



**AUSTRALIAN VETERANS'
CHILDREN ASSISTANCE TRUST
LIMITED**

**ACN 008 609 032
ABN 50 008 609 032**

CONSTITUTION

A Company Limited by Guarantee

Incorporating amendments to 20 March 2012 and 22 May 2018

Sydney, New South Wales

22 May 2018

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1 Objects of the Trust

The objects of the Trust are to provide financial assistance to Veterans' Children, where those children are in necessitous and deserving circumstances.

In the pursuit of these objects, the Trust may:

- (a) grant financial assistance to Veterans' Children while they undertake tertiary education;
- (b) act as trustee of and solicit and accept donations to:
 - (i) a trust established for the benefit of Veterans' Children; and
 - (ii) a public fund or funds established and maintained for the benefit of Veterans' Children;
- (c) administer on behalf of other organisations or individuals, schemes and programmes which provide financial assistance to Veterans' Children whilst they undertake such education;
- (d) consult and liaise with the various veteran and other organisations in Australia with a view to assisting Veterans' Children;
- (e) promote the interests of Veterans' Children by maintaining close co-operation and liaise with:
 - (i) organisations of ex-service personnel in Australia; and
 - (ii) the Australian governments, their departments and agencies;
- (f) promote, develop, foster and support:
 - (i) the study of the needs and problems of Veterans' Children who undertake such education;
 - (ii) the establishment of advisory and other services for the benefit of Veterans' Children; and
- (g) engage in any other activity which the Trust decides will benefit Veterans' Children who are in necessitous and deserving circumstances.

2 Definitions and Interpretation

2.1 Definitions

In this Constitution unless the contrary intention appears:

Alternate Director means a person appointed as an Alternate Director under clause 14.7.

Australian Charities and Not-for-profits Commission Act 2012 referred to as ACNC

Board means the Board of Directors of the Trust constituted under clause 10.

By-law means a By-law made under clause 16.

Chair means the Chair of the Board appointed under clause 10.2(a).

Chief Executive Officer means a person appointed under clause 15.1.

Children includes adopted children, ex-nuptial children, stepchildren and grandchildren and also children who satisfy the Board they are concerned with a particular Veteran or Veterans.

Constitution means this Constitution as amended from time to time and a reference to a particular clause is a reference to a clause of this Constitution.

Department of Veterans' Affairs means:

- (a) the Australian Government Department of Veterans' Affairs; or
- (b) another Department responsible for administering Commonwealth legislation relating to Veterans' entitlements.

Deputy Chair means the Deputy Chair elected under clause 14.15.

Director means a member of the Board and, where appropriate, includes an Alternate Director.

Financial Assistance means the provision of scholarships and bursaries.

Member means a corporation or a person continuing or admitted as a Member under this Constitution.

Minister means:

- (a) the person holding the portfolio of Minister for Veterans' Affairs in the Parliament of the Commonwealth of Australia; or
- (b) another Minister responsible for administering Commonwealth legislation relating to Veterans' entitlements; or
- (c) if there is no Minister for Veterans' Affairs or other Minister referred to in paragraph (b), then a Minister nominated by the Prime Minister.

Qualifying means, in relation to a Veterans' Child, a child that must be:

- (a) eligible on assets and income grounds for continuous, means-tested Commonwealth benefits for tertiary education;
- (b) under the age of 25 years unless significant circumstances exist;
- (c) eligible for any additional requirements of a scheme offered by the Trust;
- (d) enrolled in, or plan to enrol in a tertiary education course in Australia; and
- (e) the most deserving candidate of merit.

Registered Office means the registered office for the time being of the Trust.

Representative means a person appointed to represent a corporate Member at a general meeting of the Trust in accordance with the ACNC. **Secretary** means a

person appointed under clause 15.5 as a secretary of the Trust, and where appropriate includes an acting secretary and a person appointed by the Board to perform all or any of the duties of a secretary of the Trust.

The Trust means Australian Veterans' Children Assistance Trust Limited.

Veteran means a person who has rendered service as a member of the Australian Defence Force.

2.2 Interpretation

In this Constitution unless the contrary intention appears:

- (a) **(gender)** words importing any gender include all other genders;
- (b) **(person)** the word person includes a firm, a body corporate, a partnership, a joint venture, an unincorporated body or association or an authority;
- (c) **(singular includes plural)** the singular includes the plural and vice versa;
- (d) **(regulations)** a reference to a law includes regulations and instruments made under the law;
- (e) **(amendments to statutes)** a reference to a law or a provision of a law includes amendments, re-enactments or replacements of that law or the provision; and
- (f) **(from time to time)** a power, an authority or a discretion reposed in a Director, the Board, the Trust in general meeting or a Member may be exercised at any time and from time to time.

2.3 Headings and Parts

Headings are inserted for convenience and do not affect the interpretation of this Constitution.

This Constitution is divided into parts as indicated by its contents.

2.4 Australian Taxation Office Requirements and Definitions and Interpretation

2.5 Paramount Provisions

The following provisions of the clause 2.2 shall form part of this Constitution from and including 1 December 2005 (the Date of Effect) and to the extent that there are inconsistencies between the following provisions and any other provisions of this Constitution, the following provisions shall prevail to the extent of any inconsistencies.

2.6 Definitions

Accounting Period means the period from 1 January to 31 December, or any other period that the Trust decides.

Associate has the meaning outlined in section 78A of the *Income Tax Assessment Act 1936* as if the reference to the "donor" in that section were a reference to the person who in this clause is referred to in relation to the Associate.

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

Donor means an individual donor of a gift to the Trust or the Gift Fund.

Gift means a donation, funds or grants given to the Trust to carry out the Objects of the Trust.

