



# **CONSTITUTION OF DAY HOSPITALS AUSTRALIA LIMITED ACN 054 719 050**

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## 1. PRELIMINARY

### 1.1 Company limited by guarantee

Day Hospitals Australia is a company limited by guarantee and the liability of Members is limited as provided in this Constitution.

### 1.2 Objects of Day Hospitals Australia

The objects of Day Hospitals Australia are to leverage the pre-eminence of Day Hospital Australia's position in the day hospital market as the peak industry body for the day hospital sector for the purposes of:

- (a) advocating on behalf of its members for continued relevancy and sustainability;
- (b) actively engaging with key government, industry and supplier stakeholders to seek the best outcomes on behalf of its members;
- (c) provide members with industry best practice data, information and professional development opportunities;
- (d) to manage and undertake where appropriate member events;
- (e) to continue to enhance Day Hospitals Australia's status as the pre-eminent industry leader and advocate for members;
- (f) to assist members in achieving best outcomes in their business including the offering of partnerships with suppliers to the day hospital industry;
- (g) to facilitate state and territory chapters to provide information and expertise on a local level;
- (h) to do all acts and things as may be deemed reasonably necessary or incidental to the achievement of similar objects **(Objects)**.

### 1.3 Application of income and property

No part of Day Hospitals Australia's income or property may be paid or transferred directly or indirectly by way of dividend, bonus or otherwise to Members including on a winding up of Day Hospitals Australia.

### 1.4 Replaceable rules

The replaceable rules referred to in section 141 of the Act do not apply to Day Hospitals Australia and are replaced by the rules set out in this Constitution.

### 1.5 Definitions

The following definitions apply in this Constitution:

**Act** means the *Corporations Act 2001 (Cth)* as varied, amended and replaced from time to time.

**Applicant** means a person or body corporate that submits an Application for Membership.

**Application for Membership** means an application for Membership in a form prescribed by the Board from time-to-time.

**Board** means the Directors acting collectively under this Constitution.

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**Chapter** means a committee of Day Hospitals Australia in a given State or Territory formed pursuant to rule 20.

**Constitution** means these rules for the operation of Day Hospitals Australia set out in this document.

**Corporate Member** means a Member that is not a natural person.

**Day Hospitals Australia** means Day Hospitals Australia Pty Ltd ACN 065 719 050 and any other name the company resolves to call itself from time-to-time.

**Day Hospital** means a standalone facility (whether operated and/or owned by a Government Authority or not) that provides health service or services to persons on an inpatient basis (discharged within 23:59:59 hours of admission).

**Day Hospital Member** means Member that is a Day Hospital.

**Director** means a person, appointed in accordance with the rules in this Constitution and the Act, who is, for the time being, a director of Day Hospitals Australia.

**Executive Officer** means the officer from time to time as appointed under 8.1 of this Constitution.

**Government Authority** means for the purposes of any consent, permit or other law governing Day Hospitals, a local, state or territory of federal authority or agency.

**Group** means in relation to a Day Hospital Member, a group of Day Hospitals who are Related Bodies Corporate or where one or more persons has a controlling interest in the Day Hospital Members that make up that Group.

**Intellectual Property** means all rights subsisting in copyright, business names, names, trademarks (or signs), logos, designs including computer software, images (including photographs, videos or films) or service marks relating to Day Hospitals Australia or any activity of or conducted, promoted or administered by Day Hospitals Australia.

**Member** means any person whose name appears in the Register as a Member of Day Hospitals Australia.

**Membership Benefits** means the member inclusions and exclusions described in the Membership Classes and Benefits Table.

**Membership Classes and Benefits Table** means the table annexed to the Schedule of this Constitution, as amended from time to time.

**Membership Fees** means the fees and charges payable by an Applicant or a Member (as the case may be) for admission and ongoing membership of Day Hospitals Australia as prescribed by the Board from time to time.

**Member Representative** means an Officer, employee or shareholder of a Corporate Member, who for the purposes of that Corporate Member and this Constitution is the representative of that Corporate Member.

**Officer** has that meaning as the definition of that term in the Act.

**Ordinary Resolution** means a resolution passed at a meeting of Members by a majority of the votes cast by Members entitled to vote on the resolution.

**Policies** means a policy made under clause 26.1.

**Provider Number** means the unique identifier associated with a Day Hospital issued by a Government Authority.

**Register** means the register of Members kept as required by the Act.

**Secretary** means, during the term of that appointment, a person appointed as a secretary of Day Hospitals Australia in accordance with this Constitution and the Act.

**Special Resolution** has the meaning given by section 9 of the Act.

**Voting Member** means a Member entitled to vote at a meeting of the Day Hospitals Australia and specifically excludes those Members whose Membership Benefits do not include the right to receive a notice of a Day Hospitals Australia meeting, attend a Day Hospitals Australia meeting or vote at a Day Hospitals Australia meeting.

## 1.6 Interpretation of this Constitution

- (a) Headings and marginal notes are for convenience only, and do not affect interpretation.
- (b) The following rules also apply in interpreting this Constitution, except where the context makes it clear that a rule is not intended to apply. A reference to:
  - (i) legislation (including subordinate legislation) is to that legislation as amended, modified in relation to Day Hospitals Australia, re-enacted or replaced, and
  - (ii) includes any subordinate legislation issued under it;
  - (iii) a constitution or agreement, or a provision of a constitution or agreement, is to that constitution, agreement or provision as amended, supplemented, replaced or novated;
  - (iv) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person; and
  - (v) anything (including a right, obligation or concept) includes each part of it.
- (c) A singular word includes the plural, and vice versa.
- (d) A word which suggests one gender includes the other genders.
- (e) If a word is defined under rule 1.5, its use within this Constitution has a corresponding meaning.
- (f) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.
- (g) The word agreement includes an undertaking or other binding arrangement or understanding, whether or not in writing.

- (h) A power to do something includes a power, exercisable in the like circumstances, to revoke or undo it.
- (i) A reference to a power is also a reference to authority or discretion.
- (j) A reference to something being written or in writing includes that thing being represented or reproduced in any mode in a visible form.
- (k) A word (other than a word defined in rule 1.5) which is defined by the Act has the same meaning in this Constitution where it relates to the same matters as the matters for which it is defined in the Act.
- (l) A reference to a Chapter, Part, Division, or section is a reference to a Chapter, Part, Division or section of the Act.

## **2. MEMBERSHIP**

### **2.1 Membership**

Subject to rules 2.12 and 2.13, the Members are as at a particular date, the persons that Day Hospitals Australia has admitted to Membership and are recorded in the Register as a Member.

### **2.2 Classes of Membership**

Membership of Day Hospitals Australia is open to those who fall into one or more of the categories of Membership described in the Membership Classes and Benefits Table.

### **2.3 New Members**

An Applicant must not be admitted to Membership unless:

- (a) a complete Application for Membership is received by Day Hospitals Australia in accordance with rule 2.4;
- (b) the Application for Membership is approved by the Board in accordance with rule 2.5; and the Applicant undertakes to:
  - (i) be bound by this Constitution and the Policies (including Policies specific to the relevant category of Membership);
  - (ii) pay the fees and subscriptions determined to apply to the Applicant; and
  - (iii) support Day Hospitals Australia in the encouragement and promotion of its Objects.

