

Constitution
(Amended AGM 23.10.2012)

Document No:	1A
Pages:	16
Issue No:	1
Authorised By:	Board
Review Date:	October

40077109029

**Croatian Ukrainian and
Belarusian Aged Care
Association of South Australia**
Incorporated

**St. Anna's Residential Care
Facility**

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1 NAME

The name of the Association shall be the Croatian, Ukrainian and Belarusian Aged Care Association of SA (hereinafter referred to as "the Association").

2 DEFINITIONS

In these rules, unless a contrary intention appears:

"Act" means the Associations Incorporation Act 1985, as amended or substituted from time to time;

"Aged Persons" means persons assessed as eligible aged persons and defined by the Aged Care Act;

"Association" means the Croatian, Ukrainian and Belarusian Aged Care Association of South Australia;

"Belarusian Community" means the Belarusian Autocephalic Orthodox Church in South Australia;

"Board of Directors" means the governing body of the Association;

"Board" means the Board of Directors for the Association;

"Chairperson" means the Board member elected as Chairperson by the Board of the Association;

"Vice Chairperson" means the Board member elected as Vice Chairperson by the Board of the Association;

"Clients" will refer to Recipients of Services (e.g. Community Aged Care Packages or other funded programmes) unless the contrary is expressly stated or manifestly and clearly intended;

"Communities" means those organisations that are members of the Association;

"Croatian Community" means the Croatian Club Adelaide Inc.;

"Director" means a duly appointed member of the Board;

"Ethnic Communities" means persons who are of Croatian, Ukrainian and Belarusian background;

"Life Member" means a person who is presented this member level at General meeting of the Association, in accordance with the rules established by the Board;

"Ordinary Member" means a person who is a Director, current permanent resident or client recipient of a community aged care package;

"Presidents of Communities" means President of the Croatian Club Adelaide Inc; President of the Association of Ukrainians in South Australia Inc; President of the Belarusian Autocephalic Orthodox Church in South Australia;

"Resident" (in relation to occupants of the Association's facilities) means permanent resident (or residents as the case may be);

"Treasurer" means the Board member appointed as Treasurer by the Board of the Association;

"Ukrainian Community" means the Association of Ukrainians in South Australia Inc.

3 OBJECTS OF THE ASSOCIATION

3.1 To provide accommodational care and other accommodation services (including services provided outside of a communal residential environment)

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for aged persons from the ethnic communities of the Association but not limited to those communities and not limited to St Anna's Residential Care Facility at Brompton, South Australia.

- 3.2. To maximise the quality of life of aged persons, as defined in clause 3.1.
- 3.3. To provide temporary or permanent accommodation for aged persons, primarily from within the ethnic communities of the Association.
- 3.4. To provide ongoing community-based care, based on assessed need, for aged persons.
- 3.5. To hold in trust any monies paid as bonds by residents (less retention) for the period of time of the residency, in accordance with relevant legislation.
- 3.6. To develop and maintain a community spirit and to promote a closer friendship between the Association, St Anna's Residential Care Facility, the said ethnic communities and the local community.
- 3.7. Actively encourage community and individual support of a financial and non-financial nature to further the work of the Association.
- 3.8. To carry on the work of the Association in such places as the Board may from time to time determine.
- 3.9. To ensure the services provided by the Association are financially sustainable.

4 POWERS OF THE ASSOCIATION

- 4.1 The Association shall have all the powers conferred by the Act.

5 INCOME AND PROPERTY

- 5.1 The income and property of the Association shall be used and applied solely towards the promotion of the objects of the Association and no part thereof shall be paid or transferred directly or indirectly by way of dividend, bonus or otherwise by way of pecuniary profit to the members, provided that remuneration may be paid in good faith to officers and servants of St Anna's Residential Care Facility or other persons in return for services actually rendered to the Association.
- 5.2 The financial records and associated accounting processes for St Anna's Residential Care Facility and any other funded service shall be maintained in accordance with relevant accounting standards and applicable funding organisation requirements.
- 5.3 The assets of the Association shall be used for the purposes of the Association.