Eligible Charity means a fund, authority or institution which is charitable at law and gifts to which are deductible under item 1 of the table in section 30-15 of ITAA 97.

ITAA 97 means Income Tax Assessment Act 1997.

Major Donor means, at a particular time, a Donor who has made gifts totalling more than \$10,000 to the Trust or the Gift Fund since the Date of Effect.

Responsible Persons are persons or institutions who have a responsibility to the community as a whole, including:

- (a) persons who perform a significant public function;
- (b) persons who have received formal recognition from government for services to the community; or
- (c) members of a professional body having a code of ethics or rules of conduct;
- (d) Church authorities, school principals, judges, clergymen, solicitors, doctors and other professional persons, mayors, councillors, town clerks and members of parliament;
- (e) appointees of a Chief Justice of a Supreme Court; and
- (f) any person who is approved as a Responsible Person by the Commissioner, and who, unless the Commissioner otherwise agrees, is not:
 - (i) a Donor;
 - (ii) a Sponsor;
 - (iii) an employee of the Trust or a Major Donor;
 - (iv) an Associate of the Trust or of a Major Donor or of a Director other than in a professional capacity, as a member of the Board or as a member of the Trust.

Sponsor means an organisation who provides a gift to the Trust or the Gift Fund

2.7 Purposes

2.8 Application of Income and Capital

(a) Specific Purpose

The Trust must hold all gifts to the Trust or to the Gift Fund and the income of the Gift Fund derived in each Accounting Period on trust to pay or apply the income and, if and so far as it thinks fit, all or any part of the capital of the said gifts, solely for the purpose of providing financial relief to Veterans' Children who are in necessitous and deserving circumstances in Australia, in order to alleviate those circumstances.

(b) Duties and Powers of the Trust

In pursuit of the above purpose, but subject always to the limitations in this clause 22, and any other relevant limitations in this Constitution, and having regard to available funds:

Duties

The Trust must:

- (a) grant financial assistance to Qualifying Veterans' Children while they undertake approved education; and
- (b) solicit and accept donations for the above purpose.

Powers

The Trust may:

- (a) administer on behalf of other organisations or individuals, schemes and programs which provide financial assistance to Veterans' Children who are in necessitous circumstances whilst they undertake such education;
- (b) consult and liaise with various veterans' and other organisations in Australia with a view to assisting Veterans' Children who are in necessitous circumstances; and
- (c) engage in any other activity which the Trust decides will assist it to achieve the above purpose.

2.9 Establishment and operation of Gift Fund

Maintaining Gift Fund

The Trust must maintain for the Specific Purpose referred to in clause 22.1 a fund (**Gift Fund**):

- (a) to which gifts of money or property for that purpose are to be made;
- (b) to which any money received by the Trust because of those gifts is to be credited; and
- (c) that does not receive any other money or property.

Limits on use of Gift Fund

The Trust must use the following only for the said Specific Purpose:

- (a) gifts made to the Trust or to the Gift Fund; and
- (b) any money received because of those gifts.

Trust may accumulate

Despite other provisions of clause 22.2, the Trust may, in any Accounting Period accumulate and retain so much of:

- (a) the income of the Gift Fund other than gifts, government grants and other voluntary transfers of property to the Gift Fund as is:

- (i) necessary to maintain the capital of the Gift Fund at a level calculated by adjusting the capital at the beginning of that Accounting Period to reflect the movement in any relevant Consumer Price Index during the Accounting Period immediately before that Accounting Period; or
 - (ii) from time to time approved by the Commissioner; and
- (b) all other receipts or income of the Gift Fund as are from time to time approved by the Commissioner.

2.10 Bank account

The Trust must maintain a separate bank account for the Gift Fund.

2.11 Gift Fund is held on trust

To avoid any doubt, it is declared that all gifts to the Trust must form part of the Gift Fund and must be held on the trusts referred to in this Constitution.

2.12 Winding up

- (a) At the first occurrence of:
- (i) the Gift Fund ceasing to be a public fund under item 4.1.3 of the ITAA 97; or
 - (ii) either the Trust or the Gift Fund being wound up;

any surplus assets of the Gift Fund must be transferred to such Eligible Charities as the Trust decides.

- (b) Where gifts to an Eligible Charity are deductible only if, among other things, the conditions set out in the relevant table item in Subdivision 30-B of the ITAA 97 are satisfied, a transfer under clause 2.9 must be made in accordance with those conditions.

2.13 Qualifications of Directors

At all times a majority of Directors of the Trust must be Responsible Persons.

If the requirement in clause 2.13 is not met at any time, the Trust must not exercise any discretion or power in relation to the Gift Fund until the requirement is met except

- (a) for the purpose of exercising a statutory power to appoint a new or additional Director;
- (b) to protect the Gift Fund; or
- (c) in the case of urgency.

2.14 Books of account and receipts of the Gift Fund

Trust to keep accounts

The Trust must keep or cause to be kept proper accounts in respect of all receipts and payments on account of the Gift Fund and of all dealings connected with the Gift Fund.

Financial statements

As soon as practicable after the end of each Accounting Period the Trust must prepare or cause to be prepared a financial statement showing the financial position of the Gift Fund at the end of that Accounting Period.

Audit

The financial statement must be audited by a person registered, or taken to be registered as an auditor as described in the ACNC.

Receipts

Receipts issued for gifts must state:

- (a) the name of the Gift Fund;
- (b) the Australian Business Number applicable to the Trust; and
- (c) the fact that the receipt is for a gift.

Copy Accounts to Minister and Others

As soon as practicable after each annual general meeting, the Board must forward a copy of the audited accounts of the Gift Fund to:

- (a) the Minister; and
- (b) the Repatriation Commission.

