



INSTITUTE OF  
**PUBLIC  
ACCOUNTANTS®**

# By-laws

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## Introduction

Pursuant to Clause 91 of the Constitution, the following By-laws are made by the Board of Directors for the maintenance of sound practice and the promotion of the interests of the Institute and of the profession and for the prevention of dishonourable practices.

The following By-laws are made to ensure the smooth operation of the Constitution and follow the structure of the Constitution.

These By-laws will apply to all Members of the IPA unless noted otherwise.

# Chapter 1

## Definitions

This following words and expressions in these By-laws have the several meanings hereby assigned to them unless such meanings are excluded by or are repugnant to the context or subject matter (that is to say):

### **Administrative action**

means a penalty imposed by the Institute on a Member in circumstances where referring to the matter to the Disciplinary Tribunal or voluntary resolution is inappropriate

### **Arbitration**

means the determination of disputes by the decision of one or more persons called qualified arbitrators.

### **Board of Directors**

means the Board of Directors of the Institute constituted under the Constitution for the management and control of the Institute and of its funds.

### **Book**

includes an account deed writing or document and any other record of information however compiled recorded or stored whether in written or printed form on a microfilm or by electronic process or otherwise.

### **Complainant**

means a person or persons, whether natural person or not, who lodge a complaint or complains against a Member of the Institute

### **Constitution**

means the Constitution of the Institute.

### **Chief Executive Officer**

means the Chief Executive Officer appointed in accordance with the Constitution.

### **Committee Member**

means a member of a committee established under the Constitution.

### **Disciplinary Tribunal**

is appointed under the Constitution to hear and decide on complaints against Members.

### **Divisional Advisory Committee**

means a Committee of the Institute established to assist, advise and guide the Division towards the policy objectives established by the Board of Directors.

### **Divisional Advisory Committee Member**

means a member elected or appointed to a Divisional Advisory Committee in accordance with the Constitution.

### **Divisional President**

means the President for the time being of a Divisional Advisory Committee of the Institute.

### **Entity**

means any partnership, trust, company, or association whether incorporated or not.

### **Entity Member**

means any entity through which:

- (a) a person who is a member of the Institute; or
- (b) a member or number of members of the Institute; provide professional practice services.

### **General Meeting**

means a General Meeting of the Members of the Institute or a Division thereof (as the case may be or the context may require) lawfully convened and held in accordance with this Constitution.

### **Institute**

means the company called the Institute of Public Accountants.

### **Investigator**

means a person or persons appointed by the Board to undertake investigations on behalf of the IPA in relation to alleged breaches of the Constitution, By-laws, Regulations and Pronouncements or any matters referred to in clause 98 of the Constitution. The Investigator should not be a member of the IPA.

### **Investigations Review Officer**

means a person who shall review the work of the Investigator in relation to matters dealing with members as prescribed in the By-laws. Such a person shall be a member of long standing, with experience in relation to matters relating to investigations and disciplinary procedures. The Investigations Review Officer may be, but is not limited to, an Officer of the IPA.

### **Journal**

means any journal adopted by the Board of Directors as the official journal of the Institute.

### **Mediation**

means the resolution of complaints by the agreement of the parties to settle complaints with the facilitation of a qualified Mediator.

### **A member**

means a person who has complied with the Constitution and By-laws in relation to membership and who has paid all fees and subscriptions due.

### **Month**

means a calendar month.

**Officer**

has the meaning as defined in the Corporations Act and includes the Investigator and the Investigations Review Officer.

**Post**

means any form of postage including but not limited to Prepaid Post, Parcel Post, Registered Mail, Courier, Business Post, Next Day Delivery.

**President**

means the President of the Institute.

**Pronouncements**

means the Pronouncements issued by the Institute.

**Professional Practice**

means the provision of accounting services to the public, including services relating to:

- a) taxation;
- b) auditing;
- c) financial or investment advice;
- d) business or management consulting;
- e) superannuation;
- f) insurance;
- g) information technology; and
- h) other services as prescribed by the Institute from time to time

**Qualified Arbitrator**

means a person or persons whom the Board of Directors recognise as being competent to conduct arbitration between the complainant/s and a Member.

**Qualified Mediator**

means a person or persons whom the Board of Directors recognise as being competent to conduct mediation between the complainant/s and a Member.

**Register**

means the register of members of the Institute to be kept pursuant to the Corporations Act.

**Regulations**

means the Regulations of the Institute created in accordance with this Constitution.

**Voluntary resolution**

means a remedial course of action an Investigator may suggest to a Member the subject of a complaint. The Investigator may only suggest remedial action when, with the approval of the Investigations Review Officer, it has been found that the Member has a case to answer. Such remedial action may include an undertaking by the Member to participate in Continuous Professional Development in a certain area.

## **Written and In Writing**

Includes:

All modes of representing or reproducing words in a visible form.

Words importing the singular number include the plural number and words importing the plural number include the singular number.

Headings and footnotes are for ease of reference and shall not affect in any way the interpretation or construction of the clause or clauses to which they refer.

## Chapter 2

### Name, registered office and objects of the Institute

#### 2.1 Objects

##### **Professional conduct**

- 2.1.1 Pursuant to Clause 91 of the IPA Constitution, the Board of Directors promulgates this By-Law which incorporates the principles of professional ethics. Members of the Institute shall abide by these principles irrespective of their Membership status and they shall seek Guidance from detailed Pronouncements on sound practice and conduct as the Board of Directors promulgates from time to time.

##### **Professional competence**

- 2.1.2 The ethical requirements of the Institute shall be based upon the following fundamental principles by which Members shall be governed in the conduct of their professional relations with others:

##### **Integrity**

A Member shall be straightforward, honest and sincere in all facets of their professional work.

##### **Objectivity**

A Member must be fair and must not allow prejudice or bias to override their objectivity.

##### **Independence**

When carrying out their duties, a Member shall both be and appear to be free of any interest which might be regarded, whatever its actual effect, as being incompatible with integrity and objectivity.

##### **Confidentiality**

A Member should respect the confidentiality of information acquired in the course of their work and should not disclose any such information to a third party without specific authority or unless there is a legal or professional duty to disclose.

##### **Technical Standards**

A Member should carry out their professional work in accordance with the technical and professional Standards relevant to that work. Members of the Institute are obliged to comply with accounting and auditing Standards.

A Member has a duty to maintain their level of competence throughout their career. They should only undertake work that they can expect to complete with professional competence.



## Ethical behaviour

Members should conduct themselves in a manner consistent with the good reputation of the Institute and refrain from any conduct which might bring discredit to both the Institute and the accounting profession.

Membership applicants who have incurred a criminal conviction in Australia or overseas are required to declare this information on their membership application and/or PPC application, or if already a Member, notify the Institute as soon as practicable. In addition, if a Membership applicant or a Member has had actions brought against them by a professional body or a regulatory body including, but not limited to, Australian Securities and Investments Commission, the Tax Practitioners Board, or is an undischarged Bankrupt or has been a Director of an entity subject to any form of external administration, is obliged to formally advise the Institute in writing as soon as practicable of the nature of the action and any penalty imposed. A case-by-case assessment will be undertaken to determine eligibility for membership and/or eligibility for a PPC. If already a member and a member fails to notify the Institute of such matters, disciplinary action or forfeiture of membership may be actioned by the CEO or delegated officer. Any action taken by the Chief Executive Officer pursuant to this By-law shall be reported to the Board at its next meeting.

### 2.1.3 Members shall abide by:

- (a) the following Pronouncements of the Board of Directors:
  - Pronouncement 4: Quality Assurance Reviews;
  - Pronouncement 7: Continuing Professional Development;
  - Pronouncement 11: Financial Planning Services;
  - Pronouncement 12: Administration of Member Compliance.
- (b) all Standards, Guidance Notes and other authoritative interpretations that the Accounting Professional and Ethical Standards Board (APESB) may promulgate from time to time, e.g. Standards in particular are prefixed “APES” & Guidance Notes “GN”;
- (c) all Standards, Guidance Statements and other authoritative interpretations issued by the Auditing & Assurance Standards Board of Australia, e.g., Standards in particular are prefixed “ASA”;
- (d) all Standards, interpretation and other authoritative Guidance issued by the Australian accounting Standards Board, i.e. Standards in particular are prefixed “AASB”; and
- (e) any other Pronouncements the Board of Directors may promulgate.

### 2.1.4 All AAT members that hold the designation ‘Member AAT’ or ‘Fellow AAT’ and accept an offer to become Members of the IPA as part of the AAT member renewal process, must continue to comply with all AAT By-laws and IPA By-law 2.1.4, but are not required to comply with all other IPA By-laws as long as they retain financial membership with AAT. AAT members who become IPA Members under this offer will use the designation AIPA (AAT) and this designation belongs to the Associate class of membership as per the Constitution clause 24 and By-law 3.1.7. Any IPA member or person who held IPA membership in the last five years will not be permitted to use this AAT member offer to maintain IPA membership or secure IPA membership.

## Chapter 3

### Members

#### 3.1 Members

##### Admission

3.1.1 The Institute shall enter into the Register of Members applicants who shall:

- (a) apply in writing on the prescribed form, be of good fame, integrity and character and pay the prescribed fee for admission;
- (b) in the case of admission as an Associate (AIPA), the applicant must provide documentary evidence of being:
  - (i) the holder of Australian educational qualifications approved by the Board of Directors; or
  - (ii) the holder of overseas educational qualifications approved by the Board of Directors; or
  - (iii) an Associate of another professional accounting membership body approved by the Board of Directors;
- (c) in the case of admission as a Member (MIPA), the applicant must provide documentary evidence of being:
  - (i) a Member of another professional accounting membership body approved by the Board of Directors; or
  - (ii) the holder of Australian or overseas educational qualifications approved by the Board of Directors; and
  - (iii) Successful completion of Stage-1 of the IPA Program or equivalent approved by the Board of Directors; and
  - (iv) Successful completion or full exemption of the Mentor Experience Program;
- (d) in the case of admission as a Fellow (FIPA), the applicant must provide documentary evidence of being a Fellow of another professional accounting membership body approved by the Board of Directors;
- (e) comply with the IPA's Continuing Professional Development (CPD) requirements; and
- (f) comply with such other conditions and possess such other qualifications as the Board of Directors may prescribe either generally or in a particular case.

### **Fees and subscriptions - admission**

- 3.1.2 Every person who applies for Membership and is entitled to be admitted shall, before their name is entered in the Register of Members and before they become entitled to the privileges of Membership, pay the full admission fee, first annual subscription and any other fees due, subject to By-Law 3.1.3. The Board of Directors may vary or waive any fee or subscription.
- 3.1.3 All persons being admitted to Membership after July each year shall pay a pro rata amount calculated on a monthly basis commencing from the month of lodgement of the application.

### **Advancement in Membership designation – Associate to Member**

- 3.1.4 For advancement from Associate to Member, the Institute shall advance and enter into the register of Members the new Membership designation of applicants who shall:
- (a) apply in writing on the prescribed form and pay the prescribed fee for advancement to Member status; and
  - (b) provide documentary evidence of being a Member of another professional accounting membership body approved by the Board of Directors; or
  - (c) provide documentary evidence of successful completion of Stage-1 of the IPA Program or equivalent approved by the Board of Directors and successful completion or full exemption of the Mentor Experience Program; or
  - (d) comply with such other conditions and possess such other qualifications as the Board of Directors may prescribe either generally or in a particular case.

### **Advancement in Membership designation Member to Fellow**

- 3.1.5 For advancement from Member to Fellow, the Institute upon the recommendation of the relevant Divisional, shall advance to Fellow and enter into the Register of Members this new Membership designation where applicants:
- (a) apply in writing on the prescribed form and pay the prescribed fee for advancement to Fellow status; and
  - (b) provide documentary evidence of being a Fellow of another professional accounting membership body approved by the Board of Directors; or
  - (c) provide documentary evidence of not less than 10 years experience in accountancy or in a related field, the last 5 years of which are at an appropriate senior level and have been a Member status for a period of not less than 7 consecutive years at the time of application; or
  - (d) comply with such other conditions and possess such other qualifications as the Board of Directors may prescribe either generally or in a particular case.

### **Fees and subscriptions – advancement**

- 3.1.6 All Members advancing in designation shall pay the difference between the full subscriptions applicable to both Membership designations as well as the advancement fee prescribed by the Board of Directors. The Board of Directors may vary or waive any fee or subscription.

### **Additional designations within classes of Membership**

- 3.1.7 The Board of Directors may at any time it sees fit, introduce additional designations for Members within the existing classes of Membership in Clause 24 of the Constitution. These designations will not replace the classes of Membership in Clause 24.
- 3.1.8 These additional designations may apply to all Members or may be specialised to reflect particular skills, knowledge or education a Member may have attained.
- 3.1.9 The Board of Directors may determine the post-nominal to be used with that additional designation. The Board of Directors may further determine how that post-nominal is to be used.
- 3.1.10 The Board of Directors may set and amend any requirements above and beyond the existing requirements for Membership of a particular class of Membership for entry into an additional designation. This may mean that the Board of Directors may set no additional requirements.
- 3.1.11 The Board of Directors may set an additional fee to process the application and promote the additional designation and the Board of Directors may set an additional on-going fee for maintenance of that designation for Members within that designation.

### **Movement to retired Member status**

- 3.1.12 Applications from Members to move to retired status will be considered on the following basis:
  - (a) the applicant has been a Member for more than 5 years or endorsed by the Chief Executive Officer or the Chief Executive Officer's nominee; and
  - (b) the applicant is retired from full time employment, although they may still be employed in minor part-time activities.
- 3.1.13 Members of retired status undertake to advise the Institute of any changes to their circumstances subsequent to being moved to retired Member status.
- 3.1.14 Members of retired status retain all rights to benefits and entitlements of Membership.

### **Fees and subscriptions – retired Members**

- 3.1.15 The fee for Members of retired status, as determined by the Board of Directors from time to time, shall not be less than the cost of maintaining Membership together with any other appropriate fees.

### **Continuation of membership**

- 3.1.16 Members must at all times be of good fame, integrity and character. Those Members who are alleged to not be of good fame, integrity and character who are alleged to have breached the Institute's Code of Ethics (APES 110) shall be subject to the Institute's investigation and discipline process set out in Chapter 7 of the Constitution and Chapter 7 of the By-laws.

## 3.2 Special cases

3.2.1 The Board of Directors may by resolution passed by a majority of not less than two-thirds of the Board of Directors present and voting dispense with all or any of the requirements of the By-laws regarding admission or a change of status and admit any person to the Institute and cause their name to be entered into the Register of Members in such status as it thinks fit or grant a change of status to any Member:

- (a) if that person or Member has extensive experience in accountancy or in a related field; or
- (b) if that person or Member has rendered valuable service in advancing the interests of the Institute; or
- (c) for any special reason the Board of Directors deems sufficient.

## 3.3 Resignation of Members

3.3.1 The Board of Directors delegates to the Institute the responsibility for the removal of any name from the Register of Members who have resigned or who no longer meet the requirements to be a Member as set out in the Constitution, By-laws, Pronouncements and Regulations of the Institute.

