

THE PENSION LAWYERS ASSOCIATION OF SOUTH AFRICA

CONSTITUTION

Adopted at the first Annual General Meeting held at Somerset West on 14 February 1996 and including amendments adopted on 16 February 1998, 18 February 1999, 3 March 2003, 16 February 2004, 7 March 2005, 17 March 2008, 16 March 2009, 29 March 2010, 8 March 2011, 27 February 2012, 3 March 2014, 29 February 2016, 6 March 2017 and 4 March 2019.

1. DEFINITIONS

The following terms shall have the following meanings in this Constitution:

“Act”: the Income Tax Act 58 of 1962;

“Associate Member”: a person who meets the criteria in clause 4.2. and who has been accepted by the Committee as an Associate Member but has not since ceased to be a Member or become a Full Member or had his or her membership reclassified in accordance with clause 4.5(e);

“Association”: the “Pension Lawyers Association of South Africa”;

“Chairperson”: in respect of a General Meeting or meeting of the Committee shall mean the President of the Association, unless the President is prevented from chairing such meeting for any reason, in which case it shall mean the Vice-President of the Association;

“Committee”: the National Steering Committee, comprised in terms of clause 5.1, being the body which administers the Association;

“Committee Member”: a person who, at the relevant time, is a member of the Committee;

“Co-opted Members”: a Committee Member invited and accepted onto the Committee as contemplated in clause 5.1(a)(ii);

“Elected Members”: an elected Committee Member as contemplated in clause 5.1(a)(i);

“Full Member”: a person who meets the criteria in clause 4.1 and has been accepted by the Committee as such but has not since ceased to be a Member or had his or her membership reclassified in terms of clause 4.5(e);

“General Meeting”: an Annual General Meeting in terms of clause 7 or a Members’ meeting in terms of clause 6(a);

“Honorary Member”: a person who has become in terms of clause 4.3, and not ceased to be, an Honorary Member;

“Lawyer”: a person who has a B.Proc, LLB or LLM degree or who is admitted, or legally qualified, to practise in the Republic or in any other jurisdiction as an attorney or advocate;

“Life Member”: a person who has become in terms of clause 4.4, and not ceased to be, a Life Member;

“Member”: a person who is, at the relevant time, a Member of the Association;

“Officer”: the President, Vice-President, Treasurer and Secretary of the Association, whose roles are as specified in terms of clause 5.3, and persons elected to such other offices as the Committee shall decide from time to time;

“Subscription”: the annual subscription payable to the Association by Members, other than Honorary Members and Life Members, in terms of clause 8.

2. NAME AND LEGAL PERSONALITY

- a. The name of the Association shall be the “The Pension Lawyers Association of South Africa”.
 - b. The Association shall have legal personality separate from its Members and Committee Members. It shall in its own name be able to sue and be sued, be capable of acquiring rights and incurring liabilities, and also be able to do all things that may be necessary to achieve its objects.
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3. OBJECTS

The main objects of the Association are to promote the development, awareness and understanding of the law as it impacts on retirement funds and other means of providing benefits on retirement or death.

4. MEMBERSHIP

4.1 Full Members

- a. Any person who satisfies the Committee that he or she is (i) a Lawyer and (ii) interested, employed or active in the retirement fund industry or pensions law, whether or not he or she is wholly or mainly employed or active in this manner, is eligible for consideration by the Committee to be accepted as a Full Member.
- b. A Full Member who becomes an Honorary Member or Life Member shall not thereupon cease to be a Full Member.

- c. Notwithstanding the other provisions of this clause 4.1, any Member as at 2 March 2003 who was recorded in the records of the Association as a Full Member but who does not meet the requirements in terms of clause 4.1(a) shall not become ineligible in respect of the above requirements to remain a Full Member of the Association.

4.2 Associate Members

- a. Any person who satisfies the Committee that he or she is interested, employed or active in the retirement fund industry or pensions law, whether or not he or she is wholly or mainly employed or active in this manner is eligible for consideration by the Committee to be accepted as an Associate Member.
- b. An Associate Member will automatically become a Full Member with effect from the date on which he or she notifies the Committee that he or she has become a Lawyer.
- c. An Associate Member who becomes an Honorary Member or Life Member shall not thereupon cease to be an Associate Member.

