

Constitution of the Migration Institute of Australia

Updated as at AGM 11 October 2023



**Migration Institute
of Australia**

**CONSTITUTION OF
THE MIGRATION INSTITUTE OF AUSTRALIA LIMITED**

ACN 003 409 390

AN UNLISTED PUBLIC COMPANY LIMITED BY GUARANTEE
AND NOT HAVING A SHARE CAPITAL

1. Preliminary

1.1 Replaceable rules

The Act allows a company's internal management to be governed by certain replaceable rules set out in the Act, by a Constitution or a by combination of both. The Institute will be governed by this Constitution and any replaceable rules contained in the Act do not apply.

1.2 Definitions

In this Constitution, unless contrary to or inconsistent with the context:

“Act” means the *Corporations Act 2001* (Cth) for the time being in force including any amendments to that Act or any Act, howsoever described, that replaces that Act.

“Alternate Director” means a person appointed by a Branch Director or the Board in accordance with clause 15A.

“Appointed Director” means a Director appointed by the Board in accordance with sub-clause 15.1(b)(ii).

“Board” means the Board of Directors of the Institute from time to time.

“Branch” means a branch of the Institute constituted pursuant to clause 27.1.

“Branch Committee” means a committee of a Branch constituted pursuant to sub-clause 27.8.

“Branch Committee Member” means an office-bearer or other member of a Branch committee appointed under sub-clauses, 27.8, 27.9 and 27.10.

“Branch Member” means a Member of a Branch as defined under sub-clause 27.4.

“Branch Director” means a Director appointed in accordance with sub-clause 27.7, or appointed to a casual vacancy in accordance with sub-clause 15.2 (as the case may be).

“Branch President” means the individual holding office as president of a Branch.

“Branch Vice-President” means the individual holding office as vice-president of a Branch.

“Chapter” means a group of Members of common interest or geographical location constituted pursuant to sub-clause 27.1.

"Chief Executive Officer" means the person appointed under clause 20 to perform the duties of a chief executive officer of the Institute.

"Code of Ethics" means the Migration Institute of Australia Code of Ethics promulgated by the Board from time to time.;

"Director" means any person occupying the position of Director of the Institute and, where appropriate, includes an Alternate Director..

"Disciplinary Committee" means a disciplinary committee appointed in accordance with sub-clause 14.3.

"Executive Committee" means a standing committee appointed in accordance with sub-clause 22.1.

"Hybrid meeting" means a meeting of Members of the Institute or a meeting of the Board at which some participants are attending the meeting in person and others are attending virtually by means of technology.

"Institute" means The Migration Institute of Australia Limited ACN 003 409 390.

"Member" means a member of the Institute under sub-clause 7.1 and **"Membership"** has a corresponding meaning.

"Nominations Committee" means a standing committee appointed in accordance with sub-clause 22.2.

"Non-voting Member" means a Member admitted under sub-clause 7.3.

"Office" means the Institute's principal place of business from time to time.

"Officer" means:

- (i) a Director or Secretary of the Institute ; or
- (ii) a person who makes or participates in making decisions that affect the whole, or a substantial part of the business of the Institute including the Chief Executive Officer of the Institute .

"Practice Entity" means any partnership, trust, corporation or unincorporated body in which a Member or Members practise as Registered Migration Agents.

"Register" means the register of Members kept under the Act.

"Registered Migration Agent" means an individual registered as a migration agent under the *Migration Act 1958* (Cth) who is not suspended or otherwise restricted from practising as a migration agent.

"Rules" means the rules of the Institute prescribed by the Board from time to time.

"Secretary" means the person appointed under clause 21 to perform the duties of a secretary of the Institute.

"Virtual meeting" means a meeting of Members of the Institute or a meeting of the Board by means of technology and where arrangements have been made in advance which allow all participants to participate fully without the need to be physically present.

"Voting Member" means a Member admitted under sub-clause 7.2.

1.3 Interpretation

In this Constitution, unless contrary to or inconsistent with the context:

- (a) words or expressions shall be interpreted according to the *Acts Interpretation Act 1901* (Cth);
- (b) the singular shall include the plural and vice versa;
- (c) headings do not affect the interpretation of this Constitution; and

- (d) a reference to a section of the Act includes a reference to a corresponding provision of previous or subsequent legislation.

2. Name

The name of the Institute is "The Migration Institute of Australia Limited".

