Norfolk Island: New South Wales Branch

10 - APPLICATION FOR MEMBERSHIP

- (b d) Each Branch shall be administered by rules adopted by such Branch, which said Rules shall not be in conflict with these Rules and shall comply with the requirements of the Act.
- (e e) Each Branch may establish within the State or Territory in which it is formed such Sub-Branches or Divisions or Zones as it may consider necessary and may at any time close any Sub-Branch or Division or Zone for any reason it considers sufficient.
- (d f) Where the ~~National~~ Association Rules impose duties on a Branch Secretary, those duties shall, as they relate to the Western Australian Branch of the Association, be undertaken by the Executive Officer referred to in the rules of the Western Australian Branch provided that where documents are required by the Act to be lodged by the Secretary or a prescribed officer the documents shall be lodged by the Branch President. Such Executive Officer does not become an officer of the Association by reason of this Sub-Rule.

9 - SUBSCRIPTIONS

The annual subscription of each member of the Association shall be five (5) dollars or such other sum as the Branch Committee shall from time to time determine and shall be payable in advance. The subscription payable by a partnership or corporation shall be one subscription for each ~~license~~ membership held by it.

10 - APPLICATION FOR MEMBERSHIP

- (a) Each applicant for membership shall sign an application for membership in the form approved from time to time by the National Executive and shall forward the same to the Secretary of the Branch in whose territory such applicant resides.
- (b) Each application shall be submitted to the Branch Committee which may either accept such application or reject the same.
- (c) If it accepts the same the applicant shall be and be deemed to be a member as from the date of the application.
- (d) If it rejects the same, the applicant may by notice in writing within seven (7) days of such rejection, forward to the Branch Secretary an appeal to the next Branch General Meeting of members against such rejection.
- (e) The next Branch General Meeting of members shall consider the appeal and shall accept or reject the application.
- (f) If the Branch General Meeting accepts the same, the applicant shall be and be deemed to be a member as from the date of the application. If it rejects the same, the decision shall be final and the applicant shall not become a member.
- (g) Any applicant whose application has been rejected may again apply for membership after twelve (12) months following such rejection.
- (h) Applicants for membership shall be informed, in writing, of:
- (i) the financial obligations arising from membership; and
 - (ii) the circumstances, and the manner, in which a member may resign from the Association.
- (i) Notwithstanding any of the above, members of the Western Australian Hotels and Hospitality Association Incorporated may be enrolled as members pursuant to the transitional provisions in the rules of the Western Australian Branch of the Australian Hotels Association.

11 - NATIONAL BOARD – COMPOSITION

11.1 There shall be a National Board which shall consist of:

- (i) The number of delegates for each Branch determined from time to time in accordance with this Rule; and
- (ii) The number of representatives of the National Accommodation ~~Hotels Division determined from time to time in accordance with Sub-Rule 42(d)(ii) of these Rules~~ **specified by or pursuant to Rule 54 (i) from time to time.**

11.2 For the purposes of Sub-Rule 11.1(i), the number of delegates for each Branch shall be determined on a triennial basis in accordance with the following formula:

- (i) Branches with less than one million population: one (1) delegate;
- (ii) Branches with one million but less than two million population: two (2) delegates;
- (iii) Branches with two million but less than three million population: three (3) delegates;
- (iv) Branches with three million but less than four million population: four (4) delegates;
- (v) Branches with four million but less than five million population: five (5) delegates;
- (vi) Branches with five million but less than six million population: six (6) delegates;
- (vii) Branches with six million but less than seven million population: seven (7) delegates;
- (viii) Branches with seven million population or more: eight (8) delegates.

In this **Rule** “population” means population in the relevant State or Territory recorded in the last **quarterly** publication of National Population figures published by the Australian Bureau of Statistics (“ABS”) prior to 30 September in any year.

11.3 Commencing with a reassessment on 1 October 2020, the number of delegates to which each Branch will thereafter be entitled, will be reassessed on a triennial basis and if necessary adjusted in accordance with the formula prescribed by Sub-Rule 11.2.

11.4 The National Executive shall determine by resolution the total delegation of each Branch, commencing with the triennial reassessment due on 1 October 2020 and direct the National Secretary to notify each Branch, and the appropriate regulatory authorities, of the respective Branch delegations.

11.5 In respect of each Branch, the President of the Branch shall serve ex officio as a member of the Branch delegation elected in accordance with this Rule and the number of Branch delegates from each Branch will be reduced by one accordingly.

11A – NATIONAL BOARD – ELECTION OF BRANCH DELEGATES FOR ALL BRANCHES EXCEPT DELEGATES FROM NATIONAL ACCOMMODATION DIVISION

11A.1 Election of ~~the~~ National Board ~~delegates~~ – Close of Roll of Voters

The roll of voters for any ballot for any election required under these rules is to be closed 7 days before the day on which nominations for the election open.

11A.2 Nominations for Election to National Board

The Returning Officer shall at least fourteen (14) days prior to the first day of April (or such later time as allowed by the Returning Officer) in each year, call for nominations for the Branch's representatives to the National Board by circular to each member of the Branch Committee of Management.

Any two (2) financial members of the Branch Committee of Management may in writing nominate any other financial member of the Branch Committee of Management for election to the National Board, and if the member nominated accepts such nomination the acceptance shall be in writing.

Nominations which are not completed as required by this Rule, or not received at the place as determined by the Returning Officer on or before the first day of April (or such later time as allowed by the Returning Officer) shall be disregarded.

If only the required number of accepted nominations is received, the Returning Officer shall declare the members nominated and elected unopposed.

If the Returning Officer finds a nomination to be defective, the Returning Officer shall, before rejecting the nomination, notify the person concerned of the defect and, where practicable, give the person the opportunity of remedying the defect within a period of not less than 7 days after the person is notified.

11A.3 Contested Elections

If more than the required number of accepted nominations is received, then the Returning Officer shall:

- (a) ~~Permit any duly nominated candidate to appoint by writing under his hand any member of the Association to be his scrutineer to represent him at the election. (Deleted)~~
- (b) Prepare or cause to be prepared such number of ballot papers as there are members of the Branch Committee of Management, upon which ballot papers the names of the duly nominated candidates appear in alphabetical order and on which shall appear a notice directing members to strike out the names of the candidates for whom they do not desire to vote or if the Branch Committee of Management has determined on a preferential method of voting directing members how to indicate their preference and that after voting the voter shall so fold the ballot paper that the marking thereon is not visible until the ballot paper is unfolded.
- (ba) Make arrangements for absentee voting, in accordance with Rule 44.

- (c) Within fourteen days of the close of nominations, forward by prepaid post to every member of the Branch Committee of Management one (1) ballot paper which ~~he~~ **the Returning Officer** shall have initialled together with a declaration envelope and a prepaid envelope, both in the form prescribed by the Act for the return of ballot papers as provided in paragraph (e) hereof. Arrangements shall be made so that the ballot papers may be returned by post without expense to the voter.
- (d) With such ballot paper, forward to each member a notification of the closing date for the receipt of returned ballot papers (which shall be not less than thirty-one (31) days after the posting of the last such ballot papers).
- (e) Hire or otherwise arrange for a post office box or other receptacle to which ballot papers may be forwarded and arrange as far as possible that such box or receptacle shall not be available to be opened by anyone ~~but him~~ **except the Returning Officer**.
- (f) After the closing date, collect the envelopes containing the ballot papers and check the same to see that no votes are admitted except from members of the Branch Committee of Management and that each such member votes but once, and thereafter remove the sealed envelopes containing the ballot papers so that identification becomes impossible.
- (g) Admit the ballot papers properly marked and count the votes thereon indicated.
- (h) If two representatives are to be elected and more than two candidates have an equal number of votes and more than any other candidate or two or more have an equal number of votes and more than any other candidate but one determine by lot between the equal candidates the candidate or candidates as the case may be which shall be elected and similarly determine by lot the cases in which three, four or five candidates are to be elected.
- (i) If only one representative is to be elected and two or more candidates have an equal number of votes and more than any other candidate determine by lot between the equal candidates which shall be elected.
- (j) Declare the candidate or candidates receiving the greatest number of votes or elected by lot duly elected and advise each such candidate and the National and Branch Secretary by letter of such declaration.

11A.4 Returning Officers – actions and directions

In addition to the powers contained or implied in these Rules, the Returning Officer shall take such action and give such directions as are reasonably necessary to ensure that no irregularities occur in or in connection with any election and in order to remedy any procedural defects therein and no person shall refuse or fail to comply with any such directions nor hinder nor obstruct the Returning Officer or any other person in the conduct of the election or the taking of such action.

11A.5 Scrutineers

In any election whether in respect of a National or Branch Office any duly nominated candidate may appoint by signed writing any other member who is not a candidate for that election to act as scrutineer on ~~his~~ **the candidate's** behalf at that election and such candidate may appoint any other such member in substitution for or in place of that member.

All scrutineers shall, so far as possible, having regard to the time of their appointment in the case of a postal ballot be entitled to observe the posting of nomination forms and the consideration thereof on return and in the case of all elections be entitled to inspect the nomination forms and observe the form and distribution of ballot papers, the collection of ballot papers on their return, the checking of votes, the admission and counting of votes, the conduct of the determination of the election by lot and the declaration of the ballot.

In every case it shall be the right and duty of the scrutineer to observe any act performed or directed by the Returning Officer which may affect the result of the election and the Returning Officer shall take all reasonable steps by notification or otherwise to enable such scrutineer to exercise this right, but no election shall be vitiated by reason of the fact that a scrutineer does not in fact, exercise all or any of such rights if ~~he~~ **the scrutineer** has had a reasonable opportunity to do so.

A scrutineer shall direct the attention of the Returning Officer to any irregularity ~~he~~ **they** may detect whether in the nomination forms, the form or distribution of ballot papers, the admission of the right of any person to vote, the admission or counting of ballot papers or in respect of any other matter to be observed or done under these Rules in connection with elections. The relevant Returning Officer shall have the final determination in respect of any matter queried by a scrutineer and a scrutineer shall comply with any lawful direction issued by a Returning Officer.

A scrutineer shall do all things necessary so that the conduct of an election shall conform to these Rules and so that the secrecy of the ballot shall be observed.

11A.6 Voting in Contested Elections

~~No~~ **A** member shall **not** mark a ballot paper nor the envelope immediately containing the same with ~~his~~ **their** name or otherwise publish or disclose ~~his~~ **their** identity thereon or therein but in the case of a postal ballot shall sign ~~his~~ **their** name on the inside of the flap of the external envelope containing the envelope within which is the ballot paper.

Members shall strike out the names of the candidates for whom they do not desire to vote, or if so determined by a Branch Committee of Management vote by indicating a preference for each candidate in the manner so determined.

11A.7 The Secretary of each Branch shall notify the National Secretary of the names and addresses of each Branch delegate within fourteen (14) days of the election of such delegate.

11A.8 The Branch delegates elected pursuant to this Rule shall hold office for 12 months or until their successors are declared elected.

11A.9 The delegates to the National Board from the National Accommodation Division shall be elected or determined pursuant to Sub-Rule 54 (ii).

11B – RETURNING OFFICER

11B.1 The National Board shall, at its first meeting following its election, appoint by resolution a Returning Officer to be responsible for the conduct of all ballots under these Rules, other than those required to be conducted by the Australian Electoral Commission. The Returning Officer shall be the Returning Officer for the term of that National Board.

11B.2 The Returning Officer shall not be the holder of any other office in and shall not be an employee of the organisation or of a Branch, section or division of the organisation, nor shall ~~he or she~~ **they** be a candidate for any office for which an election is to be held.

11B.3 The Returning Officer shall be entitled to be paid such reasonable remuneration as the National Board may approve.

11B.4 The Returning Officer may by notice in writing resign. The National Board shall be entitled to remove a person from the position of Returning Officer only by resolution of the National Board following:

13 - NATIONAL AND BRANCH FUNDS

- (a) gross misconduct by the Returning Officer; or
- (b) gross neglect ~~of his or her duties~~ **of duties** by the Returning Officer.

11B.5 The National Board may fill any casual vacancy in the office of Returning Officer which occurs during its term.

11B.6 The Returning Officer shall in addition to the powers contained in these rules take such action, and give such directions as are reasonably necessary:

- (a) to ensure that no irregularities occur in, or in connection with, the ballot;
- (b) to ensure that any election is conducted by secret ballot;
- (c) in order to remedy any procedural defects therein.

11B.7 No person shall refuse or fail to comply with any such directions or hinder or obstruct the Returning Officer, or any other person, in the conduct of the elections or the taking of such action.

12 - NATIONAL BOARD FUNDS

- (a) All fees, fines, dues and levies payable by members shall be paid to and collected by the Branches which shall on or before the first day of April in each year pay to the National Secretary for the purposes of the Association such sum as the National Board may determine and shall also pay a capitation fee of such amount not exceeding \$10.00 for every ~~licensed hotel~~ **member** within its Territory or Branch.
- (b) The amount of the annual capitation fee shall be fixed from time to time by the National Board and the amount shall be calculated on the number of ~~hotels~~ **members** in the Branch area licensed as on the first day of January then last past.
- (c) The National Board by a resolution carried by a majority may levy Branches in any year a sum not exceeding \$50.00 for each ~~licensed hotel~~ **member** in the Branch area calculated as aforesaid and the amount of such levy shall be paid to the National Secretary at such times or time as determined by the National Executive.

13 - NATIONAL AND BRANCH FUNDS

1. The National Fund shall consist of:-

- (a) Any real or personal property of which the Committee of Management of the organisation, by the rules or by any established practice not inconsistent with the rules, has, or in the absence of any limited term lease, bailment or arrangement, would have, the right of custody, control or management.
- (b) Capitation fees paid by a branch to the organisation.
- (c) In the case of the rules providing for the payment of the whole or part of any entrance fees, subscriptions, fines or levies by a branch to the organisation - the amounts of such payments.
- (d) Any interest, rents, dividends, or other income derived from the investment or use of the Fund.
- (e) Any superannuation or long service leave or other fund operated or controlled in accordance with rules relating to the organisation as a whole for the benefit of its officers or employees.
- (f) Any sick pay fund, accident pay fund, funeral fund, tool benefit fund or like fund operated in accordance with rules relating to the organisation as a whole for the benefit of its members.

- (g) Any property acquired wholly or mainly by expenditure of the moneys of the Fund or derived from other assets of the Fund; and
 - (h) The proceeds of any disposal of parts of the Fund.
2. A Branch Fund shall consist of:-
- (a) Any real or personal property of which the branch of the organisation, by the rules or by any established practice not inconsistent with the rules, has, or in the absence of any limited term lease, bailment or arrangement, would have, the right of custody, control or management.
 - (b) The amounts of entrance fees, subscriptions, fines, fees or levies received by a branch, less so much of those amounts as is payable by the branch to the organisation.
 - (c) Any interest, rents or dividends derived from the investment of the Fund.
 - (d) Any superannuation or long service leave Fund operated or controlled by the branch for the benefit of its officers or employees.
 - (e) Any sick pay fund, accident pay fund, funeral fund, tool benefit fund or like fund operated or controlled by the branch for the benefit of its members.
 - (f) Any property acquired wholly or mainly by expenditure of the moneys of the Fund or derived from other assets of the Fund; and
 - (g) The proceeds of any disposal of parts of the Fund.
3. For the purpose of this Rule, a Branch includes the National Accommodation Division, as constituted and governed by the NAD Rules.

14 - NATIONAL BOARD - OFFICERS

- (a) The officers of the National Board shall be a President; two Vice-Presidents, one of whom shall be the Senior Vice-President; and a Secretary/Treasurer (who is also referred to in these Rules variously as National Treasurer or National Secretary).
- (b) The officers shall be elected by the members of the National Board from its members at its first meeting following its election in the manner hereinafter provided.
- (c) The officers of the National Board shall hold office for 12 months or until their successors are declared elected, but if any such officer ceases to be a representative of ~~his~~ **their** Branch, or become an unfinancial member of ~~his~~ **their** Branch, ~~he~~ **that person** shall not vote at any meeting of the National Board or National Executive.

15 - NATIONAL BOARD - ELECTION OF OFFICERS **BY ATTENDANCE BALLOT**

The said elections shall be conducted as follows:-

- (a) If at its first meeting following its election all officers and Branch or Division representatives are present in person or by proxy the Returning Officer shall call for nominations for President, Senior Vice-President, Vice-President and Secretary/Treasurer.
- (b) Any member of the National Board or proxy may nominate in writing any other member of the National Board for any such office.

- (c) The nominee for each office shall signify ~~his~~ **their** acceptance of such nomination before such nomination is accepted. If only the number of accepted nominations required to fill any office or offices is received, the Returning Officer shall declare the person or persons nominated as aforesaid elected unopposed.
- (d) If more than the required number of accepted nominations required to fill any office is received, an election ~~therefore~~ shall forthwith be held by secret ballot of members of the National Board and for such purpose the Returning Officer shall -
- (1) Inspect the nominations and ~~satisfy himself as far as he reasonably can,~~ **be satisfied** that such nominations are regular and valid. If ~~he finds~~ any nomination ~~to be~~ **is** defective ~~he~~ **the Returning Officer** shall, before rejecting the nomination, notify the person concerned of the defect and, where it is practicable to do so, give ~~him~~ **the person** the opportunity of remedying the defect within a period of not less than seven (7) days after ~~his being~~ **the person is** so notified.
 - (2) Permit any duly nominated candidate to appoint ~~by~~ **in** writing ~~under his signature~~ any Branch or Division representative as ~~his~~ **their** scrutineer to represent ~~him~~ **the candidate** at the election. The duty of the scrutineer shall be to ensure that the election is held in accordance with these rules and ~~he shall~~ be accorded every assistance by the Returning Officer in carrying out that duty.
 - (3) Prepare or cause to be prepared such number of ballot papers as there are members of the National Board upon which ballot papers the names of the duly nominated candidates appear in alphabetical order. One ballot paper may contain provision for voting in respect of more than one election.
 - (4) Supply to each voter one ballot paper, which the Returning Officer shall previously have initialled.
 - (5) Direct the voter to strike out on the ballot paper the name of each candidate for whom they do not desire to vote and thereafter to so fold the ballot paper that the marking thereon is not visible until the ballot paper is unfolded. An absent member of the National Board may vote by ~~his proxy~~ **or as an absentee voter as prescribed by Rule 44.**
 - (6) Collect the ballot papers and ensure only one vote is cast by each member of the National Board or proxy.
 - (7) Admit properly marked ballot papers and count the votes thereon indicated.
 - (8) At the conclusion of the count declare the candidate or candidates receiving the majority of votes elected.
 - (9) If only one candidate is to be elected and two or more have an equal number of votes and more than any other candidate determine by lot between the equal candidates which shall be elected and declare such candidate elected.
 - (10) If more than one candidate is to be elected and more than two have an equal number of votes and more than any other candidate or more than any other candidate but one determine by lot between the equal candidates the candidate or candidates as the case may be which shall be elected and declare ~~him or them~~ **the candidate or candidates** duly elected.
 - (11) For the sole purposes of election of officers a proxy vote may only be exercised by a person who is ~~himself~~ a delegate to the National Board.