Directors may transfer monies from the Gift Fund

After payment of all proper expenses in relation to the Gift Fund, the Trust may transfer the balance of the Gift Fund to some other Trust Bank Account provided however that all of the monies so transferred must, subject to clause 2.4, be used solely for the purposes of providing financial relief to Children who are in necessitous and deserving circumstances in Australia, in order to alleviate those circumstances.

2.15 Uncommercial Transactions

- (a) Apart from a payment or application in accordance with clause 2.4 or a payment or application approved by the Commissioner, no part of the Gift Fund or the income thereof may be paid or applied, directly or indirectly, to or for:
 - (i) The Trust;
 - (ii) a Donor; or
 - (iii) an Associate of the Trust or a Donorby way of an Uncommercial Transaction.
- (b) In clause 2.15 (a), an **Uncommercial Transaction** means the provision of a financial or other benefit on terms which:

- (i) would not be reasonable in the circumstances if the benefit were provided on an arms length basis; or
- (ii) are more favourable to the recipient than hereinbefore referred to in this sub-clause;

and which a reasonable person in the position of the Trust would not have entered into having regard to all relevant circumstances.

2.16 Indemnity of the Trust and the Directors from the Gift Fund

The Trust and the Directors are entitled to be indemnified out of the Gift Fund in respect of:

- (a) all costs and expenses incurred by the Trust relating to:
 - (i) amending the Constitution by inserting therein clause 2.4;
 - (ii) establishing, operating, administering, amending, terminating and winding up the Gift Fund or the trusts created by clause 2.4; and
 - (iii) all other matters incidental to the Gift Fund or these trusts; and
- (b) all liability incurred (including liability for income tax and any other taxes and all fines and penalties payable in relation to those taxes) and acts and things done in connection with or resulting from the matters referred to in clause 2.4 including, but not limited to, the Directors performing their duties and exercising their powers and discretions under clause 2.4.

2.17 ACNC to be notified of Changes to Constitution

The Commissioner of ACNC must be notified of all amendments to this Constitution.

3 Powers and Corporate Responsibilities of the Trust

3.1 Powers of the Trust

The Trust has all the powers conferred on it by the ACNC, including, without limitation, to:

- (a) solicit and accept donations, bequests, legacies and all forms of gifts of property, real or personal, to assist the Trust to further its objects;
- (b) receive and consider applications for benefits or grants from the Trust and to determine the extent to which an applicant may receive such a benefit or grant;
- (c) enter into such arrangements with any government or government institution, municipal, local or other authority, that may seem appropriate to enable the Trust to carry out its objects;
- (d) seek and obtain any government or government institution, municipal, local or other authority any rights, privileges and concessions which the Trust may think desirable to obtain;

- (e) carry out, exercise and comply with any such arrangements, rights, privileges and concessions referred to in clauses 3.1 (c) and 3.1 (d);
- (f) appoint, employ, suspend or remove such managerial, secretarial, clerical and other staff as may be necessary or convenient for the purposes of the Trust;
- (g) establish and support or aid in the establishment and support of superannuation and insurance schemes calculated to benefit employees or past employees of the Trust or their dependants and to grant such pensions and allowances to such persons as may be deemed appropriate from time to time;
- (h) take any gift or property whether subject to any special trust or not, for the objects of the Trust; and
- (i) make such appeals as may from time to time be determined for the purpose of procuring funds for the Trust.

3.2 Corporate Responsibilities of the Trust

All governance provisions of the ACNC apply to all aspects of governance of the Trust. Where any conflict occurs between this Constitution and the ACNC, the latter provisions take precedence. Where amendments to the Constitution may be needed to reflect the requirements of the ACNC, a Special Resolution is to be circulated.

4 Income

4.1 Application of income

The profits (if any) or other income and the property of the Trust, however derived, must be applied solely towards the promotion of the objects of the Trust.

4.2 No dividends, bonus or profit to be paid to members

No part of the profits or other income or the property of the Trust may be paid or transferred, directly or indirectly by way of dividend, bonus or otherwise, to the Members.

4.3 Payments in good faith

Nothing in this Constitution prevents the payment in good faith to an officer or Member, or to a firm of which an officer or Member is a partner of:

- (a) remuneration for:
 - (i) services rendered to the Trust; or
 - (ii) goods supplied in the ordinary course of business; or
- (b) interest at a rate not exceeding the rate for the time being fixed for the purposes of this clause by the Board on money borrowed from an officer or Member; or
- (c) reasonable rent for premises leased by an officer or Member.

5 Investment Policy

The money of the Trust which is not immediately required may be invested in the following ways:

- (a) investments authorised by the Trustee Act 1925 of New South Wales as amended from time to time; or
- (b) the purchase of a bill of exchange accepted by a bank in Australia for which that bank accepts liability for payment on maturity of that bill.

6 Membership

6.1 Continuing Members

Those persons who are Members at the date of the adoption of this Constitution continue as Members subject to this Constitution.

6.2 Members

Upon incorporation of the Trust, Members are:

- (a) the Chair;
- (b) the Returned & Services League of Australia Limited;
- (c) Legacy Australia Incorporated;
- (d) the Vietnam Veterans Association of Australia Incorporated;
- (e) the Vietnam Veterans Federation of Australia Incorporated;
- (f) the Australian Veterans and Defence Services Council Incorporated
- (g) War Widows' Guild of Australia Incorporated; and
- (h) a person appointed by the Repatriation Commission

6.3 Additional Members

In addition to those referred to in clause 6.2, any corporation who undertakes to the Trust to provide it with funds for the purposes of financial assistance for Veterans' Children subject to such conditions as the Board may determine from time to time, may make application in writing to be admitted as a Member.

6.4 Becoming a Member

A corporation or person referred to in clause 6.2 or 6.3 becomes a Member upon approval of the application by the Board.