3. Purposes of the Institute

3.1 The Institute's objects are to:

- a) Promote the development in Australia of an ethical and efficient migration advice profession;
- b) Foster the continuing education and development of Members;
- c) Contribute to increased levels of professionalism, including increasing the level of knowledge and understanding of migration law and practice in the migration advice profession;
- d) Set and administer standards of conduct within the migration advice profession to ensure that Members and those associated with Members provide services that are of the highest standard;
- e) Prescribe disciplinary procedures and sanctions, exercise disciplinary powers and impose sanctions for the better observance of professional standards for the protection of the Australian community;
- f) Provide a forum for liaison with governments, government agencies, the media, industry, business and other organisations;
- g) Provide a medium by which Members can effectively communicate with each other;
- h) Undertake research relevant to the field of migration; and
- i) Engage in other activities in support of these objects.

3.2 For the objects listed in sub-clause 3.1, the Institute has the legal capacity of a natural person with all the consequential powers conferred by the Act.

4. Liability

The liability of the Members is limited.

5. Assets and income

5.1 The assets and income of the Institute must be applied solely towards the promotion of the objects of the Institute as set out in Clause 3 of this Constitution. No portion is to be distributed directly or indirectly to Members except as bona fide compensation for services rendered or expenses incurred on behalf of the Institute.

6. Effect of winding up

6.1 At the time of adoption of this Constitution it is not the intention of the Institute or the Board that the Institute be wound up in the foreseeable future.

- 6.2 Every Member undertakes to contribute an amount, not exceeding \$100.00, to the assets of the Institute if it is wound up while they are a Member, or within 1 year after they cease to be a Member, for:
- a) payment of the debts and liabilities of the Institute contracted before the time at which they ceased to be a Member;
 - b) the costs, charges and expenses of winding up; and
 - c) any adjustment of the rights of contributories among themselves.
- 6.3 If the Institute is wound up, any property remaining after the satisfaction of all the Institute's debts and liabilities must be transferred to one or more institutions that:
- a) have objects or purposes substantially similar to the objects of the Institute;
 - b) are not carried on for the profit or gain of their individual members; and
 - c) an entity or organisation registered in accordance with the Act; and
 - d) are determined by the Members at or before the time of winding up, or in default, by application to the Federal Court of Australia for determination.

7. Members

- 7.1 Subject to this Constitution, the Members of the Institute shall be those persons who are members of the Institute at the time of adoption of this Constitution and any new persons admitted under [sub-clauses 7.2 and 7.3](#). Persons who were members eligible to vote at the time of adoption of this Constitution continue to be Voting Members under this Constitution and persons who were members within other categories at the time of adoption of this Constitution and were Non-voting Members continue to be Non-voting Members under this Constitution.
- 7.2 A person may be admitted as a Voting Member if they meet (and continue during their membership to meet), the criteria determined by the Board in the Rules from time to time.
- 7.3 A person or other legal entity may become a Non-voting Member if they meet the criteria determined by the Board in the Rules from time to time.
- 7.4 The Board may, in the Rules, without requiring the approval of Members, consolidate membership categories or prescribe further categories of membership.
- 7.5 The Board may from time to time prescribe Rules not inconsistent with this Constitution on procedures for admission of Members.
- 7.6 The Board shall inform Members of any changes made to the Rules within 21 days of making such changes, by publishing the new version of the Rules on the Institute's website.

8. Privileges and obligations of Members

- 8.1 Voting Members are entitled to attend and vote at general meetings of the Institute. Non-voting Members are entitled to attend general meetings of the Institute but may not vote.
- 8.2 Every Member is bound by the terms of the Code of Ethics and the Code of Professional Ethics and Practice.

- 8.3 All Members are entitled to a certificate of membership stating clearly the category of membership to which they are entitled. The certificate of membership is the property of the Institute.
- 8.4 A Voting Member may use the following methods to identify themselves as a member of the Institute:
- a) use of post-nominals as prescribed in the Rules for their category of membership;
 - b) use of the Institute membership logo as prescribed by the Institute's branding guidelines.

9. Membership fees

- 9.1 The Board may from time to time determine the amount and arrangements for payment of fees by an applicant or existing Member of a particular category.
- 9.2 The Board may make Rules governing membership fees not inconsistent with this Constitution.

10. General meetings

- a) An annual general meeting of the Institute shall be held for members attending in person, or may be entirely virtual or hybrid meetings in each calendar year
 - b) An extraordinary general meeting of the Institute convened under clause 10.2 may be in person or virtually if required
 - c) Where arrangements have been made for a meeting to be held virtually or as a hybrid meeting, the notice calling the meeting shall state that fact and include details of the means by which a person may attend the meeting virtually.
- 10.1 An extraordinary general meeting of the Institute may be convened by:
- a) the President or Secretary on a resolution of the Board;
 - b) the President or Secretary at the request of either:
 - i) Voting Members with at least 5% of the votes that may be cast at a general meeting in a manner permitted by the Act; or
 - ii) at least 100 Voting Members in the manner permitted by the Act; or
 - c) Voting Members with at least 5% of the votes that may be cast at a general meeting, in the manner permitted by the Act;
- or may otherwise be called or requisitioned in accordance with the Act.
- 10.2 The Board may, subject to the Act, postpone, cancel or change the venue for a general meeting.
- 10.3 The Secretary must give notice of every general meeting in accordance with the Act. A person entitled to notice of any general meeting may waive that right by advising the Institute in writing.
- 10.4 Subject to the Act the non-receipt of notice of a general meeting or proxy form, or of a ballot paper, or a failure to give one of these to someone entitled to notice of a general meeting does not invalidate any thing done or resolution passed at the general meeting if the non-receipt or failure occurred by accident or the Member waives notice or attends the meeting.