### **2.4 Applications for Membership**

An Application for Membership must be:

- (a) made in writing and in the form as the Board may from time to time reasonably require;
- (b) accompanied by such proofs, information and evidence as the Board may from time to time reasonably require (**Supporting Evidence**). The Board reserves the right

to request further Supporting Evidence as part of its deliberation of an Application for Membership; and

- (c) accompanied by payment of the relevant Membership Fee and lodged with Day Hospitals Australia.

## **2.5 Approval or rejection of Applications for Membership**

- (a) As soon as reasonably practicable after the receipt of a complete Application for Membership, the Board must determine, in its absolute discretion, whether to approve and resolve to admit as a Member or reject the Application for Membership.
- (b) If the Board approves an Application for Membership, the Board must ensure, as soon as practicable:
  - (i) subject to receipt by Day Hospitals Australia of the relevant Membership Fee (as cleared funds), enter the Applicant's name into the Register as a Member, noting the Membership Class of the Member and the date of entry into the Register; and
  - (ii) the Applicant is notified in writing that the Board has approved the Application for Membership, including the Membership Class and Member Benefits.
- (c) If the Board rejects a Membership Application, Day Hospitals Australia must, as soon as reasonably practicable, notify the Applicant in writing that the Application for Membership has been rejected and return any Membership Fee received by Day Hospitals Australia with the Membership Application.

## **2.6 Group Membership**

- (a) Each individual facility with an associated Provider Number within a Group may apply as a Hospital Member.
- (b) However, if a Day Hospital Member is a member of a Group, then the aggregate of the Group's right to vote will be one vote for the Group exercisable by one Day Hospital Member of that Group subject to prior written notice to the Board.

## **2.7 Rights of Membership**

- (a) An Applicant becomes a Member and is entitled to exercise the rights of membership (or a class of membership) when the Applicant's name is entered in the Register.
- (b) A right, privilege or obligation of a person by reason of membership of Day Hospitals Australia (or a class of membership):
  - (i) is personal to each Member and is not capable of being transferred or transmitted to another person or body corporate and any attempt to do so shall be void; and
  - (ii) terminates upon the cessation of membership of Day Hospitals Australia (or a class of membership) irrespective of how the Member ceases to be a member of Day Hospitals Australia.

## 2.8 General

- (a) No Member whose membership ceases has any claim against Day Hospital Australia or the Directors for damages or otherwise arising from cessation or termination of membership.
- (b) A Member must treat all staff, contractors and representatives of Day Hospitals Australia with respect and courtesy at all times.
- (c) A Member must not act in a manner unbecoming of a Member or prejudicial to the Objects and interests of Day Hospitals Australia.

## 2.9 Payment of Membership Fee

- (a) A Member must pay the relevant Membership Fee as and when it falls due. If a Member fails to pay the Membership Fee when due and without demand by Day Hospitals Australia, the Board may resolve to one or more of the following (without prejudice to any other rights under the law) (**Defaulting Member**):
  - (i) suspend the Defaulting Member in which case all rights accruing to the Defaulting Member under this Constitution and the Act are suspended in full including the right to receive notices of meetings and the right to vote on a resolution at a meeting; and/or
  - (ii) suspend the provision of Member Benefits to the Defaulting Member; and/or
  - (iii) provide a notice to the Defaulting Member terminating their membership of Day Hospitals Australia on 7 days notice if the Membership Fee and all other monies owing by the Defaulting Member are not paid within 7 days of the notice.
- (b) Day Hospitals Australia reserves the right to charge the Defaulting Member an administration fee the equivalent of 10% of the Membership Fee outstanding which fee is payable at the same time as the Membership Fee.
- (c) Any action taken by the Board or Day Hospitals Australian under this clause shall be without prejudice to the right of Day Hospitals Australia to recover any arrears of the Membership Fee and any other monies owing to Day Hospitals Australia by the Defaulting Member.

## 2.10 Changing Classes of Membership

- (a) A Member must promptly notify Day Hospitals Australia where it reasonably believes that the Member does not meet the criteria of the Membership Class being the basis of the Member's admission to Day Hospitals Australia (**Class Change Notice**) and propose the new Membership Class for that Member.
- (b) Day Hospitals Australia will review the Class Change Notice and advise the Member that:
  - (i) it agrees with the new Membership Class proposed by the Member in the Class Change Notice;



- (ii) not agree with the new Membership Class proposed by the Member in the Class Change Notice, and offer the Member admission to a different Membership Class;
  - (iii) not agree with the new Membership Class proposed by the Member in the Class Change Notice and advise the Member that they no longer meet the criteria of any Membership Class and terminate their membership of that Member.
- (c) In the event that a Member changes Membership Class, Day Hospitals Australia reserves the right to invoice the Member for any difference in the Membership Fee between the old Membership Class and the new Membership Class.
- (d) Day Hospitals Australia must ensure that the Register is updated to reflect any change in the Membership Class of the Member as soon as practicable after Day Hospitals Australia notifies the Member of its decision under clause 2.9(b).

## **2.11 Limited liability of Members**

If Day Hospitals Australia is wound up each Member undertakes to contribute to the assets of Day Hospitals Australia up to an amount not exceeding \$1.00 for payment of the debts and liabilities of Day Hospitals Australia including the costs of the winding up. This undertaking continues for one (1) year after a person ceases to be a Member.

## **2.12 Terminating membership of Day Hospitals Australia**

- (a) A Member may terminate its membership of Day Hospitals Australia by giving written notice to Day Hospitals Australia.
- (b) A Member who or which ceases to be a Member shall forfeit all right in and claim upon Day Hospitals Australia or the Directors for damages or otherwise, and must immediately cease using the Intellectual Property.

## **2.13 Expelling a Member**

- (a) The Board may, by resolution, expel from Day Hospitals Australia any Member:
  - (i) who does not comply with this Constitution or Policies, any by-laws, rules or regulations of Day Hospitals Australia; or
  - (ii) whose conduct or reputation, in the opinion of the Board, is prejudicial to the interests of Day Hospitals Australia,
 and remove that Member's name from the Register.
- (b) At least 21 days before the Board holds a meeting to expel a Member, the Board must give a written notice to the Member which states:
  - (i) the allegations against the Member;
  - (ii) the proposed resolution for the Member's expulsion; and
  - (iii) that the Member has an opportunity at the meeting to address the allegations either orally or in writing.
- (c) Day Hospitals Australia must expel a Member and remove the Member's name from

the Register where:

- (i) a Board meeting is held to expel a Member; and
  - (ii) a resolution is passed at the meeting by a majority of two-thirds of those present and voting for the Member to be expelled. The vote must be taken by ballot.
- (d) The decision of the Board under clause 2.12(c) is final and binding on the Member and the Member has no right of recourse or review of such decision.
- (e) A Member expelled from Day Hospitals Australia does not have any claim on Day Hospitals Australia, its funds or property.

## **2.14 New classes of membership**

The Board may create other classes of membership and determine the rights and privileges attached to those classes including, but not limited to, the voting rights of the Members in each class created.

