

Southern Disability Advocacy

People Linking People

Associations Incorporation Reform Act 2012

CONSTITUTION

October 14, 2014

Constitution of Southern Disability Advocacy Inc.

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Contents

Section	Page
STATEMENT OF PURPOSES	3
INTERPRETATION	4
APPLICATION FOR MEMBERSHIP	4
ENTRANCE FEE AND ANNUAL SUBSCRIPTION	5
REGISTER OF MEMBERS	6
RESIGNATION AND EXPULSION OF MEMBER	6
DISPUTES AND MEDIATION	8
ANNUAL GENERAL MEETING	9
SPECIAL GENERAL MEETINGS	10
NOTICE OF MEETING	10
PROCEEDINGS AT MEETINGS	11
COMMITTEE OF MANAGEMENT	13
ELECTION OF OFFICERS AND VACANCY	14
PROCEEDINGS OF COMMITTEE	15
SECRETARY	16
REMOVAL OF MEMBER OF COMMITTEE	16
CHEQUES	17
COMMON SEAL	17
ALTERATION OF RULES AND STATEMENT OF PURPOSES	17
NOTICES	17
WINDING UP OR CANCELLATION	17
CUSTODY OF RECORDS	18
FUNDS	18

ASSOCIATIONS INCORPORATION REFORM ACT 2012

STATEMENT OF PURPOSES

The name of the incorporated Association is **SOUTHERN DISABILITY ADVOCACY INCORPORATED**.

This incorporated association exists for the following purposes:

1. To provide an advocacy service for people with disabilities that represents and protects their rights and interests. To assist people with disabilities to overcome barriers, including abuse and neglect, that impact on their daily life and ability to participate in the community. To help people with disabilities access the freedoms, services and conditions enjoyed by other members of the community.
2. The Association intends to:
 - (1) facilitate, equity of access and participation in the community (for people with disabilities);
 - (2) educate people with disabilities about their rights;
 - (3) promote self-reliance amongst people with disabilities;
 - (4) provide a means through which the wishes and needs of people with disabilities are recognised by the rest of the community and are reflected in community structures and attitudes;
 - (5) provide orientation, resources and continuous support for people with disabilities;
 - (6) publicise the work and aims of Independent Advocacy and to develop interest in and support for those aims in the community at large;
 - (7) undertake community based education programs designed to promote public awareness of the issues faced by people with disabilities and to encourage public assistance with Independent Advocacy programs; and
 - (8) maintain appropriate links with other relevant organisations.

ASSOCIATIONS INCORPORATION REFORM ACT 2012

NAME

- 1 The name of the Association is Southern Disability Advocacy (in these rules called the “Association”).

INTERPRETATION

- 2 (1) In these rules, unless the contrary intention appears:-
 - “Committee” means the Committee of Management of the Association.
 - “Financial Year” means the year ending on 30 June.
 - “General Meeting” means a General Meeting of Members convened in accordance with rule 11.
 - “Member” means a Member of the Association.
 - “Ordinary Member of the Committee” means a Member of the Committee who is not an officer of the Association under Rule 24.
 - “the Act” means the Associations Incorporation Reform Act 2012.
 - “the Regulations” means regulations under the Act.
- (2) In these Rules, a reference to the Secretary of the Association is a reference:-
 - (a) where a person holds office under these Rules as a Secretary of the Association, to that person; and
 - (b) in any other case, to the Public Officer of the Association.
- (3) Words or expressions contained in these rules shall be interpreted in accordance with the provisions of the Acts Interpretation Act 1958 and the Act as in force from time to time.

APPLICATION FOR MEMBERSHIP

- 3 (1) An individual or organisation who has made an application for Membership as provided in these rules is eligible to be a member of the Association on payment of the entrance fee and annual subscription payable under these rules, if applicable.

