

**Australian Computer Society  
Constitutional Reform Working Group  
Round 3 Consultation Document**

**Discussion *Draft* of a New Constitution**

Version of 12 June 2022

**This is the current *draft* of the proposed new constitutional document.**

CRWG will continue refining it, to reflect the input provided by members, staff and the law firm contracted to assist in ensuring the document achieves its purposes and is compliant with relevant laws.

There are three other documents in the set:

- A 1-page Summary of Key Features
- An 8-page Overview of Key Features
- A 9-page Discussion of Governing Committee Models

The Proposal has been designed so as to leave open the question as to whether the Society will continue as an association, or reincorporate as a company limited by guarantee. As the constitutional features become clearer, that decision becomes easier to make. Legal advice may affect a variety of aspects of the wording, and some of the detailed content in the current draft may later be moved to the By-Laws in order to streamline the constitutional document.

**All Capitalised terms are defined within this Constitution.  
See clause 15.1.**

References [in square brackets] are to the relevant element in the Round 2 Report.

**Text in red** presents options and alternatives for members' consideration.

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## 1. The Organisation and Its Nature and Values

*[ This section draws together and embeds in the constitutional document expressions of what the Society is, and is about. The text represents guidance to the Governing Committee. It also establishes the criteria against which Congress, Branch Committees and Society Members can assess the performance of the Governing Committee. The accountability of the Governing Committee and its members is expressly linked to these provisions by clauses 11.2(a) and 12.1. ]*

- 1.1 The name of the organisation is the Australian Computer Society.
- 1.2 The organisation is not for profit.  
[ For further details, see cl. 3. ]
- 1.3 The Society is a professional society. [1.1.1a]
- 1.4 The Society comprises grades of professional members and other members. [1.1.1b]
- 1.5 Professional membership grades are distinguished from other membership grade(s) by means of entry and promotion eligibility criteria that: [1.2.3]
  - (a) are clearly expressed in the By-Laws;
  - (b) emphasise a core of professional, technical knowledge;
  - (c) reflect the specialisations within the ICT professional domain;
  - (d) are updated on an ongoing basis, to address ongoing change, subject to approval by the membership;
  - (e) preclude discrimination against applicants on any grounds other than factors related to professionalism.
- 1.6 The Society is governed by the Governing Committee on behalf of its professional members. [1.1.1c]
- 1.7 The Foundational Value of the Society is commitment to the public good, by means of:
  - (a) the promulgation of professionalism in the field of Information and Communications Technology (ICT); and
  - (b) the provision of services to Society Members in order to assist them to develop, maintain and extend their professional expertise, to advance, and to promote the advancement of, the interests of the public. [1.1.1d, 4.2.5]
- 1.8 The Society's Mission is to advance capabilities in, and applications of, information and communications technologies and practices, for the benefit of the Australian public. [2.2.1, 2.2.2]

*[ Clause 1.8 is a revised version of the current Principal Object, which is: "To promote the development of Australian information and communications technology resources". ]*

- 1.9 The Society's Purposes are: [2.3.3]
  - (a) To advance professional excellence in information and communications technology;
  - (b) To further the study, science and application of information and communications technology;
  - (c) To promote, develop and monitor competence in the practice of information and communications technology by persons and organisations;
  - (d) To define and promote the maintenance of standards of knowledge of information and communications technology for members;
  - (e) To promote the formulation of effective policies on information and communications technology and related matters;
  - (f) To extend the knowledge and understanding of information and communications technology in the community;

- (g) To maintain and promote the observance of a code of ethics for members of the Society.

*[ Clause 1.9 contains the (to date, unchanged) text of the current Secondary Objects. During Rounds 1 and 2, members showed limited enthusiasm for amendments. It may be that the possibility should now be reconsidered. However, changes to this clause are subject to legal advice.]*

1.10 The Society is required to [1.1.1e]:

- (a) publish a Code of Ethics (the Code) as part of the By-Laws;
- (b) require commitment by all members to compliance with the Code, and encourage compliance with, monitor the incidence of non-compliance with, and where necessary enforce compliance of, the Code;
- (c) review the Code from time to time;
- (d) publish as part of the By-Laws the process and authority for amending the Code;
- (e) submit proposed revisions to the Code to the Voting Members for approval.

*[ Clause 1.10 establishes constitutional requirements in relation to the Code of Ethics. It keeps the Code outside the Constitution, but requires that the Code be part of the By-Laws, and subject to Member Approval, under cl. 7 and Schedule A. ]*

1.11 The following parts of the By-Laws are integral parts of this expression of the Nature and Values of the Society:

- (a) The Society's Code of Ethics; [1.1.1e]
- (b) The Society's Code of Professional Practice; [1.1.1]
- (c) The Principles for Determining how Surplus from the Society's Operations is to be Allocated. [1.1.1]

*[ Clause 1.11 enables several elements of the expression of the Society's values to be adapted more quickly than they would be if embedded in the constitutional document. Items (a) and (c) are subject to Member Approval, under cl. 7 and Schedule A. Item (b) is an expanded version of the Code of Ethics, and is subject to approval by the Governing Committee, under cl. 7 and Schedule C.*

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## **2. Powers of the Society**

*[ This section ensures that the Society has the powers necessary to achieve its Mission and perform its functions. As with all other segments, it is subject to legal review to ensure that it achieves its purpose within the constraints set by the law. ]*

### **2.1 The Society's Powers**

The Society has all of the powers of an individual and of an incorporated organisation.

### **2.2 Constraint on the Use of the Society's Powers**

The Society may only use its powers in ways that are consistent with its Nature and Values as expressed in clause 1.

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## **3. Not-for-Profit Provisions**

*[ This section draws together the various elements that articulate the cl.1.2 declaration that the Society is a not-for-profit organisation. This is subject to a range of regulatory requirements. ]*

### **3.1 No Payment or Transfer to Society Members**

All of the income and property of the Society is to be applied solely towards the promotion of the Purposes of the Society as set out in this Constitution. No portion of either income or property of the Society may be paid or transferred directly or indirectly by way of dividend, bonus or otherwise to the persons who at any time are or have been Society Members.

### **3.2 Payments in Good Faith**

Notwithstanding clause 3.1, the Society may make payments in good faith for:

- (a) Remuneration to a Society Member who has entered into a contract of service to the Society;

[ Sub-clause (a) ensure that employees who are Society Members can be paid. ]

- (b) Remuneration to a Society Member who has provided goods or services to the Society under arms-length, commercial terms of contract;

[ Sub-clause (a) ensures that contractors who are Society Members can be paid. ]

- (c) Reimbursement to a Society Member for costs incurred, with the approval of the Society, in the course of providing voluntary services to the Society.

### **3.3 Contribution on Winding-Up**

- (a) If the Society is wound up, each Society Member undertakes to contribute to the property of the Society, in respect of the costs, charges and expenses of winding-up, for the payment of the Society's debts and liabilities, and for the adjustment of the rights of the contributories among themselves:

- (i) while that person is a Society Member; or
- (ii) within one year after that person ceases to be a Society Member.

- (b) The amount to be contributed by each Society Member is not to exceed ten dollars.

### **3.4 Distribution of Property on Winding-Up**

- (a) If, upon the winding-up or dissolution of the Society, and after the satisfaction of all its debts and liabilities there remains any property, this property is not to be paid to or distributed among the Society Members.
- (b) Instead, this property is to be given or transferred to some other institution(s) and/or fund(s) having:
  - (i) purposes similar to the purposes of the Society; and
  - (ii) a constitution that prohibits the distribution of its income and property among its members.
- (c) The determination of an institution or institutions to which property is to be transferred is to be by:
  - (i) a special resolution of the Voting Members at or before the time of dissolution; or
  - (ii) if no such special resolution is passed, by a court of competent jurisdiction.

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## **4. Society Membership**

*[ This section establishes the framework for the Society's membership provisions, and requires details to be specified in the By-Laws (to avoid undue length and undue difficulties in ongoing adaptation), with key aspects subject to Member Approval under cl. 7 and Schedule A. ]*

[ Note that the terms 'member' and 'Member' are highly ambiguous. They are therefore avoided where possible, and where used always qualified (e.g. 'member of Congress').

[ Two membership terms are defined:

- **'Society Member'**

This means what is casually referred to as 'member of the ACS' (as distinct from 'Member of the ACS' with the right to the postnominal MACS);

- **'Organisational Member'**

This means a member of the association called the ACS, or of the company limited by guarantee (CLG) called the ACS if and when the Society converts from an association to a CLG.

[ Each Society Member has the right to be an Organisational Member as well.

The only material differences that arise if a person is both kinds of Member are:

- Being an Organisational Member confers the right to vote, under cl.5.1; and
- An Organisational Member has an obligation under cl.3.3(b) to contribute up to ten dollars if the Society is wound up.

[ If the Society remains an association when the new constitutional document comes into force, each person who is part of the then Society Membership automatically becomes both a Society Member and an Organisational Member.

[ On the other hand, if the Society changes to a CLG on the date that the new constitutional document comes into force, each person who is part of the then Society Membership:

- automatically becomes a Society Member; but
- cannot automatically become an Organisational Member, by virtue of the Corporations Act ss.136(1)(a) and 117(2)(c) requirement that each individual must formally signify their consent.

[ If the Society changes to a CLG, each Society Member is to be provided at least one opportunity to signify consent. That opportunity is to be provided in advance of the date on which the new constitutional document comes into force or the date on which the first election of the members of the Governing Committee is held, whichever occurs first.

[ Unless and until a member takes that opportunity, they will be unable to vote, because they are not 'a member of the corporation'.

[ Each Society Member who has not signified that they wish to become an Organisational Member may do so at any time, and is to be given the opportunity to do so on each occasion that they renew their Society Membership (and, in the case of new members, on the application form). ]

## **4.1 Applications**

Society Members must be natural persons.

## **4.2 Professional Membership Grades**

Professional membership Grades [1.2.1, 1.2.3]:

- (a) Are to be defined in the By-Laws in a manner compliant with clause 1.5;
- (b) Confer a right to use a specified postnominal.

## **4.3 Other Membership Grades**

Other membership Grade(s) [1.2.2, 1.2.3]:

- (a) Are to be defined in the By-Laws;
- (b) Are to be updated on an ongoing basis, to address ongoing change, in a manner defined in a suitably-named part of the By-Laws;
- (c) Are subject to approval by the membership;
- (d) Do not confer a right to use a postnominal.

#### **4.4 Obligations of a Society Member**

- (a) Each Society Member is bound to comply with the terms of this Constitution, including the Values of the Society as expressed in clause 1, and is required to defend and promote those Values.
- (b) In particular, each Society Member is required to undertake to abide by the Code of Ethics.
- (c) Each Society Member is to provide and keep up-to-date one or more contact-points to which the Society can send notices.
- (d) Each Society Member is liable to the Society for fees, taxes and charges payable according to applicable fee schedules.

#### **4.5 Fees**

- (a) The Society is to establish and maintain By-Laws in relation to fees payable by or in respect of Society Members, including:
  - (i) Principles Underlying the Fee Schedule, including discounted and gratis memberships; and
  - (ii) the Schedule of Fees.

[ The Principles are subject to Member Approval under cl.7 and Schedule A, whereas the Fee Schedule is subject to Governing Committee approval under Schedule C. ]
- (b) The fees payable may vary by Grades, groups or categories of Society Members.
- (c) Each fee payable by or in respect of each Society Member in accordance with the Schedule of Fees must be paid in a manner and by the time specified in that Schedule.
- (d) The Society must give notice of fees payable to or in respect of each Society Member who is required to pay a fee at least one month before the due date for payment. The notice must specify the amount of the fee, the time or times of payment, and available manners of payment.
- (e) The non-receipt of a notice of a fee, or the accidental omission to give notice of a fee, does not invalidate the fee, but, in determining the consequences, the Society must take into account the non-receipt of, or omission to give, notice.
- (f) The Society may revoke or postpone a fee, extend the time for payment of a fee, suspend a fee, or waive the payment of a fee.
- (g) The Society may at any time adjust any fee in a manner that does not exceed the change in the Consumer Price Index during the period since the last change to that fee.

#### **4.6 Register of Society Members**

The Society is to maintain a Register of Society Members.