## 3.4 Re-instatement of Members

3.4.1 For re-instatement, every applicant shall:

- (a) apply in writing and pay the prescribed fees; and
- (b) comply with such other conditions as the Board of Directors may prescribe either generally or in a particular case.

3.4.2 Applications for re-instatement following a Membership lapse of more than five years will not be considered unless the Institute is satisfied that the applicant complies with such conditions as the Board of Directors may prescribe either generally or in particular cases.

3.4.3 All applications for re-instatement following forfeiture of Membership for disciplinary reasons shall be referred to the Board of Directors for consideration.

## 3.5 Designations

3.5.1 The Board of Directors prescribes the following IPA designations:

- Associate Institute of Public Accountants (AIPA)
- Member Institute of Public Accountants (MIPA)
- Fellow Institute of Public Accountants (FIPA)
- Pursuant to Clause 137 of the Constitution, the term “Public Practice Certificate” shall be referred to throughout these By-laws as “Professional Practice Certificate (PPC)”.

3.5.2 The Board of Directors prescribes the following IFA designations:

- Associate Institute of Financial Accountants (AFA)
- Fellow Institute of Financial Accountants (FFA)

## Chapter 4

### General meetings of the Institute

#### 4.1 Voting at general meetings

4.1.1 For the purpose of these By-laws and of the Constitution of the Institute, the Chief Executive Officer shall be the Returning Officer of the Institute, unless otherwise stated.

#### 4.2 Proxies

4.2.1 The proxy form shall comply with the requirements stipulated at Clause 45 of the Constitution; shall facilitate a choice of votes of either in favour, against or abstain to each resolution; and where appropriate reflect contemporary corporate practice.

# Chapter 5

## Board of Directors

### 5.1 Express powers of the Board of Directors

#### Formation of branches

- 5.1.1 Pursuant to sub-clause 53.2(u) of the Constitution, the Board of Directors may establish in any geographical place it determines a Branch, from which a Branch Council may be established. Such a Branch Council shall exercise the responsibilities conferred on it and always be subject to the conditions imposed on it by the Constitution, By-laws and Regulations made and the directions given by the Board of Directors.
- 5.1.2 Every existing Member and any person who becomes a Member of the Institute shall be part of the Branch in which such person resides unless, for any reason the Board of Directors determines that such a Member shall not be part of such a Branch.
- 5.1.3 Unless otherwise stated, for the purpose of interpreting the Constitution, By-laws and Regulations of the Institute a Branch, Branch Council and Branch Councillors shall be considered a Division, Divisional Advisory Committee or Divisional Advisory Committee member.
- 5.1.4 A Branch Council does not have the authority to appoint a Director.
- 5.1.5 The Board of Directors may at its sole discretion and at any time, state when a Branch, Branch Council or Branch Councillor is not to be interpreted as a Division, Divisional Advisory Committee, Divisional Advisory Committee member, in the Constitution, By-laws and Regulations of the Institute.

### 5.2 Office bearers

- 5.2.1 Unless otherwise resolved by the Board of Directors, nominations of candidates for election as the President or Deputy President of the Institute shall be on the prescribed form (IPA 001) and shall be signed by two or more Directors (not being the candidate) as nominators and countersigned by the candidate.
- 5.2.2 Candidates for an office referred to in By-Law 5.2.1. must be Directors of the Institute and must not be the Chief Executive Officer should the Chief Executive Officer also be a Director of the Institute.
  - 5.2.2.1 Unless otherwise resolved by the Board of Directors, to qualify for the position of President, a Director is required to have held a position on the Executive Committee of the Institute for a minimum of three years.
- 5.2.3 Unless otherwise resolved by the Board of Directors, nominations for candidates for an election to an office referred to in By-Law 5.2.1 shall close two weeks prior to the commencement of the meeting at which the Board of Directors is to elect its office bearers (see Clause 83 of the Constitution). The nominations must be received by the Chief Executive Officer or the Chief Executive Officer's nominee.

- 5.2.4 If only one candidate is nominated for election to an office referred to in By-Law 5.2.1, the Chairman of the meeting shall declare the candidate nominated to be elected to the appropriate office.
- 5.2.5 If more than one candidate is nominated for election to an office referred to in By-law 5.2.1 the candidates will be entitled to submit a “statement of personal particulars” for distribution to the Board of Directors in conjunction with the agenda papers for the meeting described in By-law 5.2.3. The aforesaid statement may contain details about the candidate themselves as well as their personal goals and objectives should they be elected. A ballot shall be conducted in accordance with the following provisions and otherwise as the Board of Directors from time to time determines.
- 5.2.6 A Director voting shall mark their ballot paper by placing the number 1 in the square opposite the name of the candidate for whom the Director votes as their first preference and shall give contingent votes for all the remaining candidates by placing the numbers, 2,3,4 (and so on, as the case requires) in the squares opposite their names so as to indicate the order of preference.
- 5.2.7 The Chief Executive Officer or the Chief Executive Officer’s nominee shall conduct the ballot for elections pursuant to Clause 83 of the Constitution.
- 5.2.8 The ballot shall be conducted as a secret ballot and votes shall be counted as provided in this By-Law.
- 5.2.9 The Chief Executive Officer or the Chief Executive Officer’s nominee shall count the first preference votes given for each candidate and the candidate who has received the largest number of first preference votes shall, if that number constitutes an absolute majority of votes, be elected.
- 5.2.10 If no candidate has received an absolute majority of first preference votes then:
- (a) the candidate who has received the fewest first preference votes shall be excluded, and each ballot-paper counted to that candidate shall be counted to the candidate next in the order of the voter’s preference; and
  - (b) if no candidate then has an absolute majority of votes, the process in By-Law 5.2.10 (a) shall be repeated until one candidate has received an absolute majority of votes.
- 5.2.11 During the exclusion process, if on any count two or more candidates have an equal number of votes and one of them has to be excluded then:
- (a) a count of the number of next preferences for the candidates will continue until a candidate is recognised as having few higher preferences than the other candidates. Once this has been established, the candidate with the fewer votes will be excluded;
  - (b) if at the end of this process, the candidates still have an equal number of votes, then the selected candidate for exclusion will be by the drawing of lots; and
  - (c) if more than one position is required from the ballot, all voting papers are returned to the ballot, the already appointed candidate is excluded, and a similar vote allocation process is undertaken. This process is continued until the required number of positions has been decided.



5.2.12 The Chairman of the meeting shall announce the result of any election and declare the successful candidates as being elected to the appropriate office of the Institute.

5.2.13 If insufficient or no nominations are received, then the office shall remain vacant until a Director is appointed to the office pursuant to By-laws 5.2.3 to 5.2.12.

#### **Duties of office bearers – President**

5.2.14 The President shall preside at all Board of Directors and general meetings of the Institute. Additionally, the President shall represent the Institute on ceremonial occasions.

5.2.15 In the event of the President being absent the Deputy President with the longest tenure on the Board shall preside.

5.2.16 The President shall be an ex-officio member of all Committees with the exception of the Board Audit Committee.

(a) The President's Medal of Office may be worn by the President on ceremonial occasions.

#### **Duties of office bearers – Deputy President**

5.2.17 There shall be two Deputy Presidents elected by the Board. The Deputy President with the longest tenure on the Board will in the absence of the President from a meeting or ceremonial occasion, act for the President.

5.2.18 The Deputy President shall maintain a close liaison with all Divisions.

#### **Duties of office bearers – Vice President**

5.2.19 Repealed.

#### **Duties of office bearers – Treasurer**

5.2.20 Repealed.

#### **Duties of office bearers – immediate Past President**

5.2.21 The immediate Past President shall be a Member of the Executive Committee and undertake any appropriate projects as may be considered necessary.

#### **Term of office of office bearers**

5.2.22 Candidates elected to an office prescribed in 5.2.1 of these By-laws shall hold office for twelve months commencing at the conclusion of the Annual General Meeting following their election. Unless otherwise resolved by the Board or Directors, no Director shall hold the office of either President or Deputy President of the Institute for more than three consecutive terms, but a part term brought about by the filling of a casual vacancy shall not count as a term for the purpose of this By-Law.

5.2.23 Repealed.

5.2.24 A former office bearer shall not be eligible for election to that same office within two years of ceasing to hold that office.

### 5.3 Committees

5.3.1 Pursuant to sub-clauses 53.2(n) and 53.2(p) of the Constitution, the Board of Directors may establish a Committee to look at any issue or exercise any power the Board of Directors so wishes to delegate from time to time.

5.3.2 In the following By-laws, the term 'Member' is to be defined as meaning a 'person' who is not necessarily a Member of the Institute.

#### **Structure of Committees of the Board of Directors**

5.3.3 The structure for Committees shall be as follows:

- (i) Board Executive Committee;
- (ii) Committees; and
- (iii) sub-Committees of the above Committees.

5.3.4 The Board of Directors shall appoint the Committee Chairman of all Committees and shall ratify Members of the Committee.

5.3.5 Role of standing Committees – Executive Committee

- (i) Membership: as per Clauses 83 and 84 of the Constitution; and
- (ii) Duties: direction of the Institute between meetings of the Board of Directors provided that the Executive Committee shall not make policy decisions unless the Executive Committee is specifically authorised by the Board of Directors.

5.3.6 Role of standing Committees – legislation and standards

5.3.7 Repealed.

5.3.8 Role of standing Committees – Board Membership Committee

- (i) Membership: Chairman – any Director of the Institute, Member – any other persons suitably qualified, knowledgeable and experienced; and
- (ii) Duties: to develop policies on matters pertaining to the attraction, development and retention of IPA Members according to pre-determined Standards of education, professional experience, personal conduct and professionalism.

5.3.9 Role of standing Committees – Resources Policy

- (i) Repealed.
- (ii) Repealed.

5.3.10 Role of standing Committees – Appeals

- (i) Membership: for each specific appeal three persons appointed by the Board of Directors with the President as Chairman. If the President is unwilling or unable to act as Chairman then the Deputy President shall act as Chairman; and

- (ii) Duties: to review the decision of the Disciplinary Tribunal where the Member has lodged a notice of appeal against a decision of the Disciplinary Tribunal the effect of which is to suspend or forfeit Membership.

#### 5.3.11 Role of standing Committees – Board Audit Committee

- (i) Membership: Chairman – any Director not being an office bearer as prescribed in 5.2.1 of the By-laws and at least two other Directors who are not office bearers; and
- (ii) Duties: to provide assurance on the quality and reliability of financial information and financial statements of the IPA and liaise with external auditors and undertake projects at the direction of the Board of Directors and the Executive Committee.

#### 5.3.12 Role of sessional Committees – Board Disciplinary Tribunal

- (i) Membership: Chairman – any Director of the Institute, at least seven Members appointed by the Board of Directors. At least two of the Members are to be lay persons;
- (ii) Duties: to determine cases referred to it by the Investigator and to impose appropriate penalties on Members; and
- (iii) Term: Members of the Disciplinary Tribunal are to be appointed for a term of two years. At the completion of the term, the Board of Directors may choose to re-appoint such Members of the Tribunal.

#### 5.3.13 Frequency of meetings

5.3.14 Meetings of the Committees are to be held on an as required basis. These meetings can be conducted either by personal representation or by electronic means.

#### **Formation of sub-Committees**

5.3.15 Any Committee at its discretion can establish a sub-Committee to report to the Committee on particular issues. This may include forming sub-Committees based on geographical location.

5.3.16 The Committee shall establish the duties and responsibilities for their sub-Committees.

5.3.17 The Committee shall make appointments to their sub-Committees. The Committee shall seek the support of the Institute to find suitable persons for sub-Committees.

5.3.18 The sub-Committees are to report to the Committee on a regular basis.

#### **Record keeping**

5.3.19 The Chairman of each Committee is to provide written reports on Committee activities for inclusion in each Board of Directors agenda.

## Chapter 6

### Register of Members

#### 6.1 Register of Members

- 6.1.1 No name or designation shall be entered onto the Register of Members save on the authority of the Board of Directors nor shall any name be removed from such register nor the status or listing therein be changed save on the like authority.
- 6.1.2 The Board of Directors delegates to the Chief Executive Officer the responsibility for entering names and designations into the Register of Members when the applicant meets the requirements established by the Board of Directors as per By-Law 3.1 Members.
- 6.1.3 The Board of Directors delegates to the Chief Executive Officer the responsibility for removal of any name from the register when the Member no longer meets the requirements to be a Member as set out by the Board of Directors as per By-Law 3.3 Resignation of Members.
- 6.1.4 Member Certificates and Professional Practice Certificates shall be issued as per the Board of Directors resolution(s).

# Chapter 7

## Investigations and disciplinary procedures

### Preamble

The Institute always aspires to the principles of fairness and equity for all parties involved in a complaint (the Member, the complainant and the Institute).

To achieve this aim, the investigation and disciplinary procedures shall be independent of undue influence from any party to a complaint and always act in a prompt and timely manner.

Transparency and accountability of the investigation and disciplinary procedures will assist in ensuring the investigation and disciplinary procedures remain independent.

It is the duty of the Institute to uphold the principles and Standards of the profession and ensure that all Members abide by such at all times. The standing of the Institute and all its Members is dependent on the mutual upholding of the highest Standards.

### 7.1 Proceedings of Investigators, Investigations Review Officer and Disciplinary Tribunals

In By-Law 7.1, “Tribunal” means the Disciplinary Tribunal and “Chairman” and “Executive Officer” are of the Disciplinary Tribunal, wherever occurring, unless stipulated to the contrary.

#### Lodging a complaint

7.1.1 Any complaint against a Member of the Institute shall be lodged in writing with the Institute or the Board of Directors may itself lay any charge against or raise in relation to any Member any matter or circumstance which shall come or be brought under its notice and which in the opinion of the Board of Directors may need investigation.

7.1.2 Where an Investigator becomes aware that an investigation may be warranted against a Member or class of Members, the Investigator may undertake an investigation, regardless of whether a complaint has been lodged with the Institute. The Investigator will inform the Institute of the reason for undertaking such an investigation.

#### Handling a complaint

7.1.3 Any complaint against a Member of the Institute lodged with the Institute shall be referred to the Investigator.

7.1.4 “Administrative action” means a penalty imposed by the Institute on a Member in circumstances where referring the matter to the Disciplinary Tribunal or voluntary resolution is inappropriate.

7.1.5 The Investigator shall have the power to interview the Member concerned and to obtain information from any source deemed necessary.

#### Request for information from a Member

7.1.6 To assist the Investigator, a Member must comply with all reasonable requests for information from the Investigator. The Member must provide that assistance and information to the

Investigator within reasonable time as set by the Investigator. The Member may seek an extension of time to comply in writing, which the Investigator will not unreasonably deny.

- 7.1.7 Failure to provide assistance and information in a timely manner to all reasonable requests of an Investigator shall constitute a breach of Clause 98 of the Constitution.

#### **Recommendation of an Investigator**

- 7.1.8 The Investigator shall compile all relevant information in order to form an opinion from which the Investigator can recommend:
- (a) the Member has no case to answer;
  - (b) if there is a case to answer and it is appropriate to do so, recommend administrative action;
  - (c) if there is a case to answer and it is appropriate to do so, recommend a voluntary resolution of the complaint; or
  - (d) if there is a case to answer and administrative action or voluntary resolution of the complaint is inappropriate, refer the matter to the Disciplinary Tribunal to hear the case.