## **3. FEES**

### **3.1 Joining fees**

A Member may be required to pay a joining fee as a precondition to admission of membership to Day Hospitals Australia.

### **3.2 Annual subscription fees**

Every Member shall pay the Membership Fee to Day Hospitals Australia in a manner and on a date specified in the tax invoice from time-to-time.

### **3.3 Determination of joining fee and Membership Fee**

- (a) The Board shall, from time to time and in its absolute discretion, determine the amount of the joining fee and the amount of the Membership Fee.
- (b) Without limiting the way in which they may otherwise be determined, the fees referred to in rule 3.1 and 3.2 may be determined or calculated having regard to the make up or characteristics of Members, the operational and strategic needs of Day Hospitals Australia and any other consideration necessary for Day Hospitals Australia to fulfil its objects.
- (c) A Member's first annual Membership Fee shall fall due on the date the Member was admitted to membership and shall be applied for the period ending on 30 June next occurring and shall be reduced pro-rata in accordance with the policy of Day Hospitals Australia from time to time.

### **3.4 Special Levies**

- (a) The Board may, upon a special resolution being passed by the Members, make a special levy on Members for any purpose that the Board decides. Prior to making a special levy, the Board will notify the Members and seek their views on the proposed special levy. After consulting with the Members, the Board at its discretion may propose a resolution to make a special levy and, if that resolution is passed, all Members must pay that special levy within 7 days of a tax invoice being delivered to the Member.

- (b) Any such special levy shall be made by resolution of the Board which shall set out:
  - (i) the details of the resolution;
  - (ii) the amount and manner in which the levy shall be charged against Members;
  - (iii) the due date for payment of the levy; and
  - (iv) any other matters incidental to the resolution or the levy.
- (c) A special levy may be calculated by any method that the Board considers fit.

### **3.5 Refunds**

- (a) Unless a mistake has been made in the calculation of the amount of any joining fee, Membership Fee or special levy to be paid under this rule 3, a Member shall not be entitled to a refund of any joining fee, Membership Fee or special levy that it has paid.
- (b) In the event that a Member should terminate their membership of Day Hospitals Australia prior to the end of a membership year a pro rata refund will be calculated based on the number of months remaining in the financial year the Member terminated its membership. Any exception to this procedure will be at the absolute discretion of the Board.

## **4. THE BOARD**

### **4.1 Number of Directors**

- (a) Day Hospitals Australia must have at least three (3) Directors at any given time.
- (b) Until otherwise decided by Ordinary Resolution of the Members, the Board shall consist of:
  - (i) not more than eight (8) Directors appointed pursuant to rule 4.2; and
  - (ii) not more than four (4) Directors appointed pursuant to rule 4.3.
- (c) The number of Directors appointed pursuant to rule 4.3 shall not exceed the number which is equal to the number appointed pursuant to rule 4.2 plus one.

### **4.2 Appointment of Member appointed Directors**

- (a) **Eligible candidates**
  - (i) An Individual or a Member Representative from each Chapter where that Chapter represents a State or Territory which has at least five (5) Day Hospital Members; or
  - (ii) An Individual, or a Member Representative in a State or Territory which has less than five (5) Day Hospital Members nominated by the Board in its absolute discretion from time to time, is eligible to be appointed as a Member appointed Director (**Member Appointed Director**).

**(b) Appointment by the Board**

- (i) This rule replaces section 201H of the Act.
- (ii) Subject to this Constitution, section 201E of the Act, and to the number of Directors for the time being fixed under rule 4.1(b)(i) not being exceeded, the Board may appoint a person to be a Director at any time as determined by the Board from time to time.
- (iii) Any Director so appointed automatically retires at the next annual general meeting and is eligible for election as a Member Appointed Director at that annual general meeting.

**(c) Election by general meeting**

- (i) This rule replaces section 201G of the Act.
- (ii) An election of Member Appointed Directors pursuant this rule 4.2 can only be held at each annual general meeting.
- (iii) Subject to this Constitution, section 201E of the Act, and to the number of Directors for the time being fixed under rule 4.1(b)(i) not being exceeded, Day Hospitals Australia may elect Directors to be Member Appointed Directors by Ordinary Resolution, subject to the following requirements:
  - (A) the person retires under rule 4.2, 4.4 or 4.6, obtains a nomination of the person by another serving Director, and seeks re-election; or
  - (B) at least 21 business days (or any other period fixed by the Board) before the date of the general meeting at which election is to occur, Day Hospitals Australia receives both:
    - (I) a nomination of the person by another serving Director; and
    - (II) a consent to act as a Director signed by the person.
- (iv) Day Hospitals Australia must notify Members of every candidate for election as a Member Appointed Director at least seven (7) days before the relevant general meeting.
- (v) A Director appointed to replace one removed from office under rule 4.7 must retire at the next annual general meeting and is eligible for re-election as a Member Appointed Director at that annual general meeting.

**(d) Postal ballot**

The Board may:

- (i) resolve that the election of Member Appointed Directors due to occur at an annual general meeting pursuant to rule 4.2(c) take place by postal ballot conducted before that annual general meeting; and
- (ii) decide the form, manner of voting, timing and conduct of that postal ballot.

**4.3 Appointment of Board appointed Directors**

**(a) Board appointed Directors**

- (i) A Director appointed under this rule 4.3 has all the powers and functions of a Director that is appointed under rule 4.2.
- (ii) A Director appointed under this rule 4.3 may or may not be a Member or a Member Representative. If not a Member or a Member Representative, the Director does not have the functions or powers associated with a Member unless specifically conferred by a resolution of the Board.

(b) **Eligible candidates**

A candidate is any person who is determined by the Board to possess specific experience, skillset, or independence that would be beneficial to the Board in fulfilling its duties to Day Hospitals Australia.

(c) **Appointment by the Board**

- (i) This rule replaces section 201H of the Act.
- (ii) Subject to this Constitution, section 201E of the Act, and to the number of Directors for the time being fixed under rule 4.1(b)(ii) not being exceeded, the Board may appoint a person to be a Board Appointed Director at any time.

(d) **Notice to Members at annual general meeting**

The appointment of any Board Appointed Director so appointed must be notified to Members at the next annual general meeting. If the appointment is not notified to Members, the person ceases to be a Director at the end of the annual general meeting.

#### **4.4 Retirement of Directors**

(a) A Director appointed pursuant to rule 4.2:

- (i) must retire from office at the third annual general meeting after the Director was elected or last re-elected; and
- (ii) may elect to retire and seek re-election at an annual general meeting before the time required by rule 4.4(a)(i), provided:
  - (A) at least 21 business days (or any other period as the Board may determine) before the annual general meeting, the Director has given the Board notice of their intention to do so; and
  - (B) if the Director gives such a notice, the Director must then retire from office at the relevant annual general meeting

(b) A Director appointed pursuant to rule 4.3:

- (i) must retire from office at the first annual general meeting after the Director was appointed or last re-appointed; and
- (ii) may seek re-appointment with the Board.

(c) A Director:

- (i) who retires under rule 4.4(a) is eligible for re-election pursuant to rule 4.2; and
- (ii) who retires under rule 4.4(b) is eligible for re-appointment pursuant to rule 4.3.

