



*Raising Professional Valuation Standards Since 1938*

## **The Constitution & By Laws of the Australian Valuers Institute**

1. In this document, unless the context otherwise requires:-

Expressions used have the same meaning as those ascribed to them by the Act.

“The Act” means any Australian Act of Parliament that governs valuers or the valuation profession that is in force at the relevant time in the place where the Member practices the profession of valuer.

“Valuer” means a person who provides the professional service of assessing a value for property, both real, corporeal and personal.

“Member” means a Member of the AVI in any one of the categories detailed herein.

“Institute” or “AVI” means the Australian Valuers Institute.

“Board” means Board of Directors of the Institute.

“Prescribed” means prescribed by the Act or by regulation under the Act.

“Regulation” means any regulations under the Act that are in force at the relevant time.

“Special Resolution” means a resolution passed in the manner set forth under the Act.

Words in the singular include the plural, and vice versa.

Words importing masculine gender include females.

## **RULES**

2. The rules of the Institute :
  - i) shall bind the Institute and all Members, and all persons claiming through them respectively, to the same extent as if each Member had subscribed his name and affixed his seal thereto, and there were contained in the Rules a covenant on the part of each Member and his legal representatives to observe all the provisions of the Rules, subject to the provisions of the Act.
  - ii) The rules of the Institute shall not be altered unless the alteration has been approved by a special resolution. Alteration includes addition to a rule and/or a rescission of a rule.
  - iii) Any person shall be entitled on demand to a copy of these rules upon payment of such sum not exceeding ten dollars as the Board from time to time determine.

## **NAME**

3. The name of the Institute shall be the Australian Valuers Institute.

## **REGISTERED OFFICE**

4. The registered office of the Institute shall be at whichever place as the Board of the Institute may determine. The Board shall cause notice of any changes thereof to be transmitted to the Registrar in the form prescribed within fourteen days after the change.

## **OBJECTS**

5. The objects of the Institute shall be to bring together those engaged as Valuers and who are interested in the administration and/or development of the valuation profession for the interchange of views and experience and for mutual consultation and advantage and in particular to carry out any or all of the following:-
  - i) To encourage and foster the observance of high professional standards by its Members and to establish and prescribe such standards.
  - ii) To arrange meetings, discussions, conferences, etc. on matters of common interest, and generally to act as a clearing house for the exchange of ideas.
  - iii) To provide facilities and opportunities for research and analysis of any and all features of the field of valuation through forums, discussions, surveys, exhibitions and conferences.
  - iv) To develop and foster relations with other kindred bodies or authorities.
  - v) To disseminate information of value to its members.

- vi) To institute a register of Members with details of experience and specialist knowledge or qualifications, and to bring to the knowledge of its Members particulars of organisations desirous of obtaining their services.
- vii) Generally to undertake all activities, including the incorporation of the Institute, as are likely to be of benefit to the practice, administration, interests and welfare of its Members.
- ix) To protect and/or safeguard the interests of Members individually or collectively and/or intercede on their behalf where in the opinion of the Board of Directors it is in the interests of the profession and the Member or Members to do so.

## **GENERAL POWERS**

6. The Institute shall have the power to :

- a) raise money on loan for any objects of the Institute.
- b) invest the moneys of the Institute not immediately required in such safe securities as may from time to time be determined by the Board.
- c) acquire, sell, improve, dispose of or otherwise deal with real or personal property.
- d) establish funds for scholarships and to establish, undertake, superintend, administer and to contribute to any charitable or benevolent fund from which may be made donations or advances to deserving persons who may be or have been engaged in the profession or connected with any such persons and contribute to or otherwise assist any charitable or benevolent or co-operative institution or undertakings.
- e) undertake and execute any trusts which may seem to the Institute conducive to any of its objects.
- f) adopt such means of making known the objects and benefits of the Institute as may seem expedient and otherwise to further the interests of members.
- g) affiliate with societies, associations and organisations of like aims and objects and/or with whom co-operation or affiliation may, in the opinion of the Institute's Board of Directors assist in the attainment or furtherance of the Institute's aims and objects.
- h) do any or all of those things which in the opinion of the Board of Directors are necessary in the interests of and/or for the protection and/or benefit of a member or members and the profession.
- i) authorise the Board of Directors to make by-laws not inconsistent with these rules or the Act or regulations dealing with the conduct of any operation of the Institute.
- j) A breach of a by-law by a Member shall be deemed to be an infringement of the rules of the Institute and the Board by sub-committee may impose on such Members, suspend members from membership or expel members from membership.

## **SEAL**

7. The Institute shall have its name inscribed in legible characters upon a seal. The seal shall be kept at the registered office in such custody as the Board shall direct. The device of the seal shall be the name of the Institute within two concentric circles and encircling the word 'Seal'.

The seal of the Institute shall not be affixed to any instrument except by the authority of a resolution of the Board and in the presence of one Director and the Secretary or such other person as the Board may appoint for the purpose and such Director and Secretary or such other person shall sign every instrument to which the seal of the Institute is so affixed in their presence.