- 10.5 a) The President or (in their absence) Vice President, if present within 10 minutes after the time appointed for the start of the general meeting and willing to act, must preside as Chairperson at each general meeting.
- b) If the President or Vice President is not present within 10 minutes of the appointed time, or is not willing to act, the Voting Members may elect any other Director present and willing to act to preside as Chairperson of the general meeting.

- c) If no Director is present and willing to act, then the Voting Members may elect one of their number to be the Chairperson of the general meeting.
- 10.6 No business shall be transacted at any general meeting unless a quorum of Members is present at the time when the meeting proceeds to business. A quorum is thirty Voting Members present in person or virtually or by proxy or participating by the direct voting method provided for under clause 12A of this Constitution.
- a) A person shall be deemed to be present by attending either in person or virtually where arrangements for virtual attendance have been made.
- 10.7 If, at any general meeting, a quorum is not present within half an hour of the time appointed for holding the meeting:
- a) if convened by the Voting Members, the meeting will be dissolved; or
 - b) if convened otherwise, the meeting will stand adjourned to a day and hour and at a place fixed by the Board, and at such adjourned meeting there must be present, or participating by the direct voting method under 12A, a quorum, failing which those Voting Members present in person or by proxy or so participating will be deemed to be a quorum for that meeting provided that there be no less than fifteen Voting Members present or so participating.
- 10.8 The Chairperson of any general meeting may with the consent of the meeting, and must if directed by the meeting, adjourn a general meeting in accordance with the Act.

11. Proceedings at General Meetings

- 11.1 The Chairperson of a general meeting may require the adoption of any procedures which are in his or her opinion necessary or desirable for proper and orderly debate, discussion or voting, and for the casting or recording of votes.
- 11.2 The Chairperson of an annual general meeting must allow a reasonable opportunity for Members as a whole at the meeting to ask questions (including asking questions of the Auditor or Auditor's representative) or make comments on subjects permitted by the Act.
- 11.3 Subject to sub-clause 11.2, the Chairperson of a general meeting may refuse to allow a debate or discussion on any business, question, motion or resolution which is not within the business referred to in the notice of meeting and not otherwise required by the Act to be considered at the meeting.
- 11.4 Subject to the Act, this Constitution and the Rules the decision of the Chairperson of a general meeting on any matter relating to the conduct of or procedures to be followed at the meeting is final.
- 11.5 The Board may prescribe such Rules regarding proceedings and votes at general meetings, including the exclusion of persons from meetings, as it sees fit from time to time subject to the Act and this Constitution.

12. Votes of Members

- 12.1 Each Voting Member present in person or virtually or by proxy is entitled to one vote when voting on a show of hands or on a poll or by direct vote, provided that all joining fees and membership fees owing to the Institute have been paid by that Voting Member.

12.2 At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is demanded by a Voting Member present in person or by proxy. The demand for a poll may be withdrawn before the poll is taken. A poll may not be demanded to decide on the election of the

Chairperson for the general meeting, a question of an adjournment of the general meeting or any other procedural motion.

- 12.3 Unless a poll is demanded, a declaration by the Chairperson of the general meeting that a resolution has been carried on a show of hands either unanimously or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Institute, shall be conclusive evidence of fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- 12.4 A Voting Member may appoint another person as their proxy to attend and vote for the Voting Member at any general meeting by:
- a) signing an instrument appointing a proxy in the form prescribed by the Board in the Rules or otherwise in a form complying with the Act; and
 - b) depositing the instrument appointing the proxy, or sending it by such means as the Board prescribes, at or to the Office or other place specified for that purpose in the notice of meeting, no later than the deadline specified in the notice.
- 12.5 No objections can be made about the validity of any vote unless the objection is made at the time of the general meeting or poll at which the vote was tendered. Unless a vote is disallowed at the general meeting or poll at which the vote was tendered, the vote, whether given personally or by proxy, will be deemed valid.

12A. Direct Voting

The Board may determine that at any general meeting, a Member who is entitled to attend and vote on a resolution at that meeting is entitled to a direct vote in respect of that resolution. A “direct vote” includes a vote delivered to the Institute by post or any electronic means approved by the Board. The Board may prescribe Rules in relation to Direct Voting, including specifying the form, method and timing of giving a Direct Vote at a meeting in order for the vote to be valid.