6.5 Ceasing to be a Member

A Member ceases to be a Member:

- (a) on resignation;
- (b) on death;

- (c) on the termination of the Member's membership in accordance with this Constitution;
- (d) if a corporation or person to whom clause 6.3 applies, upon it or ceasing to be qualified as required by that clause; or
- (e) if a corporation, upon it being dissolved or otherwise ceasing to exist or having a liquidator or provisional liquidator appointed to it.

6.6 Resignation

A Member may by notice in writing to the Trust resign its or his membership with effect from a specified date occurring not less than three months after the service of the notice.

6.7 Board may discipline Member

Where the Board is of the opinion that a Member:

- (a) has refused or neglected to comply with a provision of this Constitution;
- (b) has been guilty of conduct unbecoming a Member; or
- (c) has acted in a manner prejudicial to the interests of the Trust,

the Board may, by resolution:

- (d) reprimand the Member;
- (e) suspend the Member from membership of the Trust for a specified period; or
- (f) expel the Member from the Trust.

6.8 Member's right to notice of Board meeting

A resolution of the Board under clause 6.7 is of no effect unless:

- (a) at least 14 days' written notice of the Board meeting at which the resolution is to be put is given to the Member;
- (b) the Member was permitted to exercise the Member's right to speak at the meeting; and
- (c) it was passed by a majority of 75% of the Directors present at the meeting.

6.9 Content of notice of meeting

The notice referred to in clause 6.8(a) must:

- (a) set out the date, time and place of the meeting;
- (b) set out the proposed resolution and the grounds on which it is based;
- (c) inform the Member that the Member may do either or both of the following:
 - (i) attend and speak at the meeting; and
 - (ii) submit to the Board at or prior to the date of the meeting written representations relating to the resolution.

6.10 Limited liability

The Members have no liability as members of the Trust except as set out in clause 21.

6.11 Dispute Resolution

- (a) In the event of a dispute between Members in relation to the Trust's fundraising activities, the dispute shall, on written application by any Member addressed to the Chair, be considered and resolved at the next General Meeting held by the Trust.
- (b) Upon receipt of such requisition, the Chair is to convene an Extraordinary General Meeting to be held contemporaneously with the next Board Meeting.
- (c) A decision by the Trust resolving any dispute under this Clause is final.

7 General meetings

7.1 Annual general meeting

Annual general meetings of the Trust are to be held in accordance with the ACNC.

7.2 Convening general meetings by the Board

The Board may convene and arrange to hold a general meeting whenever it thinks fit and shall do as required by the ACNC. Normally the Board will meet quarterly.

7.3 Period of notice of general meeting

Subject to the provisions of the ACNC as to short notice, not less than 21 days' notice of a general meeting must be given in writing to:

- (a) each Member; and
- (b) each Director.

7.4 Auditor entitled to notice of meeting and other communication

The Trust must give its auditor:

- (a) notice of a general meeting in the same way that a Member is entitled to receive notice; and
- (b) any other communication relating to the general meeting that a Member is entitled to receive.

7.5 Calculation of period of notice

In computing the period of notice under clauses 7.3 and 7.4, both the day on which the notice is given or taken to be given and the day of the meeting convened by it are to be disregarded.

7.6 Notice of general meeting

A notice convening a general meeting of the Trust must:

- (a) specify the place, day and hour of the meeting and state the general nature of the business to be dealt with at the meeting and, if the meeting is to be held in

two or more places, the technology that will be used to facilitate the holding of the meeting in that manner; and

- (b) state that:
 - (i) a Member entitled to attend and vote is entitled to appoint a proxy; and
 - (ii) a proxy need not be a Member.

7.7 Cancellation or postponement of general meeting

Where a general meeting (including an annual general meeting) is convened by the Board, it may, whenever it thinks fit, cancel the meeting or postpone the holding of the meeting to a date and time determined by it. This clause does not apply to a meeting convened in accordance with the ACNC by Members or by the Board on the request of Members.

7.8 Notice of cancellation or postponement of general meeting

A notice of cancellation or postponement of a general meeting must state the reason for cancellation or postponement and be given to:

- (a) each Member individually; and
- (b) each other person entitled to be given notice of a general meeting under the ACNC or this Constitution.

7.9 Contents of notice postponing general meeting

A notice of postponement of a general meeting must specify:

- (a) the postponed date and time for the holding of the meeting;
- (b) a place for the holding of the meeting, which may be either the same as or different from the place specified in the notice convening the meeting; and
- (c) if the meeting is to be held in two or more places, the technology that will be used to facilitate the holding of the meeting in that manner.

7.10 Number of clear days for postponement of general meeting

The number of clear days from the giving of a notice postponing the holding of a general meeting to the date specified in that notice for the holding of the postponed meeting may not be less than the number of clear days' notice of the general meeting required to be given by this Constitution or the ACNC.

7.11 Business at postponed general meeting

The only business that may be transacted at a general meeting the holding of which is postponed is the business specified in the notice convening the meeting.

7.12 Proxy, attorney or representative at postponed general meeting

Where:

- (a) by the terms of an instrument appointing a proxy, attorney or Representative, a proxy, attorney or Representative is authorised to attend and vote at a general meeting to be held on a specified date or at a general meeting to be held on or before a specified date; and

- (b) the date for holding the meeting is postponed to a date later than the date specified in the instrument of proxy, attorney or Representative,

then, by force of this clause, that later date is substituted for and applies to the exclusion of the date specified in the instrument of proxy, attorney or Representative, unless the Member appointing the proxy, attorney or Representative gives to the Trust at its Registered Office notice in writing to the contrary not less than 48 hours before the time to which the holding of the meeting has been postponed.