- (2) An application by a person for membership of the Association:-
 - (a) shall be made in writing in the form prescribed by the Committee;
 - (b) shall be lodged with the Secretary of the Association; and
 - (c) shall be accompanied by the appropriate fees, if applicable.
- (3) After the receipt of an application the Secretary shall table the application at the next meeting of the Committee.
- (4) Upon an application being viewed by the Committee and fees being paid, if applicable, membership shall be deemed to commence from the date of the Committee Meeting.
- (5) The Secretary shall, after the application has been viewed by the Committee and upon payment of the fees, if applicable, enter the applicant's name and address in the register of Members kept by him/her.
- (6) A right, privilege or obligation of a person by reason of his/her membership of the Association:-
 - (a) is not capable of being transferred or transmitted to another person; and
 - (b) terminates upon the cessation of his/her membership whether by death or resignation or otherwise.
- (7) A member of the Association who is entitled to vote has the right:
 - (a) to receive notice of General Meetings and of proposed special resolutions in the manner and time prescribed by this constitution;
 - (b) to submit items of business for consideration at General Meetings;
 - (c) to attend and be heard at General Meetings;
 - (d) to vote at General Meetings; and
 - (e) to have access to the minutes of General Meetings and other documents of the Association as provided under clause 45(2).

ENTRANCE FEE AND ANNUAL SUBSCRIPTION

- 4 (1) The entrance fee shall be as prescribed by the Committee.
- (2) The annual subscription shall be as prescribed by the Committee.

- (3) The annual subscription and “continuity of membership” form shall be due to be lodged by Members with the Secretary by August 31 of each year or else membership will be deemed to be lapsed.

REGISTER OF MEMBERS

- 5 The Secretary shall keep and maintain a register of Members in which shall be entered the full name, address and date of entry of the name of each Member and the register shall be available for inspection by Members at the address of the Public Officer.

RESIGNATION AND EXPULSION OF MEMBER

- 6 (1) A Member of the Association who has paid all moneys due and payable by him/her to the Association, if applicable, may resign from the Association by first giving one month’s notice in writing to the Secretary of her/his intention to resign and upon the expiration of that period of notice the Member shall cease to be a Member.
- (2) Upon the expiration of a notice given under sub-clause 6(1), the Secretary shall make in the Register of Members an entry recording the date on which the Member by whom the notice was given, ceased to be a Member.
- 7 (1) Subject to these rules, the Committee may by resolution:-
- (a) expel a Member from the Association;
 - (b) suspend a Member from membership of the Association for a specified period; or
 - (c) fine a Member in accordance with the Regulations, if the Committee is of the opinion that the Member-
 - (i) has refused or neglected to comply with these rules; or
 - (ii) has been guilty of conduct unbecoming a Member or prejudicial to the interests of the Association.
- (2) A resolution of the Committee under sub-clause 7(1):-
- (a) does not take effect unless the Committee, at a meeting held not earlier than fourteen (14) and not later than twenty eight (28) days after the service on the Member of a notice under sub-clause 7(3), confirms the resolution in accordance with this clause; and

- (b) where the Member exercises a right of appeal to the Association under this clause, does not take effect unless the Association confirms the resolution in accordance with this clause.
- (3) Where the Committee passes a resolution under sub-clause 7(1), the Secretary shall, as soon as practicable, cause to be served on the Member a notice in writing:-
 - (a) setting out the resolution of the Committee and the grounds on which it is based;
 - (b) stating that the Member may address the Committee at a meeting to be held not earlier than fourteen (14) and not later than twenty eight (28) days after service of that notice;
 - (c) stating the date, place and time of that meeting;
 - (d) informing the Member that he or she may do one or more of the following-
 - (i) attend that meeting;
 - (ii) give to the Committee before the date of that meeting a written statement seeking the revocation of the resolution;
 - (iii) not later than forty eight (48) hours before the date of the meeting, lodge with the Secretary a notice to the effect that she/he wishes to appeal to the Association in a General Meeting against the resolution.
- (4) At a meeting of the Committee held in accordance with sub-clause 7(2), the Committee:-
 - (a) shall give to the member an opportunity to be heard;
 - (b) shall give due consideration to any written statement submitted by the Member; and
 - (c) shall by resolution determine whether to confirm or to revoke the resolution.
- (5) (a) Where the Secretary receives a notice under sub-clause 7(3)(d)(iii), she/he shall notify the Committee and the Committee shall convene a General Meeting of the Association to be held within twenty one (21) days after the date on which the Secretary received the notice.
- (6) At a General Meeting of the Association convened under sub-clause 7(5):-
 - (a) no business other than the question of the appeal shall be transacted;

- (b) the Committee may place before the meeting details of the grounds for the resolution and the reasons for the passing of the resolution;
 - (c) the Member shall be given an opportunity to be heard; and
 - (d) the Members present shall vote by secret ballot on the question of whether the resolution should be confirmed or revoked.
- (7) If at the General Meeting:-
- (a) two-thirds of the Members vote in person or by proxy in favour of the confirmation of the resolution, the resolution is confirmed; and
 - (b) in any other case the resolution is revoked.