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6 MEMBERSHIP

- 6.1 The Board of Directors shall be deemed subscribed ordinary members of the Association whilst they hold that office.
- 6.2 Current permanent residents of St Anna's Residential Care Facility and current recipients of Community Aged Care Packages shall be deemed to be ordinary members of the Association.
- 6.3 Life membership may be conferred on any person at any general meeting of the Association, in pursuance of a resolution previously passed by a majority of the Board of Directors. Nominations for life membership may be made by any ordinary member and shall be determined according to criteria set by the Board from time to time.
- 6.4 All ordinary members and life members of the Association shall have voting rights at meetings of members of the Association.
- 6.5 Anything that may be done by a resident under this Constitution may be done either personally or by the representative of that resident. The representative of a resident is the person whose name is recorded with the approval of the Chief Executive Officer in the records of the Association as having that role. If that person is not available, the representative of the resident shall be such other person named in the records of the Association as shall be available, according to the order of priority in which alternative persons are listed in the records of the Association and in the case of doubt or dispute shall be the person recorded in the records of the Association who shall be nominated by the Chief Executive Officer on any such occasion.
- 6.6 Notwithstanding the provisions of clauses 6.1 - 6.5 hereof, a member shall automatically cease to be a member of the Association upon:
- 6.6.1 giving written notice of resignation;
 - 6.6.2 the Board resolving that the member has committed a serious breach of this Constitution or Board Policies (as defined in clause 7.1.3 hereof);
 - 6.6.3 death or any other legal incapacity (except in the case of legal incapacity where the person shall have appointed an attorney pursuant to an Enduring Power of Attorney);
 - 6.6.4 No longer being a current permanent resident of St Anna's Care Facility or a current recipient of a community aged care package.
- 6.7 A register of members shall be kept.
- 6.8 The Board of Directors shall determine what, if any, membership fees including joining fees shall be charged at any time.

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7 THE BOARD OF DIRECTORS

7.1 FUNCTIONS AND POWERS OF THE BOARD

- 7.1.1 The Board of Directors, (hereinafter referred to as the Board), shall be responsible for the management of the affairs of the Association (including the operation of St Anna's Residential Care Facility, Community Aged Care Packages and any other services provided).
- 7.1.2 The Board shall have the management and control of the funds and other property of the association and may exercise all of the powers of the association.
- 7.1.3 The Board shall have the power to make by laws and regulations and to issue instructions (hereinafter referred to as "Board Policies") as it shall deem fit within the limits imposed by this Constitution or by law for the proper conduct of St Anna's Residential Care Facility. Board Policies shall be binding on all officers, members and employees (whether managerial or otherwise) of the Association.
- 7.1.4 The Board shall appoint a Public Officer who shall notify the Corporate Affairs Commission of such appointment and shall file such other returns and notices as shall be required by law. The Public Officer shall hold office until the Board appoints another person to the position.
- 7.1.5 In discharging its responsibilities the Board shall:
- (a) Establish policies, practices and procedures calculated to best ensure the proper efficient and effective management and operation of St Anna's Residential Care Facility, Community Aged Care Packages and other services provided.
 - (b) Consider any matter referred to it by the Presidents of Communities.
 - (c) As required and in any event at least once in every six months, communicate with the Presidents of Communities or their successors or matters concerning the Association and discussions relating to matters of interest to the communities of the Association.
 - (d) The Board of Directors shall have discretion, in regard to the extent to which they provide detail, on any issue, as part of the responsibility to communicate with the Presidents of Communities.
 - (e) Keep minutes of its meetings.

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(f) Submit an Annual Report to the Annual General Meeting of the Association on the activities of St Anna's Residential Care Facility, Community Aged Care Packages and other services provided.

7.1.6 The Board may establish such committees and working parties as it sees fit.

7.1.7 To expedite the management of the Association the Board may delegate the powers, authorities and discretions, contained in clause 4.1 to any committee appointed by the Board or to any member of the Board or officer or employee of St Anna's Residential Care Facility. Such a delegation by the Board shall not set aside the powers of the Board to act in any matter.

7.1.8 All acts done or performed by the Board or a Director, or a member, or employee of the Association, or person exercising any authorised power on behalf of the Association, be as valid provided on the basis proper appointment was completed.

7.1.9 The Association may, in any manner permitted by the Act exercise any power, take any action, or engage in any conduct or procedure which, under the Act an Association may exercise, take or engage in, if authorised by this Constitution.