4.3 Honorary Members

The Committee may, in its absolute discretion, bestow Honorary Membership on any person for such period and subject to such conditions as it shall decide.

4.4 Life Members

The Committee may, in its absolute discretion, bestow Life Membership on any person who, in the opinion of the Committee, has made any worthy, ongoing and/or significant contribution to the Association.

4.5 Termination, reclassification or suspension of Membership

- a. A person's Membership will be terminated if he fails to pay his or her Subscription in accordance with the provisions of clause 8.
- b. If a Member's conduct is likely, in the view of the Committee, to place the Association or the Member in disrepute or to lead to a misrepresentation of the Association or its view, the Committee shall have the absolute discretion to suspend, terminate or reclassify such person's Membership or remove such person from any office, provided that any such Member shall be given the opportunity to address the Committee on the issue before any such action is taken.
- c. A person whose Honorary Membership is subject to one or more conditions shall cease to be an Honorary Member if he or she ceases to meet any such conditions, but shall not thereupon cease to be a Member unless any of the other conditions in this clause 4.5 are not met.
- d. A person may, by notice in writing to any Committee Member, resign with effect from the date of the notice.

- e. Should the circumstances of any person at any time so change that in the opinion of the Committee, such person would not satisfy the requirements for Full Membership or Associate Membership, the Committee shall have the discretion to suspend or terminate such person's Membership, or to reclassify such person's Membership accordingly.
- f. On resignation from, or termination or suspension of Membership, no refund of subscriptions paid or any part thereof will be made unless the Committee so decides, at its discretion.

4.6 Membership - General

- a. The Committee shall have the right to refuse admission to Membership without giving reasons for such refusal.
 - b. The Committee shall have the right to call for any information it deems desirable regarding issues relating to qualification for Membership or continued Membership from Members or prospective Members.
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5. THE NATIONAL STEERING COMMITTEE

5.1 Composition

- a. The Association shall be administered by the Committee, which shall comprise the following Committee Members:
 - i. 8 (eight) Committee Members who are elected in terms of clause 5.2 ("Elected Members"); and
 - ii. a maximum of 4 (four) further Committee Members, as may be invited at any time by the Committee ("Co-opted Members");
- b. Elected Members and Co-opted Members shall have the same rights and obligations as each other unless otherwise specified in this Constitution.
- c. When selecting Co-opted Members, the Committee shall endeavour to achieve both geographic and demographic representation of the Membership.
- d. Co-opted Members shall, subject to paragraph (g) or (h) below serve until the next Annual General Meeting.
- e. An Elected Member shall, subject to paragraph (g) or (h) below, serve a term of office of 2 (two) years, which term shall run from the date in terms of paragraph (f) below immediately following his or her election until the date in terms of paragraph (f) immediately following the second Annual General Meeting thereafter. An Elected Member may seek re-election at the expiry of his or her term of office and may serve an unlimited number of terms.

- f. On a date to be determined by the President which shall be no later than one month following the Annual General Meeting:
 - i. The term of office of those Elected Members whose term of office is due to expire will end;
 - ii. The term of office of those Elected Members who were elected at the most recent elections will commence;
 - iii. The Elected Members whose term of office is not due to expire and the Elected Members referred to in paragraph (ii) will elect Officers.
- g. Committee Members may be removed from office by majority decision of the Elected Committee Members on reasonable grounds and provided that any such Member shall be given the opportunity to address the Committee on the issues before any such action is taken.
- h. A Committee Member may resign by notice in writing to the President.
- i. All Committee Members must be Full Members and shall not be connected persons in relation to each other.

5.2 Elections of Committee Members

- a. Nominations for, and elections of, Committee Members shall take place at or before each Annual General Meeting in accordance with the practices and procedures adopted by the Committee, provided that sufficient Committee Members shall be nominated or elected, subject to there being enough nominations, to restore the number of Elected Members to eight.
- b. Where the number of nominations is equal to or less than the number of vacancies to be filled, all nominees will be duly elected.
- c. Where the number of nominations exceeds the number of vacancies, an election shall be held. Any contest for election shall be resolved by such method of voting as the Committee shall determine, provided that:
 - i. only Full Members may vote;
 - ii. The Committee shall, to the extent possible by virtue of the nominations received, comprise three Members resident in the province of the Western Cape, three Members resident in the province of Gauteng, one Member resident in the province of Kwa-Zulu Natal and one Member resident in any of the other provinces.
 - iii. The nominees with the highest number of votes, whose election would result in such representation being achieved, shall be elected, and thereafter, the remaining nominees with the highest number of votes shall be elected, regardless of their province of residence.
 - iv. If no such election takes place prior to the Annual General Meeting then any contest for election shall be resolved at the Annual General Meeting by a show of hands or by secret ballot as the

chairperson of that Annual General Meeting shall decide; provided that only Full Members may vote in such election, either in person, or by proxy to a Full Member not standing for election.

