[150N: Incorporates alterations of 05/04/2016 (R2015/257)]

I CERTIFY under section 161 of the Fair Work (Registered Organisations) Act 2009 that the pages herein numbered 1 to 32 both inclusive contain a true and correct copy of the registered rules of the Australian Public Transport Industrial Association

DELEGATE OF THE GENERAL MANAGER

FAIR WORK COMMISSION

[IMPORTANT: Enquiries about these rules or other rules relating to this organisation which are currently in force may be directed to any office of Fair Work Commission.]

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RULES OF THE AUSTRALIAN PUBLIC TRANSPORT INDUSTRIAL ASSOCIATION

## 1 - NAME OF ORGANISATION

The name of the organisation is the **Australian Public Transport Industrial Association** and may be referred to in these Rules and otherwise as "the Association".

## 2 - REGISTERED OFFICE

The Registered Office of the Association is 14-16 Brisbane Avenue, Barton ACT 2600

## 3 - DEFINITIONS

In these Rules the following words and expressions shall have the following meanings unless the context otherwise requires:

'Act' means the **FAIR WORK (REGISTERED ORGANISATIONS) ACT 2009** or any other legislation superseding the Acts.

‘Award’ means the Passenger Vehicle Transportation Award 2010, as amended, from time to time or such other industry replacement awards for the industry.

'Council' means the Council of the Association as described in Rule 24.

‘Federally Registrable’ shall have the meaning as set out in the Act.

'Industry' means the Australian private and public sector passenger vehicle industry.

'In writing' includes words printed, duplicated or reproduced by means in visible form.

'Letter' includes any circular.

'Member' means a member of the Association.

'Month' means calendar month.

'Person' includes an employer with employees within the Industry and who may be an individual, a firm, a partnership, a trust, an organisation, an association with members who are employers within the Industry, a constitutional corporation, sole trader a statutory authority and a federally registrable employer under the Act. A firm shall be deemed to consist of the persons, who are its members for the time being.

'Regulations' means Regulations made from time to time under the Act.

‘State Association’ means an association of employers within the industry in any one state or territory of the Commonwealth.

'Year' means the financial year of the Association ending on the 30th day of June.

Words importing the singular number only shall include the plural number and vice-versa.

Words importing the masculine gender only shall include the feminine gender and/or a corporation.

board means a group of persons who supervise, govern or otherwise have oversight of a corporation, organisation, association or other like body including a Board of Directors.

disclosure period For the purpose of these rules means the financial year unless a shorter period is specified.

declared person or body A person is a declared person or body if:

 (i) an officer of the organisation/branch has disclosed a material personal interest under [rule 50(A)]; and

 (ii) the interest relates to, or is in, the person or body; and

 (iii) the officer has not notified the organisation/branch that the officer no longer has the interest.

financial duties includes duties that relate to the financial management of the organisation or a branch of the organisation.

General Manager means the General Manager of the Fair Work Commission.

non-cash benefit means property or services in any form other than money, but does not include a computer, mobile phone or other electronic device that is used only or mainly for work purposes.

peak council has the same meaning as defined by section 12 of the *Fair Work Act 2009*.

office has the same meaning as defined by section 9 of the *Fair Work (Registered Organisations) Act 2009*.

officer has the same meaning as defined by section 6 of the *Fair Work (Registered Organisations) Act 2009*.

related party has the same meaning as defined by section 9B of the *Fair Work (Registered Organisations) Act 2009*.

relative in relation to a person, means:

 (i) parent, step parent, child, stepchild, grandparent, grandchild, brother or sister of the person; or

 (ii) the spouse of the first mentioned person.

Relevant remuneration in relation to an officer of the organisation/branch for a disclosure period is the sum of the following:

 (i) any remuneration disclosed to the organisation/branch by the officer under [sub-rule 49(A)] during the disclosure period;

 (ii) any remuneration paid during the disclosure period, to the officer of the organisation/branch;

relevant non-cash benefits in relation to an officer of the organisation/branch for a disclosure period means the non-cash benefits provided to the officer, at any time during the disclosure period, in connection with the performance of the officer’s duties as an officer, by the organisation/branch or by a related party of the organisation/branch.