#### **Reviewing the recommendation of the Investigator**

- 7.1.9 The Investigator shall refer their draft recommendation to the Investigations Review Officer. The Investigations Review Officer's proposed determination and associated recommendations will be provided to the Chief Executive Officer as the nominee of the President to review and determine as appropriate.

#### **Notice of determination**

- 7.1.10 The Investigator will then communicate the determination to the Member, Tribunal (where appropriate) and the complainant within 21 days of the approval of the Investigator's recommendation by the Investigations Review Officer or the President or their nominee.

#### **Other interaction between the Investigator and the Investigations Review Officer**

- 7.1.11 The Investigator may seek the opinion of the Investigations Review Officer in relation to an investigation at any time.

#### **Regular statistical reports**

- 7.1.12 The Investigator must make regular reports to the Board of Directors and the Disciplinary Tribunal on opinions reached from their investigations. This report shall not disclose the names of the parties to the complaint.

#### **Arbitration or mediation**

- 7.1.13 Both the Member and the complainant has the right to appoint an arbitrator or mediator.
- 7.1.14 The Institute shall not be responsible for the conduct or costs of arbitration or mediation.

### **Voluntary resolution**

- 7.1.15 Within twenty-one days of receipt of the notice of determination of the offer of a voluntary resolution, the Member shall communicate their decision to accept or reject the voluntary resolution in writing.
- 7.1.16 If the Member rejects the voluntary resolution, the complaint will proceed to a Disciplinary Tribunal.

### **Administration action**

- 7.1.17 The Investigator may recommend administrative action where the Investigator believes there is a case to answer, but due to the less serious nature of the allegation, a voluntary resolution or to refer the matter to the Tribunal would be inappropriate.
- 7.1.18 Administrative action includes but is not limited to:
- (a) requiring the Member concerned to undertake specific CPD;
  - (b) requiring the Member concerned to make undertakings to the Institute;
  - (c) giving the Member concerned a written warning; or
  - (d) any other remedial action deemed appropriate.

### **Disciplinary Tribunal**

- 7.1.19 Upon the Tribunal receiving a notice of determination that the Member has a case to answer, the Tribunal shall meet for the purpose of considering the case and shall hear the case as soon as practicable.
- 7.1.20 The Board of Directors shall appoint a panel of persons from which each Tribunal is constituted. The panel shall comprise a Chairman, a Deputy Chairman and other Members appointed by the Board.
- 7.1.21 The Institute shall appoint an Executive Officer to manage the disciplinary process and perform such other duties as set out in these By-Laws.
- 7.1.22 The Executive Officer, with the approval of the Chairman, will select a Tribunal comprising a minimum of three persons to hear the case against a Member. A Tribunal will comprise either the Chairman or Deputy Chairman presiding and at least two other Members. At least one Member of each Tribunal hearing a case shall be a lay person.
- 7.1.23 Where a Tribunal of at least five panel Members is to hear a case against a Member, this Tribunal shall comprise the Chairman and at least four other Members, of which two shall be lay persons.
- 7.1.24 In selecting who shall sit on a panel hearing a case against a Member, the Executive Officer, with the approval of the Chairman, shall have regard to availability of panel Members and any special skills that may be appropriate to the case.
- 7.1.25 In the event of the unexpected unavailability of the Chairman and Deputy Chairman, the other Members of the panel hearing a case against a Member shall appoint a Chairman from the panel Members present at the hearing.

### **Disciplinary Tribunal – Written submission**

- 7.1.26 (1) Where the notice of determination states that in the Institute’s view it is appropriate, the Chairman may offer the Member concerned:
- (a) the opportunity to accept that there is a case to answer in relation to the breach alleged by the Institute; and
  - (b) to make statements in mitigation.
- (2) The Member must indicate in writing, to the Executive Officer by the date stipulated whether or not it is accepted that there is a case to answer.
- (3) Where the Member does not accept that there is a case to answer the matter will be referred to the next full hearing of the Tribunal.
- (4) Where the Member accepts that there is a case to answer the matter will proceed to the Tribunal in the following manner:
- (a) The Executive Officer, with the approval of the Chairman, will select a Tribunal comprising a minimum of three persons to hear the case against a Member. A Tribunal will comprise either the Chairman or Deputy Chairman presiding and at least two other Members. At least one Member of each Tribunal hearing a case shall be a lay person.
  - (b) All submissions must be in writing.
  - (c) The Institute shall appoint an Advocate to prepare a written case against the Member, setting out the correspondence and other information discovered in the process and the reasons the Institute believes there is a case to answer. The Advocate may also state any other information believed to be relevant to a decision by the Tribunal, including any mitigating circumstances in favour of the Member. The Advocate shall also state what level of penalty the Institute is seeking to be imposed against the Member. This material is to be made available through the Executive Officer, to both the Tribunal and the Member concerned.
  - (d) The Member has 14 days from receipt of the Institute’s submission to provide a written submission setting out arguments in mitigation of any penalty.
  - (e) The Tribunal will then review all the materials before it and reach a decision about what, if any, penalty to impose. The decision will be made in writing and provided to the Member and Institute within 14 days of publication of the decision.

### **Disciplinary Tribunal Members – obligations**

- 7.1.27 All Tribunal Members will give an undertaking to the Institute to act fairly and honestly in all cases, to excuse themselves from any case where they may be or perceived to have a conflict of interest and to be available for selection unless reasonably excused.
- 7.1.28 Where a Tribunal Member has consistently not availed themselves to sit on hearings without reasonable excuse, the Chairman may request to the Board of Directors that the said Tribunal Member be removed.



7.1.29 Tribunal Members may be required to undergo training or to complete courses approved by the Board of Directors. Failure to comply with any such directive may mean removal from Membership of the panel.

#### **Disciplinary Tribunal hearing – notification**

7.1.30 The Member shall be informed in writing of the time and place of the hearing and of the complaint or complaints to be considered, at least twenty one days before the date of the hearing. The Member will be provided with the following documents:

- (a) a notice describing the alleged breaches by the Member (including the relevant section(s) of the Constitution, By-Laws, or Pronouncements of the Institute);
- (b) a summary of the case setting out the relevant matters relied on in support of the case, a copy of the evidence to be relied upon by the Institute, and the name and details of any witness(es);
- (c) a summary of the procedures for appearing before the Disciplinary Tribunal; and
- (d) a letter inviting the Member to indicate whether or not the Member intends to appear before the Tribunal in person, via teleconference (or other technological means approved by the Tribunal) or via representation by a third party.

The Institute may seek leave of the Chairman to provide the documents referred to in sub-clauses (a) to (d) or additional information to the Member less than twenty-one days before the date set for the hearing. The Chairman will grant such leave only in exceptional circumstances and where it will not prejudice the ability of the Member to make an appropriate defence.

7.1.31 At least fourteen days before the date set for the hearing, Tribunal Members shall be provided with copies of all documents relating to the case against the Member.

7.1.32 The Member must respond in writing to the letter referred to in By-Law 7.1.34(d) not less than seven days prior to the hearing date. The Member must also at that time submit to the Tribunal such documentary evidence that the Member wishes to make known to the Tribunal and the name and details of any witness(es) the Member intends to call. Documents submitted less than seven days prior to the date of the hearing will only be considered by the Tribunal where the Chairman decides there are exceptional circumstances which do not prejudice the ability of the Institute to make its case against the Member.

If the Member does not intend to appear at the hearing, they may submit statements in writing to the Chairman for consideration by the Tribunal.

7.1.33 The Institute shall appoint an Advocate to present the case against the Member. The Institute may appoint such other persons to assist the Advocate as it deems necessary, including Counsel.

#### **Disciplinary Tribunal hearing – Presentation of case**

7.1.34 On the hearing of any case against a Member, it is for the Institute to satisfy the Tribunal that a breach has occurred and the case has been proven on the balance of probabilities.

7.1.35 At the hearing of the Tribunal, the Advocate will present the Institute's case first, setting out the reasons the Institute believes there is a case to answer. The Advocate may be supported by any witness(es) and such documentary evidence as is provided by the Institute in support of the case against the Member. The Advocate may also state any other information believed to be relevant to a decision by the Tribunal, including any mitigating circumstances in favour of the Member. The Advocate shall also state what level of penalty the Institute is seeking to be imposed against the Member.

The Member will then respond by presenting any witness(es) and such documentary evidence as has been provided by the Member in accordance with By-Law 7.1.36. Each witness may be cross-examined by the other party. Any Member of the Tribunal may ask any question(s) of either party and any witness(es).

If the Member appears with Counsel at the hearing and has not informed the Tribunal, the Chairman will make a determination whether to adjourn the hearing in order for the Institute and/ or the Tribunal to seek engagement with Counsel. The costs of any adjournment shall form part of any cost determination by the Tribunal if there is a finding against the Member.

7.1.36 The Member or the Institute may request in writing to the Chairman, either at the hearing or in advance of it, that the hearing be adjourned to a future date. It is at the full discretion of the Chairman whether or not to grant such an adjournment. If an adjournment application is made by either party, the costs of the original hearing can be included in any determination with regard to apportionment of costs between the parties.

7.1.37 After both parties have presented their case and the Tribunal is satisfied it has enough information to make a determination, the Tribunal will retire to deliberate. Deliberations will be "in camera" and involve only the Tribunal Members. The Tribunal's decision on a case against a Member is to be determined by a simple majority vote of its Members. If there is no majority at first instance, the Chairman shall have the casting vote. The role of the Tribunal is to determine if the case against the Member has been proven on the balance of probabilities, but not at this stage to determine the penalty to be imposed.

7.1.38 If the Tribunal determines that the case against the Member has been proven it shall inform the parties accordingly. Where the Member is present, either in person or represented by a third party, such person will be asked to provide any evidence and other matters to be considered in mitigation by the Tribunal with regard to what is the appropriate penalty to impose. If the Member is not present, the Tribunal will take into account any documentation provided by the Member in mitigation of the penalty. After such arguments have been presented, the Advocate will be asked to present the Institute's case with regard to an appropriate penalty to be imposed. Following such presentation, the Tribunal will retire to consider the appropriate penalty to be imposed. The Tribunal's decision is to be determined by a simple majority vote of its Members. If there is no majority at first instance, then the Chairman shall have the casting vote. The Institute and the Member shall be informed of the penalty imposed.

7.1.39 If the Tribunal makes a finding that the case is not proven by the Institute, the case against the Member will be dismissed (except as to any right of appeal by the Institute). However, the Tribunal can still make a determination as to costs.

### **Costs**

7.1.40 Each party shall bear its own costs of proceedings and representation.

## **Notification**

- 7.1.41 The Executive Officer shall provide a written statement of its decision to be communicated to both parties within 21 days of the conclusion of the hearing.

## **Effective date**

- 7.1.42 Any order of the Tribunal shall take effect after the end of the appeal period. The appeal period is within 30 days of notice of the finding of the Tribunal having deemed to be served, unless as part of the order the Tribunal directs that all or part of the orders is to take effect on a specific date. A member shall be deemed to have received the said notice upon delivery, or, if posted, three days after the day of posting in an envelope addressed to the address of the member in the Register.

Upon receipt of a notice of appeal, the finding (s) and order (s) will be stayed until such time as the matter is determined by the Appeals Tribunal process.

## **Notification**

- 7.1.43 The findings and orders of the Tribunal shall be publicised by the Institute by the following means:

- (a) by way of press release in such terms and manner it directs;
- (b) publication in the IPA journal in such terms and manner it directs; and/ or
- (c) publication on the IPA's website in such terms and manner it directs;

and shall, for Members subject to an order of censure, suspension or forfeiture of Membership set out the name, the breach(es) that the Member was found to have made and the finding(s) of the Tribunal and any other matters the Tribunal determines is necessary. For Members subject to an order of admonishment, fine or other order, the Institute shall determine, what, if any information is made known to the public.

## **Investigator – regular statistics**

- 7.1.44 The Investigator shall furnish regular reports to the Board of Directors stating such information as the number and type of complaints, what geographical area the complaints are originating from, the action stemming from those complaints, the opinion of the Investigator on the complaint, the decision of the Disciplinary Tribunal and the Appeals Tribunal (if applicable) and the period of time between the lodgement of the complaint and its resolution or to the stage where no further action is required.
- 7.1.45 The Institute may use the information gathered from the Investigator's report to develop programs to alleviate areas of concern. The Institute shall also pass on this information to appropriate statutory/ regulatory bodies as required.

## **Disciplinary Tribunal – regulating hearings**

- 7.1.46 The responsibility for regulating hearings of a Disciplinary Tribunal rests with the Board of Directors. The Board of Directors has the responsibility for establishing the procedures necessary for conducting hearings of a Disciplinary Tribunal. Interpretation of the procedures for regulating the hearings of Disciplinary Tribunals rests with the Board of Directors. The Appeals Committee can instruct a Disciplinary Tribunal to re-hear a complaint.

- 7.1.47 A Disciplinary Tribunal must when following procedures in hearing a complaint, implement those procedures in a manner that is reasonable and in the interests of all parties involved.

## **Appeals Tribunal – procedures**

### **7.2 Appeals from Disciplinary Tribunal**

In this By-Law (7.2), “Tribunal” means the Appeals Tribunal, “Executive Officer” and “Chairman” are of the Appeals Tribunal, wherever occurring, unless stipulated to the contrary.

- 7.2.1 The Tribunal shall comprise three persons appointed by the Board of Directors. The Chairman shall be determined in accordance with By-Law 5.3.10(i). The other Members of the Tribunal shall be made up of one person who shall be a current Member of the Institute of good reputation and long standing and the remaining Member of the Tribunal shall be a Member of the public in good standing and of such skills and attributes as the Board shall determine necessary for the position.

#### **Pre hearing steps**

##### **Notification of hearing date**

- 7.2.2 Upon receipt of a notice of appeal the Executive Officer will establish a process to set a time, place and date of a hearing of the appeal. The Executive Officer shall not less than 21 days prior to the date of the hearing notify all parties in writing of the date of the hearing. Provided the Chairman is satisfied that no prejudice will be suffered by any party to the appeal, the Chairman may determine that a period of less than 21 days notice to all parties be provided.
- 7.2.3 The appeal shall be heard at a time and place convenient to all parties, but shall be finally heard no later than six months after the lodgement of the notice of appeal.

##### **Adjournment of hearing date**

- 7.2.4 Either party may request in writing to the Chairman, either at the hearing or in advance of it, that the hearing be adjourned to a future date. It is at the absolute discretion of the Chairman whether or not to grant such an adjournment. If an adjournment application is made by either party, the costs of the original hearing may be included in any determination with regard to apportionment of costs between the parties.
- 7.2.5 Where an application is made by a party to adjourn the hearing date because of the late exchange and lodgement of documents, the party in default may be ordered to pay the costs of the other party and the Tribunal out of the delay.

##### **Exchange and lodgement of documents and witness lists**

- 7.2.6 The Executive Officer shall provide to the Tribunal and all parties a copy of the record of findings and orders of the Disciplinary Tribunal together with the statement of facts and documents tendered to the Disciplinary Tribunal no later than the date the notices of hearing date are served.