- d. In the event of the termination of any Elected Member's participation on the Committee prior to the end of his or her elected term of office, the office shall remain open until the next Annual General Meeting. If, at the Annual General Meeting following such termination, the Committee Member would still have had a year of office to run, elections shall be held for a replacement for the duration of the original Committee Member's term of office.

5.3 Officers

- a. The Committee shall annually, at the date in terms of paragraph 5.1(f), elect Officers from its Members. Only Elected Members may nominate, elect or become Officers. An Officer shall, subject to paragraph (b) or (c), serve from the date of election as such until the date on which elections for Officers are next held.
- b. An Officer may resign from such office at any point during his or her tenure yet remain as a Committee Member. Where this happens, or where an Officer ceases to be a Committee Member, the Elected Members shall forthwith elect a replacement Officer for the remainder of the former Officer's term.
- c. The Elected Members may, by vote of a majority excluding the Officer in question, remove an Officer from office on reasonable grounds and provided that any such Member shall be given the opportunity to address the Committee on the issue before any such action is taken.
- d. The Officers shall enjoy such powers and perform such duties as the Committee shall decide, which shall include the following:
 - i. The President shall chair meetings of the Committee and General Meetings and dispose of such other powers as are detailed in this Constitution;
 - ii. The Vice-President shall fulfill the functions of the President where the President is prevented from performing his / her role for any reason;
 - iii. The Treasurer shall ensure that the annual accounts of the Association are prepared and audited and shall perform an overview function on the assets of the Association;
 - iv. The Secretary shall review membership applications and either approve such applications or refer them to the Committee for approval.
- e. The performance by the Officers of their functions is without prejudice to the joint and several liability of the Committee Members.

5.4 Quorum

The quorum for meetings of the Committee shall be five, of whom no more than two shall be Co-opted Members.

5.5 Proceedings of the Committee

- a. Committee meetings shall be held in person or by tele-conference or video-conference, as the Chairperson deems fit, and on such dates as the Chairperson determines provided that at least 10 (ten) days' notice of meetings shall be given to every Committee Member. Decisions at a Committee meeting shall be made by a majority of the Committee Members present, subject to paragraph (d).
- b. The Chairperson must preside over Committee meetings, and is empowered to take such steps as are necessary to maintain the due and proper conduct of Committee meetings, including the power to terminate and reschedule such a meeting.
- c. The Committee shall be empowered to resolve issues and take decisions by a simple majority of Committee Members signing a written resolution or indicating their agreement by email to a written proposal to which a decision is requested, subject to paragraph (d).
- d. Where a Committee Member's personal or professional interests or duty conflict with his duty as a Committee Member, he must notify the other Committee Members of this conflict and the other Committee Members must (by a majority excluding the conflicted Committee Member) decide upon how to manage the conflict. Where a Committee Member does not vote on a matter on which he has a conflict of interest, he shall not be counted as a Committee Member for purposes of determining whether agreement has been reached by the Committee.
- e. The following provisions shall apply where the Committee is unable to make a decision due to the voting Committee Members not being able to achieve a simple majority:
 - i. If the decision sought is to change an existing position, the existing provision shall remain unchanged;
 - ii. Notwithstanding sub-paragraph (i), If the matter was raised for decision at a meeting at which all Committee Members were not present, the matter will be raised for decision by all Committee Members (other than Members who may not vote pursuant to paragraph (d)) by round-robin resolution. If a simple majority is not then achieved, sub-paragraph (i), if applicable, will then apply and, if paragraph (i) is not applicable, the following sub-paragraphs will apply;
 - iii. If a majority vote cannot be reached on a specific matter that requires a resolution, the matter will be resolved in terms of the Dispute Resolution Practice Note adopted by the National Steering Committee.