13. Cessation of Membership

- 13.1 A Member may resign their membership by notice in writing to the Secretary accompanied by their certificate of membership, unless the Institute consents to its retention by the resigning Member.
- 13.2 Any Member who has failed to pay their membership fees in full by the due date (as defined in the Rules or otherwise determined by the Board) will be sent a notice in the form prescribed in the Rules. If the fees are not paid within 28 days of the date of the notice the Member may be removed from the Register and will cease to be a Member. During the period in which the membership fees remain unpaid, the Member will have no membership entitlements.
- 13.3 If a Member:
- a) wilfully refuses or neglects to comply with the provisions of this Constitution or the Code of Ethics or the Code of Professional Ethics and Practice; or
 - b) is guilty of any conduct which, in the opinion of the Board, is unbecoming of a Member or prejudicial to the interests of the Institute ;

then the Member may be censured, fined, suspended, expelled or subjected to another determination against the Member, provided that the procedure for discipline of Members under clause 14 and the Rules is followed.

14. Discipline of Members

- 14.1 The Board will set out in the Rules the circumstances that may give rise to disciplinary proceedings, and may set out different consequences or processes for different circumstances.
- 14.2 Where the Institute becomes aware that there may be circumstances which would be grounds for disciplinary action against a Member, the Chief Executive Officer or any other Officer nominated by the Board for that purpose ("**Investigating Officer**") may investigate the matter further and decide whether to refer it to a Disciplinary Committee in accordance with the Rules.
- 14.3 The Board may appoint Disciplinary Committees of three or more individuals to investigate, hear and provide a report to the Board-any disciplinary matter brought before them.
- 14.4 A Member subject to consideration of disciplinary action must be given a reasonable opportunity to make written or oral submissions before any final decision unfavourable to the Member is made.
- 14.5 This sub-clause applies only in the case of Members who are also members of the Board and/or who hold Branch Committee and/or MIA Committee positions. If the Investigating Officer during the their investigation under sub-clause 2 of this Rule reasonably determines that the circumstances of the matter appear to be of sufficient significance to the Institute's public reputation and credibility and/or in order to reassure the community of its desire to uphold the highest standards of integrity of its Members, the Investigating Officer may suspend the Member under investigation pending any determination on the merits of the matter in accordance with the Rules. Any such suspension shall be exercised under this sub-clause and the Rules and not pursuant to the Board's powers under Clauses 19 and 20 of this Constitution.
- 14.6 Where the Board has given a final determination on the discipline of a Member, neither the Member nor any other person has a right to further appeal. However, if additional facts relevant and significant to the matter subsequently emerge, the Investigating Officer may consider the facts and if thought fit refer the matter to the Board or the Disciplinary Committee established under sub-clause 2 of this Clause for reconsideration.
- 14.7 The Board may prescribe Rules that elaborate on, and do not contradict, the principles for discipline of Members and procedures for decision-making in this clause 14.

15. Appointments to the Board

- 15.1 (a) The minimum number of Directors is five, and at all times Branch Directors (which may include Alternate Directors) must constitute a majority of the Board.
- (b) The Board will consist of:
- (i) the Branch Presidents elected in accordance with sub-clause 27.7 (or alternatively any other Voting Member of the relevant Branch nominated by that Branch President) for the five Branches in existence at the time of adoption of this Constitution (**Branch Directors**); and
- (ii) Up to three persons appointed by the Board, following recommendation by the Nominations Committee, those persons having been selected on the basis of their expertise in matters consistent with the Institute's objectives (**Appointed Directors**). At any time at least one Appointed Director must be a Voting Member and at least one Appointed Director must be independent of the Membership. The term of an Appointed Director shall be determined by the Board, subject to any term not exceeding two years.

(c) The appointment of a Branch Director takes effect at the close of the annual general meeting prior to which the relevant Branch presidents were elected. (d) Subject to clause 15.3(b), no Director shall serve more than two consecutive terms.

15.2 A casual vacancy of a Branch Director may be filled by (in order of entitlement):

- (a) the Vice-President of the relevant Branch; or
- (b) a Branch member who is a Voting Member appointed by the relevant Branch to fill that position.

15.3 (a) A Branch Director appointed to a casual vacancy under sub-clause 15.2 will continue in office until the close of the next annual general meeting, unless there is no election of Branch Presidents under sub-clause 27.7 before that annual general meeting, and the Members of the relevant Branch vote by ballot to extend the appointment of that Branch Director to the close of the following annual general meeting.