- 7.2.7 Copies of all documents to be relied upon by the parties at the hearing and the name and details of any witness(es) the parties intend to call must be exchanged by the parties and lodged with the Chairman not less than seven days prior to the hearing date. Documents exchanged by the parties and lodged with the Chairman less than seven days prior to the hearing date will only be received in evidence by the Tribunal if the Chairman is satisfied that no party will suffer prejudice arising out of the lateness of their exchange and lodgement.

#### **Notification of representation**

- 7.2.8 If a party is to be represented by Counsel or in the case of a Member by another Member, the name of the party's representative and contact details must be provided to the Executive Officer in writing at least seven days prior to the hearing date.

#### **Attendance by teleconference or other means**

- 7.2.9 If a party wishes to provide evidence via teleconference or other technological means details of such must be provided in writing to the Executive Officer at least seven days prior to the hearing date.

#### **Advocate**

- 7.2.10 The Institute shall appoint an Advocate who may be Counsel to present its case. The Institute may appoint other persons to assist the Advocate before the Tribunal.

#### **Procedures before the Appeals Tribunal**

- 7.2.11 The Tribunal will determine its own practice and procedure, however the following processes will be followed (unless otherwise agreed to by all parties):

- (a) the appellant will be asked to present their case first, supported by the tendering of documentary evidence and the calling of any witness(es), the evidence of those witnesses may be tested by cross examination by the respondent;
- (b) the respondent may then present their case, supported by the tendering of documentary evidence and the calling of any witness(es). The evidence of those witnesses may be tested by cross examination by the appellant, the respondent will then summarise their case and then close;
- (c) the appellant may then summarise their case noting matters that were raised in the respondent's case and then close;
- (d) during the proceedings, Members of the Tribunal may ask questions of either party and any witness(es); and
- (e) a party wishing to contest a penalty imposed by the Disciplinary Tribunal will be provided with an opportunity to make submissions as to penalty.

The other party will then be provided with the opportunity to make answering submissions as to penalty. The initial party will be allowed the opportunity to make responding submissions on the new matters submitted by the other party.

7.2.12 The Tribunal shall have the power:

- (a) to obtain and receive additional evidence during a hearing, including evidence from third-party experts;
- (b) to adjourn any hearing at any time if it considers it advisable to clarify any facts in dispute or to review new information that may be presented; and
- (c) to demand the production of information and documentation deemed necessary to arrive at a satisfactory decision, and may adjourn a hearing to give time for such to be provided.

7.2.13 The appeal shall be conducted as a rehearing.

7.2.14 The Tribunal shall have regard to the decision of the Disciplinary Tribunal but shall not regard it as being presumptively correct nor bound by any of its findings.

#### **Onus of proof**

7.2.15 On the hearing of an appeal, it is for the appellant to satisfy the Tribunal that the grounds for appeal have been proven on the balance of probabilities.

#### **Orders of the Appeals Tribunal**

7.2.16 Upon completion of all representations by the parties the Tribunal will retire to consider the appeal “in camera” with only the Members of the Tribunal present during its deliberations.

7.2.17 In the case of an appeal against findings and orders/ penalty of the Disciplinary Tribunal, the Tribunal may make one or more of the following resolutions to:

- (a) affirm or vary any findings of the Disciplinary Tribunal;
- (b) affirm, vary, or rescind any penalty imposed by the Disciplinary Tribunal; and/ or
- (c) substitute any other penalty which the Disciplinary Tribunal could have made.

#### **Effective date**

7.2.18 The Tribunal shall decide the date of effect of any order it makes.

#### **Costs**

7.2.19 Subject to any specific orders the Tribunal makes as to costs, each party shall bear its own costs of proceedings and representation.

#### **Notification of findings to appellant and respondent**

7.2.20 The Tribunal shall use its best endeavours to publish a written statement of its findings and deliver it to all parties within 21 days of the conclusion of the hearing.

### **Public notification of findings**

7.2.21 The findings and orders of the Tribunal shall be publicised by the Institute by the following means:

- (a) by way of press release in such terms and manner it directs;
- (b) publication in the IPA journal in such terms and manner it directs; and/ or
- (c) publication on the IPA's website journal in such terms and manner it directs;

and shall, for Members subject to an order of censure, suspension or forfeiture of Membership set out the name, the breach(es) that the Member was found to have made and the finding(s) of the Tribunal and any other matters the Tribunal determines is necessary. For Members subject to an order(s) of admonishment, fine or other order, the Institute shall determine, what, if any information is made known to the public.

### **Appeals Tribunal Members - obligations**

7.2.22 All Tribunal Members will give an undertaking to the Institute to act fairly and honestly in all cases, to excuse themselves from any case where they may be or perceived to have a conflict of interest and to be available for selection unless reasonably excused.

7.2.23 Where a Tribunal Member has consistently not availed themselves to sit on hearings without reasonable excuse, the Chairman may request to the Board of Directors that the said Tribunal Member be removed.

7.2.24 Tribunal Members may be required to undergo training or to complete courses approved by the Board of Directors. Failure to comply with such may mean removal from Membership of the Tribunal.

7.3 Public notice of findings

### **Penalties**

7.3.1 The following disciplinary penalties will determine the publication of a Member's name:

- (a) forfeiture of Membership: Member's name published;
- (b) suspension of Membership: Member's name published;
- (c) censure: Member's name published;
- (d) admonishment: Member's name not published; and
- (e) any other penalty: Member's name not published

### **Notice of outcome of hearing**

7.3.2 The complainant shall be informed of the outcome of a hearing heard as a result of their complaint within 30 days of the decision being made.

### **Notice of statutory authorities**

- 7.3.3 The Institute shall pass on to appropriate statutory authorities information regarding Members that may be required by law, regardless of whether the Institute undertakes action in regard to such information itself. The Institute will provide such statutory authorities with the necessary levels of support where required.
- 7.3.4 If the Institute becomes aware that a Member has breached the law, it shall forthwith inform the appropriate authorities in relation to such a matter.
- 7.3.5 The publication of the name of a Member who has received a disciplinary penalty referred to in By-Laws 7.3.1 (a) to (c) shall be published in the official publication and on the website of the Institute.
- 7.4.1 Repealed
- 7.5 In exceptional circumstances where the ongoing membership of a Member could bring the Institute into disrepute, the President, on the formal advice of the Chief Executive Officer, has the power to immediately suspend a Member with a view to consideration of the matter of forfeiture of membership by resolution of the Board of Directors.



## Chapter 8

### Divisions

#### 8.1 Establishment of Divisions

##### **Existing Divisions**

- 8.1.1 The Divisions established by the Board of Directors under Clause 111 of the Constitution are New South Wales, Victoria, Queensland, South Australia and Northern Territory, Western Australia, Tasmania, the Australian Capital Territory and the United Kingdom. The Board of Directors has the power to establish further Divisions.

##### **Divisional Advisory Committee**

- 8.1.2 The Constitution provides that there shall be a Divisional Advisory Committee established in each Division. The Members of the Divisional Advisory Committee shall appoint a President and Deputy President of the committee. The Board of Directors may resolve to vary the title of the Divisional Advisory Committee in a particular Division.
- 8.1.2A For the avoidance of doubt, the Divisional Advisory Committees shall hold elections for Divisional Presidents and Divisional Deputy Presidents at the expiry of the pre-existing terms of office (2015-2018).

##### **Nominations Committee**

- 8.1.3 Pursuant to Clause 56 of the Constitution, the purpose of the Nominations Committee is to appoint Directors to the Board of Directors.
- 8.1.3.1 The Board of Directors may appoint any Member as President of a newly established Division until such time as an election can be held.

##### **Council of Divisional Presidents**

- 8.1.4 There shall be a Council of Divisional Presidents comprising the presidents of each of the Divisions of the Institute. The Divisional Presidents are elected or otherwise appointed in accordance with these By-laws.
- 8.1.4.1 The purpose of the Council of Divisional Presidents is to advise the Institute on the strategic direction of the Institute and to ensure the views of members through the Divisional Advisory Councils are provided to the Board from time to time. Council of Divisional Presidents shall meet at least twice per annum and shall meet with the Board of Directors at least once per annum.

#### 8.2 Annual Divisional Advisory Committee Meetings

- 8.2.1 A Divisional Advisory Committee shall hold an Annual Divisional Advisory Committee meeting of Members of that Division.

### **Time, place and manner for the holding of an Annual Divisional Advisory Committee Meeting**

- 8.2.2 The Annual Divisional Advisory Committee Meeting is to be held not later than the last day of the second month following the end of the preceding financial year at such time, manner and place as the Divisional Advisory Committee determines. The time, manner and place for holding the meeting may be varied by the Board.

### **Place of Annual Divisional Council Meeting**

- 8.2.3 Repealed.

### **Business of an Annual Divisional Advisory Committee Meeting**

- 8.2.4 The business of an Annual Divisional Advisory Committee Meeting shall be to receive and consider the report of the Divisional Advisory Committee for the preceding financial year, to announce the results of elections (if applicable) and to consider such other business relating to the activities of that Divisional Advisory Committee as may be raised at the meeting, of which due notice has been given.
- 8.2.5 A Member shall give notice in writing of any business to be brought before an Annual Divisional Advisory Committee meeting not less than fourteen days prior to the scheduled meeting date. No business, other than business brought forward by the Members of the Divisional Advisory Committee, shall be considered.

### **Notice of Annual Divisional Advisory Committee Meeting**

- 8.2.6 Not less than twenty-one days notice of an Annual Divisional Advisory Committee Meeting, specifying the place, day and time of the meeting and the general nature of the business to be dealt with shall be given in the manner hereinafter provided.
- 8.2.7 All notices may be served upon Members attached to the respective Division either personally or by sending the same through the post addressed to such Member at the address as entered in the Register of Members, or may be given by electronic means if a Member nominates an electronic address, or in exceptional circumstances, may be served by advertisement in at least one major local daily newspaper.
- 8.2.8 The notice of an Annual Divisional Advisory Committee Meeting shall be deemed to be sufficiently given if notice thereof is published in any publication, including newsletters, journals and promotional material of the Institute.
- 8.2.9 Any notice sent by post shall be deemed to have been served on the fifth working day following posting. Any notice given by electronic means shall be deemed to be served on the day of electronic transmission. Any notice given by advertisement shall be deemed to have been served on the day of issue of the newspaper in which the advertisement appears.
- 8.2.10 The accidental omission to give notice of a meeting to or the non-receipt of such notice by any Member shall not invalidate the proceedings of the Annual Divisional Advisory Committee Meeting in pursuance of such notice.

### **Quorum**

- 8.2.11 Each Divisional Advisory Committee shall determine the quorum necessary for the transaction of its business including the business of the Annual Divisional Advisory Committee, provided such a quorum is not in any case less than three.

### **Quorum not present**

- 8.2.12 If a quorum is not present within fifteen minutes of the time appointed for the Annual Divisional Advisory Committee Meeting the meeting stands adjourned to the same day in the next week at the same time and place or to such other day (not being more than fourteen days after such meeting) at such time and place as the Chairman of the meeting may appoint.
- 8.2.13 If at the adjourned meeting a quorum is not present within fifteen minutes from the time appointed for the meeting the meeting shall be dissolved.

### **Chair of Annual Divisional Advisory Committee Meetings**

- 8.2.14 The Divisional President, or in the Divisional President's absence, the Divisional Deputy President or, in the Divisional Deputy President's absence, a Divisional Advisory Committee member to be chosen by the Members present, shall be entitled to take the chair at every Annual Divisional Advisory Committee Meeting and, if at any meeting no person entitled to take the Chair shall be present within fifteen minutes after the time appointed for holding such meeting, or, if all such persons present decline to take the chair, then the Members present shall choose one of their number to be Chairman.

### **Voting at Annual Divisional Advisory Committee Meetings**

- 8.2.15 Every Member present at an Annual Divisional Advisory Committee Meeting and entitled to vote shall be entitled to one vote.
- 8.2.16 Any business of the Annual Divisional Advisory Committee Meeting put to the vote shall be decided on a show of hands of Members present and entitled to vote.
- 8.2.17 No Member shall be entitled to vote on any business before an Annual Divisional Advisory Committee Meeting:
- (a) who is an honorary Member; or
  - (b) whose subscription or any other sum prescribed by the Board of Directors is overdue for three months.

### **Casting vote of Chairman**

- 8.2.18 In the case of an equality of votes, whether on a show of hands, the Chairman of the meeting at which the show of hands takes place, in addition to the vote to which the Chairman may be entitled as a Member, shall have a casting vote.

### **Record keeping**

- 8.2.19 A declaration by the Chairman that a question 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 minute book of the Divisional Advisory Committee shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

### **Adjourning an Annual Divisional Advisory Committee Meeting**

- 8.2.20 The Chairman of an Annual Divisional Advisory Committee Meeting may with the consent of any Annual Divisional Advisory Committee Meeting at which a quorum is present, and shall if so directed by the meeting, adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- 8.2.21 Except as provided in By-Law 8.2.22, it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.
- 8.2.22 When an Annual Divisional Advisory Committee Meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.
- 8.2A Repealed.
- 8.2A.1 Repealed (refer to The Constitution).
- 8.2A.2 Repealed.
- 8.3 **Divisional Advisory Committee composition**
- 8.3.1 In accordance with Clause 117 of the Constitution, the conduct of Divisional Advisory Committee elections is prescribed in the following By-laws.

### **Term of Divisional Advisory Committee Members**

- 8.3.2 The term of appointment of a member to the Divisional Advisory Committee shall be three years commencing from the conclusion of the next Annual Divisional Advisory Committee Meeting.

### **Nominations**

- 8.3.3 No person shall be appointed to a Divisional Advisory Committee unless they have been nominated for such position. Every nomination shall be on the prescribed form (IPA 005) signed by two Members of the Division and countersigned by the applicant and shall be lodged with the Institute not later than the end of the preceding financial year. Retiring committee Members can re-nominate for election.
- 8.3.4 The applicant must be a Member attached to the Division in which the Divisional Advisory Committee they are seeking appointment to is established. Members nominating the said applicant must also be attached to the same Division in which the Divisional Advisory Committee the applicant is seeking appointment to is established.

### **Nominations equal to or less than number of Councillorships vacant**

- 8.3.5 Repealed.

### **Nominations exceed number of vacant Councillorships**

- 8.3.6 Repealed.