#### **4.7 Cessation of Society Membership**

- (a) A person ceases to be a Society Member when that person:
  - (i) resigns by giving the Society notice in writing;
  - (ii) dies;
  - (iii) suffers any permanent impairment that renders them incapable of properly discharging their duties as a member;
  - (iv) is removed from the Membership Register as a result of the person having had outstanding fees for longer than the maximum period permitted by the By-Laws; or
  - (v) is expelled, in accordance with the criteria and process specified in the By-Laws.

- (b) A person who ceases to be a Society Member remains liable to pay, and must immediately pay, to the Society all amounts that at date of cessation were payable by the person to the Society as a Society Member.
- (c) The Society may waive any or all of its rights pursuant to sub-clause (b), and shall do so in respect of cessation due to causes (a)(ii) and (iii).

#### 4.8 Member Administration

The Society is to establish and maintain By-Laws relating to all key aspects of the administration of Society membership, including application, assessment, admission, fees, payment, deregistration, reinstatement and disciplinary structures and processes.

*[ Multiple segments of the National Regulations already deal with many of these matters. Generally, see Schedule C, except for Dispute Resolution Procedures and Principles Underlying the Fee Schedule, including gratis memberships, for which see Schedule A. ]*

*[ The current Rules 6 and 7 – which establish the disciplinary provisions, or a revised version of them, need to be promulgated as a By-Law no later than the date on which the new constitutional document takes effect.]*

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### 5. Rights of Society Members

*[ This section establishes the rights of members, but delegates aspects that may need to adapt over time to By-Laws that are subject to Member Approval. ]*

#### 5.1 Voting Rights

- (a) A Society Member has the right to attend and speak at a General Meeting of the Society.
- (b) The right to vote at General Meetings of the Society, in Branch meetings and in all forms of Online Voting, is available to each Voting Member, being an Organisational Member who, at the time of the vote taking place [5.3.2]:
  - (i) is in a Professional Membership Grade;
  - (ii) is a citizen or permanent resident of Australia;**  
**OR is not a resident of Australia? [ See also cl.8(g)(i) ]**  
**OR delete this sub-clause entirely and**
  - (iii) is not a Student.**  
**[ The By-Laws need amendment to make clear that the term Student, in this context, does not include members who are already in a professional grade. (Otherwise a full-time postgraduate student could be treated as a 'Student' rather than a 'Graduate', and be precluded from voting). ]**
- (c) The right to vote of an Organisational Member is suspended if, at the time of the vote, they are not a Financial Organisational Member.

#### 5.2 Member Services

A Society Member has the right to enjoy services provided by the Society in fulfilment of the Society's Mission and Purposes.

#### 5.3 Dispute Resolution

The Society is required to [1.2.4]:

- (a) Publish in the By-Laws a suitable procedure for expeditiously, efficiently and equitably resolving disputes:
  - (i) between one or more Society Members and the Society; or

- (ii) among two or more Society Members, on a matter that arises in the context of the Society;
- (b) Apply that procedure to all such disputes;
- (c) Review that procedure from time to time; and
- (d) Submit proposed revisions to that procedure to the Voting Members for approval.

#### **5.4 Communications with the Society**

The Society has an obligation to provide, and Society Members have a right to, the following:

- (a) In relation to governance matters, communications channels that enable communications from the Society to Society Members, and from Society Members to the Society. The Society must not permit any Society Member to opt out of receipt of such communications, and must make reasonable efforts to ensure that each address for Notices remains valid;
- (b) A choice of communications channels for governance matters including at least the physical post and at least one readily accessible Electronic Means;
- (c) The sending of Notices by the Society to Society Members according to the communications channel preference recorded in each Society Member's profile at the time the Notice is despatched, or, if the person has not recorded a preference, then, at the Society's discretion, by electronic transmission to an address the Society Member has provided, or delivery by post or in person;
- (d) The sending of all documents to Society Members whose addresses for Notices are not within Australia by air-mail, air courier or Electronic Means;
- (e) In relation to matters other than governance, communications channels that ensure effective communications from the Society to Society Members, and from Society Members to the Society, but that provide members with the choice as to whether they receive publicity and marketing material from the Society, and from any other organisations.

#### **5.5 Inter-Member Communications**

The Society has an obligation to provide, and Society Members have a right to, the following [1.2.5]:

- (a) Enablement of access by Society Members to profile information of all other Society Members, subject to control by each Society Member over what data does and does not appear in their public profile, and with privacy-sensitive defaults in place;
- (b) Enablement of discovery by Society Members of other Society Members with particular public profile attributes;
- (c) Enablement of communications by Society Members to sub-sets of other Society Members, subject to assurance that each Society Member can choose whether their contact-points are visible;
- (d) Facilitation of communication by any Society Member to any other Society Member, by passing a message to the recipient on the sender's behalf, but subject to a discretion to the Society to decline to do so where it has reasonable grounds for believing the communication to be inappropriate;
- (e) Enablement of the establishment by any one or more Society Members of *ad hoc* online fora, and invitation to enrolment in them by other Society Members;
- (f) Articulation of these obligations and rights in the By-Laws so as to ensure operation of the service in an orderly manner.

## 5.6 Transferability of Rights

The rights arising from Society Membership are not transferable.

## 5.7 Online Voting

- (a) The Society is to conduct Open Votes and Secret Ballots by Online Voting, subject to the law, this Constitution and the By-Laws, provided that the security, reliability and confidentiality of the process are of a standard comparable to those of votes and ballots conducted by means that have been conventional in the past.
- (b) Sub-clause (a) applies whether or not the vote or ballot is conducted entirely or partially by Online Voting, and whether or not the Voting Members are present in any particular place when casting their vote.
- (c) The Society is to ensure the availability of suitable infrastructure, and establish and maintain By-Laws expressing the procedures for Online Voting by Voting Members, and by members of the Governing Committee, Congress and other sub-organisations.

*[ See Schedule B. ]*

## 5.8 Access to the Register of Society Members

- (a) The Society is to facilitate inspection by Society Members of parts of the Membership Register, for purposes relevant to the operations of the Society, including confirmation or denial of a person's membership and /or voting rights, and of the numbers of Society Members, subject to law, in particular data protection law, this Constitution and the By-Laws.
- (b) The data made available in respect of each Society Member is to include their name, Branch, membership grade, financial status as a member, town or suburb, and other such descriptive data as is appropriate. However, the data made available for inspection is not to include data of an unduly sensitive nature.

*[ Note that cl.5.5 obliges the Society to enable inter-member communications. Inspection of the Register is not an appropriate vehicle for that purpose. ]*

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## 6. General Meetings

*[ This section contains largely mainstream provisions, but with some custom aspects that carry over existing rights, or implement features requested by participants during the consultation process. ]*

### 6.1 Calling of General Meetings

- (a) The Governing Committee:
  - (i) may convene a General Meeting at any time; and
  - (ii) is to convene an Annual General Meeting every year, within { **five OR four** } months of the end of the Society's financial year;
- (b) The calling of a General Meeting must be performed in accordance with the law, this Constitution and the By-Laws.
- (c) The Governing Committee must convene a General Meeting if requested by at least 100 Voting Members. – [5.4.8]

*[ Participants in Rounds 1 and 2 sought a lower threshold than the 150 in Rule 13.2.2. It is more practicable to express it as a number than as a percentage of the then Voting Members, because a percentage requires identification of an appropriate date, extraction of a count of Voting Members at that time, and calculation of a number. ]*

- (c) A request from Voting Members for a General Meeting must:
  - (i) state the reason for the meeting; and
  - (ii) be signed by the Society Members making the request; and
  - (iii) be lodged with the Society.
- (d) A request from Voting Members for a General Meeting may consist of several documents in the same form, each signed by one or more of the Society Members making the request.
- (e) If the Governing Committee fails to convene a General Meeting within 3 months after the date on which a request by Voting Members for a General Meeting is lodged with the Society in a manner compliant with this clause, any { 10 OR 1 or more of the } Voting Members who signed the request may convene a General Meeting to be held not later than 6 months after the date on which the request was lodged with the Society.

## 6.2 Form of General Meetings

- (a) Subject to sub-clause (b), a General Meeting may be convened:
  - (i) in a physical place;
  - (ii) in two or more physical places connected synchronously using technology;
  - (iii) in a place or places but also using technology that enables remote participation; or
  - (iv) entirely by technology that enables remote participation.
- (b) A General Meeting is to be convened:
  - (i) in a manner that affords a reasonable opportunity to Society Members to participate, including to hear, to be heard, and to vote;
  - (ii) in a manner that enables remote participation in all aspects of the Meeting if it is feasible, practicable and reasonably economic to do so; and
  - (iii) in a manner compliant with the law, this Constitution and the By-Laws.

**[ The intention is to create a default of online or hybrid meetings, subject to conditions being fulfilled, but permit entirely physical meetings if circumstances arise in which those conditions cannot be fulfilled. See also 10.4(a)(i) re Congress meetings, and cl.11.6(a)(i) re Governing Committee meetings.**

**[ It is hoped that we can refine cl.6.2 so that it covers all meeting categories, in which case it can be moved to cl.14 (along with the Online Voting provisions) and applied generally, including to Panels, Committees, Branches, etc. ]**

**[ In that case, it may be appropriate / necessary to update the Standing Orders for Meetings. ]**

## 6.3 Notice of General Meetings

- (a) The Governing Committee is to give not less than 21 days' written notice of a General Meeting to the Society Members, the Members of the Governing Committee and the Auditor.
- (b) The notice is to specify the following information:
  - (i) the day and the hour of meeting, any physical place or places in which the meeting is to be held, and, if the meeting is to be supported by technology that enables remote participation, the relevant details of the facilities that are to be used;
  - (ii) the general nature of the meeting's business;
  - (iii) the details of any Special Resolutions to be proposed at the meeting; and
  - (iv) details on how Voting Members can appoint a proxy.

## 6.4 Voting

- (a) Each item of business submitted to a General Meeting may be decided by an Open Vote of the Financial Voting Members or their proxies or attorneys present, unless a Secret Ballot has been called for in a manner consistent with sub-clause (b) prior to the item of business being concluded.

[ INSERT into cl.15.1:

**Open Vote** means a system of voting in which voters indicate their choices in a manner visible to those present, such as by a show of hands or equivalent indications in dispersed and technologically-supported meetings.

[ This is simple and quick, and is commonly the default means of determining a vote.

**Secret Ballot** means a system of voting in which voters designate their choices by some relatively secure means, such as marks on an unidentified ballot paper placed in a ballot box, or an online form operated using software designed to not disclose any voter's choices.

[ A Secret Ballot requires organisation, effort, facilities and time, and is commonly adopted only where a perception exists that an Open Vote may result (or may have resulted) in undue influence on voters' choices, which may lead to a result different from the will of those present. ]

- (b) The Meeting Chair or any Financial Voting Member present, whether in person or by proxy or attorney, may demand a Secret Ballot before, or on the declaration of the result of, an Open Vote.
- (c) A Secret Ballot is to be taken in a manner compliant with the law, this Constitution and the By-Laws.
- (d) A demand for a Secret Ballot may be withdrawn.
- (e) If there is a dispute as to the admission or rejection of a vote, the Meeting Chair finally determines that dispute, subject to the law, this Constitution and the By-Laws.
- (f) The Meeting Chair does not have a casting vote.
- (g) The result of a Secret Ballot is the resolution of the meeting at which the Secret Ballot was demanded.
- (h) A declaration by the Meeting Chair, consistent with the results of the relevant Open Vote or Secret Ballot, that a resolution has been passed or lost is conclusive evidence that the resolution has been passed or lost, whether or not the number or proportion of the votes in favour of or against the resolution is recorded.

## 6.5 Business at General Meetings

The ordinary business of an Annual General Meeting must include:

- (a) The consideration of:
- (i) the annual financial report;
  - (ii) the Governing Committee's report; and
  - (iii) the Auditor's report; and
- (b) **OPTION:** Elections to any vacancies on the Governing Committee.