- (b) A Branch Director appointed to a casual vacancy under sub-clause 15.2 may serve two consecutive terms immediately after the conclusion of the term of the casual vacancy only where the period served of the casual vacancy was less than 12 months. Where the period served of the casual vacancy was more than 12 months, the Branch Director may serve no more than one term.

15.4 Subject to the Corporations Act and this Constitution, the Board may make Rules with respect to the conduct of nominations and elections of Branch Presidents.

15A Alternate Directors

15A.1 An Alternate Director for a Branch Director may be appointed by:

- (a) a Branch Director; or
- (b) the Board

15A.2 An Alternate Director appointed for a Branch Director must be a Voting Member of at least three consecutive years' standing, and a Member of the relevant Branch.

15A.3 Appointment of an Alternate Director for a Branch Director may only be effected where:

- (a) the relevant Branch Director notifies the Board in writing that they are unable to attend no less than two and no more than three scheduled Board meetings; or
- (b) the Board determines that due to sudden illness or other incapacity of a Branch Director it is appropriate that the Board appoint an Alternate Director for that Branch Director.

15A.4 Where a Branch Director gives notice to the Board under sub-clause 15A.3 (a), they must also provide a nomination in writing of an eligible person to be appointed as an Alternate Director.

15A.5 Where the Board determines to appoint an Alternate Director under sub-clause 15A.3 (b), it must request the relevant Branch Committee to nominate an eligible person for that appointment.

- 15A.6 Any appointment of an Alternate Director is subject to:
- (a) the nominee providing a written consent to act as an Alternate Director; and
 - (b) the Board approving the appointment of that person as an Alternate Director.
- 15A.7 A Branch Director or the Board (as the case may be) may specify the period for which an Alternate Director is appointed, but the appointment of an Alternate Director ceases immediately upon any of the following:
- (a) after the Alternate Director has attended three Board meetings, at the close of the third Board meeting;
 - (b) where the Branch Director appointed the Alternate Director, the Branch Director terminates the appointment of the Alternate Director in writing;
 - (c) where the Board appointed the Alternate Director, the Board terminates the appointment of the Alternate Director in writing; or
 - (d) the Branch Director ceases to be a Director.
- 15A.8 An Alternate Director may only exercise the following powers of the relevant Branch Director:
- (a) attend and vote at Board meetings; and
 - (b) vote on a resolution in writing under sub-clause 14.10.
- 15A.9 An Alternate Director is entitled to notice of all meetings of Directors during their period of appointment and, if the relevant Branch director does not participate in a meeting, the Alternate Director is entitled to participate and vote in the relevant Branch Director's place.
- 15A.10 While acting as a Director, an Alternate Director:
- (a) is an officer of the Company and not the agent of the appointing Director; and
 - (b) is responsible to the exclusion of the appointing Director for the Alternate Director's own acts and defaults.
- 15A.11 Clause 15A only applies to the appointment of Alternate Directors and does not affect the operation of the provisions of this Constitution in relation to casual vacancies, including but not limited to sub-clause 15.2.

16. Election of office bearers of the Board

- 16.1 Immediately after an annual general meeting, the newly constituted Board shall elect from its Directors the following office bearers:
- a) President;
 - b) Vice-President; and
 - c) Honorary Treasurer.

- 16.2 If the position of an office bearer becomes vacant the Board must elect another Director to fill the office until the close of the next annual general meeting.
- 16.3 The Members may by ordinary resolution increase or reduce the number of office bearers.

17. Retirement, resignation and removal of Directors

- 17.1 Directors appointed under clause 15.1(a) will retire at the close of the second annual general meeting after the annual general meeting at which they are appointed. A Director retiring from office is eligible for re-election, subject to clause 15.1(c).
- 17.2 A person ceases to be a Director if they:
- a) cease to be a Voting Member or are suspended or excluded for any period from being a Voting Member (unless appointed under sub-clause 15.2 and not a Voting Member at the time of that appointment);
 - b) fail to attend three meetings of the Board, or three meetings of a committee of the Board of which the Director is a member, in the period between the holding of an annual general meeting and the holding of the subsequent annual general meeting, without the leave of the Board or relevant committee, and the Board agrees that the person should cease to be a Director;
 - c) become bankrupt;
 - d) become of unsound mind or an individual whose personal or financial affairs are liable to be managed by another person under the law relating to mental health;
 - e) become prohibited from being a director of a company by reason of any order made under the Act; or
 - f) resign by notice in writing to the Institute, effective upon receipt of that notice.
- 17.3 The Institute in general meeting may:
- a) remove a Director from office by ordinary resolution in accordance with the Act; and
 - b) by resolution fill the office vacated by a Director who is removed under sub-clause 17.3(a) by appointing another eligible candidate to that office until the close of the annual general meeting at which the appointment of the replaced Director would have expired in the ordinary course.

