

MACS Special Resolution December 1, 2018 - Explanatory notes

1. Definitions (New addition)

A new section now recommended under the model rules.

Because of this addition the numbering of '**2. Objects**', '**3. Powers**', & '**4. Classes of members**' becomes '**3. Objects**', '**4. Powers**', '**5. Classes of members**' respectively in the new constitution.

Proposed change:

1. Definitions

A word or expression that is not defined in these model rules, but is defined in the Act has, if the context permits, the meaning given by the Act.

Act means the Associations Incorporation Act 1981.

Association means Mobile Attendant Care Service.

Special Resolution means a resolution passed by 75% of the voting members of the Association present at the meeting by secret ballot at a general meeting or a special general meeting called to consider the resolution.

2. Objects

The objects are currently:

The objects of the association are

To support people with a disability to live their chosen lifestyle in the community.

Proposed change:

3. Objects

The object of the association is to:

- (a) Provide attendant care services for people with a permanent physical disability to enable them to live independently, and*
- (b) Empower and support people with a permanent physical disability to lead the organisation and determine the direction of their own services.*

3. Powers

Removal of clause (3) from the old constitution as it's an incomplete sentence:

(3) The association may take over the funds and other assets and liabilities of the present unincorporated association known as the *[to be completed]* (the ***unincorporated association***).

4. Classes of members

Removal of clause 1) iv. Regarding corporate membership.

Proposed change:

5. Classes of members

(1) The membership of the association consists of:

- a) Ordinary members are people who have a permanent physical disability.*
- b) Associate members are individuals who are committed to the goals of the association.*
- c) Life members are any members who have rendered service to the association and who in the opinion of the Management Committee should be given life membership*

(2) The number of members in any of the above classes is unlimited.

5. Automatic membership and 6. New Membership

Section 5, Automatic membership and Section 6, New membership from current constitution have been combined under the title of '6. Membership'.

Proposed change:

6. Membership

(1) A person who, on the day the association is incorporated, was a member of the unincorporated association and who, on or before a day fixed by the management committee, agrees in writing to become a member of the incorporated association, must be admitted by the management committee.

*(2) An applicant for membership of the association, other than the members of the unincorporated association mentioned in subsection (1), must be proposed by 1 member of the association (**the proposer**) and seconded by another member (**the seconder**).*

*(3) An applicant for membership of the association must be proposed by 1 member of the association (**the proposer**) and seconded by another member (**the seconder**).*

(4) An application for membership must be -

- (a) in writing; and*
- (b) in the form of an application for membership as decided by the management committee;*
- (c) signed by the applicant and the applicant's proposer and seconder.*
- (d) an individual can self-nominate to become a member of the association, or can be nominated by an existing member*

(5) Approval or rejection of membership occurs at the next management committee meeting.

10. Appeal against rejection or termination of membership and 11. General meeting to decide appeal

Section 10 and 11 from current models rules have been combined under the title of 'Appeal against rejection or termination of membership.'

Proposed change:

10. Appeal against rejection or termination of membership

(1) A person whose application for membership has been rejected, or whose membership has been terminated, may give the secretary written notice of the persons intention to appeal against the decision.

(2) A notice of intention to appeal must be given to the secretary within 1 month after the person receives written notice of the decision.

(3) If the secretary receives a notice of intention to appeal, the secretary must, within 1 month after receiving the notice, call a general meeting to decide the appeal.

(4) The general meeting to decide an appeal must be held within 3 months after the secretary receives the notice of intention to appeal.

(5) At the meeting, the applicant must be given a full and fair opportunity to show why the application should not be rejected or the membership should not be terminated.

(6) Also, the management committee and the members of the committee who rejected the application or terminated the membership must be given a full and fair opportunity to show why the application should be rejected or the membership should be terminated.

(7) An appeal must be decided by a majority vote of the members present and eligible to vote at the meeting.

(8) If a person whose application for membership has been rejected does not appeal against the decision within 1 month after receiving written notice of the decision, or the person appeals but the appeal is unsuccessful, the secretary must, as soon as practicable, refund the membership fee paid by the person.

12. Register of members

Slight changes to clause 2 on what is required on the register – no longer recording date of admission, death, resignation, termination or reinstatement details of members. The rest of the section remains the same other than it's now section 11 due to section 10 & 11 above being combined.

Proposed change:

11 Register of members

(1) The management committee must keep a register of members of the association.

(2) The register must include the following particulars for each member-

(a) the full name of the member;

(b) the postal or residential address of the member;

(c) email/phone number of member

(d) membership class

(e) any other particulars the management committee or the members at a general meeting decide.

16. Membership of management committee (New addition)

This is a new section of the constitution that will be between **15. Functions of secretary** and **17. Electing the management committee**

Proposed change:

16. Membership of management committee

(1) The management committee of the association consists of a president, vice president, treasurer, secretary and any other members the association members elect at a general meeting.

(2) A member of the management committee, other than a secretary appointed by the management committee under rule 13(1)(b)(iii), must be a member of the association.

(3) At each annual general meeting of the association, the members of the management committee must retire from office, but are eligible, on nomination, for re-election.

(4) A member of the association may be appointed to a casual vacancy on the management committee under rule 19.

(5) The number of members appointed to the Management Committee shall not exceed 9.

30/31/32. Business to be conducted at annual general meeting (level 1, 2 & 3 incorporated associations)

Removal of section 31 (level 2 incorporated associations) and section 32 (level 3 incorporated associations) as only level 1 applies to MACS.

Proposed change:

30. Business to be conducted at annual general meeting

(1) The following business must be conducted at each annual general meeting of the association

- (a) receiving the association's financial statement, and audit report, for the last reportable financial year;*
- (b) presenting the financial statement and audit report to the meeting for adoption;*
- (c) electing members of the management committee;*
- (d) appointing an auditor or an accountant for the present financial year;*

46. Financial Year

Currently has a typo stating "June 31." Will also be section 43 due to removal of section 31 & 32 above.

Proposed change:

43. Financial Year

The end date of the association's financial year is June 30 in each year.

47. Distribution of surplus assets to another entity

The section will be re-titled "Distribution of surplus assets to another entity or revocation of deductible gift recipient status" with an additional clause (5) at the end. Will also be section 44 due to removal of section 31 & 32 above.

Proposed change:

44. Distribution of surplus assets to another entity or revocation of deductible gift recipient status

(5) If the association is wound up or its endorsement as a deductible gift recipient is revoked (whichever occurs first), any surplus of the following assets shall be transferred to another organisation with similar objects, and which is charitable at law, to which income tax deductible gifts can be made –

- (a) gifts of money or property for the principal purpose of the organisation*
- (b) contributions made in relation to an eligible fundraising event held for the principal purpose of the organisation*
- (c) money received by the organisation because of such gifts and contributions.*