### **Voting procedures – appointment of a Returning Officer**

8.3.7 Repealed.

**Voting procedures – appointment of a Scrutineer**

8.3.8 Repealed.

8.3.9 Repealed.

**Voting procedures – voting papers**

8.3.10 Repealed.

8.3.11 Repealed.

**Voting procedures – statement of personal particulars**

8.3.12 Repealed.

**Voting procedures – voting**

8.3.13 Repealed.

8.13.14 Repealed.

**Voting procedures – altering a vote**

8.3.15 Repealed.

**Voting procedures – determining if a Member has voted**

8.3.16 Repealed.

**Voting procedures – determining the validity of a ballot paper**

8.3.17 Repealed.

8.3.18 Repealed.

**Voting procedures – destruction of voting papers**

8.3.19 Repealed.

**Voting procedures – counting of votes**

8.3.20 Repealed.

**Voting procedures – determining the successful candidate/ s**

8.3.21 Repealed.

**Voting procedures – determining the successful candidate – tied vote**

8.3.22 Repealed.

**Voting procedures – report of the Returning Officer and Scrutineer**

8.3.23 Repealed.

#### **Voting procedures – announcing the result of a ballot**

8.3.24 Repealed.

#### **Beginning of term as a Divisional Councillor**

8.3.25 Repealed.

#### **Determining questions of detail for Divisional Councillor elections**

8.3.26 Repealed.

#### **Casual vacancies**

8.3.27 Repealed.

#### **Additional Divisional Advisory Committee Members**

8.3.28 A Divisional Advisory Committee may at any time and from time to time appoint a Member as an additional member of the Divisional Advisory Committee. The Member so appointed shall hold appointment until the expiry of terms of current Divisional Advisory Committee Members.

#### **8.4 Proceedings of Divisional Advisory Committee Meetings**

8.4.1 Pursuant to Clause 118 of the Constitution, the proceedings of Divisional Advisory Committee meetings shall be regulated as follows.

#### **Exercising the responsibilities of a Divisional Advisory Committee**

8.4.2 A meeting of a Divisional Advisory Committee at which a quorum is present shall be competent to exercise all or any of the responsibilities vested in it.

8.4.3 All acts done at any meeting of a Divisional Advisory Committee or by any person acting as a Divisional Advisory Committee Member shall, notwithstanding it was afterwards discovered that there was some defect in the appointment of such Divisional Advisory Committee or Divisional Advisory Committee Member that they or any of them were disqualified, be as valid as if such Divisional Advisory Committee or Divisional Advisory Committee Member had been duly appointed and was qualified to act.

#### **Convening a meeting of a Divisional Advisory Committee**

8.4.4 A Divisional Advisory Committee may meet or adjourn their meetings as they think fit. Notwithstanding this, a Divisional Advisory Committee may not meet more than once every two months or less than once every three months.

8.4.5 A meeting of a Divisional Advisory Committee shall also be convened at any time upon the request of the Divisional President, or of a number of Divisional Advisory Committee Members sufficient to form a quorum of such committee (see Clause 119 of the Constitution and By-laws 8.5.1).

- 8.4.6 Notwithstanding By-laws 8.4.2 and 8.4.4, the Board of Directors have the authority to call or cancel a meeting of a Divisional Advisory Committee as they think fit. Any meeting that proceeds that has been cancelled by the Board of Directors is not a Divisional Advisory Committee and does not bind the Institute in any situation.

#### **Voting procedures at Divisional Advisory Committee meetings**

- 8.4.7 Questions at any meeting of a Divisional Advisory Committee shall be decided by a majority of votes recorded and, in the case of an equality of votes, the Chairman shall in addition, have a casting vote.
- 8.4.8 Issues to be discussed at Divisional Advisory Committee meetings shall be limited to its responsibilities as established in Clause 113 of the Constitution, the election of office bearers (Divisional President and Deputy President), determining questions of detail in Divisional Advisory Committee elections and determining its quorum.

#### **Presiding over meetings**

- 8.4.9 At all meetings of a Divisional Advisory Committee the Divisional President of that Advisory Committee shall preside or, in the Divisional President's absence, the Divisional Deputy President and, in the absence of all the above Divisional office bearers, a Chairman shall be elected from amongst the Divisional Advisory Committee Members of the particular Advisory Committee.

#### **Record keeping**

- 8.4.10 Each Divisional Advisory Committee shall cause to be regularly recorded minutes of the proceedings of their respective Divisional Advisory Committee meetings. The minutes of Divisional Advisory Committee meetings signed by the Chairman of the succeeding meeting, shall be conclusive evidence of the transactions recorded in such minutes.

#### **8.5 Quorum of Divisional Advisory Committee**

- 8.5.1 Each Divisional Advisory Committee shall determine the quorum necessary for the transaction of its business, provided such a quorum is not in any case less than three.
- 8.5.2 The Divisional Advisory Committee is to inform the Board of Directors of its quorum decided pursuant to By-Law 8.5.1.

#### **8.6 Appointment of Directors by a Nominations Committee**

- 8.6A The Nominations Committee shall meet not later than the last day of the second month following the end of the financial year to determine the appointments of the Board of Directors. For the avoidance of doubt, existing terms of Directors from the date of adoption of these By-laws shall be honoured to preserve the rotation cycle of the Board.

#### **Nominations for appointment to the Board by Nominations Committee**

- 8.6.1 Nominations of candidates for appointment as Directors shall be on the prescribed form (IPA 003) and shall be signed by two or more Members as nominators and countersigned by the candidate. Nominees may elect to include a curriculum vitae and statement of particulars at the time of nomination or any other information determined by the Nominations Committee from time to time.

- 8.6.2 Nominations for candidates to be appointed Directors close seven days prior to the date the Nominations Committee is to meet to appoint the Directors (see Clause 57). The nominations must be received by the Chief Executive Officer or the Chief Executive Officer's nominee.

**Number of nominations equal or less than the number of Directorships available**

- 8.6.3 If the number of candidates nominated for appointment as a Director is equal to or less than the number of Directorships available for election, the Chairman of the Nominations Committee meeting may declare the candidate or candidates (as the case may be) nominated as appointed a Director of the Institute.

**Number of nominations exceeds Directorships available**

- 8.6.4 The Nominations Committee shall conduct a merit-based selection process based on the needs of the Institute. The Nominations Committee may seek additional information from candidates for appointment including, but not limited to, a detailed curriculum vitae, references and interviews.

**Voting and Determination of a Nominations Committee**

- 8.6.5 The determination of the Nominations Committee shall be final. No discussion on the deliberations of the Nominations Committee will be entered into.
- 8.6.6 The Chief Executive Officer as Company Secretary or the Chief Executive Officer's nominee shall be the Executive Officer and shall record the appointment of a Director pursuant to Clause 56 of the Constitution.
- 8.6.7 Repealed.
- 8.6.8 Repealed.
- 8.6.9 Repealed.
- 8.6.10 Repealed.
- 8.6.11 Repealed.

**Insufficient or no nominations are received**

- 8.6.12 If insufficient or no nominations are received, then a casual vacancy exists, which the Nominations Committee may fill pursuant to Clause 65 of the Constitution.

- 8.7 Divisional Advisory Committee Office bearers

**Pre-requisite to being a Divisional Advisory Committee Office bearer**

- 8.7.1 Candidates for election as a Divisional Advisory Committee Office bearer must be Members of the respective Divisional Advisory Committee in which they are seeking election to as an office bearer.



## **Nominations**

- 8.7.2 Nominations of candidates for election as Divisional President and Divisional Deputy President shall be on the prescribed form (e.g. IPA 002) and shall be signed by two or more Members of the respective Division as nominators and countersigned by the candidate.
- 8.7.3 Nominations for candidates to be elected as a Divisional Advisory Committee Office bearer close seven days prior to the date of the meeting at which the Divisional Advisory Committee is to elect their office bearers (see Clause 126). The nominations must be received by the Chief Executive Officer or the Chief Executive Officer's nominee.

### **Number of nominations equal or less than the number of Divisional Advisory Committee Office bearer positions available**

- 8.7.4 If only one candidate is nominated for election to an office referred to in 8.7.2, the Chairman of the Divisional Advisory Committee meeting shall declare the candidate nominated as elected to the appropriate office.

### **Number of nominations exceeds the number of Divisional Advisory Committee Office bearer positions available**

- 8.7.5 If more than one candidate is nominated for election to any office referred to in By-Law 8.7.2, then a ballot shall be conducted at the Divisional Advisory Committee meeting amongst the Divisional Advisory Committee Members present at such meeting and such ballot shall be conducted in accordance with the following provisions and otherwise as the Board of Directors from time to time determines.

## **Voting procedure**

- 8.7.6 A Divisional Advisory Committee member voting shall mark their ballot paper by placing the number 1 in the square opposite the name of the candidate for whom the Advisory Committee member votes as their first preference, and shall give contingent votes for all the remaining candidates by placing the numbers, 2, 3, 4 (and so on, as the case requires) in the squares opposite their names so as to indicate the order of preference.
- 8.7.7 The Chief Executive Officer or the Chief Executive Officer's nominee shall conduct the ballot for election of Divisional Advisory Committee Office bearers pursuant to Clause 126.
- 8.7.8 The ballot shall be conducted as a secret ballot and votes shall be counted as provided in this By-Law.
- 8.7.9 The Chief Executive Officer or the Chief Executive Officer's nominee shall count the first preference votes given for each candidate and the candidate who has received the largest number of first preference votes shall, if that number constitutes an absolute majority of votes, be elected.
- 8.7.10 If no candidate has received an absolute majority of first preference votes then:
- (a) the candidate who has received the fewest first preference votes shall be excluded, and each ballot-paper counted to that candidate shall be counted to the candidate next in the order of the voter's preference; and

- (b) if no candidate then has an absolute majority of votes, the process in By-Law 8.7.10(a) shall be repeated until one candidate has received an absolute majority of votes.

8.7.11 During the exclusion process, if on any count two or more candidates have an equal number of votes and one of them has to be excluded then:

- (a) a count of the number of next preferences for the candidates will continue until a candidate is recognised as having few higher preferences than the other candidates. Once this has been established, the candidate with the fewer votes will be excluded;
- (b) if at the end of this process, the candidates still have an equal number of votes, then the selected candidate for exclusion will be by the drawing of lots; and
- (c) if more than one position is required from the ballot, all voting papers are returned to the poll, the already appointed candidate is excluded, and a similar vote allocation process is undertaken. This process is continued until the required number of positions have been decided.

#### **Announcing the result of the election**

8.7.12 The Chairman of the Divisional Advisory Committee meeting shall announce the result of any election and declare the successful candidates as being elected to the appropriate office and report such result to the Board of Directors.

#### **Insufficient or no nominations are received**

8.7.13 If insufficient or no nominations are received, the office referred to in By-Law 8.7.2 is a casual vacancy. If the position that is vacant is of Divisional President, then the Divisional Deputy President shall act in the position as Divisional President. In all other situations, the positions remain vacant until they can be filled. A meeting of a Divisional Advisory Committee can still proceed; the Chairman of such a meeting shall be elected from amongst the Divisional Advisory Committee Members present.

#### **Duties of Divisional Advisory Committee Office bearers – Divisional President**

8.7.14 The Divisional President is to preside at all Divisional Advisory Committee and Annual Divisional Advisory Committee Meetings.

8.7.15 In the event of the Divisional President being absent, the Divisional Deputy President shall preside.

8.7.15.1 The Divisional President shall also be appointed ex officio to the Council of Divisional Presidents of the Institute.

#### **Duties of Divisional Office bearers – Divisional Deputy President**

8.7.16 The Divisional Deputy President will, in the absence of the Divisional President from a meeting of the Divisional Advisory Committee or a ceremonial occasion act for the Divisional President. If the Divisional President is unable to attend a meeting of the Council of Divisional Presidents, the Divisional Deputy President shall attend such a meeting and discharge all responsibilities and functions of the office as if the Divisional President was present.

### **Term of office for Divisional Office bearers**

- 8.7.17 Pursuant to Clause 126 of the Constitution, a Divisional President and Divisional Deputy President shall respectively hold office until the end of the Annual General Meeting of the Institute and any vacancy occurring before such successor is appointed may be filled as a casual vacancy at a meeting of the particular Divisional Advisory Committee to be held as soon as practicable after the occurrence of the vacancy.
- 8.7.18 Repealed.
- 8.7.19 Repealed.
- 8.7.20 A former office bearer shall not be eligible for election to that same office within two years of ceasing to hold that office.
- 8.7.20.1 Unless otherwise resolved by the Board of Directors, a Divisional Office bearer shall be precluded from nominating for the Board of Directors for a minimum of 12 months upon leaving office.

### **Duties of Divisional President and Division Deputy President**

- 8.7.21 Repealed.
- 8.8 Nominations Committee
- 8.8A There shall be a Nominations Committee comprising the Chair of the Board, the Chair of the Council of Divisional Presidents and an independent member. The purpose of the Nominations Committee is to appoint the member-elected Directors pursuant to Clause 56 of the Constitution and appoint casual vacancies to the Board of Directors pursuant to Clause 65 of the Constitution.

### **Meetings of the Nominations Committee**

- 8.8.1 The Nominations Committee shall meet at least twice per annum and is required to finalise determinations for appointment to the Board by the end of the second month following the end of the financial year. The Chief Executive Officer or the Chief Executive Officer's nominee shall be the Executive Officer of the Nominations Committee.

### **Board Competencies**

- 8.8.2 The Nominations Committee shall determine the specific competencies required of applicants for appointment to the Board of Directors.

### **Call for Nominations**

- 8.8.3 The Nominations Committee shall, prior to the end of the financial year, issue a Call for Nominations notice to all Members in a form and manner it determines seeking applications for appointment to the Board of Directors. The Call for Nomination shall require Members to submit their nomination for appointment on the prescribed form (IPA003).

### **Chairmanship**

- 8.8.4 The Chair of the Board shall also Chair the Nominations Committee.
- 8.8.5 In the event the Chair of the Nominations Committee is unable to act as Chair, or resigns, is a candidate for appointment to the Board of Directors or is otherwise disqualified, a Deputy President of the Board shall Chair the Nominations Committee.

### **Divisional Presidents nominating for the Board of Directors**

- 8.8.6 Pursuant to 8.7.20.1 above, in the event a Divisional President applies to be appointed a Director, or is otherwise to be considered for appointment as a Director, the Divisional President shall take a leave of absence from the position of Divisional President and member of the Nominations Committee. In such cases, the Divisional Deputy President shall assume these roles and perform these functions until the appointment is determined. In such cases where the Divisional President and Deputy President apply to be appointed a Director, the Divisional Advisory Committee shall meet and elect a member to act as Divisional President until the appointment process of Directors is resolved. A Member must not hold the concurrent appointments of Director and Division President or Division Deputy President.

### **Voting**

- 8.8.7 Determinations of the Nominations Committee shall be by consensus, however on matters of Board appointments, should a ballot be required it shall be conducted in accordance with these By-laws.

### **Review of the Performance of the Board of Directors**

- 8.8.9 In conjunction with the Chairman of the Board of Directors, the Nominations Committee will oversee the framework for the review of performance of the Directors.

### **Recommendation of Director Entitlements**

- 8.8.10 The Nominations Committee may make recommendations to the Board of Directors in relation to the entitlements of Directors including, but not limited to, reimbursements and compensation.

### **Record keeping**

- 8.8.11 The Nominations Committee shall cause to be regularly recorded minutes of the proceedings of their respective meetings. The minutes of Nominations Committee meetings signed by the Chairman of the succeeding meeting, shall be conclusive evidence of the business recorded in such minutes.