16 - NATIONAL BOARD - ELECTION OF OFFICERS BY POSTAL BALLOT

If the election is to take place at a time when all the members of the National Board are not present in person or by proxy, the Returning Officer shall immediately forward in writing to each voter a nomination form for each election which is to be held on which shall appear a notification -

- (a) of the closing date for the receipt of nominations which shall not be less than fourteen (14) days nor more than thirty (30) days after ~~he so~~ **the Returning Officer** posts the last of the nomination forms after which closing date nomination forms will not be accepted;
- (b) that a nomination will not be valid unless a written consent signed by the nominee is received by ~~him~~ **the Returning Officer** prior to the closing date; and
- (c) ~~Of~~ **of** the address to, or method by, which nomination forms and acceptances of nominations may be delivered in writing. The Returning Officer shall inspect the nominations and ~~satisfy himself as far as he reasonably can,~~ **be satisfied** that such nominations are regular and valid. If ~~he finds~~ any nomination ~~to be~~ **is** defective ~~he~~ **the Returning Officer** shall, before rejecting the nomination, notify the person concerned of the defect and, where it is practicable to do so, give ~~him~~ **the person** the opportunity of remedying the defect within a period of not less than seven (7) days after ~~his being~~ **the person is** so notified.

If only the number of accepted nomination forms required to fill any office or offices is received by such closing date, the Returning Officer shall declare the person or persons so nominated elected unopposed and advise each member of the National Board, the National Secretary and National President of such declaration.

If more than the number of accepted nomination forms required to fill any office or offices is received by such closing date, then the Returning Officer shall -

- (1) Permit any duly-nominated candidate to appoint by notice in writing ~~signed by him~~ any member of the Association as ~~his~~ **their** scrutineer to represent ~~him~~ **the candidate** at the Election.
- (2) Within fourteen (14) days of the close of nominations forward by prepaid post to each voter at ~~his~~ **their** address appearing in the said register one ballot paper which ~~he~~ **the Returning Officer** shall have initialled for each such election together with a declaration envelope and a prepaid envelope, both in the form prescribed by the Act for the return of ballot papers as hereinafter provided.

(2A) Make arrangements for absentee voting, in accordance with Rule 44.

- (3) With each such ballot paper forwarded to each voter a notification -
 - (a) of the closing date for the receipt ~~by him~~ of returned ballot papers (which shall be determined by the Returning Officer but not less than 28 days after the posting of the last of such ballot papers); and
 - (b) that voting is to be conducted by striking out the name of each candidate for whom the voter does not desire to vote.
- (4) Hire or otherwise arrange for a post office box or other receptacle to which ballot papers may be forwarded to ~~him~~ **the Returning Officer** and arrange as far as possible that such box or receptacle shall not be available to be opened by anyone ~~but him~~ **except the Returning Officer**.
- (5) After the closing date, collect the envelopes containing the ballot papers and check the same to ensure that no votes are cast except by those eligible to vote and that no-one casts more than one vote and, having so done, remove the sealed envelopes containing the ballot papers and open the same and mix the ballot papers so that identification becomes impossible.

- (6) Declare the candidate or candidates, as the case may be, receiving the majority of votes duly elected and advise such person, Branch or Division Secretary, the National President and National Secretary of such declaration.

17 - NATIONAL BOARD - VOTING IN POSTAL BALLOTS

No member of the National Board shall mark a ballot paper or the envelope immediately containing the same with ~~his~~ **their** name or otherwise publish or disclose ~~his~~ **their** identity thereon or therein but in the case of a postal ballot shall sign ~~his~~ **that member's** name on the inside of the external envelope containing the envelope within which is the ballot paper.

A voter shall indicate ~~his~~ **their** preference by striking out the name of the candidate or candidates for whom ~~he~~ **the voter** does not desire to vote.

18 - POWERS AND DUTIES OF NATIONAL BOARD

Subject to Rules 66 and 67 in the NAD Rules, the National Board in addition to its other powers shall have the following powers and duties:-

- (1) To determine the remuneration and conditions of employment of the staff of the National Office.
- (2) To transact all the business of the Association and authorise disbursements in accordance with the Rules.
- (3) To initiate, conduct and/or oppose all applications to Commonwealth and on the request of a State Branch to State Arbitration Courts or other wage-fixing and condition-regulating authorities.
- (4) To **notify industrial disputes in accordance with the Fair Work Act 2009 and to** delegate to any Branch or Division the conduct of any ~~Commonwealth~~ **such** industrial dispute within the Branch or Division area and to revoke such delegation.
- (5) To settle disputes between Branches or Divisions and act as final arbitrator in such disputes.
- (6) To appoint auditors for the Association.
- (7) To act as custodian of the seal of the organisation and to authorise its affixation to any document.
- (8) To cause to be kept a register of members of the Association and as far as known their postal addresses and a list of the names, postal addresses and occupations of the members of the National Board.
- (9) To impose levies on the Branches or Divisions of the Association for the purposes of the Association and to establish and maintain funds for those purposes.
- (10) To delegate to the National Executive its authority on any matter except the striking of a levy.
- (11) To set up special sub-committees for any purpose to advise the Board on any matter provided that the Sub-Committees' role is advisory only.
- (12) To co-ordinate the activities of Branches or Divisions, promote the easy and friendly co-mingling of members and generally advance the objects and aims of the Association.
- (13) From time to time appoint a member of the Association to act in the place of an officer of the Association during the temporary absence of such officer or during a temporary vacancy in an office.

- (14) To keep minute books in which are recorded proceedings and resolutions of the National Board.
- (15) By resolution at the first meeting following its election appoint a Returning Officer who shall not be the holder of any other office in and shall not be an employee of the organisation or of a Branch, Section or Division of the organisation nor ~~shall he~~ be a candidate for any office for which an election is to be held.

The Board shall also appoint two scrutineers who shall be members of the Association to represent the candidates at elections by postal ballot and to assist the Returning Officer at all other ballots conducted by ~~him~~ the Returning Officer. Such Returning Officer and scrutineers shall hold office until respective successors are appointed. If any Returning Officer or scrutineer so appointed is unable or unwilling to act or is a candidate at such election, the National Executive shall appoint some other person to act in ~~his~~ the Returning Officer's place and such person shall hold office until the first meeting of the next elected National Board.

- (16) To ensure that annual audit of the books of the Association and each of its Branches is conducted.
- (16A) Subject to Rule 30A, to have presented to it the Auditor's report, the general purpose financial report and the operating report required to be presented to the Association in respect of each financial year concluding after the date of certification of this ~~Subrule~~ Sub-Rule not later than six months after the conclusion of each financial year so occurring.
- (17) To cause a special audit of books of the Association at any time and from time to time.
- (18) To appoint Counsel, Solicitors or Agents to represent the Association or any of its members in any Court or inquiry or in any proceedings legal or otherwise.
- (19) To submit any matter which it considers to be of sufficient importance to a ballot of members. At any such ballot every financial member of the Association shall have the right to vote.
- (20) To enter into any agreement for and on behalf of the Association.
- (21) To publish a journal on matters of interest to members of the Association.
- (22) To form a Branch in any State or Territory of the Commonwealth in which there is no Branch.

19 - NATIONAL BOARD - PROCEDURE AT MEETINGS

- (a) The National Board shall meet:
 - (i) at least once a year at such time and place as it shall fix ~~with one such meeting being designated the Annual Meeting~~; or
 - (ii) as and when the National Executive shall determine; or
 - (iii) as directed by the National President; or
 - (iv) within thirty (30) days of receipt of a written request from six (6) of its members or two (2) Branches, at such time and place as the National Executive shall determine, or if it does not within fourteen (14) days of such request determine, then at such time and place as the National President shall determine.
- (b) Subject to Rule 39, at least ten (10) days' written notice of any meeting shall be given to each member of the National Board.

21 - DUTIES OF VICE-PRESIDENTS

- (c) Each Branch and the National Executive shall at least thirty (30) days before the date of the Annual Meeting of the National Board give to the National Secretary notice in writing of any business or matters it desires to have placed on the agenda of such meeting, and it shall be so placed and a copy of such agenda shall be provided in writing to each Branch and each member of the National Board at least fourteen (14) days prior to such meeting.
- (d) A quorum at each meeting of the National Board shall consist of one delegate from each of five (5) different Branches being present in person or by proxy. **For the purposes of this Sub-Rule, the National Accommodation Division shall be deemed to be a Branch.**
- (e) In the case of a Branch entitled to less than three delegates, if no representative of such a Branch is able to attend any such meeting of the National Board, the Branch Committee of Management may by resolution appoint any other member of the Association the proxy of its representatives to cast their votes at such meeting and may instruct its proxy how ~~he~~ **the proxy** shall vote on any matter to be considered at such meeting, other than a ballot for an election for office, and ~~he~~ **the proxy** shall vote as instructed. The National Secretary shall be advised at least two (2) hours before the commencement of such meeting of the name and address of any proxy so appointed and of any instruction ~~he~~ **that** may have been given **to the proxy**, and if such advice is not so given such proxy shall be invalid and of no effect.
- (f) At a meeting of the National Board, each such Branch delegate shall have one vote but should the full number of Branch delegates not be present at any such meeting the vote of the absent delegate may be cast by the fellow Branch delegate present at such meeting whose name first appears on the list of such delegates forwarded by the Branch Secretary to the National Secretary in accordance with this Rule.
- (g) For a motion to be carried by the National Board it is necessary for there to be a simple majority of delegates' votes together with a majority of delegates' votes in four of the Branches. For the purposes of this Sub-Rule, the National Accommodation Hotels Division shall be deemed to be a Branch.

20 - DUTIES OF NATIONAL PRESIDENT

~~He~~ **The President** shall -

- (a) Preside at all meetings of the National Board, National Executive or any **Sub-Committee** at which ~~he~~ **the President** is present and preserve order thereat.
- (b) ~~He shall~~ **Instruct** the National Secretary to call such **Board**, Committee, Sub-Committee or Executive together.
- (c) On confirmation of the Minutes, sign them in the presence of the meeting.
- (d) Sign all documents requiring ~~his~~ **the** signature as President.

21 - DUTIES OF VICE-PRESIDENTS

- (a) The Senior Vice-President or if ~~he~~ **that officer** be absent the Vice-President shall in the absence of the President preside at all meetings at which the President would normally preside ~~were he~~ **if** present and while so presiding shall have all the powers and duties of the President.
- (b) Should neither the National President nor ~~either~~ **the** Vice-President be present at any meeting, the Meeting shall appoint a member to act as ~~Chairman~~ **Chair** of the meeting, and while so acting, such member shall have all the powers and duties of the President.

23 - DUTIES OF NATIONAL SECRETARY

- (c) Should there occur a vacancy in the office of National President or Senior Vice-President between elections for either office, the Senior Vice-President shall assume the office of President until the declaration of the next election for that office, and in the same way for the same period the Vice-President shall become Senior Vice-President.

22 - DUTIES OF TREASURER

The Treasurer shall -

- (a) Keep or cause to be kept in appropriate books a proper and correct account of all monies received and expended by the Association.
- (b) Have the custody of the bank pass-books and produce them and all other returns, accounts, dockets, books and papers as and when requested by the President, the National Board or the Auditors.
- (c) Submit to the National Board or National Executive all accounts for payment and make all authorised payments from the funds of the Association.
- (d) Prepare and submit to the National Board at each of its meetings and to the National Executive as and when required by it an up-to-date statement of the financial affairs of the Association.
- (e) Assist in drawing up an annual balance sheet and statements of accounts for the financial year of the Association and sign same and submit it to the Auditors.
- (f) Give to the Auditors such information and assistance as they may require in auditing the books of the Association and such balance sheets and statement of accounts.
- (g) The Treasurer shall on no account advance to any officer of the Association or any other unauthorised person any monies of the Association.
- (h) All disbursements exceeding \$10.00 shall be paid by a cheque drawn on the Bankers of the Association signed by or by electronic payment approved by any two of the following officers of the Association:-

The National President
The Senior Vice-President
The Vice-President
Secretary/Treasurer
Any person so authorised by the
National Board or National Executive

- (i) Payment of all accounts shall be authorised by a resolution of the National Board or National Executive.
- (j) The Treasurer may delegate such of that officer's functions as are not required by law to be performed directly by that officer to employees of the Association, provided that the performance of such functions by any such employee shall be at all times under the supervision and direction of the Treasurer or the National Executive, as the case may require.

23 - DUTIES OF NATIONAL SECRETARY

The National Secretary shall -

- (a) Be the registered officer of the Association.

- (b) Unless excused, attend all meetings of the National Board and any Sub-Committees thereof, and the National Executive.
- (c) Cause to be kept accurate Minutes of all meetings attended by him in person, and arrange for accurate Minutes to be kept of all meetings he of which the National Secretary does not attend.
- (d) Attend to all correspondence and, as appropriate, file and produce the same and all answers thereto.
- (e) Submit to the National President, or in his that officer's absence a Vice-President, all appropriate correspondence and information he the National Secretary may secure in connection with the affairs of the Association or of interest to it or its members.
- (f) Take and act on the advice of the National President, or in his that officer's absence a Vice-President, as to any action to be taken in any matter pending the next meeting of the National Board or Executive.
- (g) Summon all meetings of the National Board or National Executive or any Sub-Committee thereof.
- (h) Keep the records required to be kept by an organisation pursuant to the provisions of the Act and lodge with the Fair Work Commission all returns and information thereby required.
- (i) Be the officer to sue and be sued on behalf of the Association.
- (j) Edit and publish any National Journal and distribute the same to Branches for re-distribution to members.
- (k) Receive all monies payable to the Association on its behalf, give receipts for the same and pay the same into the Association's bank account within six (6) days from the receipt thereof.
- (l) With the assistance of the National Office draw up and submit to the National Board at its annual meeting a report and balance sheet of the affairs of the Association which report shall have been duly audited by the auditors of the Association.
- (m) Carry out such further and other duties as the National Board or National Executive may from time to time require of him.
- (n) The Secretary may delegate such of that officer's functions as are not required by law to be performed directly by that officer to employees of the Association, provided that the performance of such functions by any such employee shall be at all times under the supervision and direction of the Secretary or the National Executive, as the case may require.

24 - DELETED

25 - INVESTMENT OF FUNDS

Any funds of the Association not required for its immediate purposes may be invested by the Secretary/Treasurer with the authority of the National Executive in any of the following:-

- (a) Any investment from time to time sanctioned by the law of any State or Territory of Australia for the investment of Trust Funds.
- (b) Freehold or leasehold real estate.

- (c) Shares, stocks, unit debentures, debenture stock, unsecured notes, deposits in or with any company incorporated in Australia.
- (d) Investment shares in or deposits with any building society.

26 - NATIONAL AUDITORS

- (a) The National Auditors or Auditor shall be duly qualified as Auditors and be registered under the Act. They shall audit the books and balance sheet of the Association at the end of each financial year and at such other times as the National Board or National Executive shall direct. They shall have access to and may examine all books, accounts, documents, receipts, vouchers and bank statements of the Association and may examine any officer or office-holder with regard to the accounts and may obtain from any bank in which Association funds are lodged or invested a statement as to the amount then held by it.
- (b) They shall furnish a certificate that the books and accounts of the Association have been audited by them and are correct or, if unable to so certify, they shall report in writing to the National President in which respect such books and accounts are not correct and their reasons for that statement.
- (c) The Auditors shall hold office until their successors are appointed and in the event of a casual vacancy in that office it shall be filled by an appointment to be made by National Executive and any person so appointed shall hold office until the next meeting of the National Board.

26A - FINANCIAL YEAR OF THE ASSOCIATION

The financial year of the Association shall be the period of twelve months commencing on 1 January in any year and ending on 31 December in that year.

27 - NATIONAL EXECUTIVE

- (a) There shall be a National Executive comprised of the National President, National Vice-Presidents, the National Secretary/Treasurer and the President of each ~~remaining~~ Branch of the Association and ~~President~~ **Chair** of the National Accommodation Division.
- (b) The National Executive shall be the Committee of Management and shall have full management of the affairs of the organisation, subject to the provisions of these Rules, including, but not limited to, Rules 18, 39 and 41.
- (c) The National Executive shall meet as and when directed by the National President or when required by three (3) of its members or by resolution of any two (2) Branches of the Association.
- (d) Any member of the National Executive ("**the Member**") unable to attend a meeting thereof may by writing ~~under his signature~~ addressed to the National Secretary appoint **as the Member's proxy** a member of the Committee of Management of that **Member's** Branch ~~as his proxy~~ to attend that meeting in ~~his~~ **the Member's** stead and may by the same writing instruct such proxy how ~~he~~ **the proxy** shall vote on any matter coming before that meeting and the vote of such proxy shall be recorded in accordance with that instruction.
- (e) Each proxy shall be entitled to attend that meeting and to be heard and vote thereat.