The Seal shall be affixed to each and every Certificate of Membership and/or Certificate of Proficiency issued by the Board.

## **CUSTODY OF BOOKS & DOCUMENTS**

8. All books of accounts, securities, documents and papers of the Institute other than such (if any) as the Board may direct to be kept elsewhere, shall be kept at the registered office, in such manner and with such provision for their security as the Board shall direct. In giving any direction the Board shall comply with the Act.

## **CAPITAL AND SHARES**

9. The capital of the Institute shall be :
- a) raised by the issue of shares which shall be of one class, all ranking equally, and be of the nominal value of \$1 each.
  - b) The capital shall vary in amount according to the nominal value of shares from time to time subscribed.
  - c) Every member shall hold one share.
  - d) The shares of the Institute shall not be quoted for sale or purchase at any stock exchange or in any other public manner whatever within the meaning of the Income Tax and Social Services Contribution Assessment Act 1959-1964 of the Commonwealth of Australia or any amendment thereof.

## **MEMBERSHIP**

10. The following provisions apply to Membership of the Institute :
- a) Persons seeking admission to the Institute shall apply on the prescribed application form approved by the Board.

- b) Applications for membership must be lodged at the registered office, and should be accompanied by payment of the first year's annual subscription, being the current yearly subscription payable by Members together with \$1 (one dollar) in respect of share capital.
- c) Every application must be considered by the Board, and if the Board approves of the application, the applicant's name and any other relevant information must be entered in the register of Members within 28 days of the Board's approval.
- d) The applicant must be notified in writing of the entry in the register and the applicant is then entitled to the privileges attaching to the category of Membership that he has been granted.
- e) The Board may, at their absolute discretion, refuse an application for membership, and the Board need not assign reasons for the refusal.
- f) On refusal of an application for membership the Board must refund 50% (fifty per centum) of the amount of money that accompanied the application for membership within 28 days without interest, the balance being retained by the Institute to defray the costs of holding the Board meeting.
- g) Every Member shall hold one share.
- h) Each and every person who is a Member of the Institute at the time of adoption of this Constitution shall, without further or other appointment, be deemed to be a Member of the Institute and shall have the status in which his name shall have been entered in the Register of Members of the Institute immediately prior to the adoption of this Constitution.

#### **ACTIVE MEMBERSHIP PROVISIONS**

- 11. To encourage, maintain and promote the observance of high professional standards by its Members, and acting as an intermediary for the collection, administration and dissemination of relevant information is a chief primary object of the Institute, a member shall :
  - i) be awarded Life Fellow Membership in accordance with Rule 13(a); or
  - ii) be one who is awarded Fellow Membership in accordance with Rule 13(b) and who pays an annual subscription in accordance with Rule 15: or
  - iii) be one who is awarded Certified Practising Valuer Membership in accordance with Rule 13(c) and who pays an annual subscription in accordance with Rule 15; or
  - iv) be one who is awarded Provisional Associate Membership in accordance with Rule 13(d) and who pays an annual subscription in accordance with Rule 15; or
  - v) be one who is awarded Student Membership in accordance with Rule 13(e) and who pays an annual subscription in accordance with Rule 15.

## **LIABILITY OF A MEMBER**

12. A member shall be liable to the Institute for the amount, if any, unpaid on the shares held by him, together with the annual subscription and such other charges, the amount of which shall be fixed from time to time by the Board of Directors.

## **MEMBERS**

13. Members of the Institute shall be one of the following categories :
- a) Student Valuer
  - b) Provisional Associate
  - c) Certified Practicing Valuer
  - d) Fellow
  - e) Life Fellow

These categories of AVI membership are defined as follows :

### **a) Student**

Every applicant for admission to the status of Student Valuer shall be a person who has attained 18 (eighteen) years of age, and who is undertaking an approved course of study through an Australian educational facility aimed at enabling them to practice as a qualified valuer and work towards becoming a higher category AVI Member. Such person may or may not be employed as an Assistant Valuer at the commencement of their studies.

The designatory post nominal initials that may be used by a Student Valuer is . . . SVAVI.

### **b) Provisional Associate**

Every applicant for admission to the status of Provisional Associate shall be a person who has attained 21 (twenty one) years of age, and who has practiced as a Valuer or Assistant Valuer for less than 5 (five) years full time, and in the opinion of the Directors has a satisfactory commercial and professional reputation and is considered by them to be otherwise suitable for admission to the status of Provisional Associate.

The designatory post nominal initials that may be used by a Provisional Associate is . . . PAAVI.

**c) Certified Practising Valuer**

Every applicant for admission to the status of Certified Practising Valuer shall be a person who has attained 21 (twenty one) years of age, and who has practiced as a Valuer or Assistant Valuer for in excess of 5 (five) years full time and in the opinion of the Directors has a satisfactory commercial and professional reputation and is considered by them to be otherwise suitable for admission to the status of Certified Practising Valuer.

The designatory post nominal initials that may be used by a Certified Practising Valuer is . . . CPVAVI.