#### **4.5 Time of retirement**

A Director's retirement under rule 4.4 takes effect at the end of the relevant annual general meeting, unless the Director is re-elected at that annual general meeting.

#### **4.6 Cessation of Director's appointment**

- (a) This rule 4.6 replaces section 203A of the Act.
- (b) A person automatically ceases to be a Director if the person:
  - (i) is not permitted by the Act (or an order made under the Corporations Act) to be a director;
  - (ii) becomes disqualified from managing corporations under Part 2D.6 of the Act and is not given permission or leave to manage Day Hospitals Australia under section 206F or 206G of the Act;
  - (iii) becomes of unsound mind or physically or mentally incapable of performing the functions of that office;
  - (iv) fails to attend Board meetings for a continuous period of three (3) months without leave of absence from the Board;
  - (v) resigns by notice in writing to Day Hospitals Australia; or
  - (vi) is removed from office under rule 4.7.

#### **4.7 Removal from office**

Whether or not a Director's appointment was expressed to be for a specified period, the Members may by Ordinary Resolution, remove a Director from office. The power to remove a Director under this rule is in addition to section 203D of the Act.

#### **4.8 Too few Directors**

If the number of Directors is reduced below the minimum required by rule 4.1, the continuing Directors may act as the Board only:

- (a) to appoint Directors up to that minimum number;
- (b) to convene a meeting of Members; and
- (c) in emergencies.

### **5. POWERS OF THE BOARD**

#### **5.1 Powers generally**

- (a) This rule replaces section 198A of the Act.
- (b) Except as otherwise required by the Act, any other applicable law or this Constitution, the Board:

- (i) has power to manage the business of Day Hospitals Australia, including but not exclusive to decision-making regarding the level of fees payable on admission, Membership Fees or other payments to be made by Members (or classes of Members) pursuant to rule 3; and
- (ii) may exercise every right, power or capacity of Day Hospitals Australia in a general meeting.

## **5.2 Exercise of powers**

A power of the Board can be exercised only:

- (a) by resolution passed at a meeting of the Board or otherwise in accordance with rule 12; or
- (b) in accordance with a delegation of the power under rule 7 or 8.

## **6. EXECUTING NEGOTIABLE INSTRUMENTS**

- (a) This rule replaces section 198B of the Act.
- (b) The Board must decide the manner (including the use of facsimile signatures if thought appropriate) in which negotiable instruments can be executed, accepted or endorsed for and on behalf of Day Hospitals Australia. Day Hospitals Australia may execute, accept, or endorse negotiable instruments only in the manner decided by the Board.

## **7. EXECUTIVE OFFICER**

### **7.1 Appointment and power of Executive Officer**

- (a) This rule replaces section 198C and 201J of the Act.
- (b) The Board may appoint one (1) or more persons to be an Executive Officer either for a specified term (but not for life) or without specifying a term.
- (c) The Board may delegate any of the powers of the Board to an Executive Officer:
  - (i) on the terms and subject to any restrictions the Board decides; and
  - (ii) so as to be concurrent with, or to the exclusion of, the powers of the Board, and may revoke the delegation at any time.
- (d) This rule does not limit rule 7.

## **8. DELEGATION OF BOARD POWERS**

### **8.1 Power to delegate**

The Board may delegate any of its powers as permitted by section 198D of the Act.

### **8.2 Power to revoke delegation**

The Board may revoke a delegation previously made whether or not the delegation is expressed to be for a specified period with immediate effect.

### **8.3 Terms of delegation**

- (a) A delegation of powers under rule 8.1 may be made:
  - (i) for a specified period or without specifying a period; and
  - (ii) on the terms (including power to further delegate) and subject to any restrictions the Board decides.
- (b) A constitution of delegation may contain the provisions for the protection and convenience of those who deal with the delegate that the Board thinks appropriate.

### **8.4 Proceedings of committees**

Subject to the terms on which a power of the Board is delegated to a committee, the meetings and proceedings of committees are, to the greatest extent practical, governed by the rules of this Constitution which regulate the meetings and proceedings of the Board.

## **9. DIRECTORS' DUTIES AND INTERESTS**

### **9.1 Compliance with duties under the Act**

Each Director must comply with sections 180 to 183 of the Act.

### **9.2 Director can hold other offices etc.**

A Director may:

- (a) hold any office or place of profit or employment other than that of Day Hospitals Australia's auditor or any director or employee of the auditor;
- (b) be a Member of any corporation (including Day Hospitals Australia) or partnership other than Day Hospitals Australia's auditor; or
- (c) be a creditor of any corporation (including Day Hospitals Australia) or partnership; or
- (d) enter into any agreement with Day Hospitals Australia.

### **9.3 Disclosure of interests**

Each Director must comply with section 191 of the Act.

### **9.4 Director interested in a matter**

- (a) Each Director must comply with section 195 of the Act in relation to being present, and voting, at a Board meeting that considers a matter in which the Director has a material personal interest. Subject to section 195 of the Act:
  - (i) a Director may not be counted in a quorum at a Board meeting that considers, and may not vote on, any matter in which that Director has an interest;
  - (ii) Day Hospitals Australia may proceed with any transaction that relates to the interest and the Director may participate in the execution of any relevant agreement by or on behalf of Day Hospitals Australia;



- (iii) the Director may retain benefits under the transaction even though the Director has the interest; and
  - (iv) Day Hospitals Australia cannot avoid the transaction merely because of the existence of the interest.
- (b) If the material personal interest is required to be disclosed under section 191 of the Act, rule 9.4(c) applies only if the material personal interest is disclosed to Day Hospitals Australia before the transaction is entered into.

## **9.5 Agreements with third parties**

Day Hospitals Australia cannot avoid an agreement with a third party merely because a Director:

- (a) fails to make a disclosure of an interest; or
- (b) is present at, or counted in the quorum for, a Board meeting that considers or votes on that agreement in accordance with rule 9.4 above.

## **9.6 Obligation of secrecy**

- (a) Every Director and Secretary must keep the transactions and affairs of Day Hospitals Australia and the state of its financial reports confidential unless required to disclose them:
  - (i) in the course of duties as an officer of Day Hospitals Australia;
  - (ii) by the Board or Day Hospitals Australia in general meeting; or
  - (iii) by law.
- (b) Day Hospitals Australia may require a Director, Secretary, auditor, trustee, committee Member or other person engaged by it to sign a confidentiality undertaking consistent with this rule. In the event that a Director, Secretary, auditor, trustee, committee Member or other person engaged by Day Hospitals Australia fails or refuses to sign a confidentiality undertaking as contemplated by this rule 9.6, their appointment is to be revoked.

## **10. DIRECTORS' REMUNERATION**

### **10.1 Restrictions on payments to Directors**

Day Hospitals Australia must not, without the approval of the Members at a general meeting appoint a Director to any salaried office of Day Hospitals Australia or any office of Day Hospitals Australia paid by fees.

### **10.2 Payments to Directors with Board approval**

With the approval of the Board, Day Hospitals Australia may pay to a Director:

- (a) reasonable expenses (including travelling and accommodation) incurred in carrying out duties as a Director;
- (b) reasonable remuneration for any service rendered by the Director to Day Hospitals Australia;

- (c) reasonable remuneration for goods supplied by the Director to Day Hospitals Australia in the ordinary course of business; and
- (d) reasonable rent for premises leased by the Director to Day Hospitals Australia.