### **Notice**

- 8.8.12 Not less than seven days notice of a Nominations Committee meeting, specifying the place, day and time of the meeting and the general nature of the business to be dealt with shall be given in the manner hereinafter provided.
- 8.8.13 All notices may be served upon Members of the Nominations Committee either personally or by sending the same through the post addressed to such Member at the address as entered in the Register, or may be given by electronic means if a Member nominates an electronic address.
- 8.8.14 The notice of a meeting of the Nominations Committee shall be deemed to be sufficiently given if notice thereof is published in any publication, including newsletters, journals and promotional material of the Institute.
- 8.8.15 Any notice sent by post shall be deemed to have been served on the fifth working day following posting. Any notice given by electronic means shall be deemed to be served on the day of electronic transmission. Any notice given by advertisement shall be deemed to have been served on the day of issue of the newspaper in which the advertisement appears.
- 8.8.16 The accidental omission to give notice of a meeting to, or the non-receipt of such notice by any Member shall not invalidate the proceedings of the Nominations Committee meeting in pursuance of such notice.

#### **Quorum**

- 8.8.17 Two Members personally present and entitled to vote shall be a quorum for a meeting of the Nominations Committee. No business shall be transacted at any Annual Divisional Advisory Committee Meeting unless the requisite quorum is present.

#### **Quorum not present**

- 8.8.18 If a quorum is not present within fifteen minutes of the time appointed for the Annual Divisional Advisory Committee Meeting the meeting stands adjourned to the same day in the next week at the same time and place or to such other day (not being more than fourteen days after such meeting) at such time and place as the Chairman of the meeting may appoint.
- 8.8.19 If at the adjourned meeting a quorum is not present within fifteen minutes from the time appointed for the meeting the meeting shall be dissolved.

## Chapter 9

### Ancillary Clauses

#### 9.1 Professional Practice

9.1.1 Pursuant to Clauses 127 to 129 of the Constitution, the Board of Directors prescribe the following obligations on Members providing professional practice services:

- (a) the Professional Practice Certificate shall be in a form approved by the Institute, and its issue shall be recorded in a register kept for that purpose.

#### **Members who must hold a Professional Practice Certificate**

9.1.2 Members who must hold a Professional Practice Certificate are those:

- (a) Who provide accounting and related services to the public such as financial reporting; bookkeeping; insurance; auditing, self-managed superannuation fund (SMSF) auditing; taxation; corporate reconstruction/ advisory; bankruptcy; financial planning/ investment advice; superannuation; business/ management consulting; company secretarial/ Board; advice/ Counsel Associated with the sale, listing or purchase of a business or securities; and all similar activities; or otherwise as deemed by the IPA; or
- (b) Whose firm is advertised or promoted as “Institute of Public Accountants” and/ or as a part of that promotion uses any other branding or intellectual property of the IPA and irrespective of the business activity of that firm; or
- (c) Where the Member is a partner or principal of the firm and irrespective of their functional responsibilities; or.
- (d) Where the Member provides services on contract to an accounting firm and the Member is not covered by that firm’s professional indemnity insurance; or
- (e) Holds any beneficial equity in the practice; or.
- (f) Where the IPA otherwise deems the service to be that which the member must have a Professional Practice Certificate;

and

Whose annual gross income from the provision of services to the public exceeds the amount which is equivalent to the currently provided tax free threshold.

9.1.3 Where a firm uses IPA branding and/ or intellectual property to promote the services of that firm, then the principal of that firm must be an IPA Member and hold a Professional Practice Certificate.

9.1.4 Members whose gross annual income from the provision of services to the public as stated in By-Law 9.1.2, is below the amount which is equivalent to the currently provided tax free threshold are not required to hold a Professional Practice Certificate.

- 9.1.5 Members that do not hold a Professional Practice Certificate are not permitted to advertise their professional services to the public or use IPA branding to market their professional services to the public.

#### **Members who may hold a Professional Practice Certificate**

- 9.1.6 Members whose gross annual income from the provision of services to the public as stated in By-Law 9.1.2, is below the amount which is equivalent to the currently provided tax free threshold are permitted to hold a Professional Practice Certificate if they so choose to do so and must comply with the requirements to hold a Professional Practice Certificate.

#### **Application for a Professional Practice Certificate**

- 9.1.7 All Members who apply to hold a Professional Practice Certificate are required to comply with all requirements for the issue of a Professional Practice Certificate.

#### **Issuing of Professional Practice Certificates**

- 9.1.8 Professional Practice Certificates will be issued in the name of a Member and in the name of the Members Entity only if the Member holds a Professional Practice Certificate.

#### **Requirements for holders of Professional Practice Certificates**

- 9.1.9 A Member who holds a Professional Practice Certificate must:
- (a) pay the annual Certificate fee (if any) determined by the Board of Directors;
  - (b) participate in professional practice survey(s) and / or Declarations as requested by the Institute;
  - (c) comply with all other requirements of the Constitution, By-laws and Pronouncements and comply with the requirements of the Institute's Professional Practice Manual;
  - (d) successfully complete the Institute's Professional Practice Program within 6 months of obtaining a Professional Practice Certificate; and
  - (e) hold professional indemnity insurance as per By-Law 9.1.11.
- 9.1.10 A Member who holds a Professional Practice Certificate must also:
- (a) if the Member is a sole practitioner, ensure that they are covered under a contract and/ or scheme of professional indemnity insurance which complies with By-Law 9.1.11 and which provides run-off cover for claims against the Member after ceasing to offer professional practice services or ceased to hold a professional practice certificate;
  - (b) if the Member is a partner of an accounting firm, ensure that the Member and the firm and all other partners of the firm (whether or not they are Members of the Institute) are covered under a contract and/ or scheme of professional indemnity insurance that complies with By-Law 9.1.11; and

- (c) if the Member is a Director of an accounting company, ensure that the Member and the company and all other Directors and Executive Officers of the company (whether or not they are Members of the Institute) are insured under a contract and/ or scheme of professional indemnity insurance that complies with By-Law 9.1.11

### Professional indemnity insurance

9.1.11 Members may be excluded from the Professional Standards Scheme if they don't hold Professional Indemnity insurance in accordance with this By-law. Professional indemnity insurance must provide:

- (a) cover for the amount(s) specified by the Board of Directors for each and every claim, currently until 31 December 2021, not being less than \$2 million for each reinstatement (any one claim);
- (b) cover for the amount(s) specified by the Board of Directors for each and every claim, commencing on 1 January 2022:
- not being less than \$2 million for each reinstatement for Members that generated annual fee income (excluding goods and services tax) of less than \$10 million in the financial year immediately preceding any act or omission that has given rise to an occupational liability (damages claim); or
  - not being less than \$10 million for each reinstatement for Members that generated annual fee income (excluding goods and services tax) of \$10 million or more in the financial year immediately preceding any act or omission that has given rise to an occupational liability (damages claim); or
  - not being less than the monetary ceiling (Scheme cap) specified by the Board of Directors who under section 26 of the *Professional Standards Act 2003* (*Vic*), have the discretionary authority to specify, on application by a Member, a higher monetary ceiling for that Member, not exceeding \$75 million.
- (c) a policy excess (deductible) of no more than an amount determined by the Board of Directors from time to time, currently being no more than 2 per cent of the policy limit of indemnity, or \$200,000, whichever is the lower amount;
- (d) cover obtained from an Australian Prudential Regulation Authority (APRA) regulated insurer, which can be verified at: <https://www.apra.gov.au/register-general-insurance>;
- (e) a minimum of one reinstatement and preferably unlimited reinstatements;
- (f) a defence cost exclusive policy, however if the policy is defence cost inclusive, the policy sets an additional 25 per cent above the policy limit of indemnity amount to fund defence costs;
- (g) unlimited retroactive cover;
- (h) cover for defamation;
- (i) cover for claims arising out of the dishonesty of an employee;
- (j) cover for the cost of replacing or repairing documents lost, damaged or destroyed;



- (k) cover for any civil legal liability or any act, error or omission, subject to reasonably common exceptions; and
- (l) run-off cover for claims against the Member after cessation of business or ceased to hold a Professional Practice Certificate for a period of at least seven years, however if the policy does not include run-off cover, the Member must arrange and maintain run-off cover for a period of seven years following cessation of the business.

### **Members not complying with this By Law**

- 9.1.12 If a Member does not hold a Professional Practice Certificate but whose income from the provision of professional practice services exceeds the current tax free threshold in any one year then the Member shall apply for and comply with all the requirements for the issue of a Professional Practice Certificate. Such a Member shall have a period of six months from the time at which their income exceeds the current tax free threshold to comply with the requirements for the issue of a Professional Practice Certificate.
  - 9.1.13 If such a Member mentioned in By-Law 9.1.6 believes that income in the following year from the provision of services to the public will not exceed the tax free threshold, the Member may apply in writing to the Institute for exemption from the requirement to hold a Professional Practice Certificate.
  - 9.1.14 A Member suspected of offering practice services or otherwise required to hold a PPC who fails to hold a current PPC, will be automatically referred to the IPA Disciplinary Tribunal for determination. This may include admonishment, censure, suspension, fine, forfeiture or some other penalty as determined by the Tribunal from time to time. At its discretion, the Tribunal may rely upon the provisions of Pronouncement 12 to effect any determination.
- 9.2 Fees and subscriptions
- 9.2.1 In accordance with directives given from time to time by the Board of Directors, the Institute may, for reasons it considers adequate, excuse any Member for such period as it may think fit from payment of subscription and fees in whole or in part.
- 9.3 Constitution, By-laws, Pronouncements
- 9.3.1 Members should have access to an up-to-date copy of the IPA's Constitution, By-laws and Pronouncements in any format.

## Chapter 10

### Bye-laws for IFA Members (UK spelling)

#### 10.1 Citation, definitions and interpretation

10.1.1 These Bye-laws may be cited as the Bye-laws of the Institute of Financial Accountants. They shall take effect on 1 January 2018.

10.1.2 In these Bye-laws, unless the context otherwise requires:

**Act**

the Companies Act 2006;

**Affiliate**

a person who is a director, partner or LLP member in a firm regulated by the Institute but who is not a Member of the Institute.

**Articles**

the Articles of the Institute as amended from time to time;

**Board**

the Board of Directors of the Institute as from time to time constituted;

**Chief Executive Officer**

Chief Executive Officer of the Institute;

**Conduct Committee**

any one or more of the Investigations Committee, Disciplinary Committee or Appeal Committee;

**Disciplinary order**

an order given by a Conduct Committee resulting from disciplinary proceedings;

**Group Chief Executive Officer**

the Group Chief Executive Officer of the Institute of Public Accountants.

**Institute**

the Institute of Financial Accountants;

**IPA**

the Institute of Public Accountants Limited, a company limited by guarantee whose registered address is Level 6, 555 Lonsdale Street, Melbourne Victoria 3000, Australia (Australian Business Number 81 004 130 643).

**Member**

a member of the Institute and membership shall be construed accordingly. This includes an Associate, Fellow Member and Honorary Member For the purposes of these Bye-laws member does not mean a member as defined under the Companies Act 2006;

**Member Firm**

a sole practitioner, partnership, limited partnership or body corporate which is engaged in Public Practice where more than 50% of the rights to vote on all, or substantially all, matters of substance regarding the firm are held by Members. This includes:

- (a) a partnership engaged in Public Practice of which more than 50% of the rights to vote on all, or substantially all, matters of substance at meetings of the partnership are held by members; or
- (b) a limited liability partnership engaged in Public Practice of which more than 50% of the rights to vote on all, or substantially all, matters of substance at meetings of the partnership are held by members; or
- (c) any body corporate (other than a limited liability partnership) engaged in Public Practice of which:
  - (i) 50% or more of the directors are members; and
  - (ii) more than 50% of the nominal value of the voting shares is held by members; and
  - (iii) more than 50% of the aggregate in nominal value of the voting and non-voting shares are held by members;

**Money Laundering Regulations**

Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 as amended or re-enacted from time to time or the equivalent legislation in other jurisdictions;

**Practising Certificate**

a certificate issued to a Member under the Institute's Public Practice regulations in force from time to time authorising the Member to engage in Public Practice.

**Practice or Public Practice**

practice as a public accountant in the United Kingdom, whether in the capacity of sole practitioner, in partnership or through the medium of a body corporate or otherwise, other than as an employee. "Practising" as applied to a person shall be construed accordingly;

**Register of Members**

the list of individuals and their details required to be kept in accordance with these Bye-laws. A Member admitted pursuant to these Bye-laws shall be entered onto the Register of Members.

**Register of Member Firms**

the list of Member Firms and their details required to be kept in accordance with these Bye-laws;

**Registered Address**

- (a) in the case of a Member Firm, the place of business registered by Member Firm with the Institute or, where more than one such place of business is registered, such place of business indicated by the Member Firm as being his principal place of business; and
- (b) in the case of a Member, a Student or Affiliate, the address registered by them with the Institute.

**Regulation**

any regulation, code or standing order made, adopted or approved by the Board in accordance with these Bye-laws;

**Student**

a person registered as a Student with the Institute;

**United Kingdom**

the United Kingdom of Great Britain and Northern Ireland and includes the Channel Islands and the Isle of Man;

**Working days**

any day other than a Saturday, Sunday, UK bank holiday or public holiday;

10.1.3 The rules of interpretation set out below apply to these Bye-laws.

10.1.4 A reference to:

- (a) a "person" includes a reference to any individual, firm, partnership, unincorporated association or company wherever incorporated or situate;
- (b) a "document" includes, unless otherwise specified, any document sent or supplied in electronic form; and
- (c) a "company" shall include any company, corporation or other body corporate, wherever and however incorporated or established.

10.1.5 Unless the context otherwise requires:

- (a) words denoting the singular shall include the plural and vice versa;
- (b) words denoting a gender shall include all genders; and
- (c) references to (or to any specified provision of) these Bye-laws or any other document shall be construed as references to these Bye-laws, that provision or that document as in force and as amended from time to time.

10.1.6 Unless stated to the contrary, a reference to a statute, statutory provision or subordinate legislation includes a reference to it as modified, replaced, amended and/or re-enacted from time to time (before or after the date of these Bye-laws) and any prior or subsequent legislation made under it but this Bye-law shall not impose on any person any greater obligation than would otherwise apply.

10.1.7 Headings and sub-headings are for convenience only and shall not affect the interpretation of these Bye-laws.

## 10.2 Membership

10.2.1 All decisions in relation to admission, readmission or termination of membership, changes in classes or status of membership and designations may be delegated to the Chief Executive Officer by the Board with the exception of other membership admissions (Bye-laws 10.2.18-10.2.20).

### **Application for Membership**

10.2.2 All applications for membership shall be submitted in the prescribed form to the Institute whose duty shall be to enquire into the qualifications, professional experience; standing and general character of the applicant. Every application for membership, at any grade, requires the payment of a non-refundable application fee as prescribed from time to time.

10.2.3 The Institute will take reasonable steps to satisfy itself as to the entitlement of the applicant to membership. The Institute may admit to membership any person who is a member of another professional body of accountants which in the opinion of the Institute and the Group Chief Executive Officer is equivalent to that of the Institute and IPA provided membership criteria are met.