18. Powers and duties of the Board

- 18.1 Subject to the Act and this Constitution all the business and affairs of the Institute will be managed by the Board. The Board may exercise all the powers of the Institute not required by the Act or by this Constitution to be exercised by the Institute in general meeting. No resolution made by the Members in general meeting shall invalidate any prior act of the Board which would have been valid if that resolution had not been made.
- 18.2 If the number of Directors falls below the quorum fixed in this Constitution under sub-clause 24.5, the continuing Directors may only act for the purpose of increasing the number of Directors to at least the quorum or of summoning a general meeting of the Company or in emergencies. The term

"emergencies" includes where the financial status of the Institute or privacy of Members is at serious risk, where failure to act could result in significant legal liability to the Institute and other urgent situations where so acting would be in the best interests of the Institute as a whole.

18.3 The Board may from time to time prescribe such Rules, not inconsistent with this Constitution, as the Board deems fit to govern the affairs of the Institute. The Board shall take reasonable steps to ensure that up-to-date copies of all Rules are available to interested Members.

18.4 The Board has the power to grant an allowance for Directors and any other individual or entity for any work undertaken at the request of the Board in respect of the Institute's function and any other activity. The Board must disclose these amounts in the Institute's annual accounts and report.

19. Delegation

19.1 The Board may delegate any of its powers or functions.

19.2 The Board may:

- a) Specify that the delegate(s) may exercise those powers delegated to them as if the exercise were a decision of the Board itself;
- b) Restrict the delegate(s) to providing advice or implementing other decisions of the Board; or
- c) Direct the delegate(s) in any other manner.

19.3 Delegate(s) to which any powers or functions of the Board have been so delegated must comply with any written directions given by the Board.

19.4 A function or power delegated to a committee may be performed or executed by a majority of the members of the committee and may not otherwise be performed or exercised under the delegation.

19.5 Subject to any specific Rules governing a committee to which powers or functions of the Board have been delegated, the provisions of this Constitution applying to meetings and resolutions of the Board apply, so far as they can, to meetings and resolutions of a committee appointed under clause 19.1.

20. Chief Executive Officer

The Board may appoint any individual as Chief Executive Officer of the Institute. The Board subject to the Constitution may delegate to the Chief Executive Officer any powers, discretions and duties of the Board as the Board thinks fit and, subject to the rights of the parties under any contract, may remove the individual from that office.

21. Secretary

21.1 The Board must appoint a Secretary.

21.2 The Board may determine the term of office and remuneration for the Secretary in its discretion, and may replace the Secretary at any time.

22. Standing committees

- 22.1 **Executive Committee** – Each year, at the first meeting following the close of the annual general meeting, the Board shall constitute an Executive Committee composed of the office bearers and the Chief Executive Officer.
- 22.2 **Nominations Committee** – Each year, at the first meeting after its appointment, the Board shall constitute a Nominations Committee composed of the President, Vice-President and the Chief Executive Officer and any other Directors they choose. The purpose of the Nominations Committee will be to ensure that suitable candidates are recommended to the Board for appointment as Directors.
- 22.3 **Corporate Governance Committee** – Each year, at the first meeting after its appointment, the Board shall constitute a Corporate Governance Committee which comprises two Directors who are responsible to the board. Normally from the executive committee.
- 22.4 **Finance and Audit Committee** – Each year, at the first meeting after its appointment, the Board shall constitute a Finance and Audit Committee which comprises of the Treasurer and at least one other Director who is responsible to the board.

23. Advisory boards

The Board may from time to time convene advisory boards or boards of reference, made up of persons who may or may not be Members, to provide advice to the Board in particular matters.

24. Board meetings

- 24.1 The Directors may meet for the dispatch of business and regulate their meetings as they think fit.
- 24.2 Meetings of the Board shall be summoned by:
- a) The President;
 - b) The Chief Executive Officer acting under the direction of the President or any two Directors; or
 - c) The Secretary acting under the direction of the President or any two Directors.
- 24.3 Notice of a meeting of the Board must be given to each Director:
- a) Specifying the time and place and stating the nature of the business to be transacted at the meeting;
 - b) At least three clear days before the meeting (except in emergencies when 24 hours' notice may be given);
 - c) In person, by post, telephone, facsimile transmission, electronic mail or by any other method of written, audio or electronic communication to the Director; and
 - d) At the Director's address or number last notified to the Institute.
- 24.4 Failure to give notice of a meeting of the Board to a Director does not invalidate anything done, or resolution passed at the Board meeting if the:
- a) failure occurred by accident; or

- b) Director concerned waives notice of that meeting; or
 - c) Director concerned attends the meeting.
- 24.5 No business may be transacted at a meeting of the Board unless a quorum of Directors is present at the time the business is dealt with. A quorum is any four (4) Directors.
- 24.6 At its first meeting following the close of the annual general meeting, the Board will elect from its Directors

a Board Chair. Any Director may stand for the position of Board Chair. The term of the Board Chair will be one year, renewable so long as the Director remains in office. In the event that the Board Chair is unable to attend a meeting of the Board, the Board will elect a chair from among its members.