7.13 Non-receipt of notice

The non-receipt of notice of a general meeting or cancellation or postponement of a general meeting by, or the accidental omission to give notice of a general meeting or cancellation or postponement of a general meeting to a corporation or person entitled to receive notice does not invalidate any resolution passed at the general meeting or at a postponed meeting or the cancellation or postponement of a meeting.

8 Proceedings at general meetings

8.1 Business of the annual general meeting

The business of an annual general meeting may include a consideration of the annual financial report, the report of the Auditor and the Chair's report.

8.2 Quorum

Subject to clause 8.5, a quorum is at least half the Members present in person or by proxy, attorney or Representative.

8.3 Requirement for a quorum

An item of business may not be transacted at a general meeting unless a quorum is present when the meeting proceeds to consider it. If a quorum is present at the beginning of a meeting it is taken to be present throughout the meeting unless the Chair of the meeting on the Chair's own motion or at the instance of a Member, proxy, attorney or Representative who is present declares otherwise.

8.4 Quorum and time

If within 15 minutes after the time appointed for a general meeting a quorum is not present, the meeting:

- (a) if convened by, or at the request of, Members is dissolved; and
- (b) in any other case stands adjourned to the same day in the next week and the same time and place, or to such other day, time and place as the Board appoints by notice to Members and others entitled to notice of the meeting.

8.5 Adjourned general meeting

At a meeting adjourned under clause 8.4(b) the persons present at the meeting (being not less than two), each being a Member, proxy, attorney or Representative, are a quorum.

8.6 Chair to preside over general meetings

The Chair is entitled to preside at general meetings. If a general meeting is held and the Chair is not present within 15 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act, the following may preside (in order of entitlement):

- (a) the Deputy Chair; or
- (b) a Member chosen by a majority of the Members present in person or by proxy, attorney or Representative.

8.7 Conduct of general meetings

The Chair of a general meeting:

- (a) has charge of the general conduct of the meeting and of the procedures to be adopted at the meeting;
- (b) may require the adoption of any procedure which is in the Chair's opinion necessary or desirable for proper and orderly debate or discussion and the proper and orderly casting or recording of votes at the general meeting; and
- (c) may, having regard where necessary to the ACNC, terminate discussion or debate on any matter whenever the Chair considers it necessary or desirable for the proper conduct of the meeting,

and a decision by the Chair under this clause is final.

8.8 Adjournment

The Chair of a general meeting may, with the consent of any meeting at which a quorum is present, and must if so directed by the meeting, adjourn the meeting to a new day, time or place.

Only unfinished business is to be transacted at meeting resumed after an adjournment.

8.9 Notice of adjourned meeting

It is not necessary to give any notice of an adjournment or of the business to be transacted at any adjourned meeting unless a meeting is adjourned for 10 days or more. In that case, notice of the adjourned meeting must be given as in the case of an original general meeting.

8.10 Questions decided by majority

Subject to the requirements of the ACNC, a resolution is taken to be carried if a simple majority of the votes cast on the resolution are in favour of it.

8.11 Equality of votes - casting vote for Chair

If there is an equality of votes, either on a show of hands or on a poll, the Chair of the meeting is entitled to a casting vote in addition to any votes to which the Chair is entitled as a Member or proxy, attorney or Representative.

8.12 Declaration of results

At any general meeting a resolution put to the vote of the meeting must be decided on a show of hands unless a poll is properly demanded and the demand is not withdrawn. A declaration by the Chair of the meeting that a resolution has, on a show of hands, been carried or carried unanimously, or by a particular majority, or lost, and

an entry to that effect in the minutes of the general meeting is conclusive evidence of that fact. Neither the Chair nor the minutes need state and it is not necessary to prove the number and proportion of votes cast in favour of or against the resolution.

8.13 How questions decided

Every question submitted to a general meeting is to be decided by a show of hands, unless a poll is demanded:

- (a) before the vote is taken;
- (b) before the voting results on the show of hands are declared; or
- (c) immediately after the voting results on the show of hands is declared, by:
- (d) the Chair of the general meeting; or
- (e) a Member present in person or by proxy, attorney or Representative and having the right to vote at the general meeting,

and the demand for the poll is not withdrawn.

8.14 Poll

If a poll is properly demanded, it must be taken in the manner and at the date and time directed by the Chair of the meeting and the result of the poll is the resolution of the meeting at which the poll was demanded.

A poll demanded on the election of a Chair of the meeting or on a question of adjournment must be taken immediately.

A demand for a poll may be withdrawn.

A demand for a poll does not prevent the continuance of the meeting for the transaction of any business other than the question on which the poll has been demanded.

8.15 Objection to voting qualification

An objection to the right of a person to attend or vote at a meeting or adjourned meeting:

- (a) may not be raised except at that meeting or adjourned meeting; and
- (b) must be referred to the Chair of the meeting, whose decision is final.

A vote not disallowed under the objection is valid for all purposes.

8.16 Chair to determine dispute

If there is a dispute as to the admission or rejection of a vote, the Chair of the meeting must decide it and the Chair's decision made in good faith is final and conclusive.

8.17 When resolution passed

A resolution passed at a meeting resumed after an adjournment is passed on the day it was passed.

9 Votes of members

9.1 Voting rights

Subject to the rights and any restrictions attached to or affecting any class of Members and to any other restrictions in this Constitution:

- (a) on a show of hands, each Member present in person and each Representative of a Member has one vote; and
- (b) on a poll, each Member present in person has one vote and each person present as proxy, attorney or Representative of a Member has one vote for each Member that the person represents.

9.2 Right to appoint proxy

A Member is entitled to appoint another person as proxy to attend in the Member's place at the meeting and a proxy has the same right as the Member to speak and vote at the meeting. A proxy need not be a Member.