## **11. OFFICERS' INDEMNITY AND INSURANCE**

### **11.1 Indemnity**

- (a) Subject to and so far as permitted by Act, the *Competition and Consumer Act 2010 (Cth)* and any other applicable law:
  - (i) Day Hospitals Australia must, to the extent the person is not otherwise indemnified, indemnify every officer of Day Hospitals Australia and its wholly owned subsidiaries and may indemnify its auditor against a Liability incurred as such an officer to a person (other than Day Hospitals Australia or a related body corporate) including a Liability incurred as a result of appointment or nomination by Day Hospitals Australia or subsidiary as a trustee or as an officer of another corporation, unless the Liability arises out of conduct involving a lack of good faith; and
  - (ii) Day Hospitals Australia may make a payment (whether by way of advance, loan or otherwise) in respect of legal costs incurred by an officer in defending an action for a Liability incurred as such an officer or in resisting or responding to actions taken by a Government agency or a liquidator.
- (b) In this rule, Liability means a liability of any kind (whether actual or contingent and whether fixed or unascertained) and includes costs, damages and expenses, including costs and expenses incurred in connection with any investigation or inquiry by a government agency or a liquidator.

### **11.2 Insurance**

Subject to the Act and any other applicable law, Day Hospitals Australia may enter into, and pay premiums on, a contract of insurance in respect of any person while an officer of Day Hospitals Australia or one of its wholly owned subsidiaries.

### **11.3 Former officers**

The indemnity in favour of officers under rule 11.1 is a continuing indemnity. It applies in respect of all acts done by a person while an officer of Day Hospitals Australia or one of its wholly owned subsidiaries even though the person is not an officer at the time the claim is made.

### **11.4 Deeds**

Subject to the Act, the *Competition and Consumer Act 2010 (Cth)* and any other applicable law, Day Hospitals Australia may, without limiting a person's rights under this rule 11, enter into an agreement with a person who is or has been an officer of Day Hospitals Australia or any of Day Hospitals Australia's subsidiaries, to give effect to the rights of the person under this rule 11 on any terms and conditions that the Board thinks fit.

## **12. BOARD MEETINGS**

### **12.1 Convening Board meetings**

- (a) This rule replaces section 248C of the Act.
- (b) A Director may at any time, and a Secretary must on request from a Director, convene a Board meeting.

### **12.2 Notice of Board meeting**

The convenor of each Board meeting:

- (a) must give reasonable notice of the meeting (and, if it is adjourned, of its resumption) individually to each Director; and
- (b) may give that notice orally (including by telephone) or in writing,

but failure to give notice to, or non-receipt of notice by, a Director does not result in a Board meeting being invalid.

### **12.3 Use of technology**

A Board meeting may be held using any means of audio or audio-visual communication and technology by which each Director participating can hear and be heard by each other Director participating or in any other way permitted by section 248D of the Act. A Board meeting held solely or partly by technology is treated as held at the place at which the greatest number of the Directors present at the meeting is located or, if an equal number of Directors is located in each of two (2) or more places, at the place where the chairman of the meeting is located.

### **12.4 Chairing Board meetings**

- (a) This rule replaces section 248E of the Act.
- (b) The Chairperson shall preside over any meeting of the Board at which he or she is present. The Chairperson may delegate the role of Chair for meetings to another Director from time to time.
- (c) In the absence or inability of the Chairperson to act, the Directors present must elect a Director present to chair the meeting.

### **12.5 Quorum**

- (a) This rule replaces section 248F of the Act.
- (b) Unless the Board decides otherwise, the quorum for a Board meeting is three (3) Directors.
- (c) A quorum must be present for the whole meeting.
- (d) A Director is treated as present at a meeting held by audio or audio-visual communication if the Director is able to hear and be heard by all others attending.
- (e) If a meeting is held in another way permitted by section 248D of the Act, the Board must resolve the basis on which Directors are treated as present.

## **12.6 Majority decisions**

- (a) This rule replaces section 248G of the Act.
- (b) A resolution of the Board must be passed by a majority of the votes cast by Directors entitled to vote on the resolution.

## **12.7 Procedural rules**

The Board may adjourn and, subject to this Constitution, otherwise regulate its meetings as it decides.

## **12.8 Written resolution**

- (a) This rule replaces section 248A of the Act.
- (b) If all the Directors entitled to receive notice of a Board meeting and to vote on the resolution sign a resolution containing a statement that they are in favour of the resolution, such a resolution is passed in those terms at the time when the last Director signs the resolution.

## **12.9 Additional provisions concerning written resolutions**

For the purpose of rule 12.8:

- (a) two (2) or more separate resolutions in identical terms, each of which is signed by one (1) or more Directors, are treated as one (1) resolution; and
- (b) an electronic message containing the text of the resolution expressed to have been signed by a Director that is sent to Day Hospitals Australia is a resolution signed by that Director at the time of its receipt by Day Hospitals Australia. Such a resolution provided under this rule 12.9(b) is deemed sufficient for record-keeping purposes.

## **12.10 Valid proceedings**

Each resolution passed or action carried out, or with the participation of, a person acting as a Director or Member of a committee is valid even if it is later discovered that:

- (a) there was a defect in the appointment of the person; or
- (b) the person was disqualified from continuing in office, voting on the resolution or the action carried out by that person.

## **13. MEETINGS OF MEMBERS**

### **13.1 Annual general meeting**

Day Hospitals Australia must hold an annual general meeting as required by section 250N of the Act.

### **13.2 Calling meetings of Members**

This rule 13.2 replaces section 249C of the Act.

A meeting of Members:

- (a) may be convened at any time by the Board; and
- (b) must be convened by the Board when required by section 249D or 250N or by order made under section 249G of the Act.

### **13.3 Notice of meeting**

Subject to rule 13.4, at least 21 days' written notice of a meeting of Members must be given individually to:

- (a) each Member (whether or not the Member is entitled to vote at the meeting);
- (b) each Director; and
- (c) to the auditor.

Subject to any regulation made under section 249LA of the Act, the notice of meeting must comply with section 249L of the Act and may be given in any manner permitted by section 249J(3) of the Act.

### **13.4 Short notice**

Subject to sections 249H(3) and (4) of the Act:

- (a) if Day Hospitals Australia has elected to convene a meeting of Members as the annual general meeting, if all the Members entitled to attend and vote agree; or
- (b) otherwise, if Members who together have power to cast at least 95% of the votes that may be cast at the meeting agree,

a resolution may be proposed and passed at a meeting of which less than 21 days' notice has been given.

### **13.5 Postponement or cancellation**

Subject to sections 249D(5) and 250N of the Act, the Board may:

- (a) postpone a meeting of Members;
- (b) cancel a meeting of Members; or
- (c) change the place for a general meeting,

by written notice given individually to each person entitled to be given notice of the meeting.

### **13.6 Fresh notice**

- (a) This rule replaces section 249M of the Act.
- (b) If a meeting of Members is postponed or adjourned for one (1) month or more, Day Hospitals Australia must give new notice of the resumed meeting.