**d) Fellow**

Every applicant for admission to the status of Fellow shall be a person who has attained 40 (forty) years of age, and who has practiced as a Valuer for in excess of 10 (ten) years full time, and who has contributed to the improvement of the Institute and in the opinion of the Directors has a satisfactory commercial and professional reputation and is considered by them to be otherwise suitable for admission to the status of Fellow and shall satisfy the following conditions:-

- i) Be a person who has been a Certified Practising Valuer Member of the Institute for not less than 10 (ten) years immediately preceding the date of application to Fellow: and
- ii) The application for advancement in status is to be supported in writing by not less than two existing Fellows of the Institute to whom he is personally known.

The designatory post nominal initials that may be used by a Fellow is . . . FAVI.

**e) Life Fellow**

The Directors may at their discretion in consequence of any special services rendered by any Fellow Member to the Institute or if from any other cause elect to Life Membership any such Fellow Member and thereupon his subscription to the Institute shall cease.

The designatory post nominal initials that may be used by a Life Fellow is . . . LFAVI.

**AFFILIATES**

14. An Affiliate of the Institute shall not be a member of the Institute and shall have no rights of membership.

Every applicant for admission to the status of Affiliate shall either be :

- a) A person actively engaged as an employee or associate of a practicing Member of the Institute and in the opinion of the Directors has a satisfactory commercial and professional reputation and is considered by them to be otherwise suitable for admission to the status of Affiliate and shall satisfy the following conditions :
  - i) Be a person who has received special approval to carry out inspections on buildings under construction and
  - ii) Be sponsored by an active member of the Institute.

OR

- b) Be a person interested in the activities of the Institute.

Affiliates of the Institute are covered by the following rules :

- i) An Affiliate is not entitled to vote at general meetings or at postal ballots for the election of directors.
- ii) An Affiliate is not eligible to be a director and shall not be regarded as a Member of the Institute.
- iii) The annual fee charged to an Affiliate shall be 50% of the annual fees payable by a Provisional Associate.
- iv) Affiliates are entitled to attend all functions except meetings of special interest to Members and receive all notices except those relative to meetings of special interest to Members.
- v) An Affiliate, on becoming eligible for acceptance as higher category of the Institute, must resign as an Affiliate of the Institute and convert to the appropriate category of membership.

An Affiliate shall not be issued with a certificate but shall receive a letter of acceptance as an Affiliate of the Institute.

An Affiliate shall not be entitled to designatory initials or state they are Members of the Institute.

An Affiliate shall be removed from the list of Affiliates by the Directors of the Institute upon failing to satisfy the conditions of acceptance as an Affiliate or for non-payment of the annual fees.

## **CERTIFICATES**

- 15. The Board shall have power to issue certificates of membership and certificates of proficiency in such subjects and of such standard as may be decided upon by the Directors from time to time.



These certificates shall remain the property of the Institute and the Directors shall have power to withdraw any such certificates of membership and certificate of proficiency and appeal may be made against any such withdrawal to a general meeting of the Institute and the decision of such general meeting shall be binding on the Directors.

Persons ceasing to be members shall return their certificates to the Institute.

The seal of the Institute is to be affixed to each and every such certificate.

### **CONTINUING PROFESSIONAL DEVELOPMENT**

16. Each member in public practice will be required to attend or undertake Continuing Professional Development (CPD) each year and the minimum appropriate quantum will be determined by the Board from time to time. The current requirement comprises of a minimum of 10 (ten) hours of structured courses and 20 (twenty) hours of self-regulated study.

The Board of the Institute may, at any time, request that a Member provide evidence of their attendance at such CPD, and failure to comply shall be deemed a breach of these Rules.

### **MEMBERS' SUBSCRIPTIONS**

17. Members shall pay an annual subscription of \$20 (twenty dollars) or such amount as is fixed from time to time by the Board of Directors.

### **CEASING MEMBERSHIP**

18. A person shall cease to be a member of the Institute in any of following circumstances :
  - a) If his annual subscription is overdue by three months.
  - b) If he resigns, having given one month's notice of intention in writing to the Directors, provided that no one may withdraw his name from the books of the Institute unless his subscription shall have been paid for the year in which notice of his resignation is received.
  - c) If he is expelled in accordance with these rules.
  - d) Upon his death.
  - e) If he is guilty of misrepresentation or intentional mistake.
  - f) If he becomes bankrupt or assigns his estate for the benefit of or compounds with his creditors.
  - g) If he becomes an insane patient or an insane or incapable person within the meaning of any relevant Mental Health or similar Act.

- h) If he is convicted of an offence which in the opinion of the Board of Directors is calculated to maliciously discredit the Institute or any Member thereof.