*[ Under cl. 10.1, the GC members are elected by Congress rather than the members. So the only circumstance in which the AGM would include any elections is if, under cl.11.4(b), one of the alternatives is adopted whereby the Voting Members elect the Chair of the Governing Committee. ]*

## 6.6 The Meeting Chair

- (a) The Chair of the Governing Committee is entitled to be the Meeting Chair at General Meetings, failing which the members of the Governing Committee may, in advance of any particular Meeting, elect one of their members to act as Meeting Chair.  
[ OPTION: If the Option of one or more Vice-Chairs is adopted, at cl.11.4(bA), the Vice-Chair needs an entitlement when the Chair does not exercise their own entitlement. ]
- (b) The Voting Members present at a General Meeting may choose a Voting Member present to be the Meeting Chair for that meeting or any part thereof if:
  - (i) no Meeting Chair has been nominated under sub-clause (a);
  - (ii) the nominated Meeting Chair is not present within 15 minutes after the starting time set for the meeting; or
  - (iii) the nominated Meeting Chair is present but says they do not wish to act as the Meeting Chair.

## 6.7 Quorum

- (a) The quorum for a General Meeting is 20 Financial Voting Members, present themselves, or by proxy or attorney.
- (b) Unless a quorum is present, no business may be transacted at any General Meeting except for the adjournment of the meeting.
- (c) If a quorum is not present within half an hour from the time appointed, then if the Meeting was convened on the requisition of Voting Members, the meeting may be dissolved or rescheduled..
- (d) At an adjourned meeting convened by the Governing Committee, if a quorum is not present within fifteen minutes from the time appointed for holding the meeting, the Financial Voting Members present constitute a quorum.

## 6.8 Adjournment

- (a) The Meeting Chair of a General Meeting may adjourn the meeting to another time or place:
  - (i) if within half an hour from the time appointed a quorum is not present;
  - (ii) with the consent of the Financial Voting Members present; or
  - (iii) if directed to do so by a simple majority of the Financial Voting Members present.
- (b) At any meeting resumed after an adjournment of a General Meeting, only unfinished business may be transacted.
- (c) Where a General Meeting is adjourned for one month or more, new notice of the adjourned meeting is to be given.

## 6.9 Amendments to the Constitution Proposed by the Governing Committee

- (a) An amendment to the Constitution may be proposed by the Governing Committee.  
[ OPTION: Append "or Congress" (in which case, append to the heading as well). ]
- (b) Any such proposal for amendment to the Constitution is a Special Resolution.
- (c) The Governing Committee must send written notice of each proposed amendment to the Constitution to each Society Member at least { **3 months OR 6 weeks** } before the Notice is sent to Society Members of the General Meeting that is to deal with the proposed alteration.

**ALTERNATIVE:**

The Governing Committee must send written notice of each proposed amendment to the Constitution to each Society Member at least { **3 months OR 6 weeks** } before the General Meeting at which the resolution is to be put.

[ Sub-clause (c) replicates the current Rules, and requires c.90 days **plus** at least the minimum 21 days' notice of meeting (which it appears has to follow the completion of the 3 months' notice period).

[ One option is to shorten the period to, say, 6 weeks. Another possibility is for the written notice of the General Meeting to contain the full details specified in this clause, but be sent at longer notice than is the case with normal General Meetings. That way the extra step and extra 21 days' delay are avoided. ]

- (d) The written notice under sub-clause (c) must include:
- (i) the wording of the resolution to effect the proposed amendment;
  - (ii) a document clearly communicating the current clauses that it is proposed be changed, the changes, and the impact of the changes;
  - (iii) a memorandum of no more than 1,000 words, prepared by proponents of the proposed amendment, which sets out the case in favour of the proposed amendment; and
  - (iv) a memorandum of no more than 1,000 words, which sets out the case against the proposed amendment. The Governing Committee is required to make best efforts to have this prepared by opponents of the proposed amendment, failing which it must make best efforts to identify and articulate each aspect that may concern Society Members.

## 6.10 Amendments to the Constitution Proposed by Voting Members

- (a) An amendment to the Constitution may be proposed by Voting Members, by providing to the Society:
- (i) the wording of the resolution to effect the proposed amendment;
  - (ii) a document clearly communicating the current clauses that it is proposed be changed, the changes, and the impact of the changes;
  - (iii) a memorandum of no more than 1,000 words, which sets out the case in favour of the proposed amendment; and
  - (iv) a list of at least 50 Financial Voting Members supporting the proposed amendment.
- (b) Any such proposal for amendment to the Constitution is a Special Resolution.
- (c) After receiving a proposal under clause (a), the Governing Committee must, within a reasonable time, and no later than 6 weeks after receipt, provide written notice to Society Members in accordance with the provisions applicable to amendments proposed by the Governing Committee.
- (d) Within a reasonable time, and no later than { **2 months OR 6 weeks** } after expiration of the time specified in clause (c), the Governing Committee must convene a General Meeting to consider the proposed amendment.

## 6.11 Members' Resolutions and Statements

### OPTION:

*[ A clause of this nature is found in some templates and exemplars. It may require further adaptation to fit the Society's needs, or may be seen as redundant, particularly given the inclusion of cl.5.5, requiring the provision of communication channels among members. ]*

- (a) Any 100 Voting Members [5.4.8] may give:
- (i) written notice to the Society of a resolution they propose to move at a General Meeting (members' resolution); and/or

- (ii) a written request to the Society that the Society give all of its Society Members a statement about a proposed resolution or any other matter that may properly be considered at a General Meeting (members' statement).
- (b) A notice of a members' resolution must set out the wording of the proposed resolution and be signed by the Voting Members proposing the resolution.
- (c) A request to distribute a members' statement must set out the statement to be distributed and be signed by the Voting Members making the request.
- (d) Separate copies of a document setting out the notice or request may be signed by Voting Members if the wording is the same in each copy.
- (e) If the Society has been provided with a members' resolution, the resolution must be considered at the next available General Meeting. For these purposes, the expression 'the next available General Meeting' excludes any General Meeting of which notice has already been given prior to the notice of a members' resolution being provided.
- (f) This clause does not limit any other right that a Voting Member has to propose a resolution at a general meeting.
- (g) If the Society has been given a notice or request under this clause, it must do so at the Society's cost.
- (h) The Society does not need to send the notice of proposed members' resolution or a copy of the members' statement to members if:
  - (i) it is more than 1,000 words long; or
  - (ii) the Governing Committee considers it, on reasonable grounds, to be factually incorrect, defamatory, unconstitutional or unlawful; or
  - (iii) The Members Statement has been submitted less than 7 days prior to the General Meeting; or
  - (iv) in the case of a proposed members' resolution, the resolution does not relate to a matter that may be properly considered at a General Meeting or is otherwise not a valid resolution that can be put to the Voting Members.

If the Governing Committee determines that the statement may not be presented, it is required to outline the reasons for this decision within 5 business days of receipt. The Group providing the Members Statement may present an amended statement that is acceptable within 7 days thereafter.

## **6.12 Proxies**

- (a) Any Financial Voting Member may appoint a Financial Voting Member as a proxy to vote on that member's behalf and may direct the proxy to vote either for or against each or any resolution.
- (b) The Society is to specify in each notice of meeting where, and by what date and time, the instrument appointing a proxy is to be received, in a manner consistent with the law, this Constitution and the By-Laws.
- (c) An instrument appointing a proxy is to be in a form, and to require the provision of information in a manner, consistent with the law, this Constitution, and the By-Laws.
- (d) If the instrument appointing a proxy specifies the way in which the proxy is to vote for a particular resolution, the proxy must vote on the resolution as specified in the instrument.
- (e) An instrument appointing a proxy is valid for any adjournment of the meeting to which it relates, unless the contrary is stated on the proxy or the member revokes the proxy in the meantime.
- (f) A proxy may be revoked at any time by notice in writing to the Society.

- (g) If the principal attends a meeting and votes on a resolution, the proxy is revoked in respect of that vote.
- (h) An instrument appointing a proxy confers authority to demand or join in demanding a Secret Ballot and, except to the extent to which the proxy is specifically directed to vote for or against any proposal, includes power to act generally at the meeting for the person giving the proxy.

### 6.13 Appointment of an Attorney

Any Society Member may, by duly executed power of attorney, appoint an attorney to act on the Society Member's behalf at all or certain specified meetings of the Society. A copy of that power of attorney is to be made available for inspection by the Society.

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## 7. By-Laws

*[ This clause establishes the requirement for By-Laws, and specifies a minimum (and substantial) set of documents. Most of these exist and are carried over by Transitional Provisions in cl. 16.6. However, all existing documents (National Regulations and others) require review and adaptation, and some may need to be created from scratch. ]*

The Governing Committee is to ensure that the Society has and maintains By-Laws as required by any provision of this Constitution, including Schedules A-C.

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## 8. Branches

*[ This clause establishes the basis for and powers of Branches and Branch Committees, and ensures that the relevant By-Laws are subject to Member Approval. ]*

The Society is required to:

- (a) Establish and maintain a set of Branches, such that each region of Australia is the responsibility of one and only one Branch;

*[ Note that National Regulation 7 requires amendment, e.g. to reflect the transfer of the Riverina+ from NSW to Canberra Branch, which occurred some years ago. ]*

### **ALTERNATIVE:**

Establish and maintain a set of Branches, such that

- (i) Each region of Australia is the responsibility of one and only one Branch;
  - (ii) Each State or Territory is the responsibility of a separate Branch; but
  - (iii) Branches may agree to assign responsibility for a sub-region within their State or Territory to another Branch where this is agreed to benefit members.  
*[ Test-cases: Riverina, Broken Hill, Albury-Wodonga, Tweed-Coolongatta ... ]*
- (b) Publish as part of the By-Laws:
    - (i) Terms of Reference for Branch Committees;
    - (ii) Operational Procedures for Branch Committees, including appropriate accountability mechanisms;
    - (iii) Procedures for Elections for Branch Committee and Congress Representative roles;
    - (iv) The provision that terms for positions on Branch Committees and for Congress Representative roles run for 2 years from 1 July to 30 June;

*[ The purposes of (iv) are:*

- to ensure that all Congress members are in place at the time that elections of Governing Committee members take place; and
- to align all Branch elections to a common pattern, greatly simplifying their administration.

*[ MC elections are currently run in the Oct-Dec quarter, and the arrangement is effective. It is therefore desirable to hold Branch elections in the Mar-Jun quarter. The downside is that this will require a majority of Branches to change from their current pattern. ]*

- (c) Ensure that each Branch Committee is delegated sufficient powers to perform all functions as may reasonably be required to enable it to control and manage its Branch, including the following:
- provision to each Branch Committee of responsibilities and powers in relation to Society activities within its region;
  - delegation to each Branch Committee of the primary responsibility for all Society activities in its region that have a large member-services component;
  - requirement of all national organs and all national staff to make each Branch aware of, and involve the Branch in an appropriate manner in, all relevant activities that they undertake or cause to occur in its region;
- [ The purpose of (i)-(iii) is to ensure that Branch Committees are not caught out by ACS activities taking place within their region without their knowledge. ]*
- requirement of the Governing Committee to consider advice provided to it by each Branch Committee in relation to its region;
  - provision to each Branch Committee of resources to perform its functions, including:
    - staff who work for and with the Branch Committee within a national context; and [4.2.4]
    - the ability to retain and use funds accumulated by the Branch;
  - provision to each Branch Committee of the power to establish, manage and disestablish: [4.2.2]
    - Branch Chapters to serve sub-regions of its geographical region; and
    - sub-organisations, such as Special Interest Groups and Communities of Interest or Practice, to serve functional specialisations within its geographical region;

*[ The wording of (c) is drawn from current National Regulation 8, and the sub-clauses articulate that general requirement. ]*

- Review from time to time Branch Committee Terms of Reference and Procedures;
- Submit to the Voting Members for Approval proposed revisions to Branch Committee Terms of Reference and Procedures.
- Establish and maintain an Overseas Group;
- Allocate each Society Member to a Branch or Overseas Group, in accordance with the following criteria:
  - if the person is **neither a citizen, nor a permanent resident, of Australia**, to the Overseas Group, but subject to a discretion whereby a person who applies for allocation to a particular Branch may be permitted to be so allocated;
  - otherwise, in accordance with that Society Member's express wishes, if any; and
  - by default, according to the address as recorded on the Membership Register;

*[ If cl.5.1(b)(ii) is changed to enable the vote for professional members who are not either Australian citizens or permanent residents, then either:*

- (A) amend (g)(i) by replacing "neither a citizen, nor a permanent resident, of" by "not at that time a resident of"; or
- (B) amend (g)(i) as per (A) and insert after "Australia" "and is not either a citizen or permanent resident of Australia".