### **13.7 Technology**

- (a) See section 249S of the Act.

- (b) Day Hospitals Australia may hold a meeting of Members at two (2) or more venues using any technology that gives the Members as a whole a reasonable opportunity to participate.

### **13.8 Accidental omission**

The accidental omission to give notice to, or the non-receipt of notice by, any of those entitled to it does not invalidate any resolution passed at a meeting of Members.

## **14. PROCEEDINGS AT MEETINGS OF MEMBERS**

### **14.1 Member present at meeting**

If a Member has appointed a proxy or attorney or (in the case of a Member which is a body corporate) a representative to act at a meeting of Members, that Member is taken to be present at a meeting at which the proxy, attorney or representative is present.

### **14.2 Quorum**

The quorum for a meeting of Members is two (2) Members as outlined in sections 249T(1) and (2) of the Act. Each individual present may only be counted once toward a quorum. If a Member has appointed more than 1 proxy or representative only one (1) of them may be counted towards a quorum.

### **14.3 Quorum not present**

This rule replaces sections 249T(3) and (4) of the Act.

If a quorum is not present within 15 minutes after the time for which a meeting of Members is called:

- (a) if called as a result of a request of Members under section 249D of the Act, the meeting is dissolved; and
- (b) in any other case:
  - (i) the meeting is adjourned to the day, time and place that the Board decides and notifies to Members, or if no decision is notified before then, to the same time on the same day in the next week at the same place; and
  - (ii) if a quorum is not present at the adjourned meeting, the meeting is dissolved.

### **14.4 Chairing meetings of Members**

This rule replaces sections 249U(1) to (3) of the Act.

- (a) The Chairperson shall preside over all general meetings and each annual general meeting at which he or she is present. The Chairperson may delegate the role of Chair for meetings to another Director from time to time.
- (b) In the absence or inability of the Chairperson to act, the Directors present must elect a Director present to chair the meeting.
- (c) If:
  - (i) there is no Director who the Board has appointed to chair Board meetings for

the time being; or

- (ii) the Director appointed to chair Board meetings is not present at the time for which a meeting of Members is called or is not willing to chair the meeting, the Members present must elect a Member or Director present to chair the meeting.

#### **14.5 Attendance at general meetings**

As outlined in section 249V of the Act:

- (a) every Member has the right to attend all meetings of Members;
- (b) every Director has the right to attend and speak at all meetings of Members; and
- (c) the auditor has the right to attend any meeting of Members and to speak on any part of the business of the meeting which concerns the auditor in the capacity of auditor.

#### **14.6 Adjournment**

This rule replaces section 249U(4) of the Act.

Subject to rule 13.6, the chairman of a meeting of Members at which a quorum is present:

- (a) may; and
- (b) must, if directed by Ordinary Resolution of the meeting, adjourn it to another time and place.

#### **14.7 Business at adjourned meetings**

This rule replaces section 249W(2) of the Act.

The only business that may be transacted at a meeting resumed after an adjournment is the business left unfinished immediately before the adjournment.

### **15. PROXIES, ATTORNEYS AND REPRESENTATIVES**

#### **15.1 Appointment of proxies**

See section 249X of the Act.

A Member may appoint a proxy to attend and act for the Member at a meeting of Members. An appointment of proxy must be made by written notice to Day Hospitals Australia:

- (a) that complies with section 250A(1) of the Act; or
- (b) in any other form and mode that is, and is signed or otherwise authenticated by the Member in a manner, satisfactory to the Board.

## **15.2 Member's attorney**

A Member may appoint an attorney to act, or to appoint a proxy to act, at a meeting of Members. If the appointor is an individual, the power of attorney must be signed in the presence of at least one (1) witness.

## **15.3 Deposit of proxy appointment forms and powers of attorney**

An appointment of a proxy or an attorney is not effective for a particular meeting of Members unless:

- (a) in the case of a proxy, the proxy appointment form and, if it is executed by an attorney, the relevant power of attorney or a certified copy of it; and
- (b) in the case of an attorney, the power of attorney or a certified copy of it,

are received by Day Hospitals Australia at its registered office or a fax number at that office (or another address specified for the purpose in the relevant notice of meeting) at least 48 hours before the time for which the meeting was called or, if the meeting has been adjourned, before the meeting is resumed.

## **15.4 Corporate representatives**

A Member that is a body corporate may appoint an individual to act as its representative at meetings of Members as permitted by section 250D of the Act.

## **15.5 Standing appointments**

A Member may appoint a proxy, attorney or representative to act at a particular meeting of Members and may revoke any appointment. A proxy, attorney or representative may, but need not, be a Member.

## **15.6 Suspension of proxy or attorney's powers if Member present**

A proxy or attorney has no power to act for a Member at a meeting at which the Member is present:

- (a) in the case of an individual, in person; or
- (b) in the case of a body corporate, by representative.

## **15.7 Priority of conflicting appointments of attorney or representative**

If more than one (1) attorney or representative appointed by a Member is present at a meeting of Members and Day Hospitals Australia has not received notice of revocation of any of the appointments, then an attorney or representative appointed to act at that particular meeting may act to the exclusion of an attorney or representative appointed under a standing appointment.

## **15.8 More than one (1) current proxy appointments**

An appointment of proxy by a Member is revoked if Day Hospitals Australia receives a further appointment of proxy from that Member which would result in there being more than (1) proxy of that Member entitled to act at a meeting. The appointment of proxy made first in time is the first to be treated as revoked or suspended by this rule.



## **15.9 Continuing authority**

This rule replaces section 250C(2) of the Act.

An act done at a meeting of Members by a proxy, attorney or representative is valid even if, before the act is done, the appointing Member:

- (a) dies or becomes mentally incapacitated;
- (b) becomes bankrupt or an insolvent under administration or is wound up; or
- (c) revokes the appointment or the authority under which the appointment was made by a third party,

unless Day Hospitals Australia has received written notice of the matter before the start or resumption of the meeting at which the vote is cast.

## **16. ENTITLEMENT TO VOTE**

### **16.1 Number of votes**

This rule replaces section 250E(2) of the Act.

- (a) Each Voting Member, and as outlined in 2.6(b), has one (1) vote on a show of hands or a poll; and
- (b) A Voting Member who is present and entitled to vote and is also a proxy, attorney or representative of another Voting Member has one (1) vote on a show of hands.

### **16.2 Casting vote of the Chair**

This rule replaces section 250E(3) of the Act.

If an equal number of votes are for and against a resolution at a meeting of Members and:

- (a) the Chair is a Voting Member, the Chair has a casting vote, except in the case of an election under rule 4.2(c) then the matter is decided in the negative; or
- (b) the Chair is not a Voting Member, the matter is decided in the negative.

### **16.3 Voting restrictions**

If:

- (a) the Act requires that some Members are not to vote on a resolution, or that votes cast by some Members be disregarded, in order for the resolution to have an intended effect; and
- (b) the notice of the meeting at which the resolution is proposed states that fact, those Members have no right to vote on that resolution and Day Hospitals Australia must not count any votes purported to be cast by those Members. If a proxy purports to vote in a way or in circumstances that contravene the instructions on the proxy appointment:
- (c) on a show of hands, the vote is invalid and Day Hospitals Australia must not count it; and

(d) on a poll, rule 17.3(c) applies.