### **EXPULSION OF MEMBERS**

19. The disciplinary code of the Institute is set out in Schedule 1 to the Rules.

### **BOARD OF DIRECTORS**

20. The government and control of the Institute and of its property, affairs and business shall be vested in the Board of Directors. The Directors shall consist of a minimum of 3 (three) and a maximum of 12 (twelve) Members.
21. The Directors shall have power from time to time to make, revoke and vary by-laws and regulations provided that such by-laws and regulations are not inconsistent with these rules, for the conduct of the business and affairs of the Institute and of the Board of Directors to appoint committees consisting of such persons, who are Members of the Institute, as it shall think fit and to delegate to any such committee such powers as it may deem expedient.
22. At the Annual General Meeting of the Institute 50% (fifty per centum) of the Directors shall retire. The Directors to retire in any year shall, subject to the provisions as to filling casual vacancies, be those who are the youngest and least experienced, those to retire shall (unless they otherwise agree among themselves) be determined by ballot.
23. A retiring Director shall be eligible for re-election.
24. Election of Directors shall be by postal ballot conducted in the following manner:-
- a) All nominations for election to the Board of Directors (other than to fill casual vacancies) must be received, in writing by the Secretary at least 28 days before the date of the Annual General Meeting, the consent of the nominees having been first obtained.
  - b) The Board shall appoint a Returning Officer and fix the date for closing of the ballot. A Director shall not be eligible for appointment as Returning Officer.
  - c) The Directors shall cause to be prepared a statement setting out the nominations upon which the decision of members is sought and shall give clear instructions on the method of voting, which will be an electronic ballot paper which will be emailed to all members.
  - d) For the purposes of the ballot the Returning Officer shall cause to be prepared a roll of all members.
  - e) Each ballot paper shall be initialed by the Returning Officer. The Returning Officer shall at least 26 (twenty-six) days prior to the date fixed for the closing of the ballot, transmit by post or otherwise deliver to every member whose name appears on the Register of Members, one set of the following material :

- f) Upon a member making and transmitting to the Returning Officer, a declaration that he has not received the ballot email the Returning Officer will re-send the electronic ballot paper
25. Retiring Directors shall be deemed to have been nominated unless they have notified the contrary to the Institute.
26. The Institute at the general meeting at which the Director retires in manner aforesaid may fill the vacated office by electing a Member thereto.
27. Any vacancy occurring in the Board of Directors other than by rotation or retirement may be filled by the Directors and the Member so chosen shall be subject to retirement at the same time as if he had become a Director on the day on which the Director in whose place he is appointed was last elected a Director.
28. The Board of Directors at its first meeting after the Annual General Meeting of the Institute shall elect from among its members a Chairman of their meetings and determine the period for which he is to hold office, but if no Chairman is elected or if at any meeting the Chairman is not present within five minutes after the time appointed for holding same, the directors present may choose one of their number to be Chairman of the Meeting.
29. The Institute may by special resolution remove any director before the expiration of his period of office and may by simple majority at the same meeting or any other meeting appoint another person in his stead; the person so appointed shall be subject to retirement at the same time as if he had become on the day on which the director in whose place he is appointed was last elected a director.
30. The proceedings of all meetings of the Board of Directors and of meetings of committees appointed by the Board of Directors and of general meetings of The Institute shall be recorded by minutes.

## **VACATION OF OFFICE OF DIRECTOR**

31. The office of a Director shall be vacated in the circumstances set out in Section 84(11) of the Act, and in particular :
- a) If he becomes bankrupt or assigns his estate for the benefit of or compounds with his creditors.
  - b) If he becomes an incapable person, a protected person, or a patient, within the meaning of a relevant Mental Health Act.
  - c) If he is convicted of any offence under the Act, or is convicted of any offence and sentenced to any period of imprisonment without the option of a fine.
  - d) If he absents himself from three consecutive ordinary meetings of the Board without its leave.
  - e) If within two months after any money becomes due by him to the Institute he does not pay the same.
  - f) If he ceases to be a member of the Institute.
  - g) If his resignation is accepted by the Board after he has given one month's notice of intention to resign.
  - h) If he is removed from office by resolution of a general meeting of the Institute.

## **REMUNERATION**

32. The Directors shall receive a refund of all necessary expenses incurred by them in undertaking the business of the Institute.

## **PROCEEDINGS OF THE BOARD**

33. The Board may meet together for the dispatch of business, adjourn, and otherwise regulate their meetings, as they think fit, providing a meeting of the Board shall be held at least once quarterly. Questions arising at any meeting shall be decided by a majority of votes. In cases of an equality of votes the Chairman shall have a second or casting vote. The Chairman or any two Directors may, and the Secretary on requisition of the Chairman or any two directors shall at any time, summon a meeting of the Board.

Except in special circumstances determined by the Chairman 48 hours notice shall be given of all meetings of the Board.

34. The quorum of any meeting of the Board shall be five.
35. The continuing Directors may act notwithstanding any vacancy in their body but, if and so long as their number is reduced below the number fixed by or pursuant to these rules as the necessary quorum of Directors, the continuing Directors may act only for the purpose of increasing the number of Directors to that number, or of summoning a general meeting of the Institute, but not for any other purpose.
36. The Board may delegate any of its powers to committees consisting of such number of members of the Institute as it may think fit. Any committees so formed shall in the exercise of the powers so delegated conform to any conditions or stipulations that may be imposed on them by the Board. A committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members present, and in case of an equality of votes the Chairman shall have a second or casting vote.