9.3 Instrument of proxy

An appointment of a proxy is valid if it is signed by the Member making the appointment and contains the following information:

- (a) the Member's name and address;
- (b) the Trust's name;
- (c) the proxy's name; and
- (d) the meetings at which the appointment may be used.

An appointment may be a standing one.

9.4 Undated proxy

An undated appointment is to be taken to have been dated on the day it is given to the Trust.

9.5 Voting if instrument specifies how proxy is to vote

An appointment may specify the way the proxy is to vote on a particular resolution. In that event:

- (a) if the proxy is the Chair of the meeting, the proxy must vote on a poll, and must vote as specified; and
- (b) if the proxy is not the Chair of the meeting, the proxy need not vote on a poll, but if the proxy does so, the proxy must vote as specified.

This clause does not affect the way that the proxy can cast any votes attached to that person's membership.

9.6 Appointment need not be witnessed

An appointment of a proxy does not need to be witnessed.

9.7 Revocation of earlier appointment

A later appointment revokes an earlier one if both appointments could not be validly exercised at the meeting.

9.8 Proxy may demand a poll

An instrument appointing a proxy is to be taken to confer authority to demand or join in demanding a poll.

9.9 Receipt of proxy and other instruments

The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed shall be deposited with the Secretary not less than 48 hours before the time for holding the general meeting or adjourned general meeting at which the person named in the instrument proposes to vote or in the case of a poll not less than 24 hours before the time appointed for the taking of the poll and, in default, the instrument of proxy shall not be treated as valid.

9.10 Receipt of proxy at electronic transmission number

If the notice convening a general meeting specifies an electronic transmission number to which a proxy and related materials may be sent then receipt by the electronic transmission machine on that number of a complete and legible electronic transmission of the document will be taken as a receipt by the Trust at a specified place for the purposes of this clause.

9.11 Validity of vote in certain circumstances

Unless the Trust has received written notice of the matter before the start or resumption of the meeting at which a person votes as a proxy, attorney or Representative, a vote cast by that person is valid even if, before the person votes:

- (a) the appointing Member dies;
- (b) the Member is mentally incapacitated; or
- (c) the Member revokes the appointment or authority.

9.12 Circulating resolutions

Subject to the ACNC, the Trust may pass a resolution without a general meeting being held if all the Members entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. Separate copies of a document may be used for signing by Members if the wording of the resolution and statement is identical in each copy. The resolution is passed when the last Member signs.

9.13 Invitees to general meetings

For the purposes of securing the widest participation of activities of the Trust and the carrying out of its objects, the Board may from time to time by resolution invite representatives of any association, organisation, group, university or any branch thereof, Department of Government, (either Federal, State or Municipal) or any other person to attend a general meeting. Any such representative or person so invited shall have the right to attend that general meeting and, with the consent of the Chair, may take part in all discussions but shall not be entitled to vote.

10 Board

10.1 Transitional provisions

The Directors in office on the date of adoption of this Constitution continue in office subject to this Constitution.

10.2 Composition of the Board

The Board will consist of:

- (a) the Chair to be appointed by the Minister and who shall hold office at the Minister's pleasure;
- (b) one Director appointed by each Member referred to in clause 6.2(b) to (g) inclusive;
- (c) one director appointed by the Repatriation Commission; and
- (d) one Director appointed by each corporation or person referred to in clause 6.3 and admitted as a Member pursuant to clause 6.4.

10.3 Term of appointment

A Director appointed under clause 10.2(b), (c), or (d) is appointed for a two year term and is eligible for reappointment.

10.4 Cessation of office

- (a) The Directors in office under clause 10.1 will cease to hold office upon the Chair appointed under clause 10.2(a) and at least three Directors appointed under clause 10.2 (b) taking office.
- (b) Any Director appointed pursuant to clause 10.2(b) or (d) will cease to hold office upon the corporation or person appointing the Director ceasing to be a Member.

10.5 Ineligible appointees

An employee of the Trust is not eligible to be appointed as a Director.

10.6 Vacancy

A vacancy in the office of a Director is to be filled as follows:

- (a) if the vacancy is in the office of Chair, by the Minister appointing a replacement; and
- (b) if the vacancy is in the office of any other Director, by the appointor appointing a replacement.

10.7 Term of office of replacement Director

A Director appointed under clause 10.6(b) holds office for the balance of the term of the Director he is replacing and is eligible for reappointment.

10.8 Appointment to be in writing

An appointment of a Director must be:

- (a) in writing;

- (b) signed by or on behalf of the appointor;
- (c) consented to in writing by the nominee; and
- (d) delivered to the Secretary.

11 Remuneration and expenses

11.1 Remuneration of directors

No fees, allowances or honoraria shall be paid to any Director out of any funds of the Trust except reimbursement of actual out-of-pocket expenses:

- (a) incurred in attending meetings of the Board or the Trust; or
- (b) incurred in attending to the business of the Trust.

12 Vacation of office and conflict of interest

12.1 Vacation of office

The office of a Director is automatically vacated if:

- (a) the Director ceases to be a Director by virtue of, or becomes prohibited from being a Director because of an order made under the ACNC;
- (b) the Director becomes bankrupt or insolvent or makes an arrangement or composition with creditors of the Director's joint or separate estate generally;
- (c) the Director becomes an employee of the Trust;
- (d) the Director becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under a law relating to mental health;
- (e) the Director resigns office by notice in writing to the Trust or refuses to act;
- (f) the Director is absent from two consecutive meetings of the Board without leave of absence from the Chair;
- (g) the Director is removed from office by a resolution under the ACNC; or
- (h) the Director is directly or indirectly interested in any contract or proposed contract with the Trust and fails to disclose that interest as required by the ACNC.

13 Powers of the Board

13.1 Management

The business of the Trust is to be managed by the Board, which may exercise all such powers of the Trust as are not, by the ACNC or by this Constitution, required to be exercised by the Trust in general meeting.