DISPUTES AND MEDIATION

- 8 (1) The grievance procedure set out in this rule applies to disputes under these Rules between:-
- (a) a Member and another Member; or
 - (b) a Member and the Association.
- (2) The parties to the dispute must meet and discuss the matter in dispute, and, if possible, resolve the dispute within 14 days after the dispute comes to the attention of all of the parties.
- (3) If the parties are unable to resolve the dispute at the meeting, or if a party fails to attend that meeting, then the parties must, within 10 days, hold a meeting in the presence of a mediator.
- (4) The mediator must be:-
- (a) a person chosen by agreement between the parties; or
 - (b) in the absence of agreement:-
 - (i) in the case of a dispute between a Member and another Member, a person appointed by the committee of the Association; or
 - (ii) in the case of a dispute between a member and the Association, a person who is a mediator appointed or employed by the Dispute Settlement Centre of Victoria (Department of Justice).
- (5) A Member of the Association can be a mediator.

- (6) The mediator cannot be a Member who is a party to the dispute.
- (7) The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.
- (8) The mediator, in conducting the mediation, must:-
 - (a) give the parties to the mediation process every opportunity to be heard; and
 - (b) allow due consideration by all parties of any written statement submitted by any party; and
 - (c) ensure that natural justice is accorded to the parties to the dispute throughout the mediation process.
- (9) The mediator must not determine the dispute.
- (10) If the mediation process does not result in the dispute being resolved, the parties may seek to resolve the dispute in accordance with the Act or otherwise at law.

ANNUAL GENERAL MEETING

- 9
- (1) The Association shall in each calendar year convene an Annual General Meeting of its Members.
 - (2) The Annual General Meeting shall be held on such day and at such a time as the Committee determines.
 - (3) The Annual General Meeting shall be specified as such in the notice convening it.
 - (4) The ordinary business of the Annual General Meeting shall be:-
 - (a) to confirm the minutes of the last preceding Annual General Meeting held since the meeting;
 - (b) to receive from the Committee reports upon the transactions of the Association during the last preceding financial year;
 - (c) to elect Ordinary Members of the Committee.
 - (d) to receive and consider the statement submitted by the Association in accordance with Section 30 (3) of the Act.
 - (5) The Annual General Meeting may transact special business of which notice is given in accordance with these rules.

- (6) The Annual General Meeting shall be in addition to any other General Meetings that may be held in the same year.

SPECIAL GENERAL MEETINGS

- 10 All General Meetings other than the Annual General Meeting shall be called Special General Meetings.
- 11 (1) The Committee may, whenever it thinks fit, convene a Special General Meeting of the Association and, where, but for this sub-clause, more than fifteen (15) months would lapse between Annual General Meetings, shall convene a special General Meeting before the expiration of that period.
- (2) The Committee shall, on the requisition in writing of Members representing not less than five per cent (5%) of the total number of Members, convene a Special General Meeting of the Association.
- (3) The requisition for a Special General Meeting shall state the objects of the meeting and shall be signed by the Members making the requisition and be sent to the address of the Secretary and may consist of several documents in a like form, each signed by one (1) or more of the Members making the requisition.
- (4) If the Committee does not cause a Special General Meeting to be held within one (1) month after the date on which the requisition is sent to the address of the Secretary, the Members making the requisition, or any of them, may convene a Special General Meeting to be held not later than three (3) months after that date.
- (5) A Special General Meeting convened by Members in pursuance of these rules shall be convened in the same manner as nearly as possible as that in which those meetings are convened by the Committee and all reasonable expenses incurred in convening the meeting shall be refunded by the Association to the persons incurring the expenses.

NOTICE OF MEETING

- 12 (1) The Secretary of the Association shall, at least twenty one (21) days before the date fixed for holding a Special General meeting of the Association cause to be sent to each Member of the Association at his/her address appearing in the register of Members, a notice by pre-paid post stating the place, date and time of the meeting and the nature of the business to be transacted at the meeting.
- (2) No business other than that set out in the notice convening the meeting shall be transacted at the meeting.

- (3) A Member desiring to bring any business before a meeting may give notice of that business in writing to the Secretary, who shall include that business in the notice calling the next Special General Meeting after the receipt of the notice.