10.2.4 On admission to membership, a full year's subscription shall be payable as well as any other fees due.

#### **Associate**

10.2.5 For admission to membership as an associate, the applicant shall provide documentary evidence of being:

- (a) the holder of a UK accountancy qualification approved by the Institute; or
- (b) the holder of an overseas accountancy qualification approved by the Institute; or
- (c) a member of another professional body approved by the Institute; and
- (d) experience in accountancy or a related field, of not less than three years.

#### **Fellow**

10.2.6 For admission to membership as a fellow, the applicant shall provide documentary evidence of being:

- (a) the holder of a UK accountancy qualification approved by the Institute; or
- (b) the holder of an overseas accountancy qualification approved by the Institute; or
- (c) a member of another professional body approved by the Institute; and
- (d) experience in accountancy or a related field of not less than ten years, the last five years of such experience being at a senior level in accountancy.

#### **Advancement from Associate to Fellow**

10.2.7 All applications to advance from associate to fellow membership of the Institute shall be submitted to the Institute using the prescribed form. The applicant must provide documentary evidence of having experience in accountancy of not less than ten years the last five years of such experience being at a senior level in accountancy. In addition, the applicant must have been an Associate for at least five years immediately prior to the date of their application to become a Fellow.

#### **Register of Members**

10.2.8 A Register of Members shall be kept in such form as the Institute may determine from time to time.

10.2.9 A list of Members shall be available for public inspection.

#### **Obligations of Members**

10.2.10 All Members shall undertake to:

- (a) be bound by the Institute Articles, Bye-laws and regulations;

- (b) pay the prescribed fees and subscriptions;
- (c) comply with continuing professional development requirements as set out in these Bye-laws;
- (d) submit an annual membership return and, if appropriate, an annual practice return to the Institute in such form and at such time as the Institute may prescribe; and
- (e) notify the Institute within 21 working days of any change of Registered Address or electronic mail address.

### **Certificates of Membership**

10.2.11 A Member shall be entitled to a certificate of membership when they are admitted to membership and on changing their category of membership. The certificate of membership – shall specify the membership designation.

10.2.12 The certificate shall remain the property of the Institute and shall be returned to the Institute on demand including (but not limited to) in the event of termination of membership for any reason or temporary suspension of membership.

### **Designation, Designatory Letters and Logos**

10.2.13 Members who are admitted to the Institute at Tax Adviser level may use the designatory letters ATA (Associate Tax Adviser) or FTA (Fellow Tax Adviser) after their names and may use the description “Tax Adviser”.

10.2.14 An Associate Tax Adviser or Fellow Tax Adviser may not use the term “Financial Accountant”, unless they have AFA or designations.

10.2.15 Members who are admitted to the Institute as Financial Accountants may use the designatory letters AFA (Associate Financial Accountant) or FFA (Fellow Financial Accountant) after their name and may use the term “Financial Accountant”. An Associate or Fellow Financial Accountant shall not use the description “Tax Adviser”, unless they have Associate Tax Adviser or Fellow Tax Advisor designations of the Institute.

10.2.16 Members who are admitted to hold the designation of Associate or Fellow of the Institute, shall be simultaneously admitted as members of IPA. The order of the presentation of the designatory letters after a members name for Members shall be Institute designation first followed by the IPA designation, for example “AFA MIPA.” Designatory letters appear below.

<b>Category of membership</b>	<b>Institute Designations</b>	<b>IPA Designations</b>
Associate	Associate Tax Adviser (ATA)	Associate of the Institute of Public Accountants (AIPA)
Associate	Associate Financial Accountant (AFA)	Member of the Institute of Public Accountants (MIPA)
Fellow	Fellow Tax Adviser (FTA)	Associate of the Institute of Public Accountants (AIPA)
Fellow	Fellow Financial Accountant (FFA)	Fellow of the Institute of Public Accountants (FIPA)

10.2.17 Members and Member Firms of the Institute may use the Institute logo only in accordance with the Institute guidance.

#### **Other Member Admissions**

10.2.18 The Board shall consider all applications for admission of special cases, including honorary members. Any person may be admitted to membership if, upon the recommendation of the Chief Executive Officer and in the express opinion of the Board, the individual has:

- (a) good standing; and
- (b) extensive experience in accountancy or in a related field; or
- (c) rendered valuable service in advancing the interests of the Institute.

10.2.19 The appointment of such a Member pursuant to this Bye-law may be for a fixed or indefinite period and such a Member may not be liable to admission fees or annual subscriptions. A Member admitted pursuant to this Bye-law shall not be eligible for a practising certificate unless they meet the Practice Certificate requirements.

10.2.20 The Board may, in its sole discretion, remove the status of a Member admitted under Bye-law 12. The Board shall not be obliged to give any reason for such removal.

### **10.3 Member Firms**

#### **Designation**

10.3.1 A Member Firm may describe itself as a firm of "Financial Accountants."

#### **Register of Member Firms**

10.3.2 A Register of Member Firms shall be kept in such form as the Institute may determine from time to time.

10.3.3 A list of Member Firms shall be available for public inspection.

## **Obligations of Member Firms**

### 10.3.4 Member Firms shall:

- (a) be bound by the Institute Articles, Bye-laws and regulations;
- (b) pay the prescribed fees and subscriptions;
- (c) submit an annual practice return to the Institute in such form and at such time as the Institute may prescribe;
- (d) notify the Institute within 21 working days of any change of Registered Address or electronic mail address;
- (e) notify the Institute that they no longer meet the Member Firm definition within 21 working days of the change;
- (f) co-operate with any Institute arrangements for monitoring and review of their professional, regulatory, business efficiency and competence.

## **Application of Bye-laws**

10.3.5 Bye-laws 10.9 *Fees and Subscriptions*, 10.11 *Supervisory Authority, Compliance and Monitoring*, 10.12 *Disciplinary Process*, 10.13 *Liability to Disciplinary Action*, 10.14 *Data Protection* and 10.15 *Notices* shall apply to Member Firms.

## 10.4 Affiliates

10.4.1 Affiliates shall not have any rights of membership and are not entitled to use any designatory letters denoting membership of the Institute. Neither Affiliates nor their firms may make any public representation that they have such rights.

## **Obligations of Affiliates**

10.4.2 Affiliates shall undertake to:

- (a) be bound by the Institute's Articles, Bye-laws and regulations
- (b) pay the prescribed fees and subscriptions
- (c) notify the Institute within 21 working days of any change of Registered Address and electronic mail address

10.4.3 Bye-laws 10.9 *Fees and Subscriptions*, 10.11 *Supervisory Authority, Compliance and Monitoring*, 10.12 *Disciplinary Process*, 10.13 *Liability to Disciplinary Action*, 10.14 *Data Protection* and 10.15 *Notices* shall apply to Affiliates.

## 10.5 Cessation of membership, Student and Affiliate status

10.5.1 A Member, Student or Affiliate may resign at any time, subject to Bye-law 13.3 from the Institute by written notice. Member, Student and Affiliate status shall not be transferable and shall cease on death.

10.5.2 Any individual giving notice of their intention to resign as a Member, Student or Affiliate shall remain liable to pay any subscription or other sums due from them at the date the relevant notice is accepted.



10.5.3 An individual's notice of resignation as a Member; Student or an Affiliate shall not be accepted and the individual shall accordingly not cease to be a Member, Student or Affiliate while a complaint about them or any Member Firm to which they belong has been received by the Institute, until the matter has been finally settled and any fine or costs awarded against them or their Member Firm have been paid in full.

10.5.4 An individual shall immediately cease to be a Member, Student or Affiliate if:

- (a) the outcome of a matter dealt with under the Institute's disciplinary process is that they should be expelled or suspended as a Member, Student or Affiliate;
- (b) if they are disqualified from holding office in a company in which they are concerned or interested because of wrongful trading under the Insolvency Act 1986;
- (c) if they become of unsound mind or become a patient under the Mental Health Act 1983;
- (d) if they are convicted of an offence under the Criminal Justice Act 1993 Pt V or under any other present or future statutory enactment or regulations relating to insider dealing;
- (e) if they are made the subject of a disqualification order or undertaking under the Company Directors Disqualification Act 1986;
- (f) if they pleaded guilty to or found guilty of an offence of any offence under the Money Laundering Regulations or any other offence under any competent criminal jurisdiction in the United Kingdom or elsewhere in relation to money laundering or terrorist financing;
- (g) any amounts they owe to the Institute (including but not limited to annual subscriptions, fees and fines or costs imposed by a disciplinary order) remain outstanding three months after the due date or other period determined by the Board.

## 10.6 Readmission to the Institute as a Member, Student or Affiliate

10.6.1 Any individual applying to be readmitted as a Member, Student or Affiliate shall:

- (a) apply in writing using the Institute's prescribed form and pay the prescribed fees;
- (b) pay any outstanding sums due to the Institute, (including but not limited to annual subscriptions, fees and fines or costs imposed by a disciplinary order); and
- (c) comply with such other conditions as the Institute may prescribe.

10.6.2 Applications for readmission as a Member, Student or Affiliate following removal of Membership, Student or Affiliate status for disciplinary reasons shall be referred to the Chief Executive Officer of the Institute for determination.

10.6.3 The Institute shall inform the applicant of the grounds for refusing readmission if requested in writing to do so by the applicant.

## 10.7 Students

## **Eligibility**

- 10.7.1 Applications to register as a student shall be submitted in the prescribed form to the Institute.
- 10.7.2 The Institute shall enquire into the qualifications, professional experience, standing and general character of the applicant. Every application requires the payment of a non-refundable application fee as prescribed from time to time.
- 10.7.3 An individual shall be eligible to be registered as a Student if they:
- (a) have been admitted to a university or other equivalent establishment in the United Kingdom or elsewhere or have obtained academic or professional qualifications in the United Kingdom or elsewhere which meet Institute entry requirements;
  - (b) are in employment in accountancy or if a full-time student on a course of accounting or business studies approved by the Institute;
  - (c) are of good character;
  - (d) sign an undertaking that, they will observe the Articles, Bye-laws and regulations of the Institute; and
  - (e) pay the prescribed fees.

## **Obligations of Students**

- 10.7.4 Students shall undertake to:
- (a) be bound by the Institute Articles, Bye-laws and regulations;
  - (b) pay the relevant fees and subscriptions; and
  - (c) notify the Institute immediately of any change of Registered Address and electronic mail address.
- 10.7.5 Students shall not:
- (a) claim to be members of the Institute or use any of the Institute designations;
  - (b) be, or hold themselves out to be, in Public Practice; or
  - (c) (iii) be or hold themselves to be, a partner, director or LLP member of a firm engaged in public practice or hold voting rights in a firm engaged in public practice.

## **Disciplinary**

- 10.7.6 Students are subject to the Institute's disciplinary regulations including but not limited to matters relating to providing misleading information, conducting activities which not permitted by the Institute and misconduct in examinations.

## **Cessation of and readmission as a Student**

- 10.7.7 Refer to Bye-laws 10.5 *Cessation of Membership, Student and Affiliate status* and 10.6 *Readmission to the Institute as a Member, Student or Affiliate*.

## **Student Regulations**

10.7.8 The Institute may from time to time, make regulations in relation to Students including but not limited to:

- (a) entry requirements;
- (b) courses of study;
- (c) examinations and exemptions from examinations;
- (d) recognition of courses of study; and
- (e) relevant professional experience.

## **10.8 Continuing Professional Development**

10.8.1 The Institute shall make regulations in relation to continuing professional development from time to time,

10.8.2 Except as may be provided in regulations a Member shall:

- (a) keep under review their needs for training and development having regard to the professional and other work they undertake;
- (b) where such a review identifies a specific need for training or development act promptly to meet such need; and
- (c) certify annually to the Institute compliance and, if requested by the Institute, provide such evidence of compliance as may be required.

## **10.9 Fees and Subscriptions**

10.9.1 The Institute has the power to determine the fees and subscriptions required to be paid by Members, Students, Affiliates and Member Firms and when these are due and payable.

10.9.2 The Institute may waive, reduce or refund any amounts required to be paid by any Member, Student, Affiliate or Member Firm or extend the period over which such amounts may be paid on such terms and for such periods as it may decide. This shall include any variance in fees for change of membership designation.

## **10.10 Public practice**

10.10.1 The Institute shall from time to time make regulations to govern Members and Member Firms engaged in Public Practice.

### **Conditions for Engaging in Public Practice**

10.10.2 A Member shall be entitled to engage in Public Practice in the United Kingdom provided they hold a current Practising Certificate.

10.10.3 A Member who fails to hold a Practising Certificate when they are engaging in Public Practice shall be liable to disciplinary action.

### **Eligibility to hold Practising Certificate**

10.10.4 Subject to Bye-laws 10.12 *Disciplinary process* and 10.13 *Liability to disciplinary action*, a Member shall be eligible to hold a Practising Certificate if they satisfy such requirements as shall be prescribed.

10.10.5 A Member who ceases to be eligible for a Practising Certificate shall return their certificate to the Institute.

### **Issue of Practising Certificates**

10.10.6 Practising Certificates shall normally be issued for a period not exceeding twelve months and ending on 31st December and shall, subject to payment of the practising fee and submission of the annual practice return to the Institute be renewed for a period of 12 months on 1st January next following when the appropriate renewal fee shall become due and payable.

10.10.7 Practising certificates shall be in such form as prescribed by the Institute.

### **10.11 Supervisory Authority, compliance and monitoring**

10.11.1 The Institute shall make regulations to carry out the Institute's role as a regulator and as a supervisory authority under the Money Laundering Regulations or any other relevant legislation and for the monitoring of Members, Students, Affiliates and Member Firms for compliance with its Bye-laws and regulations. Such regulations may (without limitation) prescribe or provide for:

- (a) the setting of rules and guidance in relation to the conduct of Public Practice including compliance with any legislation to combat money laundering or terrorist financing.
- (b) the monitoring of compliance by persons subject to regulations with the requirements of the regulations including the undertaking of visits and inspections to assess whether Members, Students, Affiliates and Member Firms comply with the Bye-laws, regulations and best practice.
- (c) the monitoring of compliance by persons subject to the regulations with the requirements of the Money Laundering Regulations including the undertaking of the Institute's role as a supervisory authority under the Money Laundering Regulations.
- (d) the appointment by the Institute of persons to undertake monitoring visits on Members and Member Firms including monitoring visits and assessments in the Institute's capacity as a supervisory authority under the Money Laundering Regulations.

10.11.2 Members, Students, Affiliate and Member Firms shall provide such returns, statements and information as is deemed necessary by the Institute for compliance and monitoring purposes and in such form and manner as the Institute shall from time to time determine.

10.11.3 Members, Students, Affiliates and Member Firms shall co-operate with the Institute in the administration of its compliance and monitoring and shall immediately on request provide access to any assessor appointed by the Institute to their premises and all books and records of the Member, Affiliates or Member Firm and of their clients. Failure to do so may lead to action by the Institute, which may include disciplinary action.

10.11.4 The Institute may liaise, share information and intelligence with and otherwise co-operate with other supervisory bodies and any statutory body in the United Kingdom, or elsewhere, whose functions include the prevention of any offence under or the enforcement of the Money Laundering Regulations or any law in relation to money laundering or terrorist financing.