Sub-clause would then read as follows: "if the person is not at the time a resident of Australia and is not either a citizen or permanent resident of Australia, to the Overseas Group, but subject to a discretion whereby a person who applies for allocation to a particular Branch may be permitted to be so allocated". ]

- (h) **OPTION:** Support a degree of cross-subsidisation of some Branches and Chapters in order to address challenges such as physical distance, low population density and absence of economies of scale. [4.2.5]

**ALTERNATIVE:**

Financially support any Branch or Chapter that is challenged by significantly lower population density, larger physical distances to events or higher costs per member relative to the 'Society average'.

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## 9. Panels

*[ This clause establishes the basis for and powers of Panels and ensures that the relevant By-Laws are subject to Member Approval. ]*

The Society is required to:

**ALTERNATIVE:**

The Governing Committee is required to:

- (a) Establish and maintain Panels, each of which: [4.1.1, 4.1.2]
  - (i) has responsibilities in defined areas of the Society's activities;
  - (ii) is empowered to advise the Governing Committee in those areas;
  - (iii) is empowered to perform delegated functions in those areas on behalf of the Governing Committee; and
  - (iv) is subject to appropriate accountability mechanisms;and which together:
  - (v) have responsibilities that encompass all key functions performed by the Society, with only such overlap among responsibilities as is unavoidable, and subject to coordination mechanisms;
- (b) Ensure that each Panel is delegated sufficient powers and resources to perform its functions;
- (c) Publish as part of the By-Laws:
  - (i) each Panel's Terms of Reference;
  - (ii) each Panel's Procedures for Elections;
  - (iii) each Panels' Operational Procedures;
- (d) Review from time to time those Terms of Reference and Procedures;

**OPTION:**

- (e) Submit to the Voting Members for Approval proposed revisions to those Terms of Reference and Procedures. [Sub-clause (e) is onerous and denies agility. However, it would be appropriate if members, despite the substantial array of accountability mechanisms in cl.12, remain concerned that a future Governing Committee might again reduce the powers of Panels, and re-centralise power. ]

## 10. Congress [5.1-5.3]

[ This clause contains the provisions necessary to establish and empower the Congress. ]

### 10.1 Powers

- (a) The Congress has the powers to:
- (i) elect members of the Governing Committee;
  - (ii) remove a member of the Governing Committee in accordance with cl. 12.6(a);
  - (iii) **OPTION:** elect and remove a member from the Chair of the Governing Committee;  
*[ The purpose of a separate clause relating to the Chair is to provide Congress with an unequivocal power to remove the Chair, subject to appropriate procedural restrictions, separate from the power of Congress to remove the person who is currently Chair from the Governing Committee, i.e. Congress could choose to retain the person as a member of the Committee, but replace them as Chair. ]*
  - (iv) elect as Panel Chairs suitable Financial Voting Members in Grades in the Professional Division, subject to the limitation that a candidate must not have served as a Panel Chair for more than **OPTION: { 7 years in the previous 9-year period;**
  - (v) monitor the performance of the Governing Committee;
  - (vi) represent the interests of members to the Governing Committee;
  - (vii) provide advice to the Governing Committee on any matter;
  - (viii) perform such other functions as are authorised by law, this Constitution or the By-Laws.
- (b) The Congress may establish and disestablish sub-organisations, such as committees, task forces and working groups. The meetings and proceedings of such sub-organisations are subject to the law, this Constitution and the By-Laws. [4.1.3]  
*[ This clause does not apply to Panels. The List of Panels is in Schedule A, and hence subject to Member Approval. The Governing Committee cannot establish, disestablish or materially amend the Terms of Reference of a Panel without an Online Vote of the Members. ]*
- (c) The Congress may, as it thinks fit, subject to the law, this Constitution and the By-Laws, delegate:
- (i) any of its powers other than its power to delegate, and may vary and may withdraw any delegation,
  - (ii) to individual members of the Congress or Voting Members, or to sub-organisations.
- (d) Any such individual or sub-organisation is to comply with any direction by the Congress in the execution of the delegated powers.
- (e) Panel Chairs are entitled to attend and speak at Congress meetings, but not to move, second, or vote on motions. They are also eligible to stand as candidates for Congress Representative positions.
- (f) **OPTION 1:** Members of Congress { **ALTERNATIVES:** are entitled to **OR** may be invited, and may request an invitation to, } sit as observers on meetings of Governing Committee and all sub-organisations, such as panels, committees, task forces and working groups.  
*[ An entitlement is procedurally and logistically challenging and may be impractical. ]*  
**OPTION 2:** Members of Congress may be invited, and may request an invitation, to sit as observers on meetings of Governing Committee or to participate in particular items at Governing Committee meetings.

## 10.2 Duties

- (a) Each member of the Congress must represent the interests of members, including by monitoring the performance of the Governing Committee in relation to its obligations under clauses 11 and 12, and where appropriate proposing to Congress that it exercise its powers under clause 10.1(a).
- (b) Each member of the Congress must disclose to the other members of Congress the nature and extent of any material conflict of interest, actual or apparent, in a relevant matter.
- (c) Subject to the provisions of this clause, each member of the Congress who has a material personal interest in a relevant matter is not to:
  - (i) be present at the meeting while the matter is being discussed; nor
  - (ii) vote on the matter.
- (d) Notwithstanding the previous sub-clause, a member of the Congress may still be present, speak and vote on a matter, under the conditions recognised by the law, or reasonably considered by the other members of the Congress, to render the conflict of interest manageable in the circumstances.

## 10.3 Members of Congress

### (a) Election of Members

#### **OPTION 1:**

- (i) Each Branch Chair is *ex officio* a Congress Representative for that Branch.
- (ii) In each Branch, the Branch { **Committee** } members elect further Congress Representatives.
- (iii) **OPTION:**  
Each Branch { **Committee** } elects 2 such Representatives, unless, at the prescribed date, the Branch has in excess of 20% of the Professional Division members, in which case it elects instead 3 such Representatives. [ The arrangements are (intentionally) heavily biased in favour of the smaller Branches. Currently, however, the two largest Branches do at least have the assurance of having 1 member on the Governing Committee. That feature would disappear under the new arrangements. Sub-clause (iii) adjusts the bias against large Branches back to about the same position that it's in at present, which is a time-honoured and accepted balancing act. ]
- (iv) Each Congress Representative holds office for the term specified in cl.8(b)(iv). They are not thereby ineligible for re-election.  
*[ CRs have 2-year terms, whereas GC members have 3-year terms commencing 6 months later – an arrangement designed to ensure that election procedures are orderly and practical. ]*
- (v) Where the person was elected to a casual vacancy, they hold office until the expiry of the term of the person whose retirement gave rise to the casual vacancy.
- (vi) A candidate may be elected as a Congress Representative if, at the time at which the election commences, they:
  - (A) are a current Financial Voting Member of the Society;
  - (B) are currently in a Grade in the Professional Division; and
  - (C) have not served on Congress for more than 7 years in the previous 9-year period. In the case of initial election to a casual vacancy, the time spent in the role prior to the next election does not count towards their maximum time in the role.

#### **SUB-OPTION:**

and

- (D) are not at the time, and have not been at any time in the 2 years immediately prior, an employee of the Society.

**SUB-OPTION – (viA) only:**

(viA) No more than one elected Congress Representative per Branch may be a member of Branch Committee { at the time of the election? at the same time as being a Congress Representative? }

**OR**

At least one elected Congress Representative per Branch must be a member of Branch Committee { at the time of the election? at the same time as being a Congress Representative? };

*[ The term 'elected Congress Representative' is intended to exclude the Branch Chair, i.e. this sub-clause refers to CRs other than the Branch Chair. ]*

*[ Either of these alternatives creates drafting and procedural challenges. ]*

- (vii) A nomination is to be submitted in compliance with the By-Laws and signed by the nominated person and their proposer { **OPTION: and seconder** }, each of whom must be a Financial Voting Member of the Branch at the time at which the election commences.

*[ There appears to be no Rule or By-Law requiring proposers and seconders for positions on Management Committee or Congress, and the practice is that neither a proposer nor a seconder is required. Nominations for Branch Executive Committee roles require a proposer but no seconder (NatReg 8.4.4). ]*

- (viii) If the number of nominations is equal to or fewer than the number of vacancies, the nominees must be declared elected.
- (ix) If the number of nominations exceeds the vacancies, a Secret Ballot must be conducted, in a manner compliant with the law, this Constitution and the By-Laws.
- (x) Each Financial Voting Member of the Branch is entitled to vote for any number of candidates.

*[ This is commonly referred to as 'optional preferential' voting. An alternative approach is to treat this as a procedural matter, and delegate it to the By-Laws, probably subject to either Schedule A (Member Approval) or Schedule B (Member Ratification). ]*

**OPTION 2:**

- (i) Each Branch Chair, first Vice-Chair and Secretary is an *ex officio* Congress Representative for that Branch.
- (ii) For each Branch that, at the prescribed time, has in excess of 20% of the Professional Division members, { **the second Vice-Chair OR in failing that the Branch Treasurer** } is also an *ex officio* Congress Representative for that Branch.

*[ Under Option 2, all CRs are ex officio positions, and hence have terms that expire 6 months before the following Governing Committee elections – an arrangement designed to ensure that GC election procedures are orderly and practical. ]*

**OPTION 3:**

*[ Under Option 3, there are no ex officio roles, but Branch Committee elects the Reps. ]*

- (i) A candidate may be elected as a Congress Representative if, at the time at which the election commences, they:
- (A) are a current Financial Voting Member of the Society;
  - (B) are currently in a Grade in the Professional Division; and
  - (C) have not served on Congress for more than 7 years in the previous 9-year period. In the case of initial election to a casual vacancy, the time spent in

the role prior to the next election does not count towards their maximum time in the role.

- (ii) A nomination is to be submitted in compliance with the By-Laws and signed by the nominated person and their proposer { **OPTION: and seconder** }, each of whom must be a Financial Voting Member of the Branch at the time at which the election commences.

*[ There appears to be no Rule or By-Law requiring proposers and seconders for positions on Management Committee or Congress, and the practice is that neither a proposer nor a seconder is required. Nominations for Branch Executive Committee roles require a proposer but no seconder (NatReg 8.4.4). ]*

- (iii) If the number of nominations is equal to or fewer than the number of vacancies, the nominees must be declared elected.
- (iv) If the number of nominations exceeds the vacancies, the Branch Committee elects the Congress Representatives, in a manner compliant with the law, this Constitution and the By-Laws.

**(b) Election of the Chair of Congress**

- (i) The Congress must elect one of its members as the Chair of Congress.
- (ii) The term of the Chair of Congress is 2 years, **OPTION:** but on completion of their term the person is not thereby ineligible for re-election.
- (iii) When a vacancy arises, the Congress must elect a replacement.
- (iv) A replacement serves the remainder of the term of the position.
- (v) A member of Congress is not eligible to be elected as Chair if they have served more than **OPTION: { 2 years OR 4 years }** in that role during the preceding **OPTION: { 4 years OR 6 years }**. In the case of initial election to a casual vacancy, the time spent in the role prior to the next election does not count towards their maximum time in the role.

*[ The effect is to permit a maximum of either 2 full 2-year terms **OR** 3 full 2-year terms.*

**(c) Cessation**

A person ceases to be a member of Congress when they:

- (i) resign from that position by giving the Society notice in writing;
- (ii) die;
- (iii) suffer any permanent impairment that renders them incapable of properly discharging their duties as a member of Congress;
- (iv) are removed from Congress in accordance with the law or this Constitution;
- (v) are expelled from the Society;
- (vi) are removed from the Membership Register as a result of having had outstanding fees for longer than the maximum period permitted under the law, this Constitution or the By-Laws;
- (vii) without leave of Congress, are absent from meetings of Congress for three consecutive Congress Meetings, unless Congress makes a resolution to the contrary; or
- (viii) become ineligible under any provision of law.

**(d) Casual Vacancies**

When a vacancy arises on Congress, due to the cessation of a member under any provision of cl. 10.3(c), the relevant Branch Committee must **OPTION: { elect OR appoint }** a replacement, who must satisfy the eligibility requirements in cl.10(3)(a)(vi), and who serves the remainder of the current term of that position.