5.6 Delegation

- a. The Committee may delegate any of its powers and functions under the Constitution to any one or more Members or other persons as it shall decide on such terms, including as to remuneration, as it shall decide.
- b. Without prejudice to the generality of paragraph (a), the Committee may establish one or more sub-committees to deal with such ongoing or ad hoc issues as it shall decide and may appoint such Members and other persons to serve on such sub-committees as it shall decide and furnish such sub-committees with such powers and functions as it may decide. The Committee shall also have the power, in its absolute discretion, to disband, or revise the mandate of, any sub-committee and/or withdraw the appointment of any member of a sub-committee.
- c. Where the Committee delegates any of its powers or functions, it must adequately supervise the delegee by requiring regular reporting by the delegee and by imposing such other controls as it deems appropriate.

5.7 Income and Expenditure

- a. The Association must open and maintain at least one banking account in the name of the Association. Any withdrawals or payments from, or transfers between, any such accounts shall be given under the joint written authority of any two Committee Members as appointed by the Committee to operate on the bank accounts.
- b. The Committee must, on an annual basis, prepare accounts of the income and expenditure of the Association and of its assets and liabilities, and have such accounts audited by a duly qualified auditor. The Committee must submit such accounts, duly audited and approved by the Committee and signed on its behalf, to the Annual General Meeting next following such audit and approval.
- c. The Committee may:
 - i. expend the monies of the Association in its absolute discretion to attain the objectives of the Association, including remunerating any person to which it delegates any of its functions and any member of the Committee subject to clause 5.10; and/or
 - ii. invest the monies of the Association in any manner in which they see fit, provided that any such investment must be with a registered financial institution as defined in the Financial Institutions (Protection of Funds) Act, 2001 or its successor.
- d. Except as provided in clause 5.7(c)(i), no monies or assets of the Association may be distributed to any person.

5.8 Annual Conference

- a. The Committee must organise an annual conference at which legal and other issues which are of interest to the Members and the pension industry are to be discussed.
- b. The Committee may appoint a sub-committee (the “Conference Committee”) which will oversee the organisation of the annual conference in any year and delegate to it such powers on such terms as it shall decide, provided that where the Committee delegates any powers to the Conference Committee, it must:
 - i. Approve the conference budget and any liabilities materially in excess of the budget;
 - ii. Require regular reporting by the Conference Committee and may impose such other controls as it deems appropriate.
- c. Clause 5.6 shall apply to the Conference Committee, with such changes as are necessary to accommodate the provisions of this clause 5.8.

5.9 Powers and obligations of the Committee

- a. The Committee assumes the fiduciary responsibility for the Association and shall be responsible for promoting the objects of the Association and for the overall management of the affairs of the Association.
- b. The Committee may do all such things as may be necessary or expedient to advance the objects of the Association including, without prejudice to the generality of its powers and to any powers which it has in terms of any other provisions of this Constitution:
 - i. Organise workshops and seminars on such topics and on such dates as it, in its discretion, shall decide;
 - ii. Organise such social functions for Members as it, in its discretion, shall decide;
 - iii. Establish and promote relationships with other organizations whose objects are similar to those of the Association;
 - iv. Take any decision or make any recommendation on any matter affecting the Association and its Members except those decisions that may only be taken at the Annual General Meeting;
 - v. Approve annual budgets and conference budgets;
 - vi. Enter into any transactions with third parties on behalf of and in the name of the Association.

5.10 Expenses and remuneration of Committee Members and Members

- a. The Association will meet any expenses, including travel and accommodation costs and conference or other event fees, of:
 - i. A Committee Member relating to the performance by a Committee Member of his or her duties;
 - ii. A Member to which any of the duties of the Committee has been delegated whether as a member of a sub-committee or otherwise;
 - iii. A Member or other person who agrees to present at, or otherwise assist with, the annual conference or any seminar or other event organised by the Association or at which the Association is participating;
 - iv. A Member who shall, with the consent of the Committee, attend any conference, function or other event on behalf of the Committee, or undertake such business in furtherance of the object of the Association;

as are agreed by the Committee provided that any such fees shall be incurred on a basis which is consistent with any policy of the Association to this effect and provided that a Committee Member may not authorise the reimbursement by the Association of any expenses which he or she shall have incurred.