7.2 MEMBERSHIP OF THE BOARD

7.2.1 The Board shall comprise 9 persons, who uphold the objects of the Association and meet the skills as defined by the Board, as follows:

A person nominated prior to the relevant Annual General Meeting, for a full two year term, by the ruling or governing body of the Croatian Community;

A person nominated prior to the relevant Annual General Meeting, for a full two year term, by the ruling or governing body of the Ukrainian Community;

A person nominated prior to the relevant Annual General Meeting, for a full two year term, by the ruling or governing body of the Belarusian Community;

One person nominated by the current permanent residents and the current recipients of Community Aged Care Packages of the Association;

Four other persons who are not necessarily members of the Association. When nominating for such office, any such person shall submit a resume of matters pertinent to their capacity to hold office,

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which resume shall be distributed to members at least two weeks prior to the meeting at which their candidature shall be considered;

In an ex-officio capacity (with no voting rights) - the Chief Executive Officer. The Chief Executive Officer is not a Director therefore not a member of the Board;

A staff member cannot be a Director of the Board.

7.2.2 Each member of the Board of Directors shall be elected for a term of two years.

7.2.3 Directors of the Board and any committee members shall receive no remuneration for their services as Board or committee members, other than out of pocket expenses. The Chief Executive Officer is ex-officio and therefore receives remuneration as an employee but no remuneration for attending Board of Director meetings.

7.2.4 Endorsement of the Community Representatives and the Resident's Representative shall occur at the Annual General Meeting.

7.2.5 The four persons elected to the Board are to be elected at an Annual General Meeting.

7.2.6 To facilitate rotation of Board memberships one half of positions for which an election is to be held shall become vacant in the first year of a new constitution and one half shall become vacant in the second year.

7.3 BOARD VACANCIES

7.3.1 The office of a member of the Board shall become vacant if:

- (a) the member reaches the end of his/her term of office;
- (b) the member dies or becomes legally incapacitated;
- (c) the member resigns his/her office by notice, in writing, to the Chairperson or Secretary;
- (d) the member fails to attend three (3) consecutive meetings of the Board without formal apology or obtaining approved and notified leave of absence;
- (e) the member has, in the opinion of the Board, not complied with the Constitution or of Board Policies and the non-compliance is determined by the Board of Directors to be a serious breach of the Constitution, the Act, or relevant Board policies;
- (f) a resolution of the Board is made pursuant to clause 7.1.6;

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- (g) continued Board membership would be in breach of relevant sections of the Associations Incorporation Act 1985 and the Aged Care Act;
- (h) the member becomes an employee or staff member of the Association, other than those referred to in the exceptions in clause 7.2.1.

7.3.2 In the event of a casual Board vacancy, the remaining Board members (even if their full number shall then not constitute a quorum) may appoint a new Board member to fill any such vacancy for the remainder of that replaced person's term and shall for that purpose exercise its best endeavours to appoint a person with a similar nomination or similar qualification to that of the replaced person.

7.4 MEETINGS OF THE BOARD

7.4.1 The Board shall meet at least ten times a year and at such other times as agreed.

7.4.2 Five (5) Directors shall constitute a quorum and no business shall be transacted unless a quorum is present.

7.4.3 Each member shall be entitled to one vote, except for the Chairperson who shall have a deliberative and in the case of equality a casting vote.

7.4.4 Conflicts of interest, whether direct or indirect, must be declared before an item is discussed. Any person having a direct or indirect conflict of interest must leave the room prior to discussion of the relevant matter of the Board and not return until after the conclusion of discussion and any voting by the Board.

7.4.5 The Chairperson of the Board shall be elected by the Board members at the first meeting of the Board of Directors following the Annual General Meeting

7.4.6 The Vice Chairperson, Treasurer, Secretary and any other official role recognised by the Board of Directors will be elected by Directors to such roles at the first meeting of the Board of Directors following the Annual General Meeting.

7.4.7 The Chairperson shall preside at all meetings and in the absence of the Chairperson the Vice Chairperson shall preside. In the absence of both the Chairperson and the Vice Chairperson, a Chairperson shall be elected by the Directors present.