PROCEEDINGS AT MEETINGS

- 13 (1) All business that is transacted at a Special General Meeting and all business that is transacted at the Annual General Meeting with the exception of that specially referred to in these rules as being the ordinary business of the Annual General Meeting shall be deemed to be special business.
 - (2) No item of business shall be transacted at a Special General Meeting unless a quorum of Members entitled under these rules to vote is present during the time when the meeting is considering that item.
 - (3) Five (5) Members personally present (being Members entitled under these rules to vote at a Special General Meeting) constitute a quorum for the transaction of the business of a Special General Meeting.
 - (4) If within half an hour after the appointed time for the commencement of a Special General Meeting, a quorum is not present, the meeting, if convened upon the requisition of Members, shall be dissolved and in any other case shall stand adjourned to the same day in the next week at the same time and (unless another place is specified by the Chairperson at the time of the adjournment or by written notice to Members given before the day to which the meeting is adjourned) at the same place and, if at the adjourned meeting the quorum is not present within half an hour after the time appointed for the commencement of the meeting, the Members present (being not less than three (3) shall be a quorum.
- 14 (1) The Chairperson for each Special General Meeting of the Association shall be the Committee Member appointed and confirmed by the Committee at the Committee Meeting immediately preceding the Special General Meeting.
 - (2) If the appointed Chairperson is absent from the Special General Meeting for which she/he is appointed, the Members present shall elect one (1) of their number to preside as Chairperson at the Committee Meeting.
- 15 (1) The Chairperson of the Special General Meeting at which a quorum is present may, with the consent of the meeting, adjourn the meeting from time to time and place to place, but no business shall be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.

- (2) Where a meeting is adjourned for fourteen (14) days or more, a like notice of the adjourned meeting shall be given as in the case of the Special General Meeting.
 - (3) Except as provided in sub-clauses 15(1) and (2), it is not necessary to give notice of an adjournment or of the business to be transacted at an adjourned meeting.
- 16 A question arising at a Special General Meeting of the Association shall be determined on a show of hands and unless before or on the declaration of the show of hands a poll is demanded, a declaration by the Chairperson that a resolution has, on a show of hands, been carried or carried unanimously or carried by a particular majority or lost, and an entry to that effect in the Minute Book of the Association is evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, that resolution.
- 17
 - (1) Upon any question arising at a Special General Meeting of the Association, a Member has one (1) vote only.
 - (2) All votes shall be given personally or by proxy.
 - (3) In any case of an equality of voting on a question, the Chairperson of the meeting is entitled to exercise a second or casting vote.
- 18
 - (1) If at a meeting a poll on any question is demanded by not less than three (3) Members, it shall be taken at that meeting in such a manner as the Chairperson may direct and the resolution of the poll shall be deemed to be a resolution of the meeting on that question.
 - (2) A poll that is demanded on the election of a Chairperson or on a question of an adjournment shall be taken forthwith and a poll that is demanded on any other question shall be taken at such time before the close of the meeting as the Chairperson may direct.
- 19 A Member is not entitled to vote at any Special General Meeting unless all moneys due and payable by him/her to the Association have been paid, if applicable and she/he has been a Member of the Association for a period of not less than fourteen (14) days.
- 20
 - (1) Each Member shall be entitled to appoint another Member as his/her proxy by notice given to the Secretary no later than twenty four (24) hours before the time of the meeting in respect of which the proxy is appointed.
 - (2) The notice appointing the proxy shall be made in writing in the form prescribed by the Committee.

COMMITTEE OF MANAGEMENT

21 The affairs of the Association shall be managed by a Committee of Management constituted as provided in Rule 22.

22 The Committee:-

- (1) shall control and manage the business and affairs of the Association;
- (2) may, subject to these rules, the Regulations and the Act, exercise all such powers and functions as may be exercised by the Association other than those powers and functions that are required by these rules to be exercised by Special General Meetings of the Members of the Association; and
- (3) subject to these rules, the Regulations and the Act, has power to perform all such acts and things as appear to the Committee to be essential for the proper management of the business and affairs of the Association.

23 (1) The Association shall make provision for the offices of:

- (a) Chairperson;
- (b) Treasurer; and
- (c) Secretary.

The maximum membership of the Committee shall be six (6).