- b. No Committee Member will be remunerated for the performance of his or her duties except as agreed to by the Committee in respect of any specific act or project, in which case he or she will be remunerated on a basis which is deemed by the Committee to be reasonable. The Committee Member in question may not vote on any matter which relates to his or her remuneration.

6. MEMBERS' RESOLUTIONS OTHER THAN AT ANNUAL GENERAL MEETINGS

Any resolution by Full Members on any matter not reserved to an Annual General Meeting may be passed by:

- a. A majority vote of Full Members present, or voting by proxy through another Full Member, at a Members' meeting provided that:
 - i. such meeting shall be convened by the President or on the request of at least thirty-three percent (33%) of Full Members;
 - ii. at least fourteen (14) days' written notice being given to Full Members of such meeting; and
 - iii. and such meeting must be quorate, a quorum being 20 (twenty) Full Members present physically, or attending by way of a proxy through another Full Member physically present.

Any such meeting will be chaired by the President, unless the Committee decides that it shall be chaired by another person, and any vote at such a meeting shall either be by way of a show of hands unless the chairperson of that meeting decides that it shall take place by way of secret ballot. The chairperson of

that meeting shall be responsible for ensuring that minutes are kept of the proceedings at such meeting;
or

- b. A majority of Full Members who vote in a postal or email ballot of the Full Members provided that:
 - i. Such vote must be arranged by the President;
 - ii. Election forms must be sent to Full Members at least fourteen (14) days before the date by which votes must be submitted, if the ballot is by email, or 28 (twenty-eight) days in advance if the ballot is by post; and
 - iii. at least 20 (twenty) Full Members must vote on such resolution.
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7. ANNUAL GENERAL MEETING

- a. The Committee must call an Annual General Meeting (“AGM”) each year provided that there shall be no more than 15 (fifteen) months between AGMs.
- b. All Members may attend an AGM, but only Full Members may vote at such meeting.
- c. At least fourteen (14) days’ written notice must be given to Members of an AGM. The notice shall contain an agenda of the meeting, the minutes of the previous AGM for approval, the documents on which the Members’ approval is sought and any documents relevant to a matter on which the Members will be called to vote.
- d. An AGM will be chaired by the President, unless the Committee decides that it shall be chaired by another person.
- e. The following business shall be dealt with at an AGM:
 - i. the most recently audited annual accounts must be presented for approval;
 - ii. the Chairperson of the AGM must present a report on the business of the Association since the previous AGM;
 - iii. the election of new Committee Members, or an announcement of new Committee Members if their election took place prior to the AGM;
 - iv. any amendments to the Constitution shall be presented for approval;
 - v. such other business as the Committee deems appropriate; and
 - vi. any matters raised by Members.
- f. 20 (twenty) Full Members present physically, or attending by way of a proxy through another Full Member physically present, shall constitute a quorum.

- g. Any matter at an AGM requiring a vote shall be by the majority of Full Members present, or voting by proxy through another Full Member, at the AGM. Voting will be by way of a show of hands unless the Chairperson decides that any matter shall be voted on by way of secret ballot.
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8. SUBSCRIPTIONS

- a. An annual subscription shall be payable in respect of each Member other than an Honorary Member or Life Member.
 - b. The amount of the Subscription and of any joining or readmission application fee shall be determined by the Committee and may be varied from time to time as circumstances may require. The Committee shall be responsible for collecting Subscriptions.
 - c. The Committee may waive or reduce any Subscription due by a Member, or waive any of the other conditions in this clause 8 in any particular case, if it feels that the circumstances warrant it.
 - d. Members must be sent invoices for the following year's Subscription by no later than 31 December of the previous year.
 - e. The Subscription shall be paid on or before 31 January of the year in which it is due, failing which the Member shall be notified that his or her Membership will be suspended until such time that he or she has paid the subscription fee in full.
 - f. If that Member fails to pay within 30 days of such suspension, his or her Membership will be terminated with immediate effect and he or she shall be notified of that fact. If a person whose Membership has been terminated subsequently wishes to be readmitted to Membership, he or she must apply for Membership in terms of clause 4.
 - g. A Member who fails to pay his or her Subscription before 31 January shall not qualify to receive a Member's discounted rate to the annual conference that year, and shall be liable to pay to the Association the full conference fee applicable to non-members, notwithstanding that he or she shall have registered and/or paid for the conference at the discounted rate.
 - h. A person who is accepted as a new Member must pay his or her Subscription within fourteen (14) days of having been notified that he or she has been accepted as a Member of the Association, failing which his or her Membership application will lapse. Where a new Member joins the Association after the end of June each year, the Committee shall have the discretion to impose a lower subscription on a basis that it deems fair and equitable.
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9. CHANGES IN CONSTITUTION