- 24.7 All acts of the Board or a Director or a committee of the Board to whom powers, duties or discretions have been delegated, shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of that person, or that one or more Directors were disqualified, be as valid as if every such person had been duly appointed and every such Director was qualified.
- 24.8 Questions arising at a meeting of the Board are to be decided by a majority of votes of the Directors present.
- 24.9 In an equality of votes, the Chairperson has a casting vote.
- 24.10 A proposed resolution in writing signed by all Directors who are in Australia and entitled to vote on the matter becomes a resolution and is as valid and effectual as if it had been passed at a meeting of the Board duly called and constituted on the date and at the time the last Director signed a document contained the proposed resolution. That resolution may consist of several copies of a document each signed by one or more Directors.
- 24.11 The Directors may meet in person or by telephone or other instantaneous means of communication for the dispatch of business (or by any combination of those means) which allows each person present to hear and be heard by each other person present, and regulate their meetings as they determine.
- 24.12 A minute of any Board meeting shall be sufficient evidence of such proceedings and of the observance of all necessary formalities if signed as a correct record by the Chairperson of the meeting.

25 Board Governance and performance evaluation

- 25.1. The Vice President shall be charged with the responsibility of monitoring the effectiveness of the governance of the Institute, including:
- (a) ensuring that all of the standing committees are properly constituted and functioning;
 - (b) arranging for the systematic evaluation of the Board's performance annually.

26. Conflicts of Interest

- 26.1 Subject to the Act:
- a) The nature of a Director's interest in any contract, agreement or arrangement must be declared by that Director at a meeting of the Board in accordance with the Act as soon as practicable after the relevant facts have come to that Director's knowledge.
 - b) A Director who holds an office or possesses property, in relation to which duties or interests might be created directly or indirectly in conflict with their duties as Director, must declare at a meeting of the Board the fact and the nature, character and extent of the conflict.
 - c) A general notice that a Director is a member of any specified firm, partnership, entity or corporation and is to be regarded as interested in all transactions with that firm or corporation is a sufficient declaration by the Director under this sub-clause 26.1 in relation to the transactions.

- d) The Secretary must record in the minutes any declaration made or any general notice given by a Director pursuant to this sub-clause 26.1.
- 26.2 Subject to the Act, a Director who has a material personal interest in a matter that is being considered at a meeting of Directors:
- a) Must not vote on the matter (or in relation to a proposed resolution under sub-clause 26.2(d) in relation to the matter, whether in relation to themselves or a different Director); and
 - b) Must not be present while the matter (or a proposed resolution of that kind) is being considered at the meeting, unless:
 - (i) The matter applies to an interest that the Director has as a Member in common with the other Members; or
 - (ii) The Directors who do not have a material personal interest in the matter have passed a resolution that specifies the Director, the material personal interest and the matter, and states that the Directors voting for the resolution are satisfied that the interest should not disqualify the Director from considering or voting on the matter

27. Branches

- 27.1 The Board may, subject to this Constitution, make Rules relating to Branches and Chapters.
- 27.2 One Branch authorised by the Board may be formed by Members in each of the geographical areas prescribed by the Rules provided that at least 10 Members (or a smaller number of Members approved by the Board) agree to be members of that Branch.
- 27.3 The role of a Branch is to:
- a) Act as a regional contact and network for Members;
 - b) Organise regional events for the benefit of Members;
 - c) Represent Member interests at a regional level by liaising with government departments and agencies in the region;
 - d) Interact with the Institute and the Board at national level with regional feedback, subject to this Constitution, the Rules and any directions of the Board. The Board may approve and periodically review Terms of Reference for Branches.
- 27.4 Each Member has the right to become a member of a Branch (a 'Branch Member') if they ordinarily reside or have their principal office or principal place of business in Australia in the relevant geographical area. Members who ordinarily reside outside Australia may become a member of a Branch of their choosing. Each Member may only become a member of one Branch.
- 27.5 Membership of a Branch will not relieve a Branch Member from any liabilities or obligations incidental to their membership of the Institute.
- 27.6 Only Members may become a Branch Member . A person will cease to be a Branch Member upon ceasing to be a Member.
- 27.7 Before every second annual general meeting commencing with the 2007 annual general meeting, the Branch Members who are Voting Members will elect a Branch President, who must be a Voting Member, in accordance with the Rules and subject to any directions of the Board.