10.11.5 It shall be for every Member, Student, Affiliate and Member Firm to bring to the attention of the Institute any facts or matters indicating that a Member, Student, Affiliate or Member Firm may have failed to comply with any provision of these Bye-laws and any regulations or the Money Laundering Regulations and in any such case the Chief Executive Officer shall arrange for the complaint to be dealt with through the disciplinary process.

## 10.12 Disciplinary Process

10.12.1 The Board shall establish an Investigations Committee, Disciplinary Committee and Appeal Committee in accordance with the disciplinary regulations.

10.12.2 It shall be for every Member, Student, Affiliate and Member Firm to bring to the attention of the Institute any facts or matters indicating that a Member, Student, Affiliate or Member Firm may have failed to comply with any provision of these Bye-laws and any regulations or the Money Laundering Regulations and in any such case the Institute shall arrange for the complaint to be dealt with through the disciplinary process.

10.12.3 Members, Students, Affiliates and Member Firms shall co-operate with the Institute in the administration of its disciplinary process.

10.12.4 It shall be for every Member, Student, Affiliate and Member Firm to bring to the attention of the Institute any facts or matters indicating that a Member, Student, Affiliate or Member Firm may have become liable to disciplinary action and in any such case the Institute shall arrange for such facts and matters to be put through the disciplinary process.

10.12.5 The Institute shall, from time to time, prescribe in regulations the procedures under which a person or firm may be disciplined and as to all other related matters.

10.12.6 The Chair of the relevant Conduct Committee shall have power to suspend a member from engaging in public practice via interlocutory orders prior to a full disciplinary hearing.

## 10.13 Liability to disciplinary action

10.13.1 A Member, Member Firm, Student or Affiliate shall be liable to disciplinary action if:

- (a) they have been guilty of misconduct when carrying out their professional duties or otherwise;
- (b) they have performed their professional work or conducted their practice or performed the duties of their employment, improperly, inefficiently or incompetently to such an extent or on such number of occasions as to bring discredit to themselves or their practice, to the Institute, or to the accountancy profession;
- (c) they have committed any breach of these Bye-laws or of any regulations, policies and procedures in respect of which they are bound;
- (d) in the case of a Member Firm, if that firm in the course of the business has committed any breach of these Bye-laws or of any regulations, policies and procedures in respect of which they are bound;

- (e) in connection with attempts by the Institute to make arrangements with them for a monitoring visit, they fail to respond to communications from the Institute and/or fail to co-operate promptly and effectively as regards acceptable arrangements for the monitoring visit; and
- (f) they have been disciplined by another professional body or under some other disciplinary process.

10.13.2 Each of the grounds for liability to disciplinary action shall be without prejudice to the generality of any of the other paragraphs in these Bye-laws.

- (a) "Misconduct" includes (but is not limited to) any act of default likely to bring discredit to the Member, Student, Affiliate or Member Firm in question or to the Institute or the accountancy profession.
- (b) The fact that a Member, Student, Affiliate or Member Firm:
  - (i) has, before a court of competent jurisdiction in the United Kingdom or in a superior court of any country whose judgements are in the opinion of the Institute relevant, pleaded guilty to or been found guilty of or found as fact to have engaged in of any offence discreditable to them, or to the Institute or the accountancy profession;
  - (ii) has in any civil proceedings before any court of competent jurisdiction in the United Kingdom or in a superior court of any country whose judgements are enforceable in the United Kingdom been found to have acted fraudulently or dishonestly;

shall be conclusive proof of misconduct.

- (c) In deciding whether a Member, Student, Affiliate or Member Firm has been guilty of misconduct, regard may be had to any code of practice, ethical or technical, considered appropriate by the Institute and to any regulations made under these Bye-laws.

10.13.3 Fee disputes shall not be dealt with through the disciplinary process.

## 10.14 Data protection

10.14.1 The Institute and IPA may process the personal data of Members, individuals belonging to Member Firms, Students and Affiliates subject to the provisions of the Data Protection Act 1998 and any other relevant legislation. In certain circumstances this may include disclosure of such data to proper authorities in accordance with the law and to meet the regulatory and supervisory obligations of the Institute and IPA.

## 10.15 Notices

10.15.1 Anything sent or supplied by or to the Institute under these Bye-laws (including but not limited to any notice, membership certificate or other document) may be sent or supplied in any way (including by means of a website and/or by use of electronic communications).

10.15.2 Any notice to be given to or by any person under these Bye-laws shall be in writing or shall be given by means of a website and or by use of an electronic communication to an address for the time being notified for that purpose to the person giving the notice.

- 10.15.3 In this Byelaw, “address” in relation to electronic communications includes any number, electronic mail address or other address used for the purposes of such communications.
- 10.15.4 The Institute may give any notice or document (including a membership certificate) to a Member, Student, Affiliate or Member Firm either personally or by sending it by post or other delivery service in a first-class prepaid envelope addressed to the Member, Student, Affiliate or Member Firm at their Registered Address or by leaving it at that address. The Institute may give any notice or document to any Member, Student, Affiliate or Member Firm by means of a website and/or by use of an electronic communication to an address for the time being notified to the Institute by the Member, Student, Affiliate or Member Firm.
- 10.15.5 In the case of a Member Firm, all notices or documents shall be given to the principal contact whose name is included in the Register of Member Firms. Notice so given shall be sufficient notice to all Members, Students and Affiliates of the Member Firm.
- 10.15.6 Where a Member, or Student, Affiliate or Member Firm has a Registered Address outside the United Kingdom but has notified the Institute of an address within the United Kingdom at which notices or other documents may be given to them or an address to which notices may be sent using electronic communication or by means of a website, they shall be entitled to have notices given to them at that address or by means of a website, but otherwise no such Member, Student, Affiliate or Member Firm shall be entitled to receive any notice or document from the Institute.
- 10.15.7 If on three consecutive occasions notices or other documents have been sent through the post to any Member, Student, Affiliate or Member Firm at their registered address or their address for the service of notices but have been returned undelivered, such Member, Student, Affiliate or Member Firm shall not be entitled to receive any more notices or other documents from the Institute until they shall have communicated with the Institute and supplied in writing a new Registered Address or address within the United Kingdom for the service of notices.
- 10.15.8 Any notice, certificate or other document, addressed to a Member, Student, Affiliate or Member Firm at their Registered Address or address for service in the United Kingdom shall, if sent by post, be deemed to have been given at the expiration of 48 hours after posting and, if sent by electronic communication (including by means of a website), be deemed to have been given at the expiration of 24 hours after the electronic communication was sent or placed on the website. In proving such service or delivery for disciplinary purposes it shall be sufficient to prove that the envelope containing the notice or document was properly addressed and put into the post as a prepaid letter or, in the case of a notice sent by electronic communication, to prove that it was sent. Any notice, certificate or other document not sent by post but delivered or left at a Registered Address or address for service in the United Kingdom shall be deemed to have been served or delivered on the day on which it was so delivered or left.
- 10.15.9 Any notice to be given by the Institute to Members, Students, Affiliates or Member Firms and not otherwise provided for by these Bye-laws shall be sufficiently given if given by advertisement in at least one leading daily national newspaper published in the United Kingdom or through the official journal of the Institute (Financial Accountant) or on the website of the Institute. Any notice given by advertisement shall be deemed to have been served at noon on the day on which the advertisement first appears.

## 10.16 Branches and other membership groups

10.16.1 The Institute may form branches and other membership groups in any part of the world subject to the express prior approval of the Board and may dissolve any such branches or groups at any time. The Institute may from time to time make regulations for the governance and control of these branches and other membership groups.

## 10.17 Other regulations, policies and procedures

10.17.1 The Institute may make, vary or rescind regulations, policies and procedures from time to time in relation to these Bye-laws or in relation to any other matter which they consider necessary or desirable.



# Chapter 11

## By-laws for AAT Members

### 11.1 Definitions and interpretation

11.1.1 These By-laws may be cited as the By-laws of the Association of Accounting Technicians. They shall take effect from 17 December 2020.

11.1.2 In these By-laws, unless the context otherwise requires:

**Board**

the Board of Directors of the Institute;

**Chief Executive Officer**

Chief Executive Officer of the Institute;

**Institute**

the Institute of Public Accountants;

**IPA**

the Institute of Public Accountants Limited, a company limited by guarantee whose registered address is Level 6, 555 Lonsdale Street, Melbourne Victoria 3000, Australia (Australian Business Number 81 004 130 643).

11.1.3 Unless the context otherwise requires:

- (a) words denoting the singular shall include the plural and vice-versa;
- (b) words denoting a gender shall include all genders; and
- (c) references to (or to any specified provision of) these By-laws or any other document shall be construed as references to these By-laws, that provision or that document as in force and as amended from time to time.

11.1.4 Headings and sub-headings are for convenience only and shall not affect the interpretation of these By-laws.

### **Establishment of the AAT membership class**

11.2 Pursuant to Clause 24 of the Constitution and Clause 3.1.7 of the By-laws, the IPA Board of Directors creates the following additional membership designations within the existing classes of membership:

- (a) AIPA (AAT Affiliate) membership designation within the AIPA class of membership;
- (b) MIPA (AAT Member) membership designation within the MIPA class of membership.

### **Designations**

11.3 Pursuant to Clause 25 of the Constitution, AIPA (AAT Affiliate) members will only use the designation *AIPA (AAT Affiliate)* and MIPA (AAT Member) will only use the designation *MIPA (AAT Member)*.

11.4 AIPA (AAT Affiliate) members and MIPA (AAT Member) do not have IPA voting rights under these By-laws.

- 11.5 AIPA (AAT Affiliate) members and MIPA (AAT Member) are not recognised as Qualified Accountants under section 88B of the *Corporations Act 2001* (Cth) and the Australian Securities and Investments Commission legislative instrument 'ASIC Corporations (**Qualified Accountant**) Instrument 2016/786'.
- 11.6 AIPA (AAT Affiliate) members and MIPA (AAT Member) are not required to participate in the Institute's Quality Review Program (**QRP**) or other regulatory activities imposed by the Institute on its members. However, AAT members may be subject to and required to comply with an alternative regulatory oversight program which may be imposed by the Institute from time to time.
- 11.7 AIPA (AAT Affiliate) members and MIPA (AAT Member) are required to meet the Continuing Professional Development requirements under the relevant Pronouncement.

### **Membership**

- 11.8 All decisions in relation to admission, readmission or termination of membership, changes in class or membership designation may be delegated to the Chief Executive Officer by the Board with the exception of membership admissions under sub-clauses 11.12 and 11.13.

### **Application for membership**

- 11.9 All applications for membership shall be submitted in the prescribed form to the Institute whose duty shall be to enquire into the qualifications, professional experience, standing and general character of the applicant. Every application for membership requires the payment of a non-refundable application fee, as prescribed from time to time.
- 11.10 The Institute will take reasonable steps to satisfy itself as to the entitlement of the applicant to membership. The Institute may admit to membership any person who is a member of another professional body of bookkeepers/accountants, which in the opinion of the Institute is equivalent to that of the Institute and provided the relevant membership criteria are met.
- 11.11 On admission to membership, a full year's subscription shall be payable as well as any other fees due and payable.

### **AIPA (AAT Affiliate)**

- 11.12 For admission to membership as an AIPA (AAT Affiliate), the applicant shall:
- (a) apply in writing on the prescribed form and pay the prescribed fee; and
  - (b) substantiate they have at least one-year of experience in an account keeping role; or
  - (c) completed a qualification in bookkeeping or accounting that is approved by the Board of Directors; and
  - (c) declare they are at least 18 years of age.

### **MIPA (AAT Member)**

- 11.13 For admission to membership as an MIPA (AAT Member), the applicant shall:
- (a) apply in writing on the prescribed form and pay the prescribed fee; and
  - (b) substantiate they have at least one-year of experience in an account keeping role demonstrating the applicant's ability to understand and process financial data, produce reports and financial statements including financial statement forecasts; or
  - (c) completed a qualification in bookkeeping or accounting that is approved by the Board of Directors; or
  - (c) be a member of another professional body approved by the Institute.

### **Provision of services to the public**

- 11.14 AIPA (AAT Affiliate) and MIPA (AAT Member) who provide BAS services for a fee or other reward must be registered with the TPB.
- 11.15 The TPB defines a BAS service as:
- (a) working out or advising about liabilities, obligations or entitlements of clients under a BAS provision (law) where it is reasonable to expect a client to rely on the service to satisfy liabilities or obligations, or to claim entitlements, under a BAS provision; or
  - (b) representing a client in their dealings with the Commissioner of Taxation in relation to a BAS provision (law) where it is reasonable to expect a client to rely on the service to satisfy liabilities or obligations, or to claim entitlements, under a BAS provision.
  - (c) further, the TPB has declared certain services as BAS services that extend beyond the definition of a BAS provision (law) through a legislative instrument and examples of BAS services can be found on the TPB website.
- 11.16 Members who are registered with the TPB or other relevant regulator as may apply from time to time, to provide BAS services must comply with the relevant legislation, regulations and other requirements as amended from time to time which are applicable to their statutory registration.

### **Professional indemnity insurance**

- 11.17 Professional indemnity insurance cover must provide:
- (a) cover for an amount as specified by the Board of Directors for each and every claim not being less than \$1,000,000 for each reinstatement (any one claim);
  - (b) for a policy excess or deductible of no more than an amount determined by the Board of Directors from time to time, currently being no more than 2% of the policy limit of indemnity or \$200,000, whichever is the lower amount;
  - (c) the policy must be obtained from an Australian Prudential Regulation Authority (APRA) regulated insurer, which can be verified through the APRA website;
  - (d) the policy must include a minimum of one reinstatement, and preferably unlimited reinstatements;

- (e) be defence cost exclusive; however, if the policy is defence cost inclusive, the policy must set an additional 25% above the policy limit of indemnity amount to fund defence costs;
- (f) unlimited retroactive cover;
- (g) cover for defamation;
- (h) that claims arising out of the dishonesty of an employee are not excluded;
- (i) cover for the cost of replacing or repairing documents lost, damaged or destroyed;
- (j) cover for any civil legal liability or any act, error or omission, subject to reasonably common exceptions; and
- (k) provides run-off cover for claims against the Member after ceasing to offer professional practice services for a minimum period to be advised by the Institute from time to time.

#### **Provision of services to an employer**

- 11.18 AIPA (AAT Affiliate) and MIPA (AAT Member) who provide BAS services for a wage or salary to an employer or who otherwise do not offer BAS services to the public for a fee or other reward must comply with the By-laws of the Institute as notified from time to time.

## Contact Information

### IPA Head Office

Level 6, 555 Lonsdale Street

Melbourne Victoria 3000 Australia

**t:** +61 3 8665 3100      **f:** +61 3 8665 3130

**e:** [headoffice@publicaccountants.org.au](mailto:headoffice@publicaccountants.org.au)   **w:** [www.publicaccountants.org.au](http://www.publicaccountants.org.au)

IPA Divisional Offices are located in the following cities:

Melbourne | Sydney | Canberra | Brisbane | Adelaide | Hobart | Perth

The IPA also has permanent offices around the world including:

Kuala Lumpur | Beijing

For enquiries within Australia call 1800 625 625 for your nearest Divisional Office.

International enquiries can be directed in the first instance to IPA Head Office.