The Constitution of the Association may be amended by the agreement of a simple majority of Full Members voting (in person or through a proxy who shall be a Full Member) at a General Meeting, subject to notice of the change having been given to Full Members with the notice of the meeting and to the conditions in clauses 6 or 7, as relevant, being met in respect of that meeting. The Committee must submit any changes to the Constitution to the Commissioner for Inland Revenue within 30 days of the General Meeting at which they are agreed.

10. DISSOLUTION, WINDING UP ETC.

- a. The Association may be dissolved in a General Meeting by agreement of seventy five percent (75%) of Members present. On dissolution, any assets of the Association shall be transferred to:
 - i. Another entity with similar objects and which is approved in terms of section 10(1)(d)(iii) or (iv) of the Act;
 - ii. A public benefit organisation approved in terms of section 30 of the Act;
 - iii. Any institution, board or body approved in terms of section 10(1)(CA)(i) of the Act; or
 - iv. The government of the Republic in the national or provincial or local sphere.
 - b. Upon the winding up or liquidation of the Association or within six months from the withdrawal of the approval for exemption in terms of section 10(1)(d)(iv) of the Act (or such longer period as the Commissioner may allow), the Association shall transfer its assets remaining after the satisfaction of its liabilities to any of the entities referred to in paragraph (a).
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11. LIABILITY OF MEMBERS AND COMMITTEE MEMBERS

- a. No Member shall be liable for any loss or liability of whatsoever nature, and howsoever arising, suffered or incurred by the Association as a result of any act or omission on the part of a Member in furthering the objects of the Association made or done in good faith, and the Association indemnifies each Member in respect of any such act or omission.
- b. No Committee Member shall be liable for any loss or liability of whatsoever nature, and howsoever arising, suffered or incurred by the Association as a result of any act or omission committed by a Committee Member in his or her capacity as such, provided that the Committee Member acted in good faith, and the Association indemnifies each Committee Member in respect of any such act or omission.

- c. Each Committee Member and any other member of a sub-committee, including the Conference Committee, will be indemnified by the Association against any liability incurred by him or her arising from any claim (including the costs of defending such a claim) which derives in whole or in part from any act or omission by him or her in the course of performing his or her functions as a Committee Member or member of a sub-committee, provided that this indemnity does not apply in respect of any claim arising from the gross negligence or dishonesty of the Committee Member or sub-committee member.
 - d. No Committee Member shall be required to furnish security as a result of his or her election to the Committee.
 - e. The Committee shall ensure that the Association is sufficiently insured by an insurer registered in terms of the Short Term Insurance Act, 1998 (Act No. 53 of 1998) as amended from time to time.
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12. INSPECTION OF RECORDS AND NOTICES

- a. Any Member may at any time request copies of, or at a time and place convenient to the Committee inspect, the annual financial statements of the Association. The Committee may require a Member to pay the charges of preparing any such copies.
 - b. Any notice or other document which, in terms of this Constitution, is to be furnished to a Member may be furnished by post or by email, as the Committee shall decide.
 - c. Any document furnished by post will be deemed to have been received 7 days after sending and any document furnished by email will be deemed to have been received on the date of sending. The email or postal address of a Member which the Association holds in its record shall be deemed to be his or her correct email address.
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13. COMPLIANCE WITH THE ACT

- a. The provisions of s30B of the Act, a copy whereof is annexed hereto marked "A", as the context requires, is deemed to be incorporated into this Constitution.
 - b. The Association shall comply in all respects with the provisions of s30B of the Act.
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First Adopted 14 February 1996

Amended February 1998

Amended February 1999

Amended March 2003

Amended February 2004

Amended March 2005

Amended March 2008

Amended March 2009

Amended March 2010

Amended March 2011

Amended February 2012

Amended March 2014

Amended February 2016

Amended March 2017

Amended March 2019