13.2 Specific powers of the Board

Without limiting the generality of clause 13.1, the Board may exercise all the powers of the Trust to borrow or raise money, to charge any property or business of the Trust or give any other security for a debt, liability or obligation of the Trust or of any other person.

13.3 Minutes

The Board must cause minutes of meetings to be made and kept in accordance with the ACNC.

13.4 Signing of payments

The Board may determine the manner in which and persons by whom promissory notes, bankers' drafts, bills of exchange and other negotiable instruments, and receipts for money paid to the Trust, may be authorised, drawn, accepted, endorsed or otherwise executed.

14 Proceedings of the Board

14.1 Meetings

The Board may meet for the despatch of business, adjourn and otherwise regulate its meetings and proceedings as it thinks fit.

14.2 Convening meetings

The Chair may at any time, and the Secretary must on the written request of at least two Directors, convene a meeting of the Board.

14.3 Period of notice of meetings

Subject to clause 14.4, not less than 21 days notice shall be given to every member of the Board or any meeting thereof specifying the time, place and general nature of the business of such meeting, but where the Chair considers an emergency exists he may take such steps as he considers necessary to notify members of the Board of the proposed meeting notwithstanding that 21 days notice shall not have been given.

14.4 When a Director is not entitled to notice of meetings

A member of the Board who is absent from Australia shall not be entitled to receive notices pursuant to this clause nor need the Chair give him any notification pursuant to clause 14.3.

14.5 Quorum

At a meeting of the Board, at least half of the Directors present in person constitute a quorum.

14.6 How questions are decided

Every member of the Board except the Chair or person presiding at a meeting thereof, shall have one vote, but in the event of there being an equality of votes, the Chair or person presiding shall have a casting vote.

14.7 Appointment of Alternate Director

Subject to the ACNC, a Director may, with the consent of the Director's appointor, appoint a person, to be his Alternate Director in the Director's place during such period as the Director thinks fit. This clause does not apply to the Chair.

14.8 Alternate Director and meetings

An Alternate Director is entitled to notice of all meetings of the Board and, if his appointor does not attend a meeting, is entitled to attend and vote in his appointor's place, and to be counted towards a quorum.

14.9 Alternate Director's powers

An Alternate Director may exercise all the powers except the power to appoint an Alternate Director and, subject to the ACNC, may perform all the duties of his appointor insofar as the appointor has not exercised or performed them.

14.10 Alternate Director responsible for own acts and defaults

Whilst acting as a Director, an Alternate Director is responsible to the Trust for his own acts and defaults and his appointor is not responsible for them.

14.11 Termination of appointment of Alternate Director

The appointment of an Alternate Director may be terminated at any time by his appointor even if the period of the appointment of the Alternate Director has not expired, and terminates in any event if his appointor ceases to be a Director.

14.12 Appointment or termination in writing

An appointment, or the termination of an appointment, of an Alternate Director must be effected by a notice in writing signed by the Director who makes or made the appointment and delivered to the Trust.

14.13 Alternate Director and number of Directors

An Alternate Director is not to be taken into account separately from his appointor in determining the number of Directors.

14.14 Remaining Directors may act

The continuing Directors may act notwithstanding a vacancy in their number. However, if the number of Directors falls below five, the Board may act only to:

- (a) deal with urgent business; or
- (b) convene a meeting of Members.

14.15 Deputy Chair

The Directors must elect one of their number as Deputy Chair and may also determine the period for which the person elected as Deputy Chair is to hold office.

14.16 Chair to preside over Board Meetings

The Chair is entitled to preside at meetings of the Board. If the Chair is not present and able and willing to act within 15 minutes after the time appointed for a meeting or has signified an intention not to be present and able and willing to act, the following may preside (in order of entitlement):

- (a) the Deputy Chair; or
- (b) a Director chosen by the Directors present.

14.17 Board committees

The Board may delegate any of its powers, other than powers required by law to be dealt with by the Board, to a committee or committees consisting of such persons as

it thinks fit. The Chair shall be ex-officio, a member of any committee established under this clause.

14.18 Selection committee

In addition to any committee established under clause 14.17, the Board must establish a selection committee comprising professional educationalists and Veterans chosen by the Board. The Chair shall be an ex-officio of such committee.

14.19 Powers delegated to Board committees

A committee to which any powers have been delegated under clause 14.17 and clause 14.18 must exercise those powers in accordance with any directions of the Board. A power so exercised is taken to have been exercised by the Board.

14.20 Board committee meetings

The meetings and proceedings of a committee are governed by the provisions of this Constitution as to the meetings and proceedings of the Board so far as they are applicable.

14.21 Circulating resolutions

The Board may pass a resolution without a Board meeting being held if all of the Directors who are then in Australia and entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. Separate copies of a document may be used for signing by Directors if the wording of the resolution and statement is identical in each copy. The resolution is passed when the last Director in Australia signs the document and inserts therein the date upon which he did so.

14.22 Meeting by use of technology

A Board meeting may be called or held using any technology consented to by each Director. The consent may be a standing one. A Director may only withdraw consent a reasonable time before the meeting.

14.23 Validity of acts of the Board

All acts done at a meeting of the Board or of a Board committee, or the scholarship selection committee established under clause 14.18, or by a person acting as a Director, even if it is afterwards discovered that:

- (a) there was a defect in the appointment or continuance in office of a person as a Director or of the person so acting; or
- (b) a person acting as a Director was disqualified or was not entitled to vote,

are as valid as if the relevant person had been duly appointed or had duly continued in office and was qualified and entitled to vote.

15 Chief Executive Officer

15.1 Appointment of Chief Executive Officer

The Board must appoint a Chief Executive Officer.