## **16.4 Decision on right to vote**

This rule replaces section 250G of the Act.

A Member or Director may challenge a person's right to vote at a meeting of Members. A challenge may only be made at the meeting. A challenge, or any other doubt as to the validity of a vote, must be decided by the chairman at the meeting, whose decision is final.

## **17. HOW VOTING IS CARRIED OUT**

### **17.1 Method of voting**

This rule replaces sections 250J(1), (1A), and (2) of the Act.

- (a) Before a vote is taken for a resolution, the Chair must inform the meeting of Members whether any proxy votes have been received and how the proxy votes are to be cast.
- (b) A resolution put to the vote at a meeting of Members must be decided on a show of hands unless a poll is demanded under rule 17.2 either before or on declaration of the result of the vote on a show of hands.
- (c) Unless a poll is demanded, the chairman's declaration of a decision on a show of hands is final.

### **17.2 Demand for a poll**

As outlined in section 250L of the Act:

A poll may be demanded on any resolution (except a resolution concerning the election of the chairman of a meeting) by:

- (a) at least five (5) Voting Members entitled to vote on the resolution; or
- (b) Voting Members with at least 5% of the votes that may be cast on the resolution on a poll; or
- (c) the chairman.

The demand for a poll does not affect the continuation of the meeting for the transaction of other business and may be withdrawn.

### **17.3 When and how polls must be taken**

This rule replaces section 250M of the Act.

If a poll is demanded:

- (a) if the resolution is for the adjournment of the meeting, the poll must be taken immediately and, subject to rule 17.3(c), in the manner that the chairman of the meeting directs;
  - (b) in all other cases, the poll must be taken at the time and place and, subject to rule
-

17.3(c), in the manner that the chairman of the meeting directs;

- (c) proxy votes required to be cast in a given way must be treated as cast in that way;
- (d) a person voting who has the right to cast two (2) or more votes need not cast all those votes and may cast those votes in different ways; and
- (e) the result of the poll is the resolution of the meeting at which the poll was demanded.

## **18. SECRETARY**

### **18.1 Appointment of Company Secretary**

See section 204D of the Act.

The Board:

- (a) must appoint at least one (1) individual; and
- (b) may appoint more than (1) individual,

to be a Company Secretary either for a specified term or without specifying a term and notify ASIC as required.

### **18.2 Terms and conditions of office**

This rule replaces section 204F of the Act.

A Secretary holds office on the terms (including as to remuneration) that the Board decides. The Board may vary any decision previously made by it in respect of a Secretary.

### **18.3 Cessation of Company Secretary's appointment**

The person automatically ceases to be a Secretary if the person:

- (a) is not permitted by Corporations Act (or an order made under the Corporations Act) to be a secretary of a company;
- (b) becomes disqualified from managing corporations under Part 2D.6 of the Act and is not given permission or leave to manage Day Hospitals Australia under section 206F or 206G of the Act;
- (c) becomes of unsound mind or physically or mentally incapable of performing the functions of that office;
- (d) resigns by notice in writing to Day Hospitals Australia; or
- (e) is removed from office under rule 18.4.

### **18.4 Removal from office**

The Board may remove a Company Secretary from that office whether or not the appointment was expressed to be for a specified term and notify ASIC as required to do so.

## **19. MINUTES**

### **19.1 Minutes must be kept**

The Board must cause minutes of:

- (a) proceedings and resolutions of meetings of Members;
- (b) the names of Directors present at each Board meeting or committee meeting;
- (c) proceedings and resolutions of Board meetings (including meetings of a committee to which Board powers are delegated under rule 8);
- (d) resolutions passed by Directors without a meeting; and
- (e) disclosures and notices of Directors' interests,

to be kept in accordance with sections 191, 192, and 251A of the Act.

### **19.2 Minutes as evidence**

A minute recorded and signed in accordance with section 251A of the Act is evidence of the proceeding, resolution or declaration to which it relates unless the contrary is proved.

### **19.3 Inspection of minute books**

Day Hospitals Australia must allow Members to inspect, and provide copies of, the minute books for the meetings of Members in accordance with section 251B of the Act.

## **20. CHAPTERS**

### **20.1 Formation of Chapters**

- (a) Members in a particular State or Territory of Australia, may with the consent of the Board, establish a Chapter of Day Hospitals Australia in that State or Territory.
- (b) There will be no more than one (1) Chapter in each State or Territory.
- (c) A Member wishing to establish a Chapter must apply to the Board in writing and provide the following information:
  - (i) the name of the proposed Chapter; and
  - (ii) the names and signed agreement of at least five (5) Day Hospital Members prepared to form an interim Chapter.

### **20.2 Chapter Powers**

- (a) A Chapter shall have such powers as may be granted to it by the Board from time to time.
- (b) The Board may make conditions for the exercise of the power it grants to Chapters and the Board may revoke, vary, amend or add to any powers that it grants to a Chapters in its sole discretion from time to time.

### **20.3 Dissolution of Chapter**

The Board may dissolve a Chapter when the Board is satisfied that the Chapter is no longer performing a useful purpose.

## **21. COMPANY SEALS**

### **21.1 Common seal**

The Board:

- (a) may decide whether or not Day Hospitals Australia has a common seal; and
- (b) is responsible for the safe custody of that seal (if any) and any duplicate seal it decides to adopt under section 123(2) of the Act.

### **21.2 Use of seals**

The common seal and duplicate seal (if any) may only be used with the authority of the Board. The Board must not authorise the use of a seal that does not comply with section 123 of the Act.

### **21.3 Fixing seals to Constitutions**

The fixing of the common seal, or any duplicate seal, to a Constitution must be witnessed:

- (a) by two (2) Directors;
- (b) by one (1) Director and one (1) Secretary; or
- (c) by any other signatories or in any other way (including the use of facsimile signatures) authorised by the Board.

## **22. FINANCIAL REPORTS**

### **22.1 Day Hospitals Australia must keep financial records**

The Board must cause Day Hospitals Australia to keep written financial records that:

- (a) correctly record and explain its transactions (including transactions undertaken as trustee) and financial position and performance; and
- (b) would enable true and fair financial statements to be prepared and audited,

and must allow a Director and the auditor to inspect those records at all reasonable times.

### **22.2 Financial reporting**

The Board must cause Day Hospitals Australia to prepare a financial report and a directors' report that comply with Part 2M.3 of the Act and must report to Members in accordance with section 314 no later than the deadline set by section 315 of the Act.

## **22.3 Conclusive reports**

Audited financial reports laid before Day Hospitals Australia in general meetings are conclusive except as regards errors notified to Day Hospitals Australia within three (3) months after the relevant general meeting. If Day Hospitals Australia receives notice of an error within that period, it must immediately correct the report and the report as corrected is then conclusive.

## **22.4 Inspection of financial records and books**

- (a) This rule replaces section 247D of the Act.
- (b) Subject to rule 19.3 and section 247A of the Act, a Member who is not a Director does not have any right to inspect any Constitution of Day Hospitals Australia except as authorised by the Board or by Ordinary Resolution.