7.4.8 Not less than four (4) days' written notice of meetings shall be given to members by the Secretary. Notice shall be deemed to have been given 24 hours (exclusive of weekends) after the posting thereof to the last address notified by each person to the Secretary for that purpose.

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7.4.9 The Proceedings at each meeting of the Board shall be recorded. Once signed by the Chairperson of such meeting at the next succeeding meeting of the Board, the proceedings, as agreed by the Board members present at the next succeeding meeting, will be a formal record of the decisions made at that meeting.

8 CONFIDENTIALITY

8.1 Subject to clause 7.1.5(c) hereof, all members of the Board must maintain, at all times, confidentiality relating to all matters discussed by the Board.

8.1.1 All members of the Board must not use the information obtained through their offices as Board members in a manner which may be prejudicial to the management of the Association, individual Board members, officers and employees of the Association.

8.1.2 Individual members of the Board must not use information obtained outside of the normal Board meeting forum to prejudice the management of the Association or other Board members, officers and employees of the Association.

8.1.3 A breach of confidentiality will be treated as inappropriate behaviour by a Board member and be referred to the Board of Directors.

8.1.4 All reported breaches of confidentiality, whether relating to the status or affairs of residents or to matters concerning Board members or officers or employees of the Association, will be investigated by the Chief Executive Officer. The Association will promptly prepare a confidential report, which shall be deemed to be privileged, and forward same to the Board of Directors.

8.1.5 The Board shall consider all allegations of breach of confidentiality brought to its notice and/or reports in relation thereto and shall make such further enquiries or call for such further reports as it deems fit (but without undue delay). The Board shall have power to suspend the relevant Board member whilst such consideration and/or enquiries are being made. In the event that a finding is made by the Board, in its reasonable opinion, that a serious breach of confidentiality has occurred, the Board may by resolution passed in accordance with clause 7.4 hereof expel the relevant Board member with effect immediately or from such future time as the Board may direct.

8.1.6 The obligation of confidentiality provided for herein shall be an ongoing obligation and shall survive the suspension and/or dismissal of any Board member.

8.2 Every Board member shall be deemed to have notice of, and be bound by, this and every other provision of the Constitution of the Association.

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- 8.3 Notwithstanding the provisions of Clause 8.1, the Board may by resolution passed by the Board, in accordance with clause 7.4 hereof, permit the disclosure of information as specified by that resolution, to the aforesaid ethnic communities of the Association and the members of the Association, if it is satisfied that it is in the interests of the Association that such disclosure occur.

9 THE SECRETARY

- 9.1 The Secretary shall be responsible for:

- 9.1.1 Ensuring that membership records of the Association are properly maintained.
- 9.1.2 Recording (or overseeing the recording of) the minutes of all meetings of the Board and the Association, such record to be kept in writing in English and presented at the next meeting.
- 9.1.3 Ensuring that notice of meetings is duly given in the proper manner and form and that proper records of such notices are kept.

10 THE TREASURER

- 10.1 The Treasurer shall be responsible for:

- 10.1.1 Ensuring that books of account are kept in the proper form, for the purpose of recording all of the financial transactions of the Association.
- 10.1.2 Ensuring that the annual financial statements of the Association prepared to and as at 30th June of each year are duly prepared and submitted to the Board, together with a such report as may be reasonably necessary to explain same, by 31 October each year.
- 10.1.3 Generally ensuring that the provisions of Division 2 of the Associations Incorporation Act 1985 are complied with.

11 FINANCE

- 11.1 The financial year of the Association shall commence on 1st July and end on 30th June.
- 11.2 All monies received by or for the Association, shall be deposited in the Association's account or accounts at such financial institutions as shall be determined from time to time by the Board.
- 11.3 All cheques or withdrawal forms (as appropriate) or any other appropriate banking services as approved by the Board shall be signed by any two persons approved for the time being by the Board of Directors.