Remuneration (i) includes pay, wages, salary, fees, allowances, leave, benefits or other entitlements; but

 (ii) does not include a non-cash benefit; and

 (iii) does not include the reimbursement or payment of reasonable expenses for the costs incurred in the course of the officer carrying out his or her duties.

## 4 - PURPOSES

The purposes for which the Association is established are to advance the cause and represent the interests of its members, including but not limited to:

1. To represent members and assist members in negotiations relating to the settlement of disputes between members and their employees.

2. To promote and protect the interests of Persons who are employers who are within the Industry and who are members of the association.

3. To bring or refer matters to and represent members and/or interested persons before Fair Work Australia or such other arbitral tribunals or Courts as may from time to time exercise like jurisdiction to that of that of Fair Work Australia and other tribunals, courts, arbitrators, mediators and bodies, and to represent members and/or interested persons at conferences, meetings and discussions with unions and other organizations of employees or employers.

4. To seek and maintain registration as an industrial organisation of employers under the Act.

5. To further the objects of the Act.

6. To act as an industrial organisation of employers.

7. To represent the interests of members in negotiating the establishment of and/or variation of industrial awards and agreements as defined by the Act.

8. To establish and maintain co-operation, collaboration and close relations with other organisations or associations having similar purposes.

9. To improve the relations of members of the Association with their employees or with producers and distributors of services and manufactures to the industry, and customers.

10. To secure to the members of the Association, all the advantages of unity of action and to protect the interests of members in any lawful manner in all matters relating to the industry.

11. To secure the aid of public opinion and Government policy in the development and advancement and in the popularising of enterprises engaged in the industry.

12. To secure proper parliamentary representation for the furtherance of the industry.

13. To purchase, take on lease or license or hire or otherwise acquire real or personal property of any kind in furtherance of the objects of the Association and to sell, exchange or otherwise dispose of any property on such terms as may be considered expedient.

14. To teach and instruct in the industry.

15. To provide for the appointment of committees to deal with local matters or particular matters or matters of general interest to the Association.

16. To act in conjunction, affiliate with or amalgamate with, and to appoint representatives to any association or organisation of employers which furthers the purposes of the Association.

17. To promote or oppose legislative and other measures affecting or likely to affect the industry.

18. To prosecute or defend any suits, applications or proceedings before any court, tribunal or like body whatsoever as may be deemed necessary or expedient in the interests of all or any of the Association's members.

19. So far as may be necessary for or incidental to the purposes of the Association to make, draw, accept, endorse or negotiate cheques, promissory notes, bills of exchange or other negotiable instruments and to borrow or raise money in such manner as the Association may think fit.

20. To enter into any arrangements with any governments or authorities, municipal or local or otherwise, that may seem conducive to the purposes for which the Association has been established or any of them and to obtain from any such government or authority any rights, privileges or concessions which the Association may think desirable to obtain and to carry out, exercise and comply with any such arrangement, rights, privileges or concessions.

21. Subject to these Rules, the assets and income of the Association shall be applied solely in furtherance of its objects and no portion shall be distributed directly or indirectly to its members except as bona fide compensation for services rendered or expenses incurred by or on behalf of the Association.

22. To do all such other things as may appear to be incidental or conducive to the attainment of the above purposes or any of them.

## 5 - ELIGIBILITY FOR MEMBERSHIP

The Association shall consist of persons, as defined in Rule 3, who are employers in engaged in the Industry throughout Australia in the Groups identified in Rule 7(1).

## 6 - NOTICES

Unless otherwise provided by the Rules, any notices shall be given by or on behalf of the Chairperson.

## 7 - APPLICATION FOR MEMBERSHIP

1. Membership to the Association shall comprise the following Groups;

(a) The Association Group, who are State Associations and whose  State Association members employ persons within the Industry, some of whom are federally registrable employers,

(b) The Urban Transport Group, who are not State Associations and who are federally registrable employers and who employ, either themselves or, through associated corporations, persons in the Industry in more than one State, and

(c) The Public Transport Group, who are not State Associations and who employ persons within the Industry in one State only.