28 - POWERS AND DUTIES OF NATIONAL EXECUTIVE

- (a) Subject to these Rules and to the decisions of the National Board the National Executive shall between meetings of the National Board have the powers and duties given to that Board by Rule 18 hereof except those contained in paragraph 9 of that Rule.
- (b) It may submit any matter to a ballot of the members of the National Board and the decision of the majority of the members of the National Board whose votes are received within fourteen (14) days of the date of the posting of the last submission shall be the decision of such Board thereon and shall be entered in the minute books of the Association as a decision of the National Board and shall be as binding and have the effect of a decision of that Board duly carried at a meeting thereof.
- (c) By a resolution carried by any two (2) Branches of the Association an appeal may be made to the then next sitting of the National Board against any decision of National Executive.
- (d) If such Board is not due to meet within two (2) months of the passing of such resolution, the National Executive shall submit such appeal to a ballot of the members of that Board.
- (e) If at any time the President or three (3) members of the National Executive consider a matter should be determined by the National Executive and National Executive is not sitting, the National Secretary shall submit that matter to a ballot of members of National Executive and the decision of the majority of the members of National Executive whose votes are received within fourteen (14) days of the date of the last submission shall be the decision of National Executive and shall be as binding and have the effect of a decision of the Executive duly carried at a meeting thereof.
- (f) **Not less than fourteen (14) Ten days'** notice by letter ~~or facsimile~~ , **email, SMS text or other written electronic means** shall be given to each member of ~~the~~ National Executive of each meeting thereof and four (4) members thereof present in person or by proxy shall be a quorum thereof.
- (g) The National Executive shall keep minute books in which are recorded proceedings and resolutions of the National Executive.

29 - EXECUTION OF DOCUMENTS

- (a) Subject to Rule 29(b) any document not required to be under seal shall be signed for and on behalf of the Association by any two (2) of the National President, a National Vice-President, a Vice-President and the Secretary/Treasurer.
- (b) A document not required to be under seal shall be signed for and on behalf of the Association by any person so authorised by any two (2) of the National President, a National Vice-President, a Vice-President and the Secretary/Treasurer.
- (c) Any document required to be under seal shall have the seal affixed thereto on the authority of a resolution of the National Board or Executive in the presence of any two (2) of the National President, a National Vice-President, a Vice-President and the Secretary/Treasurer who shall sign as having witnessed its affixation.

29A – ALTERNATIVE MEANS FOR CONDUCT OF MEETINGS

Notwithstanding any other provision of ~~these~~ **the Association** Rules, the National Board or the National Executive may conduct their respective meetings in person, by telephone or videoconference, or by a combination of these forms of meeting or communication. Where any such meeting is conducted other than by way of all of the participants being present in person, such meeting shall be as valid as if all participants had met in person provided that:

- (a) any such meeting is convened at the request of either the President or any three (3) members of the National Executive;
- (b) all members of the body concerned are given at least fourteen (14) days notice of the time, date and agenda for the meeting;
- (c) in the case of the National Board a majority of its members, including at least one delegate from each of five different branches of the Association, participates in the meeting, either personally or by proxy, by the chosen electronic means or in person;
- (d) in the case of the National Executive, a majority of its members participate in the meeting, either personally or by proxy by the chosen electronic means or in person.

For the purposes of Sub-Rule (c), the National Accommodation Division shall be deemed to be a Branch.

Provided that the notice period for the convening of such a meeting may be abridged to not less than forty eight (48) hours where not less than three (3) of the National Officers agree that due to urgent or exceptional circumstances a meeting in the manner authorised by this Rule should be conducted at short notice.

30 - EXPENDITURE OF FUNDS

- (1) All expenditure from the National Funds shall be approved by the National Board.
- (2) Each financial year, the National Board shall consider and approve for the next year:
 - (i) A budget of receipts and expenditure
 - (ii) Any delegations or limits to incur expenditure
 - (iii) The procedures for the approval and the payment of accounts
 - (iv) The criteria for identification of any expenditure that shall require specific reporting
- (3) Notwithstanding Sub-Rule (2) of this Rule the National Board or the National Executive may review and alter the budget during the year if circumstances require that course.
- (4) The Secretary/Treasurer shall report to each meeting of the National Board or National Executive on the actual expenditure and receipts compared to the budget. The report shall include an explanation of any variances to the budget.
- (5) A member of the National Board may make a written request of the Secretary/Treasurer for details of any item of expenditure submitted for approval. The Secretary/Treasurer shall provide that member with the details including the amount, recipient and purpose of such item of expenditure. The member may make a further written request of the Secretary/Treasurer to inspect the primary records of the relevant item of expenditure. The Secretary/Treasurer shall make such primary records available for inspection by that member at time and place nominated by the Secretary/Treasurer.

- (6) Any loan, grant or donation amount exceeding One Thousand Dollars (\$1,000.00) shall not be made by the Association unless the National Board:

has satisfied itself –

- (i) that the making of the loan, grant or donation would be in accordance with the other Rules of the Association; and
- (ii) in relation to a loan –
 - (a) that, in the circumstances, security proposed to be given for the repayment of the loan is adequate and the proposed arrangements for the repayment of the loan are satisfactory; and
 - (b) has approved the making of the loan, grant or donation.

30AA – FINANCE COMMITTEE

The National Board shall appoint by resolution a Finance Committee which shall advise the National Board and the National Executive on the financial affairs of the Association.

The Committee shall be chaired by the Secretary/Treasurer and be constituted by at least two additional members of the National Board (not being holders of any National Office), and such other persons with appropriate accounting or financial qualifications (not being officers of the Association) that the Board may appoint.

The Committee shall meet at least quarterly or as required and may conduct its meetings by such means as it shall determine.

At each meeting, the Secretary/Treasurer shall report on the financial affairs of the Association including explanations of variances to the budget. The Committee may investigate any item of expenditure and may refer any such item to the National Board for its specific consideration.

Nothing in this Rule shall derogate from the responsibilities of the National Executive and the National Board to ensure that all expenditure is undertaken in accordance with the requirements of these Rules and the Act.

30A – PRESENTATION OF FINANCIAL STATEMENTS OF THE ASSOCIATION

- (a) The National Secretary shall summon a meeting of the members of the Association upon receipt of a written request signed by no less than 5% of the membership of the Association calling for a general meeting for the purpose of considering the auditor's report, the general purpose financial report and the operating report in respect of the preceding financial year of the Association.
- (b) A general meeting of the members of the Association called pursuant to this Rule may be conducted as a series of meetings held at different locations.
- (c) The National Secretary shall give 28 days notice to the members of the Association of any general meeting called pursuant to this Rule.

- (d) The National Secretary shall give notice of any meeting to be conducted pursuant to this Rule by either written notice sent or delivered or forwarded by facsimile transmission to the address for each member held by the Association, or by email communication to each member or by notice published on the Association website to all members who have immediate access to that website, or by any combination of the foregoing means of communication.
- (e) A meeting conducted pursuant to this Rule is taken to have been completed at the time of the last of the meetings in any series of meetings.
- (f) All decisions at a meeting held in accordance with this Rule shall be taken by a show of hands except where a resolution is carried which determines to submit the question to a secret ballot.
- (g) Attendance at meetings conducted under this Rule shall be recorded and such attendance records shall be used to ensure that each member records only one vote.

30B – POLICIES AND PROCEDURES RELATING TO EXPENDITURE

The Association and each Branch of the Association shall develop and implement policies and procedures relating to the expenditure of the Organisation or Branch.

31 - DISPUTES WITHIN A STATE OR TERRITORY

If any industrial dispute shall occur in any Branch, that Branch shall forthwith advise the National Secretary of the same and shall advise the National Secretary from time to time of the progress made and of any fresh development therein.

No final settlement of any such dispute shall be made without the authority of National Executive which may at any time take over control of the dispute and conduct the negotiations or proceedings.

32 – RESIGNATIONS AND CESSATION OF MEMBERSHIP

- (1) A member of the Association may resign from membership by written notice addressed and delivered to the ~~member's~~ Branch Secretary ~~of the Branch of which he is a member~~.
- (2) A notice of resignation from membership of the Association takes effect:
 - (a) where the member ceases to be eligible to become a member of the Association:
 - (i) on the day on which the notice is received by the Association; or
 - (ii) on the day specified in the notice, which is a day not earlier than the day when the member ceases to be eligible to become a member;whichever is later; or
 - (b) in any other case:
 - (i) at the end of two (2) weeks after the notice is received by the Association; or
 - (ii) on the day specified in the notice;whichever is later.

33 - VACATION OF OFFICE

- (3) Any dues payable but not paid by a former member of the Association, in relation to a period before the member's resignation from the Association took effect, may be sued for and recovered in the name of the Association in a court of competent jurisdiction, as a debt due to the Association.
- (4) A notice delivered to the person mentioned in **Sub-Rule (1)** shall be taken to have been received by the Association when it was delivered.
- (5) A notice of resignation that has been received by the Association is not invalid because it was not addressed and delivered in accordance with **Sub-Rule (1)**.
- (6) A resignation from membership of the Association is valid even if it is not effected in accordance with this **Rule** if the member is informed in writing by or on behalf of the Association that the resignation has been accepted.
- (7) **Cessation of membership other than by way of resignation by the member shall be governed by the Rules of the Branch of the member. If the Rules of a Branch do not provide for such cessation of membership the Rules of the New South Wales Branch shall apply, mutatis mutandis.**

32A--

~~Within 14 days after:~~

- ~~—— (a) the business, or part of the business, of a member of the Association is assigned or transferred to a person who is not a member of the Association; or~~
- ~~—— (b) such a person succeeds to the business, or part of the business, of a member of the Association;~~

~~the member is required to notify the Association of the assignment, transfer or succession.~~

33 - VACATION OF OFFICE

- (1) ~~Any officer~~ **An office** of the organisation shall ~~vacate his office~~ **be vacated** if ~~the officer~~ -
- (a) ~~he~~ resigns;
- (b) ~~he~~ dies or becomes bankrupt, or ~~he otherwise because of physical or mental infirmity becomes incapable of fulfilling the duties of his office; or being a company is wound up other than for the purpose of reconstruction;~~
- (c) ~~he~~ has **been found ineligible for, or to have** ceased to be eligible to hold **the** office;
- (d) ~~he~~ has been found guilty of misappropriation of funds of the Association or of gross misbehaviour or gross neglect of duty.
- (2) For the purposes of **either Rule 33(1) (c) or (d)**, any person charged under this Rule shall be notified of the charge ~~against him~~ in writing and be required to attend before a meeting of the **State Branch** Executive, for which ~~he~~ **the person charged** shall receive seven (7) days' notice. At such meeting, ~~he~~ **the person charged** shall be given the opportunity to deny **the** charges laid ~~against him~~ and, after hearing all the evidence, the **State Branch** Executive shall decide upon the matter and their decision shall be final, subject to the provisions of the Act.

34 - CHANGES IN REGISTER OF MEMBERS

In addition to the requirements of the Act, each Branch Secretary shall on or before the 15th day of December in each year forward to the National Secretary a list of all changes in the Register of members of the Branch as at that day and of any changes in the names, postal addresses or occupations of its officers and shall also forward to the National Secretary within two months of the close of its financial year a duly audited account in proper form of the receipts, payments, funds and effects of ~~his~~ **their respective** Branch as at the close of its financial year.

35 - BREACH OF RULES BY BRANCHES

If any Branch of the Association fails to carry out or give effect to any of these Rules or any resolution of the National Board or National Executive of which it shall have notice it may after having been given notice of the offence alleged and the opportunity of replying thereto be fined a sum not exceeding \$200.00 (two hundred dollars). Any such fine may be inflicted by the National Board or Executive and shall be paid within 30 (thirty) days of its imposition or of the date of the decision on any appeal brought against the same.

If such fine is imposed by ~~the~~ National Executive, then the Branch fined may by notice in writing forwarded to the National Secretary within thirty (30) days of the advice of the imposition of such fine appeal to the National Board.

The National Board shall consider the appeal at its then next meeting and any representations made by or on behalf of the Branch or National Executive and may cancel, confirm or vary the amount of any such fine.

If any such fine is not paid as aforesaid, National Board or National Executive may suspend the Branch and the members thereof until the fine is paid or may sue for recovery from the funds of the Branch the amount of such fine.

36 - MEMBERS IN ARREARS

Any Branch Secretary may in the name of and on behalf of the Association sue any member of ~~his~~ **their respective** Branch whose fees, fines, levies or dues are more than three (3) months' unpaid.

Any member whose fees, fines, levies or dues are owing for a period determined by ~~his~~ **that member's** Branch may by resolution of ~~his~~ **that member's** Committee of Management be struck off the register of members and shall not be re-admitted to membership unless and until all such arrears are paid.

37 - BRANCH LEVIES

Any Branch may by resolution strike a levy on its members for any purpose of that Branch. Such levy may be imposed by a general or special meeting of its members or by a resolution of its Committee of Management carried by a majority of members attending and voting thereon.

38 - FARES AND EXPENSES

Branch representatives to National Board and Branch Presidents **and the Chair of the NAD** shall be paid by the Branch electing them their fares and reasonable expenses of attending meetings of ~~the~~ National Board or Executive. In the case of the National President, fares and reasonable expenses shall be paid from National Australian Hotels Association funds.

39 - RULES - AMENDMENT OF

1. These Rules may be amended, altered, rescinded, repealed or new Rules made by the National Board by resolution carried by a majority of members voting.
2.
 - (i) Any proposed change in the Rules shall be advised by the National Secretary to each Branch at least twenty-one (21) days prior to the meeting at which it is proposed to consider the same or, if such change is to be submitted to a postal ballot of members of the National Board which the National President or Executive is authorised to do, at least twenty-one (21) days before the close of the ballot.
 - (ii) Branches may instruct their representatives how they shall vote on any such proposal to change the Rules and they shall vote as so instructed.
3. Notwithstanding any other provision of these Rules, no Rule relating to Branch offices or to a Branch fund shall be altered except with the consent of the Branch concerned.
4. To avoid doubt, this Rule does not apply to the alteration of any of the NAD Rules.
[Note: Rule 65 (ii) requires that the National Board approve by resolution any alteration of the NAD Rules made pursuant to that Rule.]

40 - MISCONDUCT OF MEMBERS

If any member of the Association be charged by another by notice in writing delivered or posted to the Secretary of the Branch to which the member charged belongs or if a member of a Branch be charged by the Secretary thereof by notice in writing addressed to the member and the President of the Branch with -

- (a) refusing or neglecting to comply with the Rules of the Association or ~~that member's~~ Branch; or
- (b) by gross misconduct, serious neglect of duty or misappropriation of funds; or
- (c) refusing or neglecting to comply with a resolution of the National Board or Executive, a meeting of the members of ~~his~~ ~~their~~ Branch, or its Committee of Management of which resolution ~~he~~ ~~the member~~ has had notice;

the member charged and the member making the charge shall be summoned to attend the then next meeting of the Branch Committee of Management or its Judicial Committee, if any, of which such members and the members of the said Committee shall be given at least seven (7) days' notice and notice of the charge made, at which meeting the member making the charge and the member charged shall, if they so desire, be heard in support of and in opposition to the charge respectively or to which they may make written submission.

If the member charged does not attend such meeting, the charge may be heard in ~~his~~ ~~the member's~~ absence.

If the Committee find the charge proven and do not accept the explanation of justification (if any) of the member charged, it may fine such member a sum not exceeding \$200.00 (two hundred dollars), suspend ~~him~~ ~~the member~~ from membership for a period not exceeding two (2) years or expel ~~him~~ ~~the member~~ from membership.

Any member expelled from membership as the result of any such charge may by notice in writing delivered or posted to ~~each~~ ~~his~~ ~~their~~ Branch Secretary and the National Secretary within fourteen (14) days of being notified of such expulsion appeal to ~~the~~ National Executive.

The National Executive shall consider such appeal at its then next meeting and after hearing or reading any submission the expelled member may make, may allow the appeal, confirm the expulsion or may in lieu of such expulsion suspend the member from membership for a period not exceeding two (2) years or fine such member a sum not exceeding \$400.00 (four hundred dollars).

If a member brings a charge against another which the Branch Committee of Management determines to be frivolous or vexatious, he ~~that member~~ may be fined by the Branch Committee of Management a sum not exceeding \$100.00 (one hundred dollars).

41 - SPECIAL ALTERATIONS IN RULES

Notwithstanding anything elsewhere contained in ~~these the Association~~ Rules, the ~~Association~~ Rules may be amended, added to or deleted or Rules may be rescinded by the National Secretary/Treasurer and the National President on the advice of Counsel:

- (a) to meet any requirement of the General Manager where in the opinion of the General Manager such alterations are necessary to conform with the Act; and/or
- (b) when an obligation previously imposed by the Act ceases to be currently imposed by the Act.

~~42 - ACCOMODATION HOTELS DIVISION~~

- ~~(a) Notwithstanding anything elsewhere contained in these Rules, each Branch of the Association may constitute from among its members an Accommodation Hotels Division in which the Division in turn may be comprised of one or more Accommodation Sub Divisions organised on a geographic basis as determined by that Branch.~~
- ~~(b) Such Division shall consist of such members as are financial members of the Australian Hotels Association resident in the State or Territory in which the Branch has constituted the same, having bedrooms available to the public in such number as the Branch may from time to time determine and which such members in writing express their desire to become members of the Division.~~
- ~~(c) Each Division shall elect annually from their number in the manner provided by rule 16 for the election of the officers of the National Board by postal ballot, mutatis mutandis such number of representatives as appear thereunder to the body to be known as the National Accommodation Hotels Division—~~

~~_____ The New South Wales Accommodation Hotels Division: 2 representatives;~~

~~_____ The Victoria Accommodation Hotels Division: 2 representatives;~~

~~_____ The Queensland Accommodation Hotels Division: 2 representatives;~~

~~_____ The South Australia Accommodation Hotels Division: 1 representative;~~

~~_____ The Western Australia Accommodation Hotels Division: 1 representative;~~

~~_____ The Tasmania Accommodation Hotels Division: 1 representative;~~

~~_____ The Australian Capital Territory Accommodation Hotels Division: 1 representative;~~

~~_____ The Northern Territory Accommodation Hotels Division: 1 representative;~~

~~_____ or such other number of representatives as the National Board may at the request of the National Accommodation Hotels Division or of its own motion from time to time determine. Notwithstanding~~

42 - ACCOMODATION HOTELS DIVISION

-
- ~~anything elsewhere contained in these rules or the rules of the Queensland Branch, the representative/s of the Queensland Accommodation Hotels Division shall be elected from and by the membership of the Accommodation Hotels Division of the respective sub division which they represent.~~
- ~~The roll of voters for any ballot for any direct voting system election required under these rules is to be closed 7 days before the day on which nominations for the election open.~~
- (d) ~~When such National Accommodation Hotels Division is constituted, it shall—~~
- ~~(i) meet at least once a year at such time and place as it determines or if it does not so determine as its President appoints and at such other times and places as it or its President from time to time determines; and~~
 - ~~(ii) at its annual meeting in the manner provided by rule 15 mutates mutandis elect its officers who shall consist of a President, Vice President and a Secretary together with representatives to the National Board who shall not exceed one representative from each properly constituted Branch Accommodation Division.~~
 - ~~(iii) In addition to the President, who is ex officio a member of the National Board, the Division shall also elect four (4) representatives to the National Board from the representatives elected to the National Accommodation Hotels Division from the State and Territory Divisions, or such greater number of delegates as may be required to ensure that the number of delegates from the National Accommodation Hotels Division to the National Board is never less than 17.75% of the total number of delegates that are to be elected to the National Board in any year.~~
- (e) ~~The expenses of a representative from a division to the National Accommodation Hotels Division shall be borne by the Division he represents and the expenses of the representatives of the National Accommodation Hotels Division to the National Board shall be borne by the Branch of which the representative is a member.~~
- (f) ~~Each Accommodation Hotels Division shall have the right to recommend to the Committee of Management of its Branch such matters and things concerning accommodation hotels as it determines and the National Accommodation Hotels Division may make recommendations concerning similar matters and things to the National Board.~~
- (g) ~~Each State or Territory Division and the National Accommodation Division may make and from time to time alter its own Rules for the conduct of its business, the number and description of its officers and committees, payments made to it by its members and such other matters as it determines but such Rules shall be subject to and shall not conflict with these Rules nor in the case of a State Division with the Rules of its Branch. Provided that any rule or alteration of rule of the National Accommodation Hotels Division relating to payments to be made to it by its members shall, before becoming effective, be submitted to the National Executive for approval.~~
- (h) ~~No such Division, including the National Division, shall be entitled to initiate any industrial dispute or attempt to conduct or negotiate in any such dispute and in the event of a dispute arising concerning its members or any of them shall forthwith report the same to the appropriate Branch General Secretary or to the National Secretary in writing.~~
- (i) ~~The duties of the President, Vice President and Secretary shall be as prescribed by rule 20, rule 21 and rule 23 respectively mutatis mutandis.~~

42A – FILLING CASUAL VACANCIES

(a) Casual Vacancies – Delegates to National Board

Subject to the Act, any vacancy in the office of a delegate to the National Board referred to in Rule 11.1 may be filled for the balance of the term of the office by appointment by the Branch Committee of Management of the Branch wherein any such vacancy occurs.