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12 AUDITOR

- 12.1 The Association shall have an Auditor, who shall be appointed by the Board.
- 12.2 The Auditor shall be appointed for one year, at the expiration of which time the Auditor (or a new Auditor) shall be appointed.
- 12.3 The Auditor shall:
- 12.3.1 Be a member of the Institute of Chartered Accountants or the Society of Certified Practising Accountants or otherwise be a person within the provisions of Clause 35(2) (b) of the Associations Incorporation Act 1985.
- 12.3.1.1 The auditor will perform the duties of an external auditor in compliance with prevailing legal and accounting standards and rules.
- 12.3.2 Not be a full member of the Association or an employee of the Association.
- 12.3.3 At least once in each financial year of the Association examine the accounts of the Association.
- 12.3.4 Have power to call for the production of all books, papers, accounts and documents relating to the affairs of the Association and be entitled to examine and require proper explanations from the officers and employees of the Association, with respect to those matters.
- 12.3.5 Report thereon to the Board at the next Board meeting after the accounts have been examined and audited, with respect to the following matters:
- whether the Auditor has obtained or been provided with the information required by him/her;
 - whether in the opinion of the Auditor the accounts are properly drawn up so as to exhibit a true and correct view of the financial position of the Association, according to the information at his/her disposal and the explanations given to him/her and as shown by the books of the Association;
 - whether the rules relating to the administration of the funds of the Association have been observed and any other matters which, in the opinion of the Auditor, should be made the subject of comment in the report.

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- 12.3.6 Without limiting the generality of the preceding provisions, provide the Board with a report in compliance with section 37(3) of the Associations Incorporation Act 1985.

13 ANNUAL GENERAL MEETINGS OF THE ASSOCIATION

13.1 There shall be an Annual General Meeting of the Association.

13.2 The business of the meeting shall be:

- 13.2.1 Report by the Chairperson of the Board of the operations and activities of St Anna's Residential Care Facility, Community Aged Care Packages and any other services of the Association during the preceding year.
- 13.2.2 Receipt of nominations for and election of members of the Board.
- 13.2.3 Presentation of the audited accounts of the Association and any financial accounts and reports deemed necessary or expedient by the Board.
- 13.2.4 Any other business as determined by the Board.
- 13.2.5 Only ordinary members and life members of the Association shall be eligible to vote at meetings of members of the Association.
- 13.2.6 To allow for full and complete replies to questions, the business of the meeting will respond to questions on notice which must be in writing and directed to the CEO at least four clear business days prior to the Annual General Meeting.

14 SPECIAL GENERAL MEETINGS OF THE ASSOCIATION

- 14.1 The Board may by a simple majority call a special general meeting of the members of the Association.
- 14.2 The Board shall call a special general meeting of the members of the Association entitled to vote if requested in writing to do so by any eight (8) such members of the Association, which request shall include details of the agenda items sought to be discussed.

15 PROCEDURE FOR CALLING ANNUAL GENERAL MEETINGS AND SPECIAL MEETINGS OF THE ASSOCIATION

15.1 The Board shall prepare an agenda for each meeting of the Association.

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- 15.2 In the event that a meeting is called pursuant to 14.2 hereof, the agenda shall include items notified in the said request in writing.
- 15.3 At least four weeks' notice shall be given of meetings. Notice shall be given in writing to each full member and shall also be displayed on any and each official notice board in St Anna's Residential Care Facility. Every notice shall be accompanied by a copy of the agenda for the meeting, together with any other material the Board may determine.
- 15.4 The quorum for all meetings of members of the Association shall be fifteen percent (15%) of those ordinary and life members entitled to vote.
- 15.5 Subject to Clause 24.1 hereof, resolutions of meetings of members of the Association shall be deemed passed if the number of votes in favour of such resolutions is equivalent to or greater than fifteen percent (15%) of the number of ordinary and life members who, being entitled to vote, vote in person or by proxy at that meeting, or by Board authorised postal voting.

16 CHIEF EXECUTIVE OFFICER

- 16.1 The management, administration and conduct of St Anna's Residential Care Facility and services provided within and by St Anna's Residential Care Facility shall be the responsibility of the Chief Executive Officer, who shall be appointed by and answerable to the Board.