2. A person who desires to be admitted to the Association shall complete and forward to the Chairperson at the Registered Office of the Association an application for membership in such form as may be prescribed by the Council from time to time. The form of application shall:

(a) outline the obligation to pay a subscription in accordance with Rule 14 and details of the first year's subscription;

(b) outline the circumstances and manner in which a member may resign from the organisation in accordance with Rule 9; and

(c) advise applicants for membership of the requirements of Rule 10.

3. The applicant shall nominate in the application -

(a) The Group of which the applicant seeks membership in accordance with Rule 7(1)

(b) A representative pursuant to Rule 11; and

(c) The number of employees on the applicant's payroll and such other information as the Council may require.

4. Every application for membership, subject to Clause 24(7), shall be accepted by the Council if the Council determines by majority vote of its members present that:

(a) the applicant for membership is eligible to become a member of the Association;

(b) if the applicant is a natural person, the applicant is not of generally bad character; and

(c) if the applicant is a body corporate its constituent documents do not make provisions inconsistent with the purposes for which the organisation was formed.

When considering any application for membership, the Council may require the applicant to provide further particulars in support of the application before it determines whether to accept or reject the application in accordance with this Rule.

(5) If the applicant is accepted as a member, written notice shall be forwarded to the applicant advising of the fact of acceptance, the date of acceptance, and giving notice that on payment by the applicant of any amount properly payable in relation to membership the applicant shall thereupon become a member and be entitled to the rights, obligations and privileges attaching to membership of the Association.

(6) If an applicant is not accepted as a member, written notice shall be forwarded to the applicant advising of the fact of rejection and the reasons for that rejection and shall inform the applicant that oral or written submissions may be put to the Council in relation to the application. After considering such submissions, if any, as may be advanced by the applicant, the Council may by majority vote confirm or vary its decision made pursuant to Rule 7(3).

(7) No error, omission or want of form in or in connection with:

(a) any application for membership; or

(b) acceptance of any such application,

shall invalidate membership.

## 8 - REGISTER OF MEMBERS

(1) A register of members shall be kept, which shall show (inter alia) -

(a) The name of each member and the representative thereof;

(b) The postal and residential address of each member;

(c) The financial status of each member;

(d) The number of employees of each member on admission to membership;

(e) The date of election by the Council of each member to membership; and

(f) Such other details as may be required by the Council, the Act and the Regulations from time to time.

(2) The register shall be available for inspection by members of the Association during all such times as the Association is open for business.

## 9 - TERMINATION OF MEMBERSHIP

(1) Membership may be terminated by a member giving written notice of resignation addressed and delivered to the Chairperson at the Registered Office of the Association.

(2) A notice of resignation takes effect:

(a) where the member ceases to be eligible to become a member of the Association:

(i) on the day on which the notice is received by the Association; or

(ii) on the day specified in the notice, not being earlier than the day on which the member ceases to be eligible to become a member,

whichever is the later; and

(b) in any other case:

(i) at the end of two (2) weeks after the notice is received by the Association; or

(ii) on the day specified in the notice, whichever is the later

(3) A notice of resignation shall be taken to have been received under this Rule when it is delivered to the Chairperson.

(4) Termination may also be effected by:

(a) The member being given not less than fourteen (14) days notice in writing that the question of continuity of membership is to be referred to and considered by the Council at the next Council meeting. Such notice shall specify one or more of the grounds set out in Sub-rule 9(4) (b) as the reason for the reference to the Council and shall inform the member that oral or written submissions may be put to the Council in relation to the reference. After considering such submissions, if any, as may be advanced by the member, the Council may resolve by a majority vote of its members present to terminate the member's membership. Any such termination shall take effect from the date of the Council's decision.

(b) The grounds for termination by the Council shall be that the member:

(i) has ceased to be eligible to be a member; or

(ii) has been in arrears of any monies due to the Association for over six (6) months; or

(iii) has become bankrupt or insolvent or has entered into a scheme of arrangement for payment of creditors or in the case of a company, has gone into liquidation; or

(iv) has been convicted in a court of law of fraud or other serious crime; or

(v) has become of unsound mind; or

(vi) wilfully refuses or neglects to comply with these Rules.