~~(b) Casual Vacancies – National Accommodation Hotels Division~~

~~Subject to the Act, any vacancy occurring in any office in the National Accommodation Hotels Division (including the office of delegate to the National Board from that Division) may be filled by appointment for the balance of the term of the office by and from the National Accommodation Hotels Division, if necessary and practicable, by postal vote conducted, mutatis mutandis, in accordance with the procedures required by Rule 16.~~

(e b) Casual Vacancies – National Board Officers

Subject to the Act and the application of Rule 21(c), any casual vacancy occurring in any of the offices of Vice President and Secretary/Treasurer, shall be filled for the balance of the term of the office by appointment by and from the National Board.

43 - PLEBISCITE

- (a) The National Board shall have the power to take a plebiscite of members of the Association on any matter.
- (b) The National Board shall take a plebiscite of members of the Association upon receipt of a petition signed by not more than 5% of members of the Association or two hundred and fifty (250), whichever is the least requiring a plebiscite, and properly specifying the issue or issues to be determined.
- (c) The Plebiscite shall be conducted by the Returning Officer by postal ballot of all financial members of the Association and the decision of the Plebiscite shall be binding on the National Board.

44 - ABSENTEE VOTING

~~If a member who is entitled to vote at any election held under these rules will be absent from his usual address during a ballot such member may apply to the Returning Officer for a ballot paper to be sent to him at an address which he nominates.~~

The Returning Officer shall make provision for absentee voting in respect of the conduct of any election under these Rules as follows:

- (a) For attendance ballots relating to collegiate elections – any member of the college who expects to be absent from the meeting taking the ballot shall be entitled to exercise their secret ballot, where practicable, in such manner as the Returning Officer determines provided that an application for absentee voting is made to the Returning Officer not less than forty eight hours prior to the date for the taking of the ballot.
- (b) For secret postal ballots – the use of absentee voting so that any member who expects to be absent from their usual postal address at the time of any ballot shall be entitled to have their ballot paper forwarded to their temporary address upon making written application to the Returning Officer not less than forty eight hours prior to the opening of the ballot.

44A – TERMS OF OFFICE DURING COVID-19 PANDEMIC – 2020-2021

- (a) Notwithstanding any other provisions of ~~these~~ the Association Rules, the terms of office for those offices governed by ~~any of those~~ these Rules that commenced in 2019 are two (2) years.
- (b) The terms of office for the offices governed by this Rule shall expire in 2021 at the time or times prescribed by these Rules, in particular Rule 11 (delegates to National Board), 15 (members of the National Executive) and Rule 42 (offices of the National Accommodation Hotels Division). Thereafter, the terms of office for the relevant offices shall be one year.

~~***END OF RULES***~~

PART B – NATIONAL ACCOMMODATION DIVISION

45 - ESTABLISHMENT AND NAME

There shall be and is a Division of the Association by the name “National Accommodation Division”, which may also be described as “Accommodation Australia (National)”.

In the NAD Rules the Division shall be referred to for convenience as “NAD” or “the NAD”.

46 - LOCATION OF OFFICE

The office of the NAD shall be located at such place or places in Australia as the NAD Board may determine from time to time.

47 - INTERPRETATION

- (i) Unless the contrary intention appears, in the NAD Rules:
 - a. Words in the singular include the plural and vice versa;
 - b. A reference to any gender include a reference to all other genders;
 - c. Headings are for convenience and do not affect meaning; and
 - d. A reference to a statute includes a reference to any amendments to that statute after the commencement of the NAD Rules, and to any statute which replaces that statute, whether in whole or in part.

- (ii) Unless the contrary intention appears, in this Part the following words and expressions have the following meanings:
- a. “Act” means the Fair Work (Registered Organisations) Act 2009 (Cth);
 - b. “Amalgamation date” has the meaning assigned to it by Rule 70 R.
 - c. “Association” or “the Association” means the Australian Hotels Association, an organisation of employers registered under the Act;
 - d. “Board” or “the NAD Board” shall mean the Board of the NAD constituted by the NAD Rules;
 - e. “Board member” or “NAD Board member” shall mean a member of the NAD Board;
 - f. “Part A Rules” shall mean the Rules contained in Part A;
 - g. “National Board” or “the National Board” shall mean the National Board constituted and governed by the Part A Rules;
 - h. “National Executive” or “the National Executive” shall mean the National Executive constituted and governed by the Part A Rules;
 - i. “NAD” or “the NAD” shall mean the National Accommodation Division of the Association constituted and governed by the NAD Rules;
 - j. “the industry sectors” shall bear the meaning assigned to it by Sub-Rule 8(i) of the NAD Rules;
 - k. “the Association Rules” means the Rules of the Association at the national level, as together prescribed by the Part A Rules and the NAD Rules;
 - l. “the NAD Rules” shall mean the Rules contained in Part B;
 - m. “these Rules” shall mean the NAD Rules;
 - n. “Special Resolution” means a resolution adopted by a majority of not less than 75% of the members of the NAD Board present and voting on that resolution at a duly constituted meeting of that Board.
- (iii) For the purposes of the NAD Rules, the expression “Accommodation Hotels Division” in relation to a Branch shall mean the Accommodation Division of that Branch

48 - OBJECTS OF THE NAD

The objects of the NAD shall be:

- (i) To advance and protect the industrial and commercial interests of its members in the accommodation and tourism sectors of the hotel industry (“the industry sectors”) throughout Australia;
- (ii) To act as an advocate for the industrial and commercial interests of its members in the industry sectors;
- (iii) To represent its members in all forums anywhere in Australia that affect or may affect their interests, including but not limited to Parliaments, governments and regulatory agencies;
- (iv) To work in close consultation with the officers of the Association, both at Branch and National level, in relation to all matters of common interest to the members of the NAD and the other members of the Association;
- (v) To encourage business and corporate groups or associations who participate in the industry sectors to affiliate with the Association through the NAD, and to foster close co operation and liaison between those bodies and the NAD;
- (vi) To take all such action and do all such things as may be conducive to the achievement of the foregoing objects;

Provided that:

- a. The NAD shall not represent its members in industrial relations matters without the prior consent of the National Executive; and
- b. The NAD shall not form any Branches or sub Branches in any State or Territory.

49 - MEMBERSHIP OF THE NAD

- (i) A member of the Association shall be eligible for membership of the NAD and recognised as an NAD member if that member:
 - a. Is a financial member of the Association in accordance with the Part A Rules or the applicable Branch Rules for that member; and
 - b. Is a member attached to the Accommodation Hotels Division of the relevant Branch.
- (ii) A member of the NAD shall not be required to pay any fees to the NAD for membership. However, the Branch of the Association to which that NAD member is attached shall be required to pay capitation fees to the NAD in respect of all NAD members in that Branch as prescribed by Rule 60.
- (iii) Notwithstanding the terms of Sub-Rule (i) of this Rule, an applicant for membership of the Association who or which is eligible for membership of the NAD may, at the time of making application to join the Association, specify in writing that the applicant declines membership of the NAD, in which case that applicant will not become or be treated or be recognised as a member of the NAD. However, a member of the Association who or which has declined membership of the NAD pursuant to this Sub Rule may at any time thereafter apply for membership of the NAD and be admitted to such membership, without additional fee, if eligible for membership of the NAD at that time.

- (iv) When a Branch receives an application for membership of the Association from an applicant that the Branch believes is eligible to be a member of the NAD that Branch shall ensure that the applicant is advised of its said eligibility and also advised of its right to decline membership of the NAD if it wishes.
- (v) The representative of a member of the NAD shall be the person appointed by that member from time to time as its or their representative in that member's Branch, pursuant to the Rules of that Branch or the Association Rules, as the case may be.
- (vi) A member of the NAD may resign from membership of the NAD upon giving fourteen days' written notice to the Secretary of the NAD and to its Branch.
- (vii) A member of the NAD who or which ceases to be eligible to be a member of the NAD shall cease to be a member of the NAD upon the expiry of seven days after notice of such ineligibility is provided to that member by the Secretary/Treasurer of the NAD *provided that* the NAD may extend this period by up to twenty-eight days and may revoke the notice if the member concerned satisfies the NAD that it remains eligible for membership of the NAD.

50 - ASSOCIATE MEMBERS IN THE ACCOMMODATION OR TOURISM SECTORS

- (i) The NAD may enrol any industry association, corporation, business or corporate group with an interest in the accommodation or tourism sectors as an associate member of the NAD on such terms and conditions as the NAD Board determines. Any such associate member may be described by the NAD or the associate member as "a corporate partner" or "industry sponsor", or such similar description as the Board of NAD may determine.
- (ii) An associate member of the NAD is not a member of the NAD for the purposes of the NAD Rules or the Act, and in particular has no right to attend or vote at any meeting of the NAD, or to have a representative of it stand for office or vote in any election in the NAD.
- (iii) Notwithstanding the terms of Sub-Rule (ii) of this Rule, an associate member or its representative may attend, participate in and speak at a meeting of the NAD with the permission of that meeting.

51 - BOARD OF THE NAD

- (i) There shall be a committee of management of the NAD consisting of representatives of the NAD members in the respective branches of the Association elected by and from those members in accordance with Rule 52. This committee may be called "the Board of NAD" or "the NAD Board" and its members may be referred to as "members of the NAD Board" or "NAD Board members".
- (ii) Subject to the NAD Rules, the NAD Board shall have full power to conduct and manage the affairs of the NAD.
- (iii) Without limiting the effect of Sub-Rule (ii) of this Rule, the NAD Board shall have the following powers:
 - a. Such powers as are specifically conferred on the NAD Board by any other provisions of the NAD Rules;
 - b. Expend the funds of the NAD in accordance with its objects;

- c. Enter into contracts with suppliers and service providers as it may determine in furtherance of the objects of the NAD;
- d. Fix the honorariums, allowances and other benefits of NAD Board members;
- e. Subject to the requirements of Rule 64 in respect of the Chief Executive of the NAD, engage and dismiss employees and fix their terms and conditions of employment;
- f. Direct the investment of the funds of the NAD;
- g. Dispose of or transfer any of the funds of the NAD or any securities in which the funds of the NAD have been invested;
- h. Subject to Sub-Rule 48 (vi) (b) of the NAD Rules, establish such companies, agencies and corporate bodies as are necessary to further the interests of the members of the NAD;
- i. Subject to the limits set by the Act, delegate the powers and responsibilities of the Secretary/Treasurer to the General Manager;
- j. Establish any committees or sub-committees as it may determine provided that any such committee or subcommittee shall be advisory only;
- k. Appoint an auditor, and to fix their fees or remuneration;
- l. Remove an auditor in accordance with Sub-Rule 62(i);
- m. Subject to Rule 63(ii), to have presented to it the Auditor's Report, the general purpose financial report and the operating report required to be presented to the NAD Board in respect of each financial year concluding after the certification of this Sub-Rule not later than six months after the conclusion of each financial year so occurring; and
- n. Take such action or exercise such powers as are incidental to those specifically identified in the NAD Rules.

52 - ELECTION OF NAD BOARD MEMBERS

- (i) Each Accommodation Hotels Division in each Branch of the Association shall elect every three years by and from their respective members, in the manner provided for in Rule 16 in the Part A Rules for the election of the officers of the National Board by secret postal ballot mutatis mutandis, the representatives to the NAD Board ("the Board members"), as follows:
 - a. New South Wales: two representatives;
 - b. Victoria: two representatives;
 - c. Queensland: two representatives;
 - d. South Australia: one representative;
 - e. Western Australia: one representative;
 - f. Tasmania: one representative;
 - g. Australian Capital Territory: one representative; and

h. Northern Territory: one representative.

- (ii) Nominations for the first elections under this Rule shall be called in the period commencing eighteen months after the amalgamation date, such that the elections under this Rule and the collegiate election under Rule 53 shall be completed within twenty-four months of the amalgamation date. Nominations shall be called every third years occurring thereafter.
- (iii) The roll of voters for the election of the Board members shall close not later than seven days before the day on which nominations for the election open.
- (iv) In respect of the Queensland Branch, the representatives of that Branch's Accommodation Division shall be elected by and from the membership of the Accommodation Hotels Division of the respective sub divisions which they represent.
- (v) All such Board members once elected, shall hold office until their successors are elected, unless they cease to hold office as prescribed by Rule 33 of the Part A Rules.
- (vi) If a vacancy should occur in the office of a Board member during the term of that office, such vacancy shall, unless it occurs less than nine months after the commencement of the term, be filled by appointment by the Board of a member of the NAD from the Accommodation Hotels Division of the Branch in respect of which the vacancy occurred. If the vacancy occurs less than nine months after the commencement of the term, the vacancy shall be filled by way of election by and from the members of the Accommodation Hotels Division of the Branch wherein the vacancy occurred.

53 - NAD BOARD OFFICE BEARERS

- (i) At the first meeting of the NAD Board to be conducted after the election of the Board members pursuant to Rule 52 of the NAD Rules, and every three years occurring thereafter, the Board members shall elect by and from their number the Office Bearers of the Board, namely:
 - a. Chair of the Board;
 - b. Deputy Chair; and
 - c. Secretary/Treasurer.
- (ii) Such election of the Office Bearers shall be by way of secret ballot conducted in the manner provided in Rule 15 of the Part A Rules for the election of the officers of the National Executive, mutatis mutandis.
- (iii) All such Office Bearers, once elected, shall hold office until their successors are elected, unless they cease to hold office as prescribed by Rule 33 of the Part A Rules.
- (iv) If a vacancy should occur in the office of an Office Bearer during the term of that office, such vacancy shall, unless it occurs less than nine months after the commencement of the term, be filled by appointment by the Board by and from the members of the Board then holding office. If the vacancy occurs less than nine months after the commencement of the term, the vacancy shall be filled by way of election by and from the members of the Accommodation Hotels Division of the Branch wherein the vacancy occurred.

54 - REPRESENTATION OF NAD ON THE NATIONAL BOARD AND NATIONAL EXECUTIVE

- (i) The NAD shall be entitled to eight delegates on the National Board of the Association, or such additional number as may be agreed by the Association and the NAD.
- (ii) The delegates on the National Board from the NAD shall be:
 - a. the Chair of the NAD Board ex officio;
 - b. the Deputy Chair of the NAD Board ex officio;
 - c. the Secretary/Treasurer of the NAD ex officio; and
 - d. such other number of delegates as are required to make up the delegation from the NAD as specified in Sub-Rule (i), all to be elected by and from the members of the Board of the NAD in the manner provided by Rule 15 of the Part A Rules for the election of the officers of the National Executive, mutatis mutandis.
- (iii) The term of office of the ex officio and elected delegates to the National Board shall be the term prescribed by the Part A Rules for members of the National Board.
- (iv) All such elected delegates, once elected, shall hold office until their successors are elected, unless they cease to hold office as prescribed by Rule 33 in the Part A Rules.
- (v) If a vacancy should occur in the office of an elected delegate during the term of that office, such vacancy shall be filled by the Board by and from the members of the Board then holding office.
- (vi) The Chair shall be ex officio the delegate of the NAD on the National Executive of the Association.

55 - CHAIR OF THE NAD BOARD

- (i) The Chair of the Board ("Chair") shall preside at all meetings of the NAD Board and any General Meeting of NAD members. The Chair shall preserve order so that the business may be conducted in due form and with propriety and upon the minutes being confirmed shall sign those minutes in the presence of the meeting.
- (ii) The Chair shall have the authority to act for and on behalf of the NAD in any matter of such urgency that the NAD Board cannot reasonably be convened or consulted under the NAD Rules prior to the taking of such action, but shall report the full circumstances of such action to the Board at the first available opportunity.
- (iii) The Chair shall be ex officio a member of the National Board and ex officio a member of the National Executive, and of all committees within the NAD established by the NAD Board.

56 - DEPUTY CHAIR OF THE NAD BOARD

- (i) The Deputy Chair shall assume the duties of the Chair in the absence of that Officer for any reason and shall otherwise perform such duties and functions as may from time be allocated to the Deputy Chair by resolution of the NAD Board. Provided that if both the Chair and the

Deputy Chair are not available for any reason, the NAD Board shall appoint one of the Board members to act as Deputy Chair until either that Officer or the Chair becomes available.