## **DUTIES & POWERS OF THE BOARD**

37. The business and operations of the Institute shall be managed and controlled by the Board, and for that purpose the Board, except as hereinafter provided, shall have and may exercise the powers of the Institute as if they had been expressly conferred on the Board at a general meeting of the Institute. The powers of the Board shall be subject to any restrictions imposed thereon by the Act or by these rules.
38. Every Director acting in the business or operations of the Institute in pursuance of a resolution duly passed by the Board shall be deemed to be the agent of the Institute for all purposes within the objects of the Institute.
39. The Board shall cause minutes of meetings to be made in books provided for the purpose, and, in particular :
- a) of all appointments of officers and employees made by the directors;
  - b) of the names of the directors present at each meeting of the Board and of any committee of the Board;
  - c) of all resolutions and proceedings at all meetings of the Institute and of Directors and of committees of Directors.

Such minutes shall be recorded in the minute book within fourteen days of the date of the meeting the proceedings of which they record. The confirmation of such minutes shall be taken as the first business at the next succeeding meeting of the Institute Board or committee as the case may be.

Every director present at any meeting shall sign his name in a book to be kept for that purpose.

40. The Board shall cause to be kept at the registered office of the Institute, and open at all reasonable hours to inspection by any member or creditor, without fee :
- a) a copy of the Act and the regulations;
  - b) a copy of the rules of The Institute;
  - c) a copy of the last balance sheet and profit and loss account for the time being together with the auditor's report;
  - e) the prescribed register of directors, members and shares;
  - e) the prescribed register of loans raised, securities given and bonds issued by the Institute;
  - f) the prescribed register of stock.
41. Without prejudice to the general powers conferred on the Board by the Act or these rules, the Board shall have power to appoint and, at its discretion, remove or suspend officers, clerks, agents and servants, and to fix their powers, duties and remuneration.

#### **FIDELITY BONDS AND INSURANCES**

42. The Board shall cause every officer or person, having the receipt or charge of any money of The Institute, to give security as prescribed in such amount as the Board shall determine. The Institute shall pay all premiums in respect of any such security.

The Board shall arrange insurance against loss, damage to or liability of The Institute by reason of fire, accident, or otherwise.

#### **GENERAL MEETINGS**

43. A general meeting of the Institute, to be known as the “Annual General Meeting”, shall be held each year on such date and at such time being within three months after the close of the financial year or within such further time as may be allowed by the Registrar or prescribed by regulation and at such place as the Board may determine.
44. In default of such meetings being held within the period of time mentioned any five members may convene the Annual General Meeting to be held within such time as the Registrar may allow and such meeting shall be convened as nearly as possible in the manner by which such meeting should have been convened by the Board.

Any reasonable expenses incurred in the calling of any such meeting shall be refunded by the Institute to the members incurring the same. Any sums so paid shall be retained by the Institute out of any sums due or to become due from The Institute by way of fees or other remuneration in respect of their services to such directors as were in default.

45. The Board may, whenever it thinks fit, convene a special general meeting of the Institute and shall, on the requisition of not less than one-fifth of the members being the holders of shares upon which calls or other sums then due have been paid forthwith proceed to convene a special general meeting. All other general meetings of the Institute shall be special general meetings.
46. A requisition for a special general meeting shall state the objects of the meeting and must be signed by the requisitionists and deposited at the registered office of the Institute, and may consist of several documents in the like form, each signed by one or more requisitionist.

If the Board does not proceed duly to convene a meeting to be held within twenty-one days from the date of deposit of the requisition, the requisitionists or any of them may after fourteen days after the date of deposit of the requisition convene the meeting but any meeting so convened shall not be held after the expiration of three months from the date of such deposit.

A meeting convened by requisitionists in pursuance of these rules shall be convened in the same manner as nearly as possible as that in which such meetings are convened by the Board. Any reasonable expense incurred by the requisitionists by reason of the failure of the directors duly to convene a meeting shall be repaid to the requisitionists by The Institute.

#### **NOTICE OF GENERAL MEETINGS**

47. Exclusive of the day on which the notice is served or deemed to be served, but inclusive of the day for which notice is given, at least 7 (seven) days notice specifying the place, the day, and the hour of meeting and, in cases of special business the general nature of that business shall be given of any general meeting in manner hereinafter mentioned, to such persons as are, under these rules, entitled to receive such notices from the Institute; but the non-receipt of the notice by any member shall not invalidate the proceedings at such general meeting.
48. In the case of special resolutions the giving of notices shall conform to Rule 52 hereof. Any Member, having a resolution to submit to a general meeting shall give written notice thereof to The Institute not less than twenty-one days prior to the date of the meeting. The Board shall cause to be inserted in any notice convening a general meeting any business of which notice of his intention to move has been given by a member in accordance with these rules provided that notice from the member shall have been received before the notice of the meeting has been Issued.