*[ Election of replacements within the 2-year cycle would be likely to be seen as onerous and may be unpopular. Members would appear likely to be comfortable with Branch Committee appointing a replacement for the remainder of the term. For short-term vacancies, sub-clause (e) is also relevant. ]*

(e) **Alternative Members**

The relevant Branch Committee may appoint an alternative member for a period of time not exceeding the remainder of the incumbent's term:

- (i) where a Congress Representative elected by that Branch indicates their unavailability to attend a particular meeting of Congress; or
- (ii) any of that Branch's Congress Representative positions or the Branch Chair is vacant.

An alternative member must satisfy the eligibility requirements in cl.10(3)(a)(vi), but need not be a member of the Branch Committee.

*[ This feature:*

- *avoids Branches being disenfranchised when a Congress Representative cannot attend;*
- *enables Branches to provide prospective Congress Representatives with the experience of attending and participating in Congress meetings; and*
- *relieves Branch Chairs, who have considerable responsibilities and are ex officio Congress members, of the obligation to attend every Congress meeting. ]*

#### **10.4 Proceedings of Congress**

(a) **Meetings**

- (i) Congress may meet together for the despatch of business, adjourn and otherwise regulate its meetings as it thinks fit, subject to the law, this Constitution and the By-Laws.
- (ii) Congress is to meet at least **OPTION: { three OR two? }** times per calendar year.
- (iii) **OPTION: { Any member of Congress OR any three members of Congress OR members from at least three Branches }** may call a meeting of the members of Congress by giving reasonable notice, by reasonable means, to all of the other members of Congress.
- (iv) The accidental omission to give notice of a meeting to, or the non-receipt of a notice of meeting by, a member of Congress does not invalidate proceedings at a Congress meeting.
- (v) The quorum for meetings of Congress is the next integer greater than half the number of members of Congress at the time the meeting takes place.
- (vi) No item of business may be dealt with at a meeting of Congress unless a quorum is present during the time the meeting is considering the item.

(b) **Use of Technology to Hold Meetings**

- (i) A meeting of Congress may be held at two or more venues using any technology that gives the members of Congress a reasonable opportunity to participate, including to hear and be heard.
- (ii) A member of Congress using this technology is taken to be present in person at the meeting.
- (iii) A resolution passed during such a Congress meeting, notwithstanding that the Members of Congress are not present together in one place at the time of the conference, is deemed to have been passed at a meeting of Congress held on the day and at the time the meeting was held.

*[ The expression 'technology' is intended to encompass not only relatively sophisticated video-and-audio services but also simpler forms such as a phone-call, an SMS vote, and an app for voting. ]*

*[ A provision of this nature might be instead expressed elsewhere in the Constitution and applied to all meetings of Government Committee, Congress and all sub-organisations. See also cls.6.2 and 11.6(b). ]*

(c) **The Meeting Chair**

- (i) The Chair of Congress is entitled to be the Meeting Chair.
- (ii) The members of Congress present at a meeting of Congress are to choose a member of Congress present to be the Meeting Chair for that meeting or part thereof if:
  - (A) there is no Chair of Congress;
  - (B) that Chair is not present at any time after the time set for commencement of the meeting; or
  - (C) that Chair is present but says they do not wish to act as the Meeting Chair of the meeting.

(d) **Secretary or Governance Officer**

Congress is to appoint at least one Secretary, who may be a member of Congress, or a Governance Officer, who is responsible to Congress for preparing the agendas and maintaining the minutes and other records of Congress meetings.

(e) **Resolutions**

- (i) A resolution is passed if a majority of the votes cast by members of Congress present and entitled to vote on the resolution is in favour of the resolution.
- (ii) Each Member of Congress present is entitled to no more than one vote.
- (iii) The Meeting Chair does not have a casting vote. If the votes are equal, the motion lapses.
- (iv) Congress is to cause minutes of the proceedings and resolutions of all General Meetings of the Society, meetings of members of Congress and committees formed by Congress, including circular resolutions, to be:
  - (A) made;
  - (B) signed by the Meeting Chair;
  - (C) made available to Society Members in a timely manner; and
  - (D) stored in a suitably secure and accessible manner.
- (v) A minute that is recorded and signed is evidence of the proceeding or resolution to which it relates, unless the contrary is proven.
- (vi) Notwithstanding that no meeting has been held, if each of the members of Congress has signed a document containing a statement that they are in favour of a resolution of Congress in terms set out in that document, a resolution in those terms is deemed to have been passed at a meeting of Congress held on the day and time of the signing by the last member. Any such circular resolution may consist of several documents in identical terms, each signed by one or more members of Congress.

*[ The term Circular Resolutions might be defined in s.15.1 Definitions, enabling this sub-clause and cl.11.6(e) to be expressed more simply. ]*

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## **11. The Governing Committee**

*[ This clause contains the provisions necessary to establish and empower the governing committee. ]*

## 11.1 Powers

- (a) The Governing Committee has the power to manage the business of the Society and may exercise all powers of the Society, except those required to be exercised by the Society in General Meeting or by Congress, subject to the law, this Constitution, and the By-Laws. [4.1.3]
- (b) The Governing Committee is empowered, subject to the law, this Constitution and the By-Laws, to establish and disestablish sub-organisations including standing committees, national Special Interest Groups and national communities of interest or practice, and task-specific and / or time-limited Task Forces and Working Groups, and to delegate its powers to them, and to vary those delegations.  
*[ This clause does not apply to Panels. The List of Panels is in Schedule A, and hence subject to Member Approval. The Governing Committee cannot establish, disestablish or materially amend the Terms of Reference of a Panel without an Online Vote of the Members. ]*
- (c) With the exception of Committees formed expressly to report to Governing Committee, all such sub-organisations are to be assigned to a Panel for the purposes of budgetting, reporting and supervision. [4.1.3]
- (d) The Governing Committee, as the Governing Committee thinks fit, subject to the law, this Constitution and the By-Laws, may [2.4.2]:
  - (i) delegate any of its powers other than its power to delegate, and may vary and may withdraw any delegation,
  - (ii) to individual members of the Governing Committee or Voting Members, or to sub-organisations.

[ Members of the Governing Committee do not thereby escape any of their responsibilities ].

- (e) Any such individual or sub-organisation is to comply with any direction by the Governing Committee in the execution of the delegated powers.
- (f) The Governing Committee may, by power of attorney, appoint any person whether nominated directly or indirectly by the members of the Governing Committee to be an attorney or attorneys of the Society. Such appointment may be for any purposes, and with powers, authorities and discretions not exceeding those vested in and exercisable by the Members of the Governing Committee under this Constitution, and for periods and subject to such conditions as they determine. A power of attorney may contain such provisions for the protection and convenience of persons dealing with the attorney as the members of the Governing Committee determine.
- (g) An act done in good faith by any meeting of the Governing Committee or of any committee formed by the Governing Committee, or by any person acting as a member of the Governing Committee, is not invalidated by reason of:
  - (i) any defect in the election, appointment or tenure of a member of the Governing Committee or person acting on any such committee; or
  - (ii) the disqualification of any of them.

## 11.2 Duties

- (a) The members of the Governing Committee are jointly and severally responsible for managing and directing the activities of the Society to fulfil its Mission and achieve its Purposes, in a manner compliant with clause 1.
- (b) Each member of the Governing Committee is subject to the duties of members of the Governing Committee under the law and this Constitution { and the By-Laws? }.
- (c) Each member of the Governing Committee must disclose the nature and extent of any material conflict of interest, actual or apparent, in a relevant matter:
  - (i) to the other members of the Governing Committee; and

- (ii) if all of the members of the Governing Committee have the same conflict of interest, to the members at the next General Meeting, or at an earlier time if it is appropriate to do so.
- (d) Subject to the provisions of this clause, each member of the Governing Committee who has a material personal interest in a relevant matter is not to:
  - (i) be present at the meeting while the matter is being discussed, or
  - (ii) vote on the matter.
- (e) Notwithstanding the previous sub-clause, a member of the Governing Committee may still be present, speak and vote on a matter, under the conditions recognised by the law, or reasonably considered by the other members of the Governing Committee, to render the conflict of interest manageable in the circumstances.

### 11.3 Members of the Governing Committee [5.1-5.3]

#### (a) Number

- (i) The number of members of the Governing Committee is to be no more than **OPTION: { 9, 10, 11 or 12 }, OPTION: { including OR excluding }** the Chair, and no fewer than 5, elected in accordance with this Constitution, except as provided by this clause. [5.2.4]

*[ Size recommendations range between 7 and 11. The role represents a substantial, unremunerated 'second job', so having 11 spreads the workload further. Having 9 or 12 enables a 'neat-looking' 3 or 4 vacancies each year.*

*[ With a total of 10, 9 would be on a 3 p.a. election-cycle, with the Chair on their own 3-year election-cycle. The first Chair's term would be not less than 3 years (in order to establish the cycle irrespective of the date on which the new constitutional document comes into force). ]*

*[ Note that the minimum of 5 is merely the threshold at which 'caretaker mode' comes into effect. Under cl.11.4(d)(i), casual vacancies must be filled; so anything less than a full complement should be an occasional and short-term deficiency. ]*

- (ii) If the number of members of the Governing Committee is fewer than the minimum stipulated by law or in the previous sub-clause, the then members of the Governing Committee may, and must, act to temporarily increase the number of members of the Governing Committee to at least that minimum, and to call a General Meeting to elect sufficient members of the Governing Committee to again be compliant with the law and this Constitution, but for no other purpose.

*[ The purpose of this sub-clause is to ensure that the Society's governance structure remains viable even if the number of members of the Governing Committee falls below the legal or constitutional minimum. The power of the remaining members and those they appoint is constrained, however, by stipulating that only those actions can be taken that will recover the Governing Committee in a manner, and to a form, consistent with the Constitution. ]*

#### (b) Eligibility

A candidate may be elected to the Governing Committee if they, at the time that the election commences:

- (i) are a current Financial Voting Member of the Society;
- (ii) are currently in a Grade in the Professional Division; [5.2.1, 5.2.2]
- (iiiA) **OPTION:**

have served on a Branch Committee for at least 1 year during the previous 5 years;

[This addresses the risk of inexperienced and uncommitted members who don't appreciate the considerable demands of the role taking up time in election processes and even space on the Governing Committee. ]

- (iii) have not served on the Governing Committee for more than **7 years in the previous 9-year period**. In the case of initial election to a casual vacancy, the time spent in the role prior to the next election does not count towards their maximum time in the role; and [5.2.3]

*[ The purpose of this is to enable contributors to serve moderately long periods on Governing Committee, but to establish an upper bound. The present formulation permits a person to be elected to a third term, and to serve it out, hence serving as long as 3 x 3-year terms. (Should they have filled a casual vacancy shortly prior to their first term, their maximum term could exceed 9 years). Each person regains eligibility 2 years later. ]*

(iii) **ALTERNATIVE:**

have not served on the Governing Committee for more than **6 years in the previous 8 year-year period**. In the case of initial election to a casual vacancy, the time spent in the role prior to the next election does not count towards their maximum time in the role; and [5.2.3]

*[ This variant precludes a third term, and makes the maximum 6 years, plus any prior service after filling a casual vacancy. This creates a risk to corporate memory, particularly in relation to the role of Chair. Hence:*

**SUB-OPTION: APPEND:**

... subject to the proviso that a member of the Governing Committee who is Chair at the time their second 3-year term expires is eligible to stand for a third consecutive term on the Governing Committee;

*[ In practice, it is common for members to become Chair only after some years on Governing Committee, and hence a 6-year limit will on occasions force the retirement of a senior member who has relatively recently commenced as Chair. So a proviso of this kind may be advisable in order to take advantage of the experience of an incumbent. ]*

- (iv) are not at the time, and have not been at any time in the 2 years immediately prior, an employee of the Society. [5.2.6]

(c) **Term**

- (i) Each elected Member of the Governing Committee holds office from **OPTION: { 1 January OR 1 February }** until **{ 31 December OR 31 January }** of the third year following their most recent election. They are not thereby ineligible for re-election. [5.2.3]

- (ii) Where the person was elected to a casual vacancy, they hold office until the expiry of the term of the person whose retirement gave rise to the casual vacancy.