15.2 Suspension and removal of Chief Executive Officer

The Board may suspend or remove a Chief Executive Officer from that office.

15.3 Powers, duties and authorities of Chief Executive Officer

A Chief Executive Officer holds office on the terms and conditions (including as to remuneration) and with the powers, duties and authorities, as determined by the Board. The exercise of those powers and authorities and the performance of those duties by a Chief Executive Officer is subject at all times to the control of the Board.

The duties of the Chief Executive Officer include:

- (a) responsibility to the Board for the:
 - (i) efficient management and operation of the Trust;
 - (ii) promotion and processing of applications to the Trust and the establishment and maintenance of selection and recipient review processes;
 - (iii) supervision of investments and advice on new investment strategies;
 - (iv) minimisation of overhead expenses and the control of administrative expenditure;
 - (v) liaison at national level with government departments, instrumentalities and agencies; and
 - (vi) liaison with national organisations, including ex-service organisations;
- (b) preparing advertising and fundraising campaigns for the Board; and
- (c) management of the Chief Executive Officer's office and staff.

15.4 Right of Chief Executive Officer to attend all meetings

The Chief Executive Officer is not a Director but must attend all Board meetings and general meetings. The Chief Executive Officer has the right to speak at such meetings but has no right to vote.

15.5 Secretary

The Board must appoint a Secretary. However, until the Board decides otherwise, the Chief Executive Officer will also hold office as the Secretary of the Trust.

16 By-laws

The Board has power from time to time to make such By-laws as are in its opinion necessary and desirable for the proper control, administration and management of the Trust's affairs, operations, finances, interests, effects and property and to amend and repeal those By-laws from time to time.

The Trust in general meeting may amend or repeal any By-law made by the Board.

A By-law:

- (a) must be subject to this Constitution;
- (b) must not be inconsistent with any provision contained in this Constitution; and

- (c) when in force, is binding on all Members and has the same effect as this Constitution.

17 Inspection of records

17.1 Inspection by members

Subject to the ACNC, the Board may determine whether and to what extent, and at what time and places and under what conditions, the accounting records and other documents of the Trust or any of them will be open to the inspection of Members (other than Directors).

17.2 Right of a member to inspect

A Member (other than a Director) does not have the right to inspect any document of the Trust except as provided by law or authorised by the Board or by the Trust in general meeting.

18 Service of documents

18.1 Document includes notice

In this Part 18, a reference to a document includes a notice.

18.2 Methods of service

The Trust may give a document to a Member:

- (a) personally;
- (b) by sending it by post to the address for the Member in the register of Members or an alternative address nominated by the Member; or
- (c) by sending it to an electronic transmission number or electronic address nominated by the Member.

18.3 Post

A document sent by post:

- (a) if sent to an address in Australia, may be sent by ordinary post, and
- (b) if sent to an address outside Australia, must be sent by airmail,

and in either case is taken to have been received on the day after the date of its posting.

18.4 Electronic transmission

If a document is sent by electronic transmission, delivery of the document is to be taken:

- (a) to be effected by properly addressing and transmitting the electronic transmission, and
- (b) to have been delivered on the day following its despatch.

19 Audit and accounts

19.1 Trust to keep accounts

The Board must cause the Trust to keep accounts of the business of the Trust in accordance with the requirements of the ACNC and the Charitable Fundraising Act 1991 and Regulation 2015.

19.2 Trust to audit accounts

The Board must cause the accounts of the Trust to be audited in accordance with the requirements of the ACNC and the Charitable Fundraising Act 1991 and Regulation 2015.

19.3 Copy accounts to the Department of Veterans' Affairs and others

As soon as practicable after each annual general meeting, the Board must forward a copy of the audited accounts and other reports required by the ACNC to be laid before the annual general meeting to:

- (a) the Department of Veterans' Affairs.

20 Winding up

20.1 Excess property on winding up

If on the winding up or dissolution of the Trust there remains, after satisfaction of all its debts and liabilities, any property whatsoever, that property must be given or transferred to another institution:

- (a) having objects similar to the objects of the Trust; and
- (b) whose constitution prohibits the distribution of its income and property among its members to an extent at least as great as is imposed on the Trust under this Constitution,

such institution to be a deductible gift recipient endorsed under Division 30 of the Australian Income Tax Assessment Act 1997.

20.2 Contribution of member on winding-up

Each Member undertakes to contribute to the Trust's property if the Trust is wound up while he, she or it is a Member or within one year after he, she or it ceases to be a Member, for payment of the Trust's debts and liabilities contracted before he, she or it ceases to be a Member and of the costs, charges and expenses of winding up and for adjustment of the rights of the contributories among themselves, such amount as may be required not exceeding \$10.00.

21 Indemnity

21.1 Indemnity of directors and secretaries

Every person who is or has been:

- (a) a Director;
- (b) a Chief Executive Officer; or

- (c) a Secretary,

is entitled to be indemnified out of the property of the Trust against:

- (d) every liability incurred by a person in that capacity (except a liability for legal costs); and
- (e) all legal costs incurred in defending or resisting (or otherwise in connection with) proceedings, whether civil or criminal or of an administrative or investigatory nature, in which the person becomes involved because of that capacity,

unless:

- (f) the Trust is forbidden by statute to indemnify the person against the liability or legal costs; or
- (g) an indemnity by the Trust of the person against the liability or legal costs would, if given, be made void by statute.

21.2 Insurance

The Trust may pay or agree to pay, whether directly or through an interposed entity, a premium for a contract insuring a person who is or has been a director or secretary of the Trust against liability incurred by the person in that capacity, including a liability for legal costs, unless

- (a) the Trust is forbidden by statute to pay or agree to pay the premium; or
 - (b) the contract would, if the Trust paid the premium, be made void by statute.
-