## **23. REGISTER OF MEMBERS**

### **23.1 Maintenance of the Register**

Day Hospitals Australia must set up and maintain a register of Members which will be available for inspection at all reasonable times free of charge by any Member upon request, subject to Day Hospitals Australia's obligations under the *Privacy Act 1988 (Cth)* and any other related legislation.

### **23.2 Contents of the Register**

- (a) In accordance with section 169 of the Act, the Register must contain the following information:
  - (i) the name and address of each Member;
  - (ii) the date on which the entry of the Member's name in the Register is made;
  - (iii) the name and details of each person who stopped being a Member within the last seven (7) years;
  - (iv) the date on which the person stopped being a Member; and
  - (v) an index of Members' names if Day Hospitals Australia has more than 50 Members and the Register itself is not kept in a form that operates effectively as an index.
- (b) The Register must also state the Member's class of membership.

### **23.3 Notification of change of details**

Each Member must notify Day Hospitals Australia in writing of any change of name or address and each such change must be recorded in the register.

## **24. WINDING UP**

If Day Hospitals Australia is wound up, any surplus property after payment of all debtors and expenses, must not be paid to Members but must be paid or transferred to another corporation which:

- (a) complies with section 150(1) of the Act;
- (b) with objects which are similar to the objects of Day Hospitals Australia as set out in rule 1.2; and
- (c) with a constitution which prohibits it from paying or distributing its income and property amongst its Members,

by resolution of the Board.

## **25. NOTICES**

### **25.1 Notices by Day Hospitals Australia**

A notice is properly given by Day Hospitals Australia to a person if it is:

- (a) in writing signed on behalf of Day Hospitals Australia (by original or printed signature);
- (b) addressed to the person to whom it is to be given; and
- (c) either:
  - (i) delivered personally;
  - (ii) sent by prepaid mail (by airmail if the addressee is overseas) to that person's address; or
  - (iii) sent by fax to the fax number (if any) nominated by that person; or
  - (iv) sent by electronic message to the electronic address (if any) nominated by that person.

### **25.2 Overseas Members**

A Member whose registered address is not in Australia automatically agrees to receive all notices and communications regarding its membership with Day Hospitals Australia via electronic means.

### **25.3 When notice is given**

- (a) This rule replaces section 249J(4) of the Act.
- (b) A notice to a person by Day Hospitals Australia is regarded as given and received:
  - (i) if it is delivered personally:
    - (A) by 5 pm (local time in the place of receipt) on a business day - on that day; or
    - (B) after 5 pm (local time in the place of receipt) on a business day, or on a day that is not a business day - on the next business day;
  - (ii) if it is sent by fax or electronic message:
    - (A) by 5 pm (local time in the place from which it is sent or given) on a business day - on that day; or

- (B) after 5 pm (local time in the place from which it is sent or given) on a business day, or on a day that is not a business day - on the next business day; and
- (iii) if it is sent by mail:
  - (A) within Australia – five (5) business days after posting; or
  - (B) to a place outside Australia – ten (10) business days after posting.
- (c) A certificate in writing signed by a Director or Secretary stating that a notice was sent is conclusive evidence of service.

## **25.4 Business days**

For the purposes of rule 25.3, a business day is a day that is not a Saturday, Sunday or public holiday in the place to which the notice is sent.

## **25.5 Counting days**

If a specified period must pass after a notice is given before an action may be taken, neither the day on which the notice is given nor the day on which the action is to be taken may be counted in reckoning the period.

## **25.6 Notices to "lost" Members**

- (a) If:
  - (i) on two (2) or more consecutive occasions a notice served on a Member in accordance with this rule is returned unclaimed or with an indication that the Member is not known at the address to which it was sent; or
  - (ii) the Board believes on other reasonable grounds that a Member is not at the address shown in the Register or notified to Day Hospitals Australia under rule 25.2,
- (b) Day Hospitals Australia may give effective notice to that Member by exhibiting the notice at Day Hospitals Australia's registered office for at least 48 hours.
- (c) This rule ceases to apply if the Member gives Day Hospitals Australia notice of a new address.

## **26. POLICIES**

### **26.1 Making and amending Policies**

- (a) The Directors may from time to time make policies:
  - (i) that are required to be made under this Constitution; and
  - (ii) that, in their opinion, are necessary or desirable for the control, administration and management of Day Hospitals Australia affairs and may amend, repeal and replace those policies.
- (b) The Policies referred to in 26.1(a) will take effect 7 days after the service of the Policy on the Member and shall be in force and effect on that date.































## **26.2 Effect of Policies**

A Policy:

- (a) is subject to this Constitution;
- (b) must be consistent with this Constitution;
- (c) when in force, is binding on all Members and has the same effect as a provision in this Constitution; and
- (d) may be overruled if a resolution to that effect is passed by the Members at a General Meeting.

## Membership Classes and Benefits

Membership year runs from 1 July - 30 June

Membership Level	Preliminary	Day Hospital	Affiliate	Individual	Industry	Honorary Member	Associate Member
<p><b>Requirements &amp; Benefits</b></p> <p>All applications are subject to Day Hospitals Australia CEO approval.</p>	<p>Preliminary members may be in the pre-build or build-phase of development of a standalone day hospital whether operated and/or owned by a private or government authority. The status of the facility's progress will be reviewed annually and once issued with a Commonwealth Provider no. by DOHA, membership status will be transferred to a Day Hospital membership.</p>	<p>Day hospitals must be stand-alone licensed and accredited health facilities whether operated and/or owned by a private or government authority. If part of a Group, each individual licensed and accredited day hospital must pay its own Membership Fee. In the case of multiple day hospitals seeking membership from the same Group, discounts will apply.</p>	<p>Small overnight private hospitals &lt;100 licensed beds either independent or part of a Group comprised of small overnight hospitals &lt;100 beds and or standalone day hospitals. These facilities may be privately or government owned</p>	<p>A member who is a natural person who is working in the day hospital sector or has experience, knowledge and a commitment to the day hospital sector</p>	<p>Industry membership will be accepted from persons or companies working within the health environment</p>	<p>Honorary Member - is bestowed on an individual who in the opinion of the Board of Directors has made a long-standing contribution to the day hospital sector (as per Day Hospitals Australia Policy 1.6)</p>	<p>An Organisation with an interest in working collaboratively with Day Hospitals Australia to promote quality care delivery in the day hospital setting benefiting the overall Australian healthcare system</p>
Member must have a current hospital Provider no issued by the relevant government authority							
Access to Day Hospitals Australia Partnership Agreements which include a broad range of products and services							
Access to members-only section of the Day Hospitals Australia website							
Access to Day Hospitals Australia Google group							
Copies of all member communication including but not limited to the weekly Bulletin, critical updates, Development of a Day Hospital document							
Voting rights - each independent day hospital has 1 vote. Day hospitals that are part of a Group will be allocated 1 vote for the Group							
Marketing opportunity including company logo, bio, contact details and profile on Day Hospitals Australia website							
Discounted Day Hospitals Australia National Conference Delegate or Sponsor / Trade Registration Fee						Complimentary	
Access to 'member of DHA logo'	