- 27.8 Before every second annual general meeting commencing with the 2007 annual general meeting, the Branch Members who are Voting Members will, in addition to electing the Branch President referred to in sub-clause 27.7, elect six Branch Committee Members who will be:
- (a) three Voting Members who work primarily in the commercial sector as sole traders or in a practice entity with fewer than five MIA Voting Members;
 - (b) one Voting Member who works primarily in the commercial sector in a practice entity with five or more MIA Voting members;
 - (c) one Voting Member who works primarily for an organisation in the non-commercial sector, which is a Not for Profit, an NGO or registered as a Public Benevolent Institution; and
 - (d) one Voting Member who holds a legal practising certificate.
- 27.9 Only Voting Members with 3 years consecutive membership immediately prior to nomination will be eligible to stand for a position in sub-clauses 27.7 and 27.8.
- 27.10 Each Branch Committee after its formation may co-opt up to two further Branch Committee Members
- 27.11 Where there is a Chapter linked to a State Branch the Secretary of the Chapter will automatically be a Branch Committee Member.
- 27.12 A Vice President and a Secretary will be appointed at the first meeting of the Branch Committee by and from the elected Branch Committee Members as defined in sub-clause 27.8. At least two of the three officer bearer positions must be filled in order for a Branch to function.
- 27.13 If there are insufficient candidates nominated to fill the Branch President position or the other six committee positions, or if casual vacancies arise in a Branch Committee:
- a) The elected Branch Committee Members may appoint other Voting Members of that Branch to fill any vacancy; and
 - b) The appointment will continue until the close of the Institute's next annual general meeting unless there is no election of Branch President and Branch Committee Members under sub-clauses 27.7 and 27.8 before that annual general meeting, and the Branch Members vote by ballot before that annual general meeting to extend the appointment to the close of the following annual general meeting.
- 27.14 Branch Committee Members appointed under this clause will retire at the close of the second annual general meeting after the annual general meeting at which they are appointed. A Branch Committee Member retiring from office is eligible for re-election.
- 27.15 A person ceases to be a Branch Committee Member if they meet any of the criteria under clause 17.2.
- 27.16 Branch Members may by ordinary resolution remove a Branch Committee Member from office at a meeting of Branch Members convened by any three Branch Members in accordance with the Rules (or otherwise in accordance with the principles applicable to a general meeting of Members generally) and fill the office vacated by a Branch Committee Member who is removed under this clause by appointing another eligible candidate to that office until the close of the annual general meeting at which the appointment of the replaced Branch Committee Member would have expired in the ordinary course.

- 27.17 When a Branch Committee Member who is also a Director of the Institute ceases to be a Branch Committee Member for any of the reasons set out in sub-clauses 27.15 and 27.16 or by resignation in writing as a Branch Committee Member they must also resign from their office as a Director of the Institute.
- 27.18 A quorum for Branch Committee meetings shall be four Branch Committee members.

28. Accounts

- 28.1 The Board must cause proper financial records to be kept as required by the Act, copies of the Institute's financial report (including the financial statements), the Directors' report and the auditor's report on the financial report, for each financial year of the Institute.
- 28.2 The Directors must lay before each annual general meeting the reports for the last financial year, as required by the Act.

29. Audit

The Board must cause the financial records of the Institute to be examined by a properly qualified auditor or auditors at least once for each financial year.

30. Notices

- 30.1 A notice may be given by the Institute to any Member either personally or by sending it by post, facsimile or by other electronic means to the Member at the address or number of that Member in the Register.
- 30.2 Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying and posting a letter containing the notice, and is taken to have been served seven days after the date of its posting. A notice sent by facsimile or by other electronic means will be deemed to be served on the following business day.

31. Indemnity

- 31.1 To the maximum extent permitted by the Act, the Institute indemnifies each Officer against any liability, including any liability for legal costs, incurred by the Officer in their capacity as Officer.
- 31.2 The indemnity given in sub-clause 31.1 will apply to losses and liabilities incurred both before and after the date of adoption of that clause and will continue in force after the Officer ceases to be an Officer of the Institute.
- 31.3 The Institute may to the extent permitted by the Act purchase and maintain insurance or pay or agree to pay a premium for insurance for an Officer against any liability incurred by the person as an Officer, provided that the Board may then apply the indemnity given in sub-clause 31.1 only to the extent that the loss or liability is not covered by such insurance.

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As amended by the Annual General Meeting held on 11 October 2023

CORPORATIONS ACT 2001 (CTH)

CONSTITUTION

OF

THE MIGRATION INSTITUTE OF AUSTRALIA LIMITED

ACN 003 409 390

AN UNLISTED PUBLIC COMPANY LIMITED BY GUARANTEE AND NOT HAVING A SHARE CAPITAL