- (ii) The Deputy Chair shall be ex officio a member of the National Board.
- (iii) In the absence of the Chair the Deputy Chair shall be ex officio a member of all committees of the NAD Board.
- (iv) The powers and duties of the Deputy Chair do not extend to the ex officio office of member of the National Executive held by the Chair, except if the Chair appoints the Deputy Chair as the former's proxy for a National Executive meeting pursuant to Rule 27 of the Part A Rules, and in that case only to the extent of the authority conferred by that proxy.

57 - SECRETARY/TREASURER OF NAD

- (i) The Secretary/Treasurer shall:
 - a. Summon by notice in writing to each NAD Board member and attend, unless excused, all meetings of the NAD Board;
 - b. Keep or cause to be kept correct minutes of each meeting of the NAD Board, which minutes when confirmed are to be electronically stored in the records of the NAD;
 - c. Initiate or respond to all correspondence as appropriate under the NAD Rules;
 - d. Keep or cause to be kept the records required to be kept by an organisation pursuant to the provisions of the Act;
 - e. Lodge and file with and furnish to the General Manager of the Fair Work Commission and the Registered Organisations Commissioner all such documents as are required to be lodged, filed or furnished under the Act at the prescribed times and in the prescribed manner;
 - f. Keep an up to date register of members arranged by reference to the Accommodation Hotels Divisions in the respective Branches showing their names, their postal address and email address where notified, and provide the Returning Officer with such assistance as is necessary to enable that Officer to conduct any election;
 - g. Receive all monies on behalf of the NAD and pay the same within seven days of receipt into such financial institution or institutions as the Board may direct to the credit of the NAD;
 - h. Issue or cause to be issued proper receipts for all moneys received by or on behalf of the NAD;
 - i. Be responsible for but not hold in its name, the books, records, property and moneys of the NAD and, within 48 hours of receiving a request from the NAD Board to do so, deliver to the NAD Board such books, records, property and moneys;
 - j. Submit that Officer's books, accounts and receipts annually or as often as may be required by the NAD Board or to the auditors and to give them such assistance as they may require in the audit;

- k. Draw up a report and balance sheet each financial year and forward a copy of same to each member of the NAD Board within three months of the end of the financial year to which it relates;
 - l. Prepare and submit to each meeting of the NAD Board an up-to-date financial statement and, when called upon so to do by the Chair or the NAD Board, produce all relevant books in support of the same;
 - m. Submit to the NAD Board all accounts for payment with that Officer's recommendations, and make all authorised payments from the funds of the NAD, such payments to be approved by any two of the NAD Board members appointed by that Board; and
 - n. At the direction of the NAD Board, carry out other duties as required.
- (ii) The Secretary/Treasurer may deputise a member of a recognised Institute of Accountants approved by the Board to keep the books of the NAD, in which event the Secretary/Treasurer shall remain responsible for the supervision of their preparation and their accuracy.
- (iii) The duties prescribed in this Rule are to be carried out under the direction and control of the NAD Board which may from time to time delegate some of those duties by resolution to other Board members or to the Chief Executive pursuant to Rule 21.
- (iv) To avoid doubt, the Secretary/Treasurer may be assisted in the performance of any of that Officer's duties under the NAD Rules by the Chief Executive or any other employees so authorised by resolution of the NAD Board.
- (v) The Secretary/Treasurer shall be an ex officio member of the National Board.

58 - MEETINGS OF THE NAD BOARD

- (i) The NAD Board shall meet at such times and in such places as it shall determine by resolution and may meet as many times in a calendar year as it should so determine, provided that it shall meet no less than three times in any one calendar year.
- (ii) A meeting of the Board may also be convened at the written request of the Chair or at least three Members of the Board, submitted to the Secretary/Treasurer. To avoid doubt, there is no limit on the number of such meetings that may be conducted in any one calendar year.
- (iii) The Secretary/Treasurer shall give written notice of each meeting of the Board as follows:
- a. In the case of a meeting convened pursuant to Sub-Rule (i) of this Rule, at least seven days' notice of the meeting; and
 - b. In the case of a meeting convened pursuant to Sub-Rule (ii) of this Rule, not less than forty-eight hours' notice of the meeting, where practicable;
- provided that* where the Board resolves to schedule more than one meeting pursuant to Sub-Rule 58(i), the Secretary/Treasurer may notify the members of those dates by one communication listing all dates so fixed.
- (iv) The quorum for meetings of the Board shall be one half of the persons entitled to attend and vote, plus one. If no quorum be present at the expiration of thirty minutes after the time stated

for the commencement of the meeting such meeting shall lapse but without prejudice to another such meeting being called for the same purpose as such meeting was called, at such other time and place as may be thought fit, upon seven days' notice to all members by the Secretary/Treasurer.

- (v) Notwithstanding any other provision of the NAD Rules, any meeting of the Board may be conducted in person, by telephone or videoconference, or by a combination of these forms of meeting or communication. Where any such meeting is conducted other than by way of all of the participants being present in person, such meeting shall be as valid as if all participants had met in person provided that:
 - a. Any such meeting is otherwise convened and conducted in accordance with the requirements of the NAD Rules, including (without limitation) the preceding provisions of this Sub-Rule; and
 - b. Each of the members participating in the meeting must be able to hear each of the other members present at the meeting.
- (vi) Where in the opinion of the Chair a matter requires the consideration of the Board before its next scheduled meeting, the Board may be consulted in writing (including electronic means) by circular proposed resolution. Such a proposed resolution shall become a resolution of the Board as at the date set for return of responses, provided that the proposed resolution is supported by at least fifty percent of the total number of Board Members then holding office, plus one. A resolution passed by way of such circular resolution shall be reported to the next Board meeting.
- (vii) To avoid doubt, in this Rule, communication by way of email to a person at that person's email address notified to the NAD shall be deemed sufficient to constitute written communication to that person.
- (viii) It shall be the duty of each Board member to attend every meeting of the Board unless granted leave by the Board.
- (ix) At all meetings of the Board voting shall be by show of hands unless the meeting decides on another method. The Chair shall have a deliberative vote only and in the case of a tie the question shall lapse. Proxy voting shall not be permitted.

59 - NAD FUNDS AND PROPERTY

- (i) The funds and property of the NAD shall consist of:
 - a. Any real or personal property of which the NAD by the Association Rules or by any established practice not inconsistent with those Rules, has, or, in the absence of any limited term lease bailment or arrangement, would have, the right of custody, control, or management;
 - b. The amounts of capitation fees payable to the NAD pursuant to the NAD Rules;
 - c. Any interest, rents, dividends, or other income derived from the investment or use of such funds and property;

- d. Any superannuation or long service leave, or other funds operated or controlled by the NAD as a whole in accordance with the NAD Rules for the benefit of its officers or employees working for the Division;
 - e. Any property acquired wholly or mainly by expenditure of the moneys of such funds and property or derived from other assets of such funds and property; and
 - f. The proceeds of any disposal of parts of such funds and property.
- (ii) The funds and property of the NAD shall be controlled by the NAD Board which shall have power to expend the funds of the NAD for the purposes of carrying out the objects of the NAD. For the expenditure of the funds of the NAD on the general administration of the NAD and for purposes reasonably incidental to the general administration of the NAD, the prior authority of the NAD shall not be necessary before cheques are signed or accounts paid electronically.
- (iii) Prior to the commencement of the financial year, the Chief Executive shall submit for consideration and determination by the Board a proposed budget for the forthcoming financial year. The Board shall be responsible for the allocation of Association funds.
- (iv) The financial year of the NAD shall end on the 30th day of June in each year.
- (v) The Board will develop and approve policies in relation to the expenditure of the NAD's funds and management of its property, including policies to ensure fiduciary prudence in these matters.

60 - CAPITATION FEES FROM BRANCHES TO NAD

- (i) In addition to any other means by which the NAD may acquire funds or assets pursuant to the Association Rules, the Branches of the Association shall pay capitation fees to the NAD in respect of their members of the NAD in accordance with the formula prescribed in Schedule "I" to the NAD Rules ("the Formula").
- (ii) Branches shall calculate and pay their capitation fee liability to the NAD on a quarterly basis from the quarter commencing on the first day of the first full quarter commencing after the amalgamation date, and such quarterly capitation fees shall be paid not later than fourteen (14) days after the commencement of each quarter.
- (iii) Each such quarterly payment of capitation fees by a Branch shall be accompanied by a certificate signed by the Secretary of that Branch stating that the amount of the payment is a true and correct calculation of the Branch's liability to the NAD for that quarter based on the membership records of that Branch's Accommodation Hotels Division.
- (iv) The Chief Executive or delegate thereof shall have the right to inspect the records of any Branch Accommodation Hotels Division, not more than twice in any calendar year, to confirm that quarterly payments made by that Division's Branch are a correct calculation of that Branch's liability to the NAD under the Formula. In the event of any discrepancy being identified as a result of such inspection, or dispute as to compliance with the Formula by that Branch, the auditor for the NAD will confer with the auditor of the Branch to resolve the issue. If the auditors cannot agree the parties may exercise their rights under the Act if they be so advised.

61 - LOANS, GRANTS AND DONATIONS

- (i) Notwithstanding any other provisions of the the Association Rules, the following shall apply in relation to the NAD giving any loans, grants and donations:
 - a. No loan, grant or donation of an amount exceeding \$1,000 shall be made unless the NAD Board has satisfied itself:
 - (A) that the making of the loan grant or donation would be in accordance with the other Rules of the NAD; and
 - (B) in the case of a loan - that, in the circumstances, the security proposed to be given for the repayment of the loan is adequate and the proposed arrangements for the repayment of the loan are satisfactory
and
 - b. That the NAD Board has approved the making of the loan, grant or donation.
- (ii) Nothing in this Rule is intended to apply to or prevent the reimbursement of out-of-pocket expenses incurred by persons for the benefit of the NAD.

62 - NAD AUDITOR

The NAD Auditor shall:

- (i) Be appointed annually by the NAD Board, and may only be removed by the NAD Board during their term of appointment by a resolution adopted by an absolute majority of that Board;
- (ii) Perform such functions and duties as are prescribed by the Act including the yearly audit of the NAD's accounts and such other functions and duties not inconsistent with the Act as are required by the Board;
- (iii) Have access to examine if desired all books, papers, deeds, documents and accounts of the NAD and be empowered to question any Officer or employee of the NAD with regard to the same and to obtain from any financial or other institution at which the funds of the NAD are deposited or invested, such information as the auditor may require; and
- (iv) Have power to place before the Board any suggestion the auditor may desire to make concerning the financial affairs of the NAD.

63 - GENERAL MEETINGS OF NAD MEMBERS

- (i) A General Meeting of the NAD members may be called at any time upon a resolution of the NAD Board being carried that such a meeting be held.
- (ii) A General Meeting shall be called upon receipt by the Secretary/Treasurer of a petition signed by not less than 5% of the members of the NAD requisitioning such a meeting for the purpose of the meeting considering the NAD's financial reports. Any such petition shall state the business to be discussed at the meeting and shall contain the signature and name written in block letters of each petitioner and shall also contain a statement that the petitioner has read and understood the request prior to attaching their signature.
- (iii) A General Meeting shall be called upon receipt by the Secretary/Treasurer of a petition signed by not less than 10% of the members of the NAD requisitioning such a meeting for the purpose of the meeting considering any business relating to the affairs of the NAD specified in the petition. Any such petition shall state the business to be discussed at the meeting and shall contain the signature and name written in block letters of each petitioner and shall also contain a statement that the petitioner has read and understood the request prior to attaching their signature.
- (iv) A General Meeting shall be held at such time and place as shall be determined by the NAD Board and shall, in the case of a General Meeting convened in response to a petition under either Sub-Rule (ii) or Sub-Rule (iii) of this Rule, be held not later than twenty-eight days after the receipt of the petition by the Secretary/Treasurer.
- (v) Any member of the NAD may appoint another member of the NAD as their or its proxy at a General Meeting, subject to the following conditions:
 - a. The NAD member giving the proxy ("the proxy giver") and the NAD member receiving the proxy ("the proxy recipient") must both be members of the same Branch Accommodation Hotels Division;
 - b. The Proxy Form for this purpose shall be in accordance with the form prescribed by the NAD Board;
 - c. The proxy recipient will have the right to vote on all matters arising at the General Meeting to which the proxy relates as the proxy recipient thinks fit, unless the Proxy Form completed by the proxy giver specifies limits on that right;
 - d. The completed Proxy Form must be delivered to the Secretary/Treasurer or nominee thereof prior to the commencement of the General Meeting to which the proxy relates.
- (vi) The quorum for any General Meeting shall be at least 5% of the members of the NAD, present in person or by proxy. If no quorum be present at the expiration of thirty (30) minutes after the time stated for the commencement of a General Meeting, the meeting shall lapse but without prejudice to the calling of another General Meeting in accordance with the requirements of this Rule to deal with the same business, provided that no such further meeting may be convened without the approval of the NAD Board given by way of a special resolution.

- (vii) Voting at all general meetings shall be by show of hands or by such other method as the meeting may decide. The Chair shall have a deliberative vote only and in the event of a tie the question shall lapse.
- (viii) Notwithstanding any other provisions of the NAD Rules a General Meeting may be conducted either:
 - a. by way of one meeting of the members at one location, or by way of a series of meetings at different locations, with the General Meeting being taken to have occurred, and the requirements for a quorum being determined, at the time of the last of the meetings in the series; or
 - b. by way of one meeting of the members where electronic facilities allow a reasonable opportunity for members present at the meeting to see and hear each other, including in relation to their voting intentions, although those members are at different locations during the meeting.
- (ix) In this Rule:
“financial reports” means the auditor’s report, the general purpose financial report and the operations report required to be prepared each year in respect of the NAD pursuant to the Act.

64 - CHIEF EXECUTIVE OF NAD

- (i) The NAD Board shall appoint a suitably qualified person (who need not be a member or representative of a member of the NAD) to be employed full time as Chief Executive of the NAD, on terms and conditions determined by the Board, but subject to the subsequent provisions of this Rule.
- (ii) The Board shall retain the right to terminate the employment of the Chief Executive:
 - a. Summarily for cause; or
 - b. On notice without cause, such notice not to exceed three months, or payment in lieu thereof.
- (iii) The full list of the duties of the position of Chief Executive will be determined by the NAD Board from time to time, but without limiting the duties that may be so assigned shall include the responsibility of managing and administering the NAD Office and the NAD’s employees and may include any of the duties of the Secretary/Treasurer under the NAD Rules (including that of being a signatory to any NAD account).

Provided that:

- a. Any of the duties of the Secretary/Treasurer delegated to the Chief Executive shall be performed by the latter under the supervision or at the direction of the NAD Board for the purpose of carrying out the policies of the NAD or the decisions of the NAD Board;
- b. Any delegation of any of the duties of the Secretary/Treasurer to the Chief Executive may be subject to exceptions, either generally or for particular occasions, or may be wholly or partially revoked by resolution of the Board at any time;

- c. Responsibility for all acts and omissions done pursuant to any such delegation shall remain that of the Board or the Secretary/Treasurer, as the case may be; and
- d. The Secretary/Treasurer shall be and remain the prescribed officer of the NAD responsible for the keeping of all registers and the filing and furnishing of documents required by the Act.

65 - ALTERATION OF NAD RULES

- (i) The NAD Rules may only be altered, amended, added to or rescinded (“altered”) in accordance with this Rule.
- (ii) The NAD Rules may be altered by:
 - a. special resolution of the NAD Board carried at a meeting conducted in accordance with the NAD Rules where such resolution is approved by the committees of management or advisory bodies (as the case may be) of a majority of the Accommodation Hotels Divisions of the Branches within 90 days of the adoption of the alteration by the Board; or
 - b. a resolution of a General Meeting of the NAD conducted pursuant to these Rules
provided that any such alteration is approved by resolution of the National Board before its certification is sought by the NAD under the Act.
- (iii) Notice of any proposal for the alteration of any of the NAD Rules shall be given in writing to each member of the NAD Board, or each member of the NAD, as the case may be, twenty one days prior to the applicable meeting.
- (iv) To avoid doubt, this Rule constitutes a code for the alteration of the Rules of the NAD . No other authority or process available within the Association may alter the Rules of the NAD except in complete accordance with this Rule.

66 - AUTONOMY OF THE NAD

Notwithstanding any other provision of the Association Rules except for Rule 67, the NAD shall:

- (i) be fully and completely autonomous in all matters affecting members of the NAD only or all real and personal property and funds within its custody or control under the Association Rules, and shall be responsible for its own government and administration;
- (ii) have the right to make and implement the national policy of the AHA in relation to the accommodation and tourism sectors, including in relation to any matter arising in either of those sectors that affects more than one Branch Accommodation Division ; and
- (iii) not have the effect of any of the NAD Rules reversed or reduced, either expressly or impliedly, by any alteration of the Part A Rules or any alteration to the Rules of a Branch.

67 - PROCESSES FOR RESOLUTION OF DISPUTES, DIFFICULTIES OR CONCERNS ARISING FROM OPERATION OF RULE 66

Subject to the provisions of the Act, the following procedures shall apply if a dispute, difficulty or concern should arise within the Association in connection with the exercise or proposed exercise by the NAD of its autonomy under Rule 66.

- (i) If any member of the National Executive or a Branch Executive disputes, has a difficulty with or has a concern about any action that the NAD has taken or proposes to take pursuant to either Sub-Rule 66 (i) or 66(ii), they shall forthwith notify the Chief Executive of the NAD and the President of the AHA in writing, specifying the grounds of their dispute, difficulty or concern (“the objection”);
- (ii) Where such written notice is given, the President will confer as soon as possible with the Chair of the NAD and the party about the objection, with a view to resolving the matter between the parties as soon as possible.
- (iii) If such consultation fails to resolve the disagreement within twenty-eight days of the objection being raised in writing, the objection shall be referred to an independent third party for mediation and, if necessary, arbitration.
- (iv) The independent third party (“the arbitrator”) shall be a person acceptable to the President, the Chair of the NAD and the party raising the objection, but if they cannot agree, shall be a person selected by the President from a list of 3 such persons nominated by the President of the Law Council of Australia.
- (v) The arbitrator shall firstly endeavour to resolve the dispute, difficulty or concern by mediation, but if mediation is not successful within fourteen days of commencing such mediation, the arbitrator shall arbitrate the dispute.
- (vi) The arbitrator shall conduct the arbitration in such manner as the arbitrator considers appropriate to ensure that all parties are afforded procedural fairness.
- (vii) The arbitrator must determine the dispute by way of final offer arbitration. The arbitrator may not resolve the dispute other than by accepting one of the final offers made by the respective parties.
- (viii) The costs and expenses of the arbitrator will be shared equally between the NAD and the party raising the objection.
- (ix) Unless all parties agree, a party to the processes prescribed by this Sub-Clause shall not institute any proceedings in a court in connection with the dispute, difficulty or concern, or in connection with the objection, until the completion of the arbitration.