- (2) The Chairperson of the Association shall be responsible for ensuring the Association achieves its objectives as stated in the Statement of Purposes. As well, the Chairperson shall be responsible for duties as specified from time to time by the Committee of Management.
- (3) The Association may appoint a Finance Sub-committee to fulfil the role and obligations of a Treasurer.
- (4) In the absence of an elected Secretary, a Committee Member shall fulfil the duties of Secretary until the position can be filled.
- (5) In the event of the Chairperson not being able to fulfil his/her duties, then he or she may appoint a substitute.
- (6) The Chairperson, Treasurer and Secretary of the Association shall hold office until the Annual General Meeting next after the date of their election but are eligible for re-election.
- (7) In the event of a casual vacancy in the office of Treasurer and/or Secretary, the Committee may appoint one (1) of its Members to the vacant office and the Member so appointed may continue in office up to and including the

conclusion of the Annual General Meeting next following the date of his/her appointment.

- 24
- (1) Subject to Section 23 of the Act, the Committee shall consist of not more than six (6) Members elected at the Annual General Meeting of the Association each year.
 - (2) Each ordinary Member of the Committee shall, subject to these rules, hold office until the Annual General Meeting next after the date of his/her election but is eligible for re-election.
 - (3) In the event of a casual vacancy occurring in the office of an ordinary Member of the Committee, the Committee may appoint a Member of the Association to fill the vacancy and the Member so appointed shall hold office, subject to these rules, until the conclusion of the Annual General Meeting next following the date of his/her appointment.
 - (4) In the event of no Committee vacancies existing, the Committee may at its discretion co-opt Members of the Association to assist in conducting its business.
 - (5) Co-opted Committee Members have voting rights at Committee Meetings.

ELECTION OF OFFICERS AND VACANCY

- 25
- (1) Nominations of candidates for election as ordinary Members of the Committee:-
 - (a) shall be made in writing, signed by two (2) Members of the Association and accompanied by the written consent of the Candidate (which may be endorsed on the form of nomination); and
 - (b) shall be delivered to the Secretary of the Association not less than seven (7) days before the date fixed for the holding of the Annual General Meeting.
 - (2) If insufficient nominations are received to fill all vacancies on the Committee, the candidates nominated shall be deemed to be elected and further nominations shall be received at the Annual General Meeting.
 - (3) If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated shall be deemed to be elected.
 - (4) If the number of nominations exceeds the number of vacancies to be filled, a ballot shall be held.

(5) The ballot for the election of officers of the Committee shall be conducted at the first Committee Meeting following the Annual General Meeting.

26 For the purposes of these rules, the office of an officer of the Association or of an ordinary member of the Committee becomes vacant if the officer or member:-

- (1) ceases to be a Member of the Association;
- (2) becomes an insolvent under administration within the meaning of the *Corporations Act 2001* (Cth); or
- (3) resigns his/her office by notice in writing given to the Secretary.

PROCEEDINGS OF COMMITTEE

27 The Committee shall meet at least every two (2) months at such a place and at such times as the Committee may determine.

28 Special meetings of the Committee may be convened by any three (3) Members of the Committee.

29 Notice shall be given to members of the Committee of any special meeting specifying the general nature of the business to be transacted and no other business shall be transacted at such a meeting.

30 The quorum for an ordinary committee meeting shall be two (2) members.

31 No business shall be transacted unless a quorum is present and if within half an hour of the time appointed for the meeting a quorum is not present the meeting shall stand adjourned to the same place and at the same hour of the same day in the following week unless the meeting was a special meeting in which case it lapses.

32 Questions arising at a meeting of the Committee or of any sub-committee appointed by the Committee shall be determined on a show of hands or, if demanded by a member, by a poll taken in such manner as the person presiding at the meeting may determine.

33 Each member present at a meeting of the Committee or of any sub-committee appointed by the Committee (including the person presiding at the meeting) is entitled to one (1) vote and, in the event of an equality of votes on any question, the status quo shall remain.

34 Written notice of each Committee meeting shall be served on each member of the Committee by delivering it to him/her at a reasonable time before the meeting or by sending it by pre-paid post addressed to him/her at his/her usual or last known place of abode at least two (2) business days before the date of the meeting.

35 Subject to sub-clause 30 the Committee may act notwithstanding any vacancy on the Committee.

- 36 Any committee member can request a leave of absence from the Committee, such request will be considered to be effective from the date of the first Committee meeting after the request is received. Such leave of absence cannot extend beyond the next Annual General Meeting. Committee Members on a leave of absence have no voting rights on the Committee and are not included in the total number of members of the Committee until such time as their leave is completed.