## **PROCEEDINGS AT GENERAL MEETINGS**

49. The ordinary business of the Annual General Meeting shall be :
- a) to confirm minutes of the last preceding general meeting whether the annual general meeting or special general meeting;
  - b) to receive from the Board, auditors, or any officers of the Institute reports upon the transactions of the Institute during the financial year, including balance sheet, trading account, and profit and loss account, and the state of affairs at the end thereof;
  - c) to elect the directors to hold office in accordance with Rule 21; and
  - d) to elect and determine the remuneration of auditors.
50. The Annual General Meeting may also transact such special business of which notice has been given to members in accordance with these rules. All business shall be deemed special business other than such business of the Annual General Meeting as is by this rule termed ordinary business.
51. No item of business shall be transacted at any general meeting unless a quorum of Members is present at the time when the meeting is considering that item. Save as therein otherwise provided 10 (ten) Members personally present shall be a quorum. If within half an hour after the appointed time for the meeting a quorum is not present, the meeting, if convened upon the requisition of Members, shall be dissolved; in any other case it shall stand adjourned to the same day in the next week at the same time and place and if at the adjourned meeting a quorum is not present within half an hour after the time appointed for the meeting the Members present shall be a quorum.
52. The Chairman of the Board shall preside as chairman at every general meeting of the Institute. If at any meeting the Chairman is not present within fifteen minutes after the time appointed for holding the meeting or is unwilling to act as chairman, the Members present shall choose someone from their number to be Chairman until such time as the Chairman being in attendance is willing to so act.
- The Chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting) adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for fourteen days or more notice of the adjourned meeting shall be given as in the case of an original meeting.
- Save as aforesaid it shall not be necessary to give any notice of an adjournment or of the business to be transacted at any adjourned meeting.
53. The following standing orders shall be observed at the Institute's meetings :



- a) the mover of a proposition shall not speak for more than ten minutes; subsequent speakers shall be allowed five minutes, and the mover of the proposition five minutes to reply. The meeting may however by simple majority extend in a particular instance the time permitted by this rule;
- b) whenever an amendment is proposed upon an original proposition, no second amendment shall be taken into consideration until the first amendment shall have been disposed of;
- c) if an amendment be carried, it shall displace the original proposition and become itself the proposition to which any further amendment may be moved;
- d) if an amendment be negatived, then a further amendment may be moved to the original proposition; but only one amendment shall be submitted to the meeting for discussion at one time;
- e) the mover of every original proposition, but not of an amendment, shall have the right to reply, immediately after which the question shall be put from the chair, but no other member shall speak more than once on the same question, unless permission be given to explain, or the attention of the Chairman be called to a point of order;
- f) propositions and amendments shall be submitted in writing, when requested by the chairman;
- g) any discussion may be closed by a resolution “that the question be now put” being moved, seconded and carried. Such resolution shall be put to the meeting without debate.

## VOTING

54. At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is (before or on declaration of the result of the show of hands) demanded by at least five Members and, unless a poll is demanded, a declaration by the chairman that a resolution has, on a show of hands, been carried or carried unanimously, or by a particular majority or lost, and an entry to that effect in the book of the proceedings of the Institute shall be evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, that resolution.

On a show of hands or on a poll every Member present in person at any meeting shall have one vote. All resolutions shall be determined by simple majority except in the case of special resolutions or as otherwise provided in these rules.

In the case of an equality of votes, whether on a show of hands or on a poll, the Chairman of the meeting at which the show of hands takes place, or at which the poll is demanded, shall be entitled to a second or casting vote.

55. If a poll is duly demanded it shall be taken in a manner which the Chairman directs and unless the meeting is adjourned the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded. A poll demanded on the election of a Chairman, or on a question of adjournment, shall be taken forthwith.

#### **SPECIAL RESOLUTION**

56. A special resolution means a resolution which is passed by a majority of not less than two thirds of the Members as being entitled so to do vote in person at any general meeting of which notice specifying the intention to propose the resolution has been duly given in accordance with these rules. A special resolution shall have no effect until registered by the Registrar.

#### **SOLICITOR**

57. The Board shall have power to engage a solicitor and obtain legal advice and assistance as may be deemed necessary from time to time.

#### **THE PERSON TO SUE**

58. The public officer shall be the registered officer of and the person to sue or to be sued for and on behalf of the Institute.

#### **INDEMNITY**

59. Every Member of the Board, the secretary and other officers or servants of the Institute shall from time to time and at all times be saved harmless and be kept indemnified by the Institute from and against all costs, damages, losses and expenses which any such member, secretary, officer or servant of the Institute may incur or become liable to by reason of any act or thing done by him as such Member, secretary, officer or servant or in any way in the discharge of duties, and no such Member, secretary, officer or servant of the Institute shall be liable for the acts, receipts, neglects or defaults of any other Member, secretary, officer or servant, unless the same happen through his own wilful act or default.

#### **FINANCIAL YEAR**

60. The financial year of the Institute shall end on the thirtieth day of June of each year.

#### **ACCOUNTS**

61. The designated secretary will put the return into the department of fair trading, they will then distribute a set of accounts to the members at the AGM.