17 PROXIES

- 17.1 The instrument appointing a proxy must be in writing.
- 17.2 A Member will be entitled to instruct that proxy to vote in favour of or against all or any proposed resolutions. Unless otherwise instructed the proxy may vote as the proxy thinks fit.
- 17.3 A document appointing a proxy may specify the manner in which the proxy is to vote in respect of a particular resolution and, where the document so provides, the proxy is not entitled to vote on the resolution except as specified in the document.
- 17.4 Except as expressly provided by the document appointing a proxy, an appointment of a proxy confers authority to do all things that the member can do in respect of a general meeting.
- 17.5 Before the time for holding the meeting or adjourned meeting at which a proxy proposes to vote, the document appointing the proxy must be deposited with the Association.
- 17.6 The instrument appointing a proxy, under which it is signed or proof of that power or authority to the satisfaction of the Board must be deposited at the Association (or at such other place or places as the Board may determine from time to time) prior to the time for holding the meeting at which the

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person named in the instrument proposes to vote and in default the instrument of proxy will not be treated as valid.

18 INDEMNIFICATION OF OFFICERS AND OTHERS

18.1 Subject to section 39B of the Associations Incorporation Act 1985, the members of the Board and any committees established by the Board, the auditor of the Association appointed pursuant to clause 12 hereof and the Chief Executive Officer shall at all times be indemnified by the Association in respect of matters referred to in s.39B (2) of the said Act.

19 SEAL

19.1 The Association shall have a Common Seal which shall remain in the custody of the Chief Executive Officer.

19.2 The Common Seal of the Association shall only be affixed to any instrument by authority of the Board and every instrument to which the Seal is affixed shall be signed by one of the office holders of the Board and counter-signed by a second office holder of the Board or by some other person appointed by the Board for that purpose.

20 PATRONS

20.1 The Board may at any time and from time to time appoint such patron or patrons for such period or periods as it may by unanimous decision determine.

21 CIRCUMSTANCES NOT PROVIDED FOR

21.1 If any circumstances shall arise with respect to which this Constitution is silent or is incapable of taking effect or being implemented according to its strict provisions, the Board of Directors shall have power to determine what action shall be taken to best give effect to the objects of the Association and to ensure its efficient administration and every act of the Board of Directors is bona fide resolved upon pursuant to this Clause shall be as valid and effectual as if specifically authorised herein.

22 DISPUTE RESOLUTION

22.1 In the event that a dispute within the jurisdiction of the Board of Directors cannot be resolved by the Board of Directors at a properly convened meeting of the Board, the Presidents of Communities shall by unanimous resolution of the three of them nominate an independent arbitrator to finally determine the matter and furnish that person with terms of reference to enable resolution of the dispute.

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23 DISTRIBUTION OF ASSETS UPON WINDING UP

- 23.1 If upon winding up or dissolution of the Association there remains, after the satisfaction of all its debts and liabilities, any assets whatsoever, such assets shall be distributed amongst organisations having similar objects to the Association and whose rules prohibit the distribution of their income and property amongst their members to an extent at least as great as is imposed on the Association. The organisations referred to herein shall be determined by the ordinary and life members of the Association at or before the time of dissolution and shall be organisations whose principal objects are the enhancement of persons of Croatian, Ukrainian and Belarusian origin.
- 23.2 In default of determination by the members of the Association as provided for herein, the matter shall be referred to the Supreme Court of the State of South Australia for determination in accordance with the principles contained herein.

24 ALTERATION OF CONSTITUTION

- 24.1 The Constitution may be altered by a special resolution of the Association. "Special resolution" has the same meaning as provided for from time to time in the Act.

25 INTERPRETATION

- 25.1 In this Constitution, unless a contrary intention is apparent:
- 25.1.1 reference to a Clause is a reference to a Clause of this Constitution;
 - 25.1.2 the headings to the various Clauses and parts of Clauses do not affect the construction of the Clauses;
 - 25.1.3 "person" and words importing persons include bodies corporate;
 - 25.1.4 powers conferred on the Association, the Board, a member of the Board, a Committee or a ordinary and life member may be exercised at any time and from time to time;
 - 25.1.5 "writing" and "written" include any method of representing or reproducing words in a visible form including, without limiting the generality of the foregoing, telegram, telex, facsimile, text, SMS or any other mode of transmission capable of producing or reproducing words in visible form;
 - 25.1.6 unless otherwise defined in this Constitution, words which are given a meaning in the Act have the same meaning in this Constitution;

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- 25.1.7 words importing the singular include the plural and vice versa and each gender includes each other gender; and
- 25.1.8 a reference to any statute or subsidiary legislation includes a reference to that statute or legislation as re-enacted, amended, modified or replaced from time to time.