68 - RELATIONSHIP BETWEEN NAD RULES AND BRANCH RULES

- (i) Subject to Sub-Rule (ii) of this Rule, if there be any inconsistency between any of the provisions of the NAD Rules and the Rules of a Branch, the NAD Rules shall prevail to the extent of the inconsistency.

69 - OBLIGATIONS OF BRANCHES AND BRANCH ACCOMMODATION HOTELS DIVISIONS TO THE NAD

- (ii) The fixing of membership fees for membership of the Association shall be reserved to the Branches for their determination from time to time, subject to the provisions of the Part A Rules and Rule 70 K (concerning membership fees for a transitional period).

69 - OBLIGATIONS OF BRANCHES AND BRANCH ACCOMMODATION HOTELS DIVISIONS TO THE NAD

- (i) As the successful establishment, management and functioning of the NAD requires the support and ongoing co operation of all the officers of the Association, and particularly those holding office in the Branches, those officers shall adhere to the requirements of Sub-Rule (ii) of this Rule, in addition to all other rules and duties imposed on them in their capacity as officers of the Association.
- (ii) Notwithstanding any of the provisions of the Part A Rules, or the Rules or practices of, or by laws made in respect of or within any Branch, all Branches and officers of the Association shall fully and at all times comply with the obligations placed upon Branches and their officers by Rules 49 (Membership of the NAD) and 60 (Capitation Fees from Branches to NAD).
- (iii) Nothing in this Rule shall reduce or infringe the right of a Branch to fix membership fees for membership of the Branch as its officers shall think fit from time to time, subject to Rule 70 K (concerning membership fees for a transitional period).

transitional rules for amalgamation on next pages

70 - TRANSITIONAL ARRANGEMENTS – AMALGAMATION

- A. This Rule concerns transitional arrangements consequent upon the amalgamation of the Association (AHA) with the Accommodation Association of Australia (AAA), and its contents have effect from the amalgamation date.
- B. With the exception of those persons holding office in the National Accommodation Hotels Division of the AHA, any person holding any office in the AHA on the day immediately prior to the amalgamation date shall not have their office holding affected by the amalgamation. In particular, any such person shall retain the office they previously held in the AHA after the amalgamation date until the date that office would have expired if the amalgamation had not occurred, or the cessation of that office pursuant to Rule 33 in the Part A Rules, whichever shall be the earlier date.
- C. On the amalgamation date any person holding an office in either AAA or the National Accommodation Hotels Division of the AHA shall cease to hold that office.
- D. On and from the amalgamation date an Accommodation Hotels Division of a Branch of the AHA (by whatever name) shall be treated as having been established by the relevant Branch as that Branch's Accommodation Division pursuant to Rule 8(b) in the Part A Rules. The Rules of the Branch relating to the Division at that date shall be the Rules applicable to the Division from the amalgamation date until altered by the Branch.
- E. On and from the amalgamation date and until the declaration of the results of the inaugural elections for the NAD pursuant to Rules 52 and 53 of the NAD Rules, the interim officers and office bearers of the NAD are as follows:

Name	Constituent organisation (AHA or AAA)	Office/offices
Leanne Harwood	AAA	NAD Board member and NAD Chair, and delegate to the National Board and to the National Executive
Sean Hunt	AHA	NAD Board member and NAD Deputy Chair, and delegate to the National Board
Bruce Copland	AAA	NAD Board member and NAD Secretary/Treasurer, and delegate to the National Board
Norman Arundel	AHA	NAD Board member and delegate to the National Board
Barry Robinson	AAA	NAD Board member and delegate to the National Board
Robert Dawson	AHA	NAD Board member and delegate to the National Board
Sarah Derry	AAA	NAD Board member and delegate to the National Board
Tracey Atherton	AHA	NAD Board member and delegate to the National Board
Julian Clark	AAA	NAD Board member
Geoffrey York	AHA	NAD Board member
Paul Hutton	AAA	NAD Board member
David Baswel	AHA	NAD Board member
David Mansfield	AAA	NAD Board member
Graham Perry	AHA	NAD Board member

F. If on the amalgamation date any person who holds an office specified in Paragraph E is not available to take up that office or declines to take up that office, then the remaining members of the NAD Board as constituted in Paragraph E may fill the vacancy by appointment of a person who was an officer of the same amalgamating organisation as that of the person not taking up the office (“a qualified person”). If the person not taking up office would have held more than one office as specified in Paragraph E, the process for filling those vacancies shall be in the following order:

- a. the remaining members of the NAD Board shall appoint a qualified person to hold the vacant office of NAD Board member;
- b. thereafter all the members of the NAD Board shall appoint one of its members who is a qualified person as it determines to hold the other offices that had fallen vacant.

[Note: If, for example, the person named as inaugural Secretary/Treasurer does not take up the office on the amalgamation date, a qualified person will firstly be appointed by the remaining members of the NAD Board to fill the vacant office of NAD Board member, and thereafter the NAD Board shall determine which one of its then full complement of members will hold the additional offices of Secretary/Treasurer and ex officio National Board member. Candidature for those additional offices is however limited to persons who held office in the same amalgamating organisation as that of the person who did not take up the offices.]

G. If after the amalgamation date a person who held an office on the NAD Board pursuant to Paragraph E or Paragraph F of this Rule ceases for any reason to hold that office prior to the declaration of the results of the first elections for the NAD Board pursuant to Rule 52 (“the departing member”), the remaining members of the NAD Board may fill the vacancy, subject to the Act, by appointment of a person who is a member or a representative of a member of a Branch Accommodation Division (“a NAD member representative”). If the departing member held more than one office as specified in Paragraph E, the process for filling those vacancies shall be in the following order:

- a. the remaining members of the NAD Board shall appoint a NAD member representative to hold the vacant office of NAD Board member;
- b. thereafter all the members of the NAD Board shall appoint one of its members as it determines to hold the other offices that had fallen vacant.

[Note: If, for example, the person named as inaugural Deputy Chair resigns after the amalgamation date and before the inaugural elections for the NAD Board offices, a NAD member representative will firstly be appointed by the remaining members of the NAD Board to fill the vacant office of NAD Board member, and thereafter the NAD Board shall determine which one of its then full complement of members (including that NAD member representative so appointed to the Board) will hold the additional offices of Deputy Chair and ex officio National Board member.]

H. Subject to the provisions of the Act and the Association Rules, any member of the Association immediately prior to the amalgamation date (including any life member) shall remain a member of the Association after the amalgamation date and shall be attached to the Accommodation Hotels Division (however named) of the Branch to which that member belonged immediately prior to the amalgamation date.

- I. Subject to the provisions of the Act and the Association Rules, on and from the amalgamation date every member of AAA immediately prior to the amalgamation date (including any honorary member) becomes a member of the Association attached to that Accommodation Hotels Division (however named) of the Branch where that member has its principal place of business. If there should be any uncertainty or dispute as to which such Division the member should be attached, the issue shall be determined by the NAD Board on the recommendation of the Chief Executive of the NAD.
- J. Every such member of AAA who becomes a member of the Association by reason of the amalgamation shall be deemed to be financial in the Association from the amalgamation date until the date that that member would have been financial in AAA if the amalgamation had not occurred.
- K. For the purpose of ensuring a moratorium on any increase in contributions by former AAA members (excluding former dual AAA/AHA members) for a period of one year after the amalgamation date the following provision shall apply:
Notwithstanding any other provision of the Association's Rules, for the period of one year after the amalgamation date, the total membership fee that a member referred to in Paragraph I of this Rule is required to pay to the Association for that year shall not exceed the amount of the annual membership fee that member would have paid in that year by reference to the annual membership fee for membership of AAA last fixed prior to the amalgamation date.

[Note: If a member of AAA becomes a member of the Association on the amalgamation date with three (3) months left to run before that member would become unfinancial under this Rule, then the fees that that member would be required to pay to the Association for membership of it after that date in order to be financial in the Association would be the same as the previous AAA membership fee for the residual period of nine (9) months, and thereafter the amount of the fee fixed by the Association for that member after the amalgamation date.]
- L. A person who was the appointed representative of a member of the Association or of AAA on the day immediately prior to the amalgamation date shall continue as the representative of that member after that date until such time as that representative ceases to be the representative of that member pursuant to the Association Rules or the Rules of the applicable Branch of it.
- M. Notwithstanding the terms of Paragraph J of this Rule, as soon as possible after the amalgamation date the National Executive, the Board of the NAD and the committees of management of the Branches shall confer for the purpose of formulating amendments to the Association Rules and the Rules of the Branches to the extent that such amendments are necessary to establish a common annual date for financial membership, at least insofar as membership of Branch Accommodation Hotels Divisions is concerned.
- N. As soon as practicable after the amalgamation date the Inaugural NAD Board shall meet for such purposes as it determines including the appointment of the Chief Executive pursuant to Rule 64 and the scheduling of its meetings pursuant to Rule 58.
- O. To avoid doubt, the amalgamation of the Association with AAA does not affect the existence or continuation of any Branch, Sub Branch, Division or Sub Division of the Association, nor does it affect the validity or operation of the Rules of any such Branch as such Rules provided as at the amalgamation date, nor does it affect the assets and operations of any such Branch, except to the extent prescribed by the NAD Rules.
- P. On the amalgamation date, the assets and liabilities of AAA become the assets and liabilities of the Association.
- Q. This Paragraph deals with the allocation and management of the assets and liabilities of AAA within the Association on and after the amalgamation date.
 - a. On the amalgamation date the assets of AAA shall be treated as and form part of funds and property of the NAD for the purposes of Rule 59.

- b. On the amalgamation date the liabilities of AAA shall be allocated to the account of the NAD within the Association and be the responsibility of the NAD to manage and discharge.
- c. If any disagreement or dispute (“dispute”) arises about a matter embraced by this Paragraph the National Executive and the NAD Board shall resolve that dispute by referring it to an independent third party for resolution, applying the terms of Sub-Rules 67 (iv) to (ix), mutatis mutandis, to that dispute.

R. In this Rule:

“Amalgamation date” means the date that the amalgamation of the AHA and AAA takes effect pursuant to the order of the Fair Work Commission under the Act.

SCHEDULE 1 – THE BRANCH CAPITATION FEES FORMULA FOR NAD FUNDING

1. From the amalgamation date and until altered or replaced pursuant to Clause 5 of this Schedule, Branches shall pay capitation fees to the NAD in respect of their members who are members of the NAD attached to their respective Accommodation Divisions (by whatever name a Branch may utilise) in accordance with the formula prescribed by the succeeding Clauses of this Schedule.
2. The capitation fees payable by a Branch under this Schedule shall be determined as follows:
 - (a) The capitation fees shall consist of two components:
 - (i) Base Funding - as prescribed by Clause 3 of this Schedule; and
 - (ii) Variable Funding - as prescribed by Clause 4 of this Schedule.
 - (b) The Base Funding and Variable Funding payable by each Branch as the annual capitation fee to the NAD shall be paid in quarterly instalments commencing from the first full quarter occurring after the amalgamation date.

3. The Base Funding provided by the Branches to the NAD is as follows:

- A. From amalgamation date, total base funding per annum by all the Branches shall be \$500,000.00, apportioned between the Branches as follows:

BRANCH	AMOUNT \$
New South Wales	161,250.00
Victoria	125,000.00
Queensland	101,250.00
Western Australia	55,000.00
South Australia	36,250.00
Tasmania	11,250.00
Northern Territory	5,000.00
Australian Capital Territory	5,000.00
TOTAL	\$500,000.00

- B. As and from each anniversary of the amalgamation date (“the CPI adjustment date”) the base funding amount referred to in Sub Paragraph A shall be adjusted by an amount equal to the increase in the Consumer Price Index as reported by the Australian Bureau of Statistics in its recurring Bulletin on that subject last published prior to the CPI adjustment date, and the amount stated in Sub Paragraph A to be the share payable by each Branch shall be accordingly adjusted on a pro rata basis.

[**Note:** If the CPI increases by 1.5% before the CPI adjustment date, the total base funding amount of \$500,000 increases to \$507,500.00. The increase of \$7,500.00 is then distributed proportionality between the Branches such that, for example the NSW Branch portion increases to \$163,668.75 (a 1.5% increase) and the ACT Branch portion increases to \$5,075.00 (also a 1.5% increase); and so on for the other Branches.]

4. The Variable Funding is the amount per annum equal to \$7.87 for each room made available to the public by the members of the NAD attached to that Branch that is in addition to the Base Rooms set out in the Table in A below.

SCHEDULE 1 – THE BRANCH CAPITATION FEES FORMULA FOR NAD FUNDING

- A. The number of Base Rooms for each Branch commencing from the amalgamation date is as follows.

BRANCH	BASE ROOMS
New South Wales	17,730
Victoria	11,722
Queensland	14,463
Western Australia	8,311
South Australia	6,795
Tasmania	3,648
Northern Territory	4,741
Australian Capital Territory	4,694

[Note: two worked examples of the application of this part of the formula are contained in Annexure “A”.]

- B. Within fourteen (14) days of the amalgamation date and on each anniversary of the amalgamation date a Branch will calculate or recalculate its Variable Funding obligation to the NAD (“the calculation date”). Within seven (7) days after each calculation date the Branch shall lodge with the NAD a statement signed by its senior management employee (by whatever title) verifying both the accuracy of the calculation so made, and the amount to be thereafter paid by the Branch as its Variable Funding until the next recalculation is required to be undertaken. Such statement shall also confirm the Base Funding being paid by the Branch as prescribed by Clause 3. In the event of any dispute between the NAD and a Branch over such calculations which cannot be resolved by negotiations between the NAD Board and the Branch, that dispute shall be referred to an independent third party for resolution by applying the terms of Sub-Rules 67 (iv) to (ix), mutatis mutandis, to that dispute.
5. Not later than commencement of the last full quarter occurring prior to the third anniversary of the amalgamation date, the NAD and the Branch Accommodation Divisions shall confer to determine whether and to what extent, if any, the formula prescribed by the foregoing clauses of this Schedule should be altered or replaced. In the absence of agreement by all those parties by the conclusion of that quarter, the existing formula shall continue to apply until the disagreement is resolved in accordance with Rule 67, applied mutatis mutandis.

END OF RULES

ANNEXURE “A”

**WORKED EXAMPLES OF THE APPLICATION OF
VARIABLE FUNDING FOR THE NAD BY THE BRANCHES PURSUANT TO CLAUSE 4 OF
SCHEDULE 1**

(Not forming part of the Rules, being a guide only)

Worked example A

Status quo based on AHA and AAoA member room numbers in 2021.

	Part A	Part B					Total
Branch	Part A: Base funding \$	Total Rooms subscribed	Less Part A: Base rooms	Equals Part B: additional rooms	Multitplied by Part B: fee per additional room \$	Equals Part B: Variable funding	Total Funding (Part A plus Part B)
Note	Equivalent to current TAA capitation fees	Equivalent to current AAoA & AHA rooms subscribed	Equivalent to current AHA subscribed rooms	Equivalent to current AAoA subscribed rooms			
NSW	161,250	46,626	17,730	28,896	7.87	227,412	388,662
VIC	125,000	26,128	11,722	14,406	7.87	113,375	238,375
QLD	101,250	27,040	14,463	12,577	7.87	98,981	200,231
WA	55,000	12,612	8,311	4,301	7.87	33,849	88,849
SA	36,250	8,905	6,795	2,110	7.87	16,606	52,856
NT	5,000	7,446	4,741	2,705	7.87	21,288	26,288
TAS	11,250	4,370	3,648	722	7.87	5,682	16,932
ACT	5,000	6,684	4,694	1,990	7.87	15,661	20,661
Total	500,000	139,811	68,605	67,707		532,854	1,032,854

Worked Example B

e.g. NSW increases room numbers by 1,000 rooms

e.g. WA decreases room numbers by 500

i.e. total room growth of 500 rooms

	Part A	Part B					Total
Branch	Part A: Base funding \$	Total Rooms subscribed	Less Part A: Base rooms	Equals Part B: additional rooms	Multitplied by Part B: fee per additional room \$	Equals Part B: Variable funding	Total Funding (Part A plus Part B)
Note	Equivalent to current TAA capitation fees	Equivalent to current AAoA & AHA rooms subscribed	Equivalent to current AHA subscribed rooms	Equivalent to current AAoA subscribed rooms			
NSW	161,250	47,626	17,730	29,896	7.87	235,282	396,532
VIC	125,000	26,128	11,722	14,406	7.87	113,375	238,375
QLD	101,250	27,040	14,463	12,577	7.87	98,981	200,231
WA	55,000	12,112	8,311	3,801	7.87	29,914	84,914
SA	36,250	8,905	6,795	2,110	7.87	16,606	52,856
NT	5,000	7,446	4,741	2,705	7.87	21,288	26,288
TAS	11,250	4,370	3,648	722	7.87	5,682	16,932
ACT	5,000	6,684	4,694	1,990	7.87	15,661	20,661
Total	500,000	140,311	68,605	68,207		536,789	1,036,789

AMALGAMATION OF AUSTRALIAN HOTELS ASSOCIATION AND ACCOMMODATION ASSOCIATION OF AUSTRALIA

OUTLINE OF SCHEME OF AMALGAMATION

INTRODUCTION

The governing bodies of Australian Hotels Association (“AHA”) and Accommodation Association of Australia (“AAA”) have agreed that it is in the best interests of both associations and their members that they merge to become one association representing and advocating for their members in the tourism and accommodation industries, throughout Australia.

As both AHA and AAA are organisations of employers registered under the *Fair Work (Registered Organisations) Act 2009* (Cth), the legal process they must follow to achieve their merger is to “amalgamate” into one organisation in accordance with the requirements of that Act (“the RO Act”).

Of the various legal steps involved in that process, the three central ones are as follows.

1. The governing bodies agree on a “Scheme of Amalgamation”;
2. The Fair Work Commission (“FWC”) approves a request by the two organisations for their proposed amalgamation to be referred to the members of the organisations for their approval in a secret ballot.
3. The approval of the amalgamation by the members in that ballot.