*[ This ensures that Congress positions are filled on 1 July each year, so that Congress is ready to perform its electoral college function for Governing Committee positions late in each calendar year.*

*[ Under the current Rules, Management Committee terms are aligned with the calendar year. Because there are so many absences over the Christmas-New Year period, there is an argument for the handover from old to new Governing Committee members to instead occur 1 month into the new calendar year. ]*

*[A further alternative is for Branch terms to be aligned with the calendar year, with Branch elections held in the Oct-Dec quarter, and Congress electing Governing Committee members in the Apr-Jun quarter with their terms commencing 1 July rather than the present 1 January or 1 February. ]*

(d) **Supplementary Appointments** [5.2.5]

### **ALTERNATIVE 1:**

The Governing Committee has the power to appoint external members, subject to the following conditions being fulfilled:

- (i) An appointment may be made solely for the purpose of addressing one or more specified weaknesses in the Governing Committee's expertise matrix (in particular financial audit and/or risk management), or to overcome any serious issue of profile diversity (particularly gender, but possibly addressing other factors);
- (ii) A maximum of 2 such external persons may hold such an appointment at any one time, and only if the number of elected members of the Governing Committee exceeds the number required for a quorum;
- (iii) The term of appointment is not longer than until the end of **SUB-OPTION: { the next OR the next but one }** Annual General Meeting, but a candidate is not thereby ineligible for re-appointment; and
- (iv) No appointee may serve more than 4 years in any 6-year period. In the case of appointment after 1 July in any year, the time spent in the role prior to the next Annual General Meeting does not count towards their maximum time in the role.

### **ALTERNATIVE 2:**

[ No such provision, with Governing Committee acquiring expertise as needed, on a contractual basis. ]

*[ There are arguments in favour of the Governing Committee, given that they are part-time and unremunerated, being able to acquire expertise that makes good any material shortfalls in their own expertise. There are also arguments that this kind of expertise can be acquired by the Governing Committee under contract, and provided directly to Governing Committee. ]*

#### **(e) Payments**

- (i) No elected member of the Governing Committee may be paid a fee for services performed as a member of the Governing Committee, but may be reimbursed for expenses properly incurred in performing their functions.

#### **OPTION if ALTERNATIVE 1 in (d) is chosen :**

- (ii) A Supplementary Appointee may be paid a fee for services performed as a member of the Governing Committee, and may be reimbursed for expenses properly incurred in performing their functions.

## **11.4 Election, Appointment and Cessation of Members of the Governing Committee**

### **(a) Election of Members of the Governing Committee**

- (i) Any member who satisfies the eligibility criteria under cl. 11.3(b) may nominate for election as a member of the Governing Committee.
- (ii) A nomination is to be submitted in compliance with the By-Laws and signed by the nominated person and their proposer and seconder, each of whom must be a Financial Voting Member at the time at which the election commences.
- (iii) If the number of nominations is equal to or fewer than the number of vacancies, the Chair of Congress must declare the nominees elected.
- (iv) If the number of nominations exceeds the vacancies, the Congress is to conduct a Secret Ballot, in a manner compliant with the law, this Constitution and the By-Laws.
- (v) Each member of Congress present is entitled to vote for any number of candidates.

*[ This is commonly referred to as 'optional preferential' voting. An alternative approach is to treat this as a procedural matter, and delegate it to the By-Laws, probably within either Schedule A (Member Approval) or Schedule B (Member Ratification). ]*

**OPTION:**

- (vi) During the period while a person is a member of the Governing Committee, they { **remain eligible for a position on Congress OR are ineligible for a position as a Congress Representative**}. Where this gives rise to a casual vacancy for a Congress Representative, the relevant Branch is to elect or appoint a replacement for the duration of the incumbent's term.

**FURTHER OPTION:**

- (A) The Chair of the Governing Committee is a member of Congress { OR the Chair and one further member of Governing Committee elected by the Governing Committee is a member of Congress }; but
- (B) All other members of the Governing Committee are ineligible for a position as a Congress Representative.

*[ The purpose of making members of the Governing Committee ineligible to be members of Congress at the same time is to reduce the conflict of interest any person has by virtue of having two rather different roles, and to reduce the degree of influence that GC exercises over Congress, which has demonstrably given rise to difficulties under the existing Rules. ]*

*[ The logic of the Further Option is to ensure that a communications link exists between Congress and the Governing Committee, such that arguments can sway Congress, but votes can't. ]*

**OPTION:**

- (vii) Congress can invite any Governing Committee member, and any Governing Committee member can request an invitation, to participate in any particular Congress meeting or any particular item at a Congress meeting.

*[ This may be logically superfluous, but it has the advantage of signalling that the desire is not to disconnect the two bodies, but merely to avoid Governing Committee dominating Congress. ]*

**(b) Election of the Chair**

- (i) **ALTERNATIVES** (in ascending order of 'open democracy' / member power):

A **The Governing Committee** must elect as the Chair of the Governing Committee **one of the members of the Governing Committee**.

B **Congress** must elect as the Chair of the Governing Committee **one of the members of the Governing Committee**.

*[ The election has to occur after the election of the new Governing Committee members by Congress, but it could be done either as part of the same meeting, or by Online Voting by Congress members during the days or weeks following ]*

C1 **The Voting Members** must elect as the Chair of the Governing Committee **one of the members of the Governing Committee**.

*[ This alternative is procedurally problematical, because it necessarily involves a material lag between the election of the new Governing Committee members by Congress and the election of the Chair by the Voting Members. ]*

C2 **The Voting Members** must elect as the Chair of the Governing Committee **a candidate who satisfies the eligibility criteria under cl. 11.3(b)**.

*[ This alternative creates a potential timing clash between the Congress' election of new Governing Committee members and the Voting Members' election of the Chair. If the winning candidate for Chair is (or has just become) a member of GC, a casual vacancy arises on Congress, which must then be filled under sub-clause (d). ]*

**SUB-OPTION:**

- (iA) In addition to the eligibility criteria applicable under clause 11(3)(b), a candidate for election as Chair must have served on the Governing Committee or Congress for at least 1 year during the previous **{ 3 years? 5 years? }**.

*[The purpose of this sub-option is to prevent candidacy by any person with no recent experience of the Society's governance processes. ]*

- (ii) The term of the Chair of the Governing Committee is 3 years,

**OPTION:**

but on completion of their term the person is not thereby ineligible for re-election.

*[ Note: A term different from the term of members of Governing Committee would create timing and procedural complexities that would need to be resolved. ]*

- (bA) **OPTION:**

The Governing Committee **{ must OR may }** elect as a Vice-Chair of the Governing Committee **{ one? OR more? }** of the members of the Governing Committee other than the Chair.

**SUB-OPTION:**

**The Governing Committee may elect as a named role one or more of the members of the Governing Committee other than the Chair.**

*[ The Constitution is designed to avoid a vacancy in the Chair, or a temporary absence of the Chair (e.g. on holidays or during short-term illness), having any effect on the operations of the Governing Committee. It does not appear that the law creates any difficulties because, during such periods, it is open to the Governing Committee to appoint an Acting Chair, not only as Meeting Chair, but also more generally.*

*[ However, there may be benefits in one or more Vice-Chairs being designated, who can, in particular, fulfil public engagements on behalf of the Society. ]*

*[ The same approach might be taken to a role of Treasurer, or Secretary. ]*

- (c) **Cessation**

A person ceases to be a member of the Governing Committee when they:

- (i) resign from that position by giving the Society notice in writing;
- (ii) die;
- (iii) suffer any permanent impairment that renders them incapable of properly discharging their duties as a member of the Governing Committee;
- (iv) are removed from the Governing Committee in accordance with the law or this Constitution;
- (v) are expelled from the Society;
- (vi) are removed from the Membership Register as a result of having had outstanding fees for longer than the maximum period permitted under the law, this Constitution or the By-Laws;
- (vii) without leave of the Governing Committee, are absent from meetings of the Governing Committee for three consecutive Governing Committee Meetings, unless the Governing Committee makes a resolution to the contrary; or
- (viii) become ineligible under any provisions of law.

- (d) **Casual Vacancies**

- (i) When a vacancy arises on the Governing Committee due to the cessation of an elected member, Congress must elect a replacement, who serves the remainder of the current term of that position.

- (ii) When a vacancy arises in the Chair of the Governing Committee due to the cessation of an elected member, **OPTION: { Congress OR the Governing Committee OR the Voting Members }** must elect a replacement **OPTION: { from among the then members of the Governing Committee OR from among eligible members }**, who serves the remainder of the current term of that position.

*[ An election by Governing Committee or Congress is not unduly onerous, but could be, or be seen as being, a means of sustaining control of Governing Committee by a small club of insiders. An out-of-cycle election by the Voting Members, on the other hand, is onerous and slow.*

*[ An intermediate approach is to require election by Voting Members if the vacancy arises less than half-way through the 3-year term. otherwise by Governing Committee or Congress. ]*

## 11.5 Relationships with External Organisations

The Governing Committee is empowered and required to: [4.1.5]

- (a) constructively partner with compatible professional societies;
- (b) host compatible professional societies;
- (c) constructively partner with other organisations relevant to the ICT arena that share the Society's values, such as associations of teaching staff, and associations that provide award-recognition to ICT professionals; and
- (d) constructively work with other relevant organisations, such as industry associations, on matters where there is sufficient commonality of interest.

## 11.6 Proceedings of the Governing Committee

### (a) Meetings

- (i) The Governing Committee may meet together for the despatch of business, adjourn and otherwise regulate its meetings as it thinks fit, subject to the law, this Constitution and the By-Laws.
- (ii) The Governing Committee is to meet at least **{ eight OR six? }** times per calendar year.
- (iii) **OPTION: { Any member of the Governing Committee OR any two members of Governing Committee }** may call a meeting of the members of the Governing Committee by giving reasonable notice, by reasonable means, to all of the other members of the Governing Committee.
- (iv) The accidental omission to give notice of a meeting to, or the non-receipt of a notice of meeting by, a member of the Governing Committee does not invalidate proceedings at a Governing Committee meeting.
- (v) The quorum for meetings of the Governing Committee is the next integer greater than half the number of members at the time the meeting takes place [ That is to say 7 or 12; 6 of 11 or 10; 5 of 9 or 8; 4 of 7 or 6; and 3 of 5. ]
- (vi) No item of business may be dealt with at a meeting of the Governing Committee unless a quorum is present during the time the meeting is considering the item.

### (b) Use of Technology to Hold Meetings

- (i) A meeting of the Governing Committee may be held at two or more venues using any technology that gives the members of the Governing Committee a reasonable opportunity to participate, including to hear and be heard.
- (ii) A member of the Governing Committee using this technology is taken to be present in person at the meeting.

- (iii) A resolution passed during such a members of the Governing Committee' meeting, notwithstanding that the Members of the Governing Committee are not present together in one place at the time of the conference, is deemed to have been passed at a meeting of the Governing Committee held on the day and at the time the meeting was held.

*[ The expression 'technology' is intended to encompass not only relatively sophisticated video-and-audio services but also simpler forms such as a phone-call, an SMS vote, and an app for voting. ]*

*[ A provision of this nature might be instead expressed elsewhere in the Constitution and applied to all meetings of Government Committee, Congress and all sub-organisations. See also cls.6.2 and 10.4(b). ]*

(c) **The Meeting Chair**

- (i) The Chair of the Governing Committee is entitled to be the Meeting Chair.
- (ii) The members of the Governing Committee present at a meeting of the Governing Committee are to choose a member of the Governing Committee present to be the Meeting Chair for that meeting or part thereof if:
- (A) there is no Chair of the Governing Committee;
- (B) that Chair is not present at any time after the time set for commencement of the meeting; or
- (C) that Chair is present but says they do not wish to act as the Meeting Chair of the meeting.

(d) **Secretary or Governance Officer**

The Governing Committee is to appoint at least one Secretary, who may be a member of the Governing Committee, or a Governance Officer, who is responsible to the Governing Committee for:

- (i) ensuring the maintenance of the Membership Register; and
- (ii) preparing the agendas and maintaining the minutes and other records of General Meetings (including notices of meetings), Governing Committee meetings and circular resolutions.