SECRETARY

- 37 The Secretary of the Association shall keep minutes of the resolutions and proceedings of each General Meeting, Special General Meeting and each Committee Meeting in books provided for that purpose together with a record of the names of persons present at Committee Meetings.
- 38 The Treasurer or the Finance Sub-committee appointed pursuant to sub-clause 23(3) herein of the Association: -
- (1) shall collect and receive all moneys due to the Association and make all payments authorised by the Association; and
 - (2) shall keep correct accounts and books showing the financial affairs of the Association with full details of all receipts and expenditure connected with the activities of the Association.

REMOVAL OF MEMBER OF COMMITTEE

- 39
- (1) The Association in Special General Meeting may by resolution remove any member of the Committee before the expiration of his/her term of office and appoint another member in his/her stead to hold office until the expiration of the term of the first mentioned Member.
 - (2) Where the Member to whom a proposed resolution referred to in sub-clause 39(1) makes representations in writing to the Secretary or Chairperson of the Association (not exceeding a reasonable length) and requests that they be notified to the Members of the Association, the Secretary or the Chairperson may send a copy of the representations to each Member of the Association or, if they are not so sent, the Member may require that they be read out at the meeting.
 - (3) Where a member of the Committee is absent from two (2) consecutive Committee Meetings without apology, the Chairperson shall contact the member to determine whether the member intends to continue involvement with the Committee. Should no contact be made by the member by the end of the third meeting, the member is automatically given a leave of absence from the Committee for three (3) months. Notice of leave of absence will be posted to the last known address for the member with formal notification

of automatic removal from the Committee at the expiration of the leave of absence should no contact be received prior to the expiration of the leave of absence.

CHEQUES

- 40 All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments shall be signed by two (2) members of the Committee or one (1) member of the Committee and one (1) member of staff of the association.

COMMON SEAL

- 41 (1) The Common Seal of the Association shall be kept in the custody of the Secretary.
- (2) The Common Seal shall not be affixed to any instrument except by the authority of the Committee and the affixing of the Common Seal shall be attested by the signatures either of two (2) members of the Committee or one (1) member of the Committee and of the Public Officer of the Association.

ALTERATION OF RULES AND STATEMENT OF PURPOSES

- 42 These rules and the Statement of Purposes of the Association shall not be altered except in accordance with the Act.

NOTICES

- 43 (1) A notice may be served by or on behalf of the Association upon any Member either personally or by sending it by post to the Member at his/her address shown in the Register of Members.
- (2) Where a document is properly addressed pre-paid and posted to a person as a letter, the document shall, unless the contrary is provided, be deemed to have given to the person at the time at which the letter would have been delivered in the ordinary course of post.

WINDING UP OR CANCELLATION

- 44 (1) Subject to subclause 44(2), in the event of the Association being wound up, any surplus assets remaining after the payment of the Association's liabilities shall be transferred to another organisation in Australia which is a

public benevolent institution for the purposes of any Commonwealth taxation Act.

- (2) If the Association is wound up or if the endorsement of the Association as a deductible gift recipient is revoked, the following assets remaining after the payment of the Association's liabilities shall be transferred to a fund, authority or institution to which income tax deductible gifts can be made:
 - (a) gifts of money or property for the principal purpose of the Association;
 - (b) contribution made in relation to an eligible fundraising event for the principal purpose of the Association; and
 - (c) money received by the Association because of such gifts and contributions.
- (3) Subject to clauses 44(1) and (2), in the event of capital funding having been provided by the Department of Community Services, or any other Government Department, disposal of such capital assets shall be done in conference with the Ministers or officers of that Department.

CUSTODY OF RECORDS

- 45 (1) Except as otherwise provided in these Rules, the Secretary shall keep in his/her custody or under his/her control all books, documents and securities of the Association.
- (2) All accounts, books, securities, minutes and any other relevant documents of the Association must be available for inspection free of charge by any member upon request.
- (3) A member may make a copy of any accounts, books, securities and any other relevant documents of the Association.

FUNDS

- 46 The funds of the Association shall be derived from entrance fees, annual subscriptions, fundraising activities, donations and such other sources as the Committee determines.
- 47 The assets and income of the Association shall be applied solely in the furtherance of its objectives and no portion shall be distributed directly or indirectly to its Members, except as bona fide compensation for services rendered or expenses incurred on behalf of the Association.

48 Rules providing for Winding Up or Cancellation [Rule 44] shall not be altered without consent of the Minister.