The first two of these steps having taken place, it now falls to the members to vote on the proposed amalgamation in a secret ballot.

The purpose of this document is to provide members with an outline of the Scheme of Amalgamation that the two associations’ governing bodies have agreed upon.

SPECIAL NOTES RE ACCESSING MORE DETAIL:

- This document is an Outline only of the Scheme of Amalgamation, as the RO Act limits the number of words that this Outline may contain. However, members may access a full copy of the Scheme of Amalgamation, including the proposed Rules, on the websites of either AHA or AAA.

- To assist members further, an electronic version of this Outline can be found on the websites of both AHA and AAA, with hyperlinks to relevant documents that provide more detail about the proposed amalgamation.

FUNDAMENTAL FEATURES OF THE AMALGAMATION

The two parties to this amalgamation are AHA and AAA.

AHA will be the “host organisation”. When the amalgamation takes place AAA will be deregistered and AHA will continue on the FWC’s register of organisations with expanded coverage and members, and amended rules, reflecting the agreed terms of the amalgamation between the parties. This approach is taken for convenience only.

The agreed terms for the amalgamation are set forth in a document entitled “Scheme of Amalgamation”, the full text of which can be accessed via your Association’s website.

The central feature of the amalgamation is the establishment of a “National Accommodation Division” within the amalgamated body, which Division will have:

- the responsibility at the national level of representing and advocating in relation to tourism and accommodation matters for all accommodation members of the amalgamated organisation throughout Australia;
- its own governing Board, officers, employees and funds; and
- substantial autonomy, so that it may determine and implement the policies of the amalgamated organisation in the tourism and accommodation sectors in Australia.

Those agreed terms also involve:

- all of the members of AHA and AAA on the Amalgamation Day becoming members of the amalgamated organisation (unless a particular member specifically declines membership); and
- all of the assets and liabilities of AHA and AAA becoming the assets and liabilities of the amalgamated organisation, either on the Amalgamation Day or soon thereafter.

From the Amalgamation Day and until later decided in consultation with the members, the name of the amalgamated organisation will be “Australian Hotels Association”. However, the

National Accommodation Division will develop its own “brand” for marketing purposes, consistent with its autonomous role within the organisation, with the intended name being either “Accommodation Australia (National)” or a similar name.

WHY AMALGAMATE?

The governing bodies of AHA and AAA believe that the amalgamation of the two organisations will best serve the current and future interests of their respective members and potential members. These are their reasons.

1. There is already a significant overlap of membership coverage as between both organisations, such that some accommodation businesses are members of both bodies. It is also the case that both organisations share a strong interest in the same industrial award (the Hospitality Industry Award) and issues arising under that award.
2. The amalgamation will establish one powerful and unified national voice for the thousands of accommodation businesses within the tourism and accommodation industries throughout Australia;
3. It will eliminate any potential division and competition between the two organisations in the tourism and accommodation industries;
4. It will bring together senior and experienced personnel from each organisation to jointly serve the one cause in the interests of the combined membership;
5. It will combine the resources and capacity of both organisations to drive membership growth and organisational influence;
6. It will provide administrative efficiencies for the benefit of the combined membership.

DEFINITIONS

In this Outline, certain important words and acronyms are used for simplicity, as follows.

“Amalgamation Day”, means the day upon which the amalgamation takes legal effect. It is a date fixed by the FWC after the member ballot (if members vote YES in this ballot).

“Accommodation industry enterprise” means a person, partnership or corporation that carries on a business and employs staff in the accommodation and/or tourism industries anywhere in Australia.

“Foundational member” means an accommodation industry enterprise that was either a member of AAA or a member of an Accommodation Hotel Division of AHA, or both, on the Amalgamation Day.

“FWC” means the Fair Work Commission, Australia’s national industrial relations tribunal, which supervises the amalgamation process.

“NAD” means the National Accommodation Division, which will be established when the amalgamation comes into effect.

“NAD Board” means the Board of NAD.

MEMBERSHIP ARRANGEMENTS

When the amalgamation comes into effect, the membership coverage of both AHA and AAA will combine, so that thereafter any accommodation industry enterprise that was eligible for membership of either of those organisations will be eligible for membership of the amalgamated organisation. New members can be enrolled from the Amalgamation Day onwards.

In the case of pre-existing members of either organisation, those enterprises that were members of either AHA or AAA on the Amalgamation Day will automatically become members of the amalgamated organisation on that day.

AHA members outside the accommodation industry

For AHA members which were not accommodation industry enterprises before the Amalgamation Day (eg hotels or bars not offering bedrooms), their membership and Branch allocation will not change, nor will the officers who represent them change, after the Amalgamation Day. Their situation in these respects will not be affected at all. The important change for them is that they will become part of an amalgamated organisation with an expanded membership and new structure for its accommodation industry members, as described below.

Foundational members in the accommodation industry

From the Amalgamation Day an accommodation industry enterprise that is a foundational member becomes a member of both the Accommodation Division of the Branch in which the

member has its principal place of business and a member of the NAD, unless that member specifically declines that opportunity. More details about the branch structure of the amalgamated organisation, and membership of Accommodation Divisions, are set out below.

For more details about these foundational members in the NAD from the amalgamation date, see the section titled “[Transitional Arrangements](#)”.

BRANCH ACCOMMODATION DIVISIONS

The amalgamated organisation will have geographical based branches in every State and Territory of the Commonwealth. All those branches are required to establish and maintain their own Accommodation Divisions.

Existing AHA Branch Divisions continue with foundational members

All of the Accommodation Divisions that existed within AHA immediately prior to the Amalgamation Day (commonly titled “Accommodation Hotels Divisions”) will be taken to be the Accommodation Divisions of the amalgamated organisation from the Amalgamation Day, and the foundational members will become members of their respective branches. Hereafter all such Divisions will be described as “Accommodation Divisions”, whatever be the name of the actual Division at the current time.

There are some minor and limited exceptions to the foregoing principle in relation to foundational members – ie a foundational member can choose to resign, or can choose not to be a member of the NAD, or might not qualify for a Branch Accommodation Division (where a Branch sets minimum bed levels).

Membership fees and member rights within Branch structure

Membership fees and any levies for membership of a Branch Accommodation Division are set by the respective Branches. The fees for a member’s Division as and from the Amalgamation Day are advertised on each Branch’s website.

Notwithstanding the authority of the Branches on this matter, foundational members will have a one year moratorium on any fee increase. That is, for at least a year after the amalgamation date, a foundational member will not have to pay any fees greater than those it would have paid to AAA when it becomes a member of a Branch Accommodation Division

All members of a Branch Accommodation Division have full rights of membership within the Branch and the Division, including the right of their representatives to attend Branch and Division meetings, and stand for and vote in elections for offices within both.

NATIONAL ACCOMMODATION DIVISION (“NAD”)

Central to the amalgamation is the establishment of the NAD on and from the Amalgamation Day. While there will be an interim Board until inaugural elections are conducted, the NAD will take up its vital national representative role for all the members of the NAD from day one.

Automatic membership of the NAD for Branch Accommodation Division members

From the Amalgamation Day, all those willing members of the respective Branch Accommodation Divisions (including foundational members of those Divisions and later joining members) will automatically become members of the NAD.

Financial contributions to NAD by the Branches

The members of the NAD will not be required to pay any additional fees for membership of the NAD. They are only required to pay fees and levies in respect of their Branch Accommodation Division membership. The Branches will be required to pay financial contributions (“capitation fees”) on an annual basis to the NAD, to fund its operations. These capitation fees are set by reference to a formula based on the number of beds on offer to the public by the members of each Branch Accommodation Division each year. You can access the formula, including worked examples, on your Association’s website.

Board of NAD – governance arrangements

Subject to the transitional arrangements, the Board of NAD will consist of eleven (11) representatives elected by and from the members of the respective Branch Accommodation Divisions by secret postal ballot. The respective Branches’ representation on the NAD Board will be two (2) representatives each from the Queensland, NSW and Victorian Branches, and one representative for each of the other five Branches.

Elections will take place every three years, the first such elections to be completed two years after the Amalgamation Day.

Once elected the NAD Board members will then elect from among their number the NAD office bearers, namely the Chair of the Board, the Deputy Chair, and the Secretary/Treasurer.

The NAD Board will have full control of its finances and its operations. It will employ a Chief Executive who will report to and carry out the directions and policies of the NAD Board. The Board will have full powers under the Rules to advance the interests of the NAD members.

The NAD Board will have substantial autonomy in its role of representing all the NAD members and setting national policy for the AHA in relation to the tourism and accommodation sectors (see the section titled “[Autonomy of the NAD](#)”).

The NAD Board will meet regularly. Such meetings will be conducted in person or in accordance with any modern means of communications available. These facilities together with its extensive powers and authorities will ensure the NAD Board is well placed to take initiatives and respond to developments promptly and effectively.

The NAD Board will be fully accountable to the NAD members in accordance with the requirements of the RO Act, including by way of detailed yearly financial statements independently audited, lodged with FWC and distributed to all NAD members.

A further measure to ensure accountability is the facility for calling of general meetings of the NAD members, either at the initiative of the NAD Board or a set percentage of the NAD membership (5% to consider financial reports and 10% for other issues).

NAD REPRESENTATION ON NATIONAL BOARD/NATIONAL EXECUTIVE

The supreme governing body within the amalgamated organisation will be the National Board, which is elected annually and consists of Branch representatives and NAD representatives. In between meetings of the Board, the National Executive is in effect the supreme authority and it is elected by and from the members of the National Board.

The NAD will have a very substantial voice in each of these bodies.

First, the NAD will have a minimum of eight (8) members on the National Board, which is approximately 22% of the total number of its members at the current time. Those 8 members consist of the three office bearers of the NAD (Chair, Deputy Chair and Secretary/Treasurer) plus five other members of the NAD Board elected by and from that Board.

Second, the Chair of the NAD is an automatic full voting member of the National Executive.

When this representation level is coupled with the very strong autonomy of the NAD in tourism and accommodation matters at the national level, the voice of the NAD on those matters will always be loud and clear, independent and effective.

AUTONOMY OF THE NAD

A fundamental element of the amalgamation is that the NAD have broad and effective autonomy in relation to tourism and accommodation matters for its members throughout the Nation.

This is achieved via Rules 65 to 69 of the Rules of the amalgamated organisation, which in summary provide as follows:

- Rule 66 inter alia declares the NAD to be “fully and completely autonomous in all matters affecting members of the NAD only or all real and personal property and funds within its custody or control, and shall be responsible for its own government and administration” and “have the right to make and implement the national policy of the AHA in relation to the accommodation and tourism sectors, including in relation to any matter arising in either of those sectors that affects more than one Branch Accommodation Division”.
- The NAD Rules, being Part B of the amalgamated organisation’s rules, can only be altered by the NAD Board or a General Meeting of NAD members (Rule 65) and none of those Part B can be reversed or diminished by any alterations to other rules of the amalgamated organisation (either at the National level or Branch level).
- By Rule 68, if there is any inconsistency between the Part B Rules and the Rules of a Branch, the Part B Rules prevail to the extent of the inconsistency.
- Under Rule 69, all the officers of all the Branch are obliged to support and co-operate with the NAD in relation to its functioning, particularly as to membership of relevant members in the NAD and payment of capitation fees.

There are only two limited exceptions to the broad autonomy of the NAD within the amalgamated organisation. First, the Branches retain the right to fix and vary membership fees for all their members, including Accommodation Division Members. Second, if there is ever a dispute between the NAD and other officers of the amalgamated organisation (National or State level) in relation to the exercise by the NAD of its autonomy in any matter, Rule 67 prescribes

an extensive dispute settlement process to resolve that dispute. That process brings together the most senior officers of the amalgamated organisation (being the President of it and the Chair of the NAD) to endeavour to negotiate a settlement of the dispute, by negotiation and/or mediation, with referral to an independent arbitrator as a last resort.

You can access the text of Rules 65 to 69 on your Association's website.

TRANSITIONAL ARRANGEMENTS

Rule 70 prescribed the transitional arrangements that are required from the Amalgamation Day onwards. The entire text of Rule 70 can be viewed on your Association's website.

There are two core aspects to these arrangements that are of special relevance of members who are accommodation industry enterprises.

First, the preservation of the rights of foundational members. From the Amalgamation Day any such member that is an accommodation industry enterprise automatically becomes a member of the Branch Accommodation Division where that enterprise has its principal place of business, and is financial in that Division for so long as that member would have been financial in AHA or AAA after the Amalgamation Day, as the case may be. Such a member retains its existing appointed representative until it decides to change that person.

Second, the establishment of an interim 14 member NAD Board from the Amalgamation Day, replacing all of the previous officers of AAA and AHA's National Accommodation Division, for two years. There will thus be no hiatus after the Amalgamation Day while elections are conducted for that Board. Instead, there will be a fully empowered, well credentialled Board in place from Amalgamation Day to actively implement and promote the objects, role and operations of the NAD.

This interim Board will consist of senior and experienced accommodation industry professionals, drawn from the senior ranks of AHA and AAA. The interim Office Holders will be Leanne Harwood (Chair), Sean Hunt (Deputy Chair) and Bruce Copland (Secretary/Treasurer). Access the full list of the interim NAD Board members on your Association's website.

END

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PROPOSED AMALGAMATION

AUSTRALIAN HOTELS ASSOCIATION ("AHA")

and

ACCOMMODATION ASSOCIATION OF AUSTRALIA ("AAA")

WHY YOU SHOULD VOTE YES!

Proposed amalgamation - introduction

The governing bodies of the Australian Hotels Association ("AHA") and the Accommodation Association of Australia ("AAA") have agreed that it is in the best interests of both associations and their members that they merge to become one association representing and advocating for their members in the tourism and accommodation industries, throughout Australia.

As both AHA and AAA are organisations of employers registered under the *Fair Work (Registered Organisations) Act 2009* (Cth), they can only merge by "amalgamating" into one organisation in accordance with the requirements of that Act ("the RO Act").

Most importantly, the amalgamation or merger of AHA and AAA can only take place if the members support it, by majority vote, in a secret postal ballot conducted by the Australian Electoral Commission ("AEC").

This document is being supplied to each voting member as part of the material YOU will receive from the AEC for voting on the amalgamation proposal.

Background

AHA and AAA are both major employer/industry associations in the vital accommodation and tourism sectors of Australia's hospitality industry ("the accommodation industry").

Both have a long history of effectively representing the interests of their members in the accommodation industry.

Originally established in 1839, AHA has been a registered employers' association since 1914, and now represents the interests of over 5,000 members. It has branches in every State and Territory, and a National Office based in Canberra. It is a major voice for businesses, large and small, in the hospitality industry throughout the nation.

AAA was established in 1969, originally as the "Motor Inn, Motel and Accommodation Association of Australia" and has been a registered employers association since 1971. Since then, AAA has grown to become the largest representative association for the Accommodation Sector in Australia. In 2022 AAA represents over 80% of all known accommodation providers in Australia, ranging from small regional motels and caravan parks to the largest hotel groups in world including Accor, Hilton, Wyndam Destinations and IHG.

From its establishment AAA's purposes included providing support to owners and managers of accommodation properties and ensuring all levels of government understand the importance of the sector to the economic wellbeing of Australia. These core principles continue today, with AAA's membership now including hotels, resorts, serviced apartments, motels, bed & breakfasts, guesthouses, backpacker establishments, caravan parks and timeshare properties in metropolitan and regional Australia.

There has long been an overlap of members between the membership of AHA and AAA in the accommodation industry, and in many respects their interests and priorities have been the same (eg industrial relations, modern award coverage, licensing matters, crisis management and recovery and regulatory compliance).

In recent years, AHA and AAA have worked together productively and effectively in a range of areas affecting their memberships, including in industrial relations matters and submissions to government on issues affecting the accommodation industry.

In the light of this background and experience, the leadership of both AHA and AAA decided in 2020 to hold serious discussions about merging the two associations, in order to build on what had already been achieved in partnership, and to have one combined “voice” for their membership.

The result of those intensive discussions, namely that the two organisations amalgamate under the RO Act, is now before the members for their approval in this ballot.

Central features of the proposed amalgamation

The agreed terms for the amalgamation are set forth in a document entitled “Scheme of Amalgamation”, the full text of which can be accessed via the electronic copy of it on the websites of either AHA or AAA.

The central feature of the amalgamation is the establishment of a “National Accommodation Division” within the newly amalgamated body, which Division (“NAD”) will have:

- the responsibility at the national level of representing and advocating in relation to tourism and accommodation matters for all accommodation members throughout Australia;
- its own governing Board, officers, employees and funds; and
- substantial autonomy, so that it may determine and implement the policies of the amalgamated body in the tourism and accommodation sectors in Australia.

Those agreed terms also involve:

- all of the members of AHA and AAA on the Amalgamation Day becoming members of the amalgamated organisation (unless a particular member specifically declines membership); and
- all of the assets and liabilities of AHA and AAA becoming the assets and liabilities of the amalgamated organisation, either on the Amalgamation Day or soon thereafter.

For a more detailed summary of all the important features of the amalgamation proposal, please peruse the Outline of the Scheme which is included with the material you have received from the AEC.

SO: why vote YES?

The leadership of both AHA and AAA strongly recommend that members vote YES to this amalgamation, for the following reasons:

1. The amalgamation will establish one powerful and unified national voice for the thousands of accommodation businesses within the tourism and accommodation industries throughout Australia, maximising their influence and lobbying strength with all levels of government;
2. It will place the accommodation industry into a strong leadership position in relation to the tourism industry, which is a major contributor to the Australian economy;
3. It will eliminate any potential division and competition between two organisations in the accommodation industry;
4. It will bring together senior and experienced personnel from each organisation to jointly serve the one cause in the interests of the combined membership;
5. It will give members throughout the accommodation industry support on matters of common interest, through access to the resources of the AHA's national and Branch offices;
6. It will combine the resources and capacity of both organisations to drive membership growth and organisational influence; and
7. It will provide administrative efficiencies thereby minimising duplication and costs, for the benefit of the combined membership.

In addition, the new Division of the amalgamated association will devote its resources and expertise to lead the accommodation industry in recovering from one of the worst trading environments experienced in decades.

AND SAY YES to a new membership and governance structure

The leadership of the two associations also believe that the membership and governance arrangements for the new Division provide a highly effective and efficient method for membership representation and control.