(e) **Resolutions**

- (i) A resolution is passed if a majority of the votes cast by members of the Governing Committee present and entitled to vote on the resolution is in favour of the resolution.
- (ii) Each Member of the Governing Committee present is entitled to no more than one vote.
- (iii) The Meeting Chair does not have a casting vote. If the votes are equal, the motion lapses.
- (iv) The Governing Committee is to cause minutes of the proceedings and resolutions of all General Meetings of the Society, meetings of members of the Governing Committee and committees formed by the Governing Committee, including circular resolutions, to be:
- (A) made;
- (B) signed by the Meeting Chair;
- (C) made available in a timely manner; and
- (D) stored in a suitably secure and accessible manner.
- (v) A minute that is recorded and signed is evidence of the proceeding or resolution to which it relates, unless the contrary is proven.
- (vi) Notwithstanding that no meeting has been held, if each of the members of the Governing Committee has signed a document containing a statement that they are in favour of a resolution of the Governing Committee in terms set out in

that document, a resolution in those terms is deemed to have been passed at a meeting of the Governing Committee held on the day and time of the signing by the last member. Any such circular resolution may consist of several documents in identical terms, each signed by one or more members of the Governing Committee.

*[ The term Circular Resolutions might be defined in s.15.1 Definitions, enabling this sub-clause and cl.10.4(e) to be expressed more simply. ]*

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## **12. Accountability of the Governing Committee**

*[ This clause contains provisions necessary to establish the means whereby the governing committee will be effectively, not merely nominally, accountable to the membership. ]*

### **12.1 Consistency with the Nature and Values of the Society**

The Governing Committee is responsible for ensuring that decisions made by the Governing Committee, and on behalf of the Society under delegation, are consistent with the Nature, Values, Mission and Purposes of the Society, as expressed in this Constitution. [1.1.1f, 2.3.1, 3.1.1, 5.4.1]

### **12.2 Criteria for Society Activities**

The Governing Committee must ensure that all activities of the Society: [3.1.2]

- (a) contribute directly to the achievement of the Society's Purposes; or
- (b) support the professional activities of the Society by generating surplus to fund them.

### **12.3 Transparency**

The Governing Committee is required to: [5.4.2]

- (a) be transparent to Society Members about its activities, including those relating to financial matters, strategy and risk;
- (b) provide explanations of the reasons for its major decisions; and
- (c) respond to reasonable requests for information from any Society Member.

### **12.4 Engagement**

The Governing Committee is required: [5.4.3, 2.4.2?]

- (a) to engage with Society Members about its activities; and
- (b) in the case of major decisions, to do so prior to entering into significant commitments.

### **12.5 Branch Committee Communication of Dissatisfaction**

In the event that any Branch Committee resolves to communicate to the Governing Committee a Motion of Concern or a Motion of of Serious Concern, the Governing Committee is required to: [5.4.4]

- (a) receive and debate the Branch Committee resolution; and
- (b) respond to the Branch Committee within a reasonable timeframe.

### **12.6 Removal of Committee Members**

A member of the Governing Committee may be removed on the grounds that they have behaved in a manner materially inconsistent with any of their duties under the law or the Constitution, including under clauses 12.1 to 12.4. The process of removal must respect due process and procedural fairness, but may be by any of the following means: [5.4.7]

- (a) a motion at a properly constituted meeting of Congress supported by two-thirds of the Congress members voting on the motion;
- (b) a motion at a General Meeting or Online Vote of Financial Voting Members supported by two-thirds of those voting on the motion; or

**[ OPTION: ]**

- (c) motions to that effect by a majority of the Branches within a period of 3 months.

## **12.7 Publication of Minutes**

The Governing Committee is required to:

- (a) publish the Minutes of its meetings to Society Members, but subject to justifiably in-confidence information being recorded in closed Appendices; [5.4.9]

*[ The law may or may not provide member access to the minutes, and the law can be changed at any time to not provide that right. Further, regulators, tribunals and courts have a discretion to ignore breaches of such provisions, and routinely do so. Providing the right in the Constitution enables members to themselves enforce it (absent an actual legal prohibition on member access being enacted). ]*

**OPTION 1:**

- (b) publish to Society Members the Key Performance Indicators, and the annual reports against the Key Performance Indicators of:
  - (i) each major national Committee;
  - (ii) each Panel; and

**OPTION 2:**

(iii) { the Chief Executive Officer OR each senior executive }.

**OPTION 3:**

- (b) publish to Society Members the Key Performance Indicators of:
  - (i) each major national Committee;
  - (ii) each Panel; and
  - (iii) { the Chief Executive Officer OR each senior executive }
- (c) publish to Society Members the annual reports against the Key Performance Indicators of:
  - (i) each major national Committee; and
  - (ii) each Panel

*[ A measure along these lines has been proposed by some participants, as specific means of ensuring transparency of the Society's behaviour to the membership. Each element is onerous ('micro-management'). In addition, reports on staff-members relating to performance against KPIs might collide with labour law (although it's difficult to tell). Consideration is needed as to whether the many other features relating to transparency and effective accountability are enough to adequately inform the membership, and encourage trustworthiness. ]*

## **12.8 Member Approval of Governing Committee Decisions**

In respect of the categories of decision listed in clause 12.8(d): [5.4.6, 5.5.1]

- (a) The Governing Committee is required to conduct a referendum in which all Financial Voting Members are entitled to use an Online Voting facility to vote on the proposal that the Voting Membership approves the decision;
- (b) The threshold for approval of a proposal is 50% of the votes cast;
- (c) In the event that a proposal does not achieve the required threshold, the Governing Committee is not permitted to proceed with the proposal;
- (d) The categories of decision to which this clause is applicable are:

- (i) creation, material modification or disestablishment of any **Grade of membership**;
- (ii) material modification to the **qualifications for entry to and retention of any Grade of membership in the Professional Division**; and

**OPTION – (iii) only:**

- (iii) **material modification to the qualifications for entry to and retention of any non-professional Grade of membership**; and
- (iv) those which make any material change to **any document listed in Schedule A** to this Constitution.

## 12.9 Member Ratification of Governing Committee Decisions

In respect of the categories of decision listed in clause 12.9(c): [5.4.5, 5.5.2]

- (a) The Governing Committee is required to conduct a plebiscite in which all Financial Voting Members are entitled to use an Online Voting facility to vote on the proposal that the Voting Membership ratifies the decision;
- (b) The outcome of each such plebiscite is non-binding on the Governing Committee, but is to be regarded by the Governing Committee as being advisory, with its weight indicated by the proportions of votes for and against, and the proportion and number of Voting Members who cast their vote;
- (c) The categories of decision to which this clause is applicable are:
  - (i) those that involve **substantial investment or divestment, expense, contingent losses or risk**, whether of a financial or non-financial nature;
  - (ii) those that do not contribute directly to the achievement of the Society's Purposes;
  - (iii) those that are, or have the appearance of being, **in conflict with key interests of Society Members**; and
  - (iv) those that make any material change to **any document listed in Schedule B** to this Constitution.

## 13. The Chief Executive Officer

*[ This clause contains the provisions necessary to establish and empower the CEO. ]*

13.1 Subject to the law, the Constitution and the By-Laws:

- (a) The Governing Committee may appoint a Chief Executive Officer, for such period and on such terms as Governing Committee resolves [5.1.4, 5.2.6] **OPTION: {, subject to any policy requirements set by the Congress};**
- (b) Subject to the law, the Constitution and the By-Laws, the Governing Committee may terminate, vary or suspend the appointment of the Chief Executive Officer at any time, with reasonable cause.

13.2 The Chief Executive Officer is responsible to the Governing Committee for the day-to-day management of the Society.

13.3 The Governing Committee may provide **{ instructions OR additional specific delegations }** to the Chief Executive Officer from time to time in relation to tasks in support of strategy and policy.

13.4 The Governing Committee may revoke or vary any **{ instruction OR specific delegation }** to the Chief Executive Officer.

13.5 The Chief Executive Officer may not be a member of any Committee of the Society.

13.6 In relation to meetings of the Governing Committee and the Congress:

- (a) Each is required to invite the Chief Executive Officer to participate in **OPTION: { all relevant items of their meetings OR all items of their meetings other than those in which the Chief Executive Officer has a personal interest }**; and
- (b) When present, the Chief Executive Officer has the responsibility to participate, and has the right to speak and be heard on all items, but not to move, second, or vote.

[ *The intention is that:*

- *the Chief Executive Officer have and exercise considerable powers in relation to the Society's ongoing operations, and to interact with the Chair, the Governing Committee and Congress on an ongoing basis and in a meaningful and constructive manner;*

*but also that:*

- *the Chief Executive Officer not have the inherent conflict of interest involved in being a part of the Society's governance structures. ]*

13.7 The Chief Executive Officer may attend any meeting of any Committee of the Society, and has the right to speak and be heard, but not to move, second, or vote.

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## **14. Other Provisions**

### **14.1 Financial Records**

- (a) The Society is to make and keep written financial records that:
- (i) accurately and comprehensively record and explain its transactions and financial position; and
  - (ii) enable true and fair financial statements to be prepared and to be audited.
- (b) The Society is to keep written records that correctly record its operations.
- (c) The Society is to retain its records for at least 7 years, or for such longer period as may be required by law, this Constitution or the By-Laws.
- (d) The Society is to take reasonable steps to ensure that the Society's records are kept safe.
- (e) The records are to be kept at the Registered Office or place or places as the Members of the Governing Committee think fit and are to be open to the inspection of the Members of the Governing Committee during usual business hours.
- (f) A Member, other than a Member of the Governing Committee, does not have the right to inspect any document of the Society except:
- (i) as provided by the law, this Constitution or the By-Laws;
  - (ii) as determined by the Governing Committee from time to time; or
  - (iii) as authorised by the Members in General Meeting, subject to the law and this Constitution.

*[ The purpose of (iii) is to ensure that the Society Members remain confident that the GC is fulfilling its obligations in relation to the Society's activities, and to transparency and engagement, under cls. 12.1-12.4. ]*

### **14.2 Auditor**

- (a) The Society is to observe the provisions of the law in relation to the appointment, removal and resignation of an Auditor.
- (b) The Auditor is entitled:
- (i) to attend any General Meeting of the Society;

- (ii) to receive all notices of and other communications relating to any General Meeting which a Society Member is entitled to receive; and
- (iii) to be heard at any General Meeting which the Auditor attends on any part of the business of the meeting which concerns the Auditor in that capacity, irrespective of whether the Auditor retires at that meeting or a resolution to remove the Auditor or the agent from office is passed at that meeting.

### **14.3 Indemnity**

- (a) The Society indemnifies each officer of the Society out of the assets of the Society, to the relevant extent, against all losses and liabilities incurred by that person as an officer of the Society.
- (b) In this clause:
  - (i) Losses and Liability includes costs, expenses and charges;
  - (ii) Officer means a Member of the Governing Committee, of Congress or of a Branch Committee, and a Secretary, and includes a former Officer, but does not include an auditor or agent of the Society;
  - (iii) 'to the relevant extent' means:
    - (A) to the extent that the Society is not precluded by law from doing so; and
    - (B) for the amount that the officer is not otherwise entitled to be indemnified and is not actually indemnified by another person, including an insurer under an insurance policy.

### **14.4 Notices**

- (a) The Society may serve notice on any Society Member:
  - (i) personally;
  - (ii) by sending it through the ordinary post to the Society Member's address in the Register;
  - (iii) by leaving it at the Society Member's address in the Register in an envelope addressed to the Society Member;
  - (iv) by sending it by Electronic Means reasonably nominated by the Society Member, which may include sending sufficient information by Electronic Means to reasonably enable the recipient to access the document electronically.
- (b) A notice of meeting sent by Electronic Means is taken to be served on the business day after it is sent.
- (c) Any notice sent by post is taken to be served three days after the day it is posted. In proving such service, it is sufficient to prove that the envelope containing the notice was properly addressed and deposited as a prepaid letter at the post office or in some postal receptacle.
- (d) A certificate in writing signed by the Secretary or Governance Officer or any other officer of the Society that the envelope containing the notice was properly stamped, addressed and posted, or that the electronic communication was properly addressed and sent, is conclusive evidence of the service of such notice.

### **14.5 Enforcement**

- (a) Each Society Member submits to the non-exclusive jurisdiction of the courts of New South Wales, the Federal Court of Australia and the courts competent to determine appeals from those courts with respect to any proceedings that may be brought at any time relating to this Constitution.