## **BANKING**

62. The Board shall cause to be opened a banking account or accounts in the name of The Institute, into which all moneys received shall be paid as soon as possible after receipt.

All cheques drawn on such accounts and all drafts, bills of exchange, promissory notes, and other negotiable instruments for and on behalf of The Institute, shall be signed by one of the directors and countersigned by the secretary or other persons authorised by the Board.

## **THE INSTITUTE FUNDS**

63. The funds (including any profits made) of the Institute shall be applied to carrying out the objects of the Institute. No payment by way of dividend or distribution of profits or income shall be made to or amongst the members of the Institute. The Institute is empowered to apply part of its surplus in the manner envisaged in the Act.

## **PROVISION FOR LOSS**

64. The Board shall make such provision for loss as the Act requires or allows.

## **DISPUTES**

65. Disputes between a Member in his capacity of member and the Institute shall be settled by arbitration in accordance with the Arbitration Act, 1902, as amended, from time to time.

Notwithstanding the above, any party may refer the dispute to the Registrar, provided that the dispute has not been referred to arbitration in accordance with these rules or provided that, if the dispute has been so referred, one month has elapsed without an award being made.

Nothing in this rule shall extend to any dispute as to the construction or effect of any mortgage or of any contract contained in any document other than these rules.

## **NOTICES**

66. A notice may be given by the Institute to any Member either personally or by sending it by post to him to his registered address, or (if he has no registered address) to the address, if any, supplied by him, to the Institute for the giving of notices to him.
67. Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying and posting a letter containing the notice, and to have been effected in the case of a notice of a meeting at the expiration of 24 hours after the letter containing the same is posted and in every other case at the time at which the letter would be delivered in the ordinary course of post.

68. If a member has no registered address in the State and has not supplied to The Institute an address within the State for the giving of notices to him, a notice addressed to him and advertised in a newspaper circulating in the neighbourhood of the registered office of The Institute shall be deemed to be duly given to him on the date on which the advertisement appears.
69. A notice may be given by the Institute to the person entitled to a share in consequence of the death or bankruptcy of a member by sending it through the post in a prepaid letter addressed to him by name, or by the title of representative of the deceased, or trustee of the bankrupt, or by any like description, at the address, if any, in the State, supplied for the purpose by the person claiming to be so entitled or (until such address has been supplied) by giving the notice in any manner in which the same might have been given if the death or bankruptcy had not occurred.
70. Notice of every general meeting of the Institute shall be given in some manner hereinbefore authorised to :
- a) every member of the Institute except those members who (having no registered address within the State) have not supplied to The Institute an address within the State for the giving of notices to them, and
  - b) every person entitled to a share in consequence of the death or bankruptcy of a member, who, but for his death or bankruptcy, would be entitled to receive notice of the meeting. No other persons shall be entitled to receive notices of general meetings.

For the purpose of this rule “registered address” means the address of the Member as appearing in the register of members and shares.

#### **WINDING UP**

71. The winding up of The Institute shall be in accordance with part V of the Act. Upon the winding up of The Institute any balance of funds remaining after payment of liabilities shall be donated to such charitable organisation or community purpose and in such manner as shall be decided by a general meeting of members.

#### **HONORARIUM**

72. The Members may at any annual or special general meeting without notice of motion grant an honorarium to any members of the Institute for services rendered.

## **LIMITATIONS OF APPEALS AND ACTIONS**

73. Save as is expressly contained in these rules, no appeals whatsoever shall lie from the decisions of The Institute or of the Board under Rules, nor shall any member suspended, removed or expelled or whose membership shall have been cancelled have any right of action whether at law or in equity or other remedy whatsoever against The Institute, the Board or any member thereof or any officer or employee of The Institute by reason of such suspension, removal, expulsion or cancellation or by reason of any act done or notice given or action to be done or given consequent on or incidental to such suspension, removal, expulsion or cancellation.

## **PROFESSIONAL VALUATION FEES, COSTS & CHARGES**

74. All Institute Members are expected to provide their clients with a Scale of Fees & Charges prior to accepting any professional assignment from any person or party.

The professional fees charged and the Scale of Fees & Charges provided by each Member is expected to be fair and reasonable and accurately reflect the Members length, breadth and depth of education, qualification, experience and expertise.

All Members are entitled to charge whatever quantum of fees they deem appropriate, and the Institute will not assess, nor limit, nor make any recommendations concerning the quantum of professional fees charged by any Member for their professional services.

In addition to professional fees charged for services rendered, Members are entitled to require their clients to reimburse them for expenses incurred in carrying out whatever tasks have been assigned to them by their clients and/or the client's representatives or agents.

Such may include payment for Additional Services such as :

- i) attendance at conferences with the client, and/or the client's legal advisers, and/or other professionals as instructed by the client and/or the client's legal advisers;
- ii) reading reports (prepared by other experts and/or professionals) when required or when considered necessary in order to provide the required professional standard or level of service;
- iii) preparation of ancillary or supplementary reports, critiques or statements in reply, photographic or other evidentiary portfolios or documents;
- iv) additional site inspections of properties as required;
- v) providing verbal opinions or advice; or
- vi) any other service requested by the client and/or the client's legal advisers apart from attendance at hearings at any court, arbitration, mediation, etc.