Central to the amalgamation is the establishment of the NAD on and from the Amalgamation Day. While there will be an interim Board until inaugural elections are conducted, the NAD will take up its vital national representative role for all the members of the NAD from day one.

From the Amalgamation Day, all those willing members of the respective Branch Accommodation Divisions (including foundational members of those Divisions and later joining members) will automatically become members of the NAD.

Subject to the transitional arrangements, the Board of NAD will consist of eleven (11) representatives elected by and from the members of the respective Branch Accommodation Divisions by secret postal ballot. The respective Branches' representation on the NAD Board will be two (2) representatives each from the Queensland, NSW and Victorian Branches, and one representative for each of the other five Branches.

Elections will take place every three years, the first such elections to be completed two years after the Amalgamation Day.

The NAD Board will have full control of its finances and its operations. It will employ a Chief Executive who will report to and carry out the directions and policies of the NAD Board. The Board will have full powers under the Rules to advance the interests of the NAD members.

The NAD Board will have substantial autonomy in its role of representing all the NAD members and setting national policy for the amalgamated body in relation to the tourism and accommodation sectors.

The supreme governing body within the amalgamated organisation will be the National Board, which is elected annually and consists of Branch representatives and NAD representatives. In between meetings of the Board, the National Executive is in effect the supreme authority and it is elected by and from the members of the National Board.

The NAD will have a very substantial voice in each of these bodies.

First, the NAD will have a minimum of eight (8) members on the National Board, which is approximately 22% of the total number of its members at the current time. Those 8 members consist of the three office bearers of the NAD (Chair, Deputy Chair and Secretary/Treasurer) plus five other members of the NAD Board elected by and from that Board.

Second, the Chair of the NAD is an ex officio and full voting member of the National Executive.

When this representation level is coupled with the very strong autonomy of the NAD in tourism and accommodation matters at the national level, the voice of the NAD on those matters will always be loud and clear, independent and effective.

The NAD Board will be fully accountable to the NAD members in accordance with the requirements of the RO Act, including by way of detailed yearly financial statements independently audited, lodged with the Fair Work Commission and distributed to all NAD members.

A Constitution (new set of rules) reflecting agreed principles

The Constitution (rules) for the NAD within the amalgamated organisation have been created as part B of the re-written AHA rules and is explained in more detail in the Outline of the Scheme of Amalgamation. These rules are based on the fundamental principles agreed by the AHA and AAA, namely:

1. Create "One Voice" for the accommodation industry members;
2. Increased and focused funding;
3. Reduce duplication;
4. Independent Board and leadership (as explained above)

For existing AAA members, they will experience support from their State or Territory branch of the AHA which will offer a suite of benefits, services and local advocacy.

Another additional benefit of the amalgamation, particularly in regional areas will be ability for hotels, motels and pubs in one town being unified by one organisation providing a much stronger voice to advocate for locally focused, customised outcomes.

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Enjoy increased Benefits and Services

Members will enjoy increased benefits and services from the new combined association, increasing events, research, collegiate learning, group procurement and much more.

THEREFORE:

- ✓ Vote **"Yes"** for one peak industry association representing the accommodation industry throughout Australia.
- ✓ Vote **"Yes"** for a strong, united and effective voice to represent all of the interests of the accommodation industry to all levels of Government.
- ✓ Vote "Yes" to eliminate potential confusion and unnecessary duplication.
- ✓ Vote **"Yes"** for improved services, benefits and advocacy.

What do you need to do next?

If you have not already done so, please read the Outline of the Scheme, which is among the material you have received from the AEC. It provides you with a more detailed explanation of the main aspects of the amalgamation proposal. If you wish, you can also access the formal "Scheme of Amalgamation" (which is the formal legal document recording all elements of the amalgamation) from the AHA or the AAA websites. Once you have familiarised yourself with the amalgamation proposals to your satisfaction please:

- Make sure you validly VOTE in the amalgamation ballot, using the ballot paper and supporting explanatory material from the AEC; and
- VOTE YES, in the interests of both your business and the accommodation industry.



DECISION

Fair Work (Registered Organisations) Act 2009

Sections 43, 44, and 46 RO Act - Applications for community of interest declaration, approval for submission of amalgamation to ballot, exemption from ballot for AHA

Australian Hotels Association, Accommodation Association of Australia (D2022/12)

DEPUTY PRESIDENT COLMAN

MELBOURNE, 16 DECEMBER 2022

Proposed amalgamation of employer organisations

[1] The Australian Hotels Association (AHA) and the Accommodation Association of Australia (AAA) are organisations of employers that are registered under the *Fair Work (Registered Organisations) Act 2009* (RO Act). They are concerned in a proposed amalgamation. The organisations have jointly made an application under s 43 of the RO Act for a ‘community of interest’ declaration, and an application under s 44 of the RO Act for the Commission’s approval for the submission of the amalgamation to ballot. Further, the AHA, as the ‘proposed amalgamated organisation’ (or ‘host’ entity) has made an application under s 46 of the RO Act for its members to be exempted from the ballot.

[2] Following preliminary steps taken by the registered organisations section of the Commission and the subsequent allocation of this matter to my chambers on 5 December 2022, I fixed a time and place for hearing submissions in relation to the three applications, and took steps to ensure that all registered organisations were promptly notified of the time and place of the hearing (see ss 53(a) and (b) of the RO Act). The AHA and the AAA attended the hearing before the Commission on 15 December 2022 and made submissions in support of the applications. No other organisations sought to be heard or indicated any opposition to the applications. For the reasons given below, I decided, on 15 December 2022, to grant each of the applications.

Community of interest declaration – s 43 of the RO Act

[3] I will deal first with the application for a community of interest declaration. Section 43(1) of the RO Act provides that the existing organisations concerned in a proposed amalgamation may jointly lodge with the Commission an application for a community of interest declaration. The significance of obtaining such a declaration is that less onerous requirements apply in relation to the necessary return of member votes in the amalgamation ballot. Where a declaration under s 43 is in force in relation to a proposed amalgamation, it is necessary only that more than 50% of the formal votes cast in the ballot are in favour of the amalgamation, in order for the amalgamation to be approved. If no community of interest

declaration is in force, there is an additional requirement that at least 25% of the members on the roll of voters must cast a vote in the ballot (see s 66).

[4] Section 43(4) of the RO Act provides that if, at the conclusion of a hearing arranged under s 53, the Commission is satisfied that there is a *'community of interest between the existing organisations in relation to their industrial interests'*, the Commission must declare that it is so satisfied. Section 43(6), which relates to amalgamations of employer organisations, then provides as follows:

“(6) The FWC must be satisfied, for the purposes of subsection (4), that there is a community of interest between organisations of employers in relation to their industrial interests if the FWC is satisfied that a substantial number of members of one of the organisations are:

- (a) eligible to become members of the other organisation or each of the other organisations; or
- (b) engaged in the same industry or in aspects of the same industry or similar industries as members of the other organisation or each of the other organisations; or
- (c) covered by the same modern awards as members of the other organisation or each of the other organisations; or
- (d) engaged in industries in relation to which there is a community of interest with members of the other organisation or each of the other organisations.”

[5] Each of the matters referred to in s 43(6) is to be assessed by reference to whether there exists a *'substantial number of members'* in the relevant connection. As to the meaning of this expression, I adopt the observations of Gostencnik DP in *National Union of Workers and United Voice* [2019] FWC 3751 at [5] to [8], which, although directed at amalgamations of unions and s 43(5), are relevant also in my view to s 43(6). I note that it is a sufficient condition, for the Commission to conclude that there is a community of interest between two organisations, that the Commission is satisfied that any one of the circumstances in s 43(6) exists. In such a case, the Commission must be satisfied that there is a community of interest. However, the matters in s 43(6) do not limit, by implication, the circumstances in which the Commission may be satisfied that there is a community of interest between organisations for the purposes of s 43(4) (see s 43(7)).

[6] In their joint application under s 43, which meets the formal requirements of regulation 39 of the *Fair Work (Registered Organisations) Regulations 2009* (Regulations), the AHA and the AAA contended that the Commission should be satisfied that each of the circumstances in ss 43(6)(a) to (d) is present in this case. It will be sufficient to consider the matters in ss 43(6)(a) and (c).

[7] First, I am satisfied that a substantial number of members of the AAA are eligible to become members of the AHA, and vice versa. Rule 5(3) of the registered rules of the AHA extends membership eligibility to any employer that carries on a business in the hospitality

sector that ‘*provides accommodation*’, including accommodation hotels, guest houses, motels and serviced apartments. Rules 3 and 4 of the registered rules of the AAA extend membership eligibility to employers conducting motor inns, motels, serviced apartments, guest houses and holiday flats and units. Statutory declarations in support of the application under s 43 were filed by Mr Stephen Ferguson, national chief executive officer of the AHA, and Mr Bruce Copland, executive director of the AAA. In their declarations, Mr Ferguson and Mr Copland both stated that with very few exceptions, an employer that is in the business of providing accommodation to the public will be eligible for membership of both the AHA and the AAA. Having considered the rules of both organisations, I agree. Further, it appears to me that the provision of accommodation to the public constitutes the business of most if not all categories of members of the AAA. I conclude therefore that a substantial number of members of the AAA are eligible to become members of the AHA. This engages s 43(6)(a) and is a sufficient basis to compel a conclusion that the two organisations have a community of interest. However, I am also satisfied, based on the declarations and submissions of the applicants, that a substantial number of members of the AHA, in terms relative to its overall membership, are eligible to be members of the AAA. Although the AHA’s membership travels well beyond the accommodation sector, I accept the AHA’s submission that at least fifteen percent of its members are engaged in the provision of accommodation. I regard this to be a substantial number.

[8] Secondly, I accept the applicants’ submission that all members of their organisations are covered by the *Hospitality Industry (General) Award 2020* (Award). Clause 4.1(a) of the Award states that it covers employers in the hospitality industry in Australia. The industry definition in the Award covers hotels, motor inns and motels, and the various other categories of business set out in items (a) to (q) of that subrule. Having reviewed the registered rules of the AHA and the AAA and the declarations, I am satisfied that a substantial number of members – in fact all members – of the two organisations are covered by the Award.

[9] For the above reasons, and pursuant to s 43(4) of the RO Act, I declare that I am satisfied that there is a community of interest between the AHA and the AAA in relation to their industrial interests.

Submission of amalgamation to ballot – s 44 of the RO Act

[10] Next, I will address the joint application by the AHA and the AAA under s 44 of the RO Act for the approval for submission of amalgamation to ballot. As required by s 44(2), the application was accompanied by a copy of the scheme for the amalgamation and a written outline of the scheme. I am satisfied that the scheme meets the requirements of s 40(2). In particular, it contains a general statement of the nature of the amalgamation identifying the existing organisations concerned and indicating that one of the existing organisations (the AHA) is the proposed amalgamated organisation. It also identifies the proposed deregistering organisation (the AAA). The scheme sets out particulars of the proposed alterations to the rules of the AHA as the host organisation, including particulars of proposed alterations to its eligibility rules that will consolidate, but not expand, the coverage of the two amalgamating organisations. I note that the scheme includes a number of other provisions which are permitted by the Act, which in summary concern the administration and implementation of the amalgamation, including the establishment of a divisional structure, interim office holders and staff arrangements.

[11] The scheme was approved by a resolution of the committee of management of each organisation concerned in the amalgamation, as required by s 42 of the RO Act. Attached to the application under s 44 were resolutions of the National Executive as well as the National Board of the AHA, and the Council of the AAA, each dated 30 September 2022, approving the scheme of amalgamation, the outline of the scheme, and the ‘yes’ case. A copy of the ‘yes’ case has been lodged, as contemplated by s 48 of the RO Act. The resolutions also record approval for the use of the form F63 as the form of the amalgamation ballot paper, and for application to be made by the AHA for exemption from balloting its members under s 46.

[12] I am also satisfied that the written outline of the scheme meets the requirements of s 44(3) of the RO Act, as it contains no more than three thousand words, and provides sufficient information on the scheme to enable members of the existing organisations to make informed decisions in relation to the scheme.

[13] Under the proposed amalgamation, the AHA will continue as a registered employer organisation under the RO Act and will be the ‘host’ organisation. As a consequence of the amalgamation, the AAA will be deregistered. The name of the organisation will be the Australian Hotels Association. A new ‘*National Accommodation Division*’ will be established as an organisational unit of the amalgamated organisation. All existing members of the AHA and the AAA will automatically become members of the amalgamated organisation on the amalgamation date. Persons who were not eligible for membership of either organisation will not become eligible for membership of the amalgamated organisation. The present combined membership of the two organisations will be reflected in the eligibility rule of the amalgamated organisation by altering the rules of the AHA to include the eligibility rules of the AAA. The scheme is accompanied by a new form of rules that will regulate the amalgamated organisation.

[14] Section 55 of the RO Act states that the Commission must approve the submission of the proposed amalgamation to ballot if, at the conclusion of the hearing arranged under s 53, it is satisfied of various matters. On the basis of the material before me, and the submissions of the parties, I am satisfied of the following. First, the amalgamation does not involve registration of an association as an organisation (s 55(1)(a)). Secondly, a person who is not eligible for membership of either of the organisations that are concerned in the amalgamation will not be eligible for membership of the proposed amalgamated organisation immediately after the amalgamation takes effect (s 55(1)(b)). Thirdly, there is no proposed alteration of the name of the organisation, such that the consideration in s 55(1)(c) is not relevant. Fourthly, the proposed alteration of the rules of the existing organisations as set out in the proposed form of rules to be adopted is not contrary to the RO Act, the *Fair Work Act 2009*, or any modern award or enterprise agreement, and is not contrary to law (s 55(1)(d)). In this regard, I consider that the proposed alterations to the rules are consistent with the principle of democratic control by members of registered organisations. I note that the establishment of an accommodation division will give former members of the AAA a strong voice within the merged organisation. Further, the proposed deregistration of the AAA complies with the RO Act and is not otherwise contrary to the law. It follows, given my satisfaction as to these matters, that I am required by s 55 to approve the submission of the amalgamation to a ballot.

[15] I have therefore determined pursuant to s 55 of the RO Act to approve the submission of the proposed amalgamation to a ballot. Pursuant to s 58(2)(b), the applicants requested that the Commission fix a commencement date for the ballot that would be more than 28 days from

the date of approval of submission of the proposed amalgamation to ballot, namely Monday 16 January 2023. They submitted that the ballot should remain open for a period of four weeks, concluding on 13 February 2023. I have consulted with the Australian Electoral Commission (AEC) about the days on which the ballot will commence and close, as required by s 58(1). The AEC has indicated that these dates are satisfactory. I therefore fix 16 January 2023 as the commencement day of the ballot and 13 February 2023 as the closing day of the ballot.

Application for exemption from ballot - s 46 of the RO Act

[16] This brings me to the application made by the AHA under s 46 of the RO Act, which seeks from the Commission an exemption from the requirement that a ballot of its members be held in relation to the amalgamation. As required by s 46(2), this application was lodged together with the joint application of the AHA and the AAA made under s 44. It complies with the formal requirements of regulation 41.

[17] The application under s 46 was accompanied by statements from Mr David Basheer, secretary and treasurer of the AHA, and Mr Copland of the AAA. Mr Basheer stated that as of 31 December 2021, the AHA had 5667 members, and that from 31 December 2021 to the date of his statement (4 October 2022), the membership of the AHA had not changed by more than 100. Mr Copland stated that as of 31 December 2021, the AAA had 763 members, and that as of 30 September 2022, the date of his statement, the membership of the AAA had not changed by more than 15%. The number of AAA members as of 31 December 2021 was 11.87% of the combined number of members of the two organisations. Even taking into account the variation in membership since that time, it is clear that the total number of members that could be admitted to membership of the proposed amalgamated organisation on, and because of, the amalgamation will not exceed 25% of the number of members of the applicant organisation (the AHA) on the day on which the application was lodged (4 October 2022). Therefore, s 63 requires the Commission to grant the exemption, unless it considers that because of the special circumstances of the case, the exemption should be refused. No party made submissions as to the existence of any special circumstances, nor can I identify any such circumstances. I therefore grant the exemption for which application has been made by the AHA under s 46. The exemption has the effect set out in s 63(2) of the RO Act, which is that AHA members are taken to have approved the proposed amalgamation.

Other matters

[18] The AHA and AAA have elected to use a ballot paper in a specified form in respect of the amalgamation ballot for their respective organisations. In substance, the election concerns the form of the question to be put to members. I am satisfied that the requirements of regulation 60 have been met. In particular, the applicants have submitted a statement from the authorised officers of their organisations stating that the committee of management of their organisations approved the form of the ballot. The election as to a form of ballot by the AHA was submitted on a contingent basis only, in case the Commission determined not to grant the AHA's application under s 46 for its members to be exempted from the ballot.

[19] Finally, the applicants have asked the Commission to vary the outline of the scheme of amalgamation and the 'yes' case document to remove statements that the scheme and other documents relating to the application will be available on the Commission's website. The

Commission does not presently propose to publish those documents on its website. The outline and the 'yes' case therefore contain a factual error. Section 62(3)(b) of the Act allows the Commission to amend the outline of the scheme to correct factual errors. I amend the outline under this section to remove the words '*on either the FWC's website, or*' on page 1. Section 60(6) of the Act allows the Commission to amend the 'yes' case to correct factual errors. I amend the 'yes' case in this matter under s 60(6) to remove the words '*either the FWC,*' on page 8.

Summary of conclusions and next steps

[20] I am satisfied that there is a community of interest between the AHA and the AAA in relation to their industrial interests. I have determined to approve the submission of the proposed amalgamation to ballot, and to exempt the AHA from the requirement that a ballot of its members be held in relation to the proposed amalgamation. I have decided to fix 16 January 2023 as the commencement date of the ballot, and 13 February 2023 as the closing date of the ballot.

[21] Members of the AAA will approve the amalgamation in accordance with s 66(a) of the Act if more than 50% of the formal votes cast in the ballot are in favour of the amalgamation. If the amalgamation is approved, I will list for hearing the question of whether the requirements of s 73 of the RO Act have been met, such that the Commission is required to fix a day on which the amalgamation is to take effect, and if so, what day should be fixed as the amalgamation date and the date on which the AAA will be deregistered.



DEPUTY PRESIDENT

Appearances:

P. Punch for the AHA
A. O'Brien for the AAA

Hearing details:

2022
Melbourne
15 December

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