- (b) If at any time any provision of this Constitution is or becomes illegal, invalid or unenforceable in any respect pursuant to the law of any jurisdiction, then that does not affect or impair:
- (i) the legality, validity or enforceability in that jurisdiction of any other provision of this Constitution; or
  - (ii) the legality, validity or enforceability pursuant to the law of any other jurisdiction of that or any other provision of this Constitution.
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## 15. Definitions and Interpretation

### 15.1 Definitions

**Annual General Meeting** means the Annual General Meeting of Society Members.

**Auditor** means the auditor or auditors of the Society.

**Branch** means a sub-organisation within the Society that manages activities within a geographical territory defined in accordance with clause 8 and the By-Laws.

**Branch Chair** means the member of a Branch Committee elected to perform the function of chairing that Committee in accordance with clause 8 and the By-Laws.

**Branch Committee** means a body of the kind specified in clause 8(e)-(h).

**Chapter** means a sub-organisation within a Branch that manages activities within a geographical region within that Branch's geographical territory, as determined by the relevant Branch Committee from time to time.

**Code of Ethics** means the Code required under clause 1.10.

**Community of Practice** means a sub-organisation within the Society that manages activities and services:

- (a) within a topic-area, as determined by the Governing Committee or the Voting Members from time to time; or
- (b) within a topic-area and region, as determined by the relevant Branch Committee from time to time.

**Congress** means the body specified in clause 10.

**Constitution** means this constitutional document.

**Electronic Means**, in relation to the service of notices, means the service of notices by the use of any technology that achieves appropriate levels of reliability of delivery, and of evidence of delivery.

*[ See also Online Voting. ]*

**Extraordinary Meeting** means a General Meeting of Society Members other than an Annual General Meeting.

**Financial**, in respect of an Organisational Member or a Voting Member, means an Organisational or Voting Member who has no fees outstanding at the relevant time, in particular shortly before the commencement of a General Meeting or of a Vote using Online Voting.

**General Meeting** means an Annual General Meeting or an Extraordinary Meeting of the Society.

**Governing Committee** means the body specified in clause 11, which performs the function of a governing body as recognised by relevant legislation.

*[ Depending on the form of incorporation, the legislation may refer to the governing body as, for example, "the committee of the association" or "the board". ]*

**Grade** means a category of Society Membership defined in accordance with clauses 4.2 and 4.3 and the By-Laws.

**Linked Meeting Place** means a location separate from the main place of a General Meeting and that is linked to that main place by synchronous audio-visual communication facilities that provide Society Members in that location a reasonable opportunity to participate in proceedings in the main place, and enable the Voting Members in that location to cast a vote. For the avoidance of doubt, any person present at the additional location is deemed to be present at the place of the meeting.

**Meeting Chair** means the person who, at any given time, is performing the function of chairing any particular meeting of any particular organ of the Society.

**Member** means a person in the grade of Society Members called "Member" who meets the applicable qualifications as set out in the By-Laws approved by the Voting Members from time to time.

**Member Approval** means agreement by the Voting Members in accordance with cl. 12.8.

**Member Ratification** means agreement by the Voting Members in accordance with cl. 12.9.

**Membership Register** means the register of Organisational and Society Members kept pursuant to law.

**Motion of Concern** means a resolution of a Branch Committee whose purpose is to communicate to the Governing Committee dissatisfaction of members in relation to particular matters, which motion need not have been published to the members.

**Motion of Serious Concern** means a resolution of a Branch Committee whose purpose is to communicate to the Governing Committee dissatisfaction of members in relation to particular matters, which motion has been published to the members.

**Non-Voting Member** means a Society Member who does not have a right to vote under either clause 5.1(b) or clause 5.1(c).

**Online Voting** means voting by electronic means approved in accordance with the law, this Constitution and the By-Laws, using procedures and rules expressed in the By-Laws and approved by the Voting Members in relation to, in particular, the manner in which a vote by electronic means may be cast, the time-period within which such a vote may be cast, the circumstances in which such a vote will be valid, and the effect of a Voting Member casting both a direct vote and a vote in any other manner.

*[ The definition of Online Voting, and related provisions, is subject to legal review, to ensure that it is effective and consistent with legal requirements. ]*

**Open Vote** means a system of voting in which voters indicate their choices in a manner visible to those present, such as by a show of hands or equivalent indications in dispersed and technologically-supported meetings.

**Organisation** means the incorporated body.

**Organisational Member** means a member of the incorporated body.

**Overseas Group** means a group to which all those Society Members are assigned who are not members of a Branch, in accordance with clause 8(g).

**Panel** means a committee reporting to the Governing Committee that is established and maintained under clause 9 and the By-Laws.

**Professional Division** means those Grades defined in the By-Laws to be professional grades of membership, in accordance with clauses 1.5 and 4.2(a).

**Secret Ballot** means a system of voting in which voters designate their choices by some relatively secure means, such as marks on an unidentified ballot paper placed in a ballot box, or an online form operated using software designed to not disclose any voter's choices.

**Society** means the organisation that is incorporated as the Australian Computer Society.

**Society Member** means a member of the Society in any Grade.

**Sub-Society** means a sub-organisation within the Society that operates relatively independently from the Society as a whole, but is supported by the Society, complies with the Society's Constitution and its own Charter, and includes in its communications an indication of its relationship with the Society;

**Voting Member** means a Society Member who has a right to vote under either clause 5.1(b) or clause 5.1(c).

## 15.2 Interpretation

- (a) Headings are for convenience only and do not affect interpretation. Unless the context indicates a contrary intention, in this Constitution:
- (i) a word importing the singular includes the plural (and vice versa);
  - (ii) a word indicating a gender includes every other gender;
  - (iii) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
  - (iv) the word "includes" in any form is not a word of limitation;
  - (v) a reference to something being "written" or "in writing" includes that thing being represented or reproduced in any mode that is capable of being rendered in a visible form;
  - (vi) a notice or document required by this Constitution to be signed may be authenticated by any manner permitted by law; and  
[ The two preceding sub-clauses enable the constitutional document to refer throughout simply to 'writing' and 'signing', with such procedurally and technologically neutral language as may be appropriate expressed in one location rather than many. ]
  - (vii) a reference to a statute includes its delegated legislation and a reference to a statute or delegated legislation or a provision of either includes consolidations, amendments, re-enactments and replacements.
- (b) A decision by the Governing Committee on the interpretation of any provision of the Constitution is binding on all Society Members, subject to the law, this Constitution and the By-Laws.
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## 16. Transitional Provisions

*[ Multiple provisions are needed to ensure as smooth a transition as practicable from the Society's operation under the existing Rules to operation under the new constitutional document. ]*

### 16.1 Validity of Prior Actions

Everything done under the previous Rules of the Australian Computer Society Incorporated continues to have the same operation and effect after the date on which this Constitution comes into force as if properly done under this Constitution.

### 16.2 The Initial Governing Committee

- (a) If an election is undertaken in accordance with the provisions of this Constitution prior to the date on which this Constitution comes into force, it is not invalid merely because of that deficiency.
- (b) On the first occasion on which an election is held, all positions are vacant, the candidates are sorted in order of the most votes received, and the successful

candidates are allocated 3, 2 or 1 year terms, in order to establish a steady cycle in which similar numbers of positions fall vacant each year.

[ With 9 members of Governing Committee, 3 would retire each year.

With 10 members, 1 of whom, the Chair, is on their own 3-year cycle, there would be 3 vacancies to fill each year, plus the Chair every third year.

With 11 members, the pattern would be 4, 4 and 3 in each 3-year cycle.

With 12 members, there would be 4 vacancies to fill each year.

It would be considerably more complicated if the Chair has a different-length term from the other members. ]

### **16.3 Interim Governing Committee Members**

If, on the date when this Constitution comes into force, no election has been held, then, notwithstanding the provisions in this Constitution relating to retirements and maximum terms of Governing Committee members, each of the members of the Management Committee of the Society at that date shall be deemed to be a member of the Governing Committee for a sufficient period to enable the first elections of Governing Committee members to be undertaken in an orderly manner, after which they (unless elected through that process) shall cease to be members of the Governing Committee.

### **16.4 Prior Service on Management Committee**

In respect of each member of the Management Committee during the 2 years preceding the date on which this Constitution comes into force, the term they have served on the Management Committee counts towards determining the term that they have served as a member of the Governing Committee for the purposes of cl. 10.2.

*[ The '2 years' provision caters for the fact that, under cl. 10.2, the 'maximum term' threshold is defined as "may not be elected if they have served in that capacity for more than 7 years in the previous 9-year period". ]*

### **16.5 Existing Internal Organs**

At the date on which this Constitution comes into effect, all then-existing sub-organisations of the Society continue as sub-organisations of the Society.

### **16.6 Existing Regulations and Additional Required Documents to be By-Laws**

At the date on which this Constitution comes into effect, the then-current versions of each document in each of Schedule A, Schedule B and Schedule C is adopted into the By-Laws.

### **16.7 Society Members**

At the date on which this Constitution comes into effect, each person who is part of the then Membership continues to be a Society Member, in the grade in which they were at that time.

### **16.8 Organisational Members**

At the date on which this Constitution comes into effect:

- (a) If the Society is an incorporated association, each person who is part of the then Membership becomes an Organisational Member; and
- (b) If the Society is a company limited by guarantee, each person who is part of the then Membership and who has signified consent to be an Organisational Member, becomes an Organisational Member.

### **16.9 Voting Rights of Associates**

- (a) Notwithstanding clause 5.1(b), the right to vote in General Meetings of the Society, in Branch meetings and in all forms of Online Voting, is available to an Organisational

Member who is in the Associate grade at the date on which this Constitution comes into force, and who, at the time of the vote taking place [1.2.2, 5.3.2]:

- (i) is a citizen or permanent resident of Australia; and
  - (ii) is not a Student.
- (b) The right to vote under sub-clause (a) is suspended if, at the time of the vote, the person is a staff-member of the Society and has the right to vote solely because of sub-clause (a). [5.3.3]
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## Schedule A

*[ Document-titles in italics may or may not exist at the date this Constitution comes into force. All documents require review. Many may require at least some degree of revision. ]*

The following documents are adopted as By-Laws, and are subject to **Member Approval**:

- *The Society's Key Functions;*
- *Principles for Determining how Surplus from the Society's Operations is to be Allocated;*
- *Code of Ethics - National Regulations 4;*
- *Process and Authority for Amendment of the Code of Ethics;*
- *Membership Grades - National Regulations 2.1, 2.5;*
- *Qualifications for Admission - National Regulations 2.2;*
- *List of Panels;*
- *Terms of Reference, for:*
  - *Panels;*
  - *Branches and Branch Committees - National Regulations 7 and 8;*
  - *National Special Interest Groups - National Regulations 9;*
- *Procedures for Elections and Operations, including:*
  - *Panels;*
  - *Branch Committees - National Regulations 8;*
  - *National Special Interest Groups - NatRegs 9;*
- *Procedure Proposals for Major Initiatives;*
- *Dispute Resolution Procedure;*
- *Principles Underlying the Fee Schedule, including gratis memberships.*

## Schedule B

The following documents are adopted as By-Laws, and are subject to **Member Ratification**:

- *Guidelines for Branch Chapters;*
- *Guidelines for Branch SIGs and Communities of Interest or Practice;*
- *Procedures for General Meetings;*
- *Procedures for Online Voting.*

## Schedule C

The following documents are adopted as By-Laws, and are subject to **Governing Committee Approval**:

- *Code of Professional Conduct;*
- *Code of Ethics Supporting Materials;*
- *Terms of Reference for the Governing Committee's Committees, Task Forces, Working Groups, National SIGs, etc.*
- *Procedures for Elections and Operations for the Governing Committee's Other Committees, Task Forces, Working Groups, National SIGs, etc.*
- *Standing Orders for Meetings;*
- *Definitions and Procedures for Special Categories of Membership - National Regulations 2.6-2.8;*
- *Course Accreditation - National Regulations 2.4;*
- *Schedule of Fees;*
- *Procedures for Admission of Members - National Regulations 2.3;*
- *Disciplinary Procedures - Rule 7, National Regulations 5;*
- *Procedures for Membership Administration - National Regulations 2.9-2.12, 2.14;*
- *Membership Fee Administration - National Regulations 3.*
- *Inter-Member Communications Services*