75. The Institute recommends that professional fees for all additional services apart from attendance at Hearings, Tribunals, etc., be charged on an hourly basis. Professional fees for attendance at Hearings, Tribunals, etc. should be charged on a daily (per day or part thereof) basis when the Member is booked to attend any type of Hearing as an Expert Witness. If the Member is required to Stand-By to attend a Hearing, professional fees should be charged on a varying scale depending upon the length of notice to be given to the Member. In addition, Members are entitled to be reimbursed for Disbursements, and these include :
- i) Goods & Services Tax, at the rate existing at the date the work is completed;
  - ii) Transportation, by Road, Air and/or Sea, as charged plus a loading;
  - iii) Travelling Time, on an hour or part hour basis;
  - iv) Tolls and Parking, as charged;
  - v) Accommodation & Meals, as charged;
  - vi) Photography, fees for taking photographs, and printing or publishing photographs;
  - vii) Photocopying, both B&W and Colour, per page;
  - viii) Telephone, Local, STD & Mobile, and International, per minute;
  - ix) Facsimiles & Emails, per page;
  - x) Searches, Plans, Titles, Dealings - as charged plus a loading;
  - xi) Researchers & Research – as charged plus a loading;
76. In addition a Loading or percentage increase above the standard professional fee can be charged for retrospective valuations and assessments, the rate depending upon the length of retrospectivity of the task; for all services required to be rendered on weekends, public holidays and/or outside normal business hours; and where services are required on an urgent basis.

#### **COSTS AGREEMENT**

77. The Institute recommends that all Members, prior to undertaking any assigned task or accepting any professional instructions, should enter into a Costs Agreement that sets out the scope of work and basis for remuneration for that work. The Costs Agreement should be drafted by a legal practitioner to ensure that it is binding on all parties.

For work performed for any client that involves an on-going professional relationship, or for work from a legal practitioner that involves a Letter of Instruction, a Costs Agreement would not be required.

## SCHEDULE 1 - COMPLAINTS AND DISCIPLINARY CODE

### Citation

1. This Code is the Complaints and Discipline Code.

### Definitions

2. In this Code:

“Council” means the Professional Standards Council constituted by the Professional Standards Act 1994.

“Institute” means the Australian Valuers Institute.

### What actions may be the subject of a complaint?

3. A complaint may be made that a member of the Institute has acted (or has failed to act) in such a way as to justify the taking of disciplinary action against the member under this Code. A complaint may be made and dealt with even though the person about whom it is made has ceased to be a member.

### Who may make a complaint?

4. Any person may make a complaint (including the Institute and the Council).

### How is a complaint made?

5. A complaint may be made to the Institute. The complaint must be in writing and contain the particulars of the allegations on which it is founded. The Institute must notify the Council of each complaint made to it (other than a complaint made by the Council).

### What happens after a complaint is made?

6. The Institute must consider a complaint as soon as practicable after the complaint is made to it or notified to it by the Council. The Institute will then do any one or more of the following:

- (a) it may require the complainant to provide further particulars of the complaint;
- (b) it may carry out an investigation into the complaint;
- (c) it may attempt to resolve the complaint by conciliation;
- (d) it may decline to entertain the complaint (because, for example, the complaint is frivolous, vexatious, misconceived or lacking in substance);
- (e) it may conduct a hearing into the complaint.

### What action may be taken after a hearing into a complaint?

7. After the Institute has conducted a hearing into a complaint against a person, it will, if it finds the complaint substantiated, do any one or more of the following:

- (a) caution or reprimand the person;
- (b) impose conditions as to the carrying out of the person's occupation;
- (c) require the person to complete specified courses of training or instruction;

- (d) require the person to report as to the carrying out of the person's occupation at the times, in the manner and to the persons specified by the Institute;
- (e) order the person to obtain advice as to the carrying out of the person's occupation, from such persons as are specified by the Institute;
- (f) expel the person from membership of the Institute.

If the Institute finds the complaint unsubstantiated, it must dismiss the complaint. The Institute is not entitled to make an award of compensation.

#### Notices of decisions

8. Within 30 days after a decision is made by the Institute concerning a complaint, the complainant and the person against whom the complaint is made must be given a written statement of the decision. The statement must include the reasons for the decision.

What rights of representation do parties to a complaint have?

9. The complainant and the person about whom the complaint is made are not entitled to legal representation during attempts to resolve the complaint by conciliation but are entitled to legal representation during a hearing into the complaint.

How may the functions of the Institute under this Code be exercised?

10. A function of the Institute under this Code may, in accordance with a resolution of the Institute, be exercised by the Board of Directors of the Institute or by a person or persons appointed for the purpose.

#### Protection from liability

11. No matter or thing done or omitted by the Institute or a person acting in accordance with a resolution of the Institute subjects the person personally to any liability if the matter or thing was done or omitted in good faith for the purpose of implementing this Code.