(5) Upon resignation or termination of membership by the Council taking effect under this Rule, the member's name shall be removed from the register.

(6) Subject to the Act and the Regulations, any dues, subscriptions, levies or other sums payable but not paid by a former member in relation to a period before the member's resignation or termination of membership by the Council takes effect under this Rule may be sued for and recovered in a court of competent jurisdiction as a debt due to the Association.

(7) Any person who ceases to be a member under this Rule shall forthwith cease to have the benefit of any privileges devolving from membership and shall cease to have any claim or interest of any nature to or in the funds or assets of the Association or against any Council member or any office-bearer.

## 10 - ASSIGNMENT ETC OF BUSINESS

A member is required to notify the Chairperson of the Association within fourteen (14) days if:

(a) the business or part of the business of the member is assigned or transferred to a person who is not a member of the Association; or

(b) such a non-member succeeds to the business or part of the business of the member.

## 11 - MEMBER'S REPRESENTATIVE

(1) Every member shall ensure that the Association has, at all times, written notice of the person qualified as set out hereunder who is to be the member's representative from time to time for all purposes of the Association. In this regard every member shall be entitled to nominate more than one person to be a members’ representative provided that in any election or meeting of the Association the member shall only be entitled to one vote.

(2) The nomination of a representative shall be delivered to the Chairperson at the Registered Office of the Association at least four (4) hours before the representative nominated herein shall be entitled to exercise any of the privileges of membership.

(3) For the purposes of this Rule every nomination, which expression includes alteration or revocation, shall be in writing under the signature or seal of the member.

(4) A person cannot act or continue to act as a representative of a member unless that person is a member of the Association or a director or an employee of a member or is a person approved by the Council. Such approval may be withdrawn on the grounds referred to in Sub-rule 9(4) (b) (iii) to (vi) inclusive, which shall apply, mutatis mutandis, to representatives.

## 12 - PROXIES

(1) A member of the Association may elect to execute a proxy for any meeting of the Association (excluding Council meetings), provided the instrument of proxy is in the following form or a form to substantially similar effect -

 To the Chairperson of the meeting

 **Australian Public Transport Industrial Association**

 **Proxy Vote**

I, ................................(name of member) hereby authorise and

empower.............................................of, being a member of the ................................. , or

a representative of a member, or

The Chairperson, or

The Deputy Chairperson, or

The Chairperson of the Meeting of the Association to vote for.............................................

(name of member) at the meeting to be held at (time, date and place of meeting) and

any adjournment thereof –

Signed...........................................................................

Witness.........................................................................

Date

(2) A vote will not be recorded in respect of a proxy unless the proxy has been delivered to the Chairperson at the Registered Office of the Association not less than 24 hours, prior to the meeting.

(3) The Council shall have power from time to time to fix or vary the form of the instrument of proxy.

## 13 - ENTRANCE FEES

The Council shall not impose entrance fees upon members.

## 14 - SUBSCRIPTIONS

(1) The annual subscription for each member shall be determined by the Council from time to time.

(2) The annual subscription of each member of the Association shall be payable in advance on the first day of each financial year or such other time as is determined by the Council.

(3) Each member shall in each year at the time of payment of subscription is due or at such earlier time as decided by the Council provide details of the number of employees on the payroll and such other details as may be prescribed by the Council.

## 15 - LEVIES

(1) The Council shall not impose levies upon members except by the majority vote of the Council's members.

(2) There shall be a separate fund for levies imposed for political objects and from which all donations or other payments for political objects shall be made.

(a) Any contributions to such fund shall be voluntary. A member who does not contribute to such fund shall not be excluded from any benefits of the Association or placed at any disadvantages by reason of failure or refusal to so contribute.

(b) Any contribution to each levy so raised must be voluntary and such consent to each levy so raised shall be evidenced in writing.

(c) Donations or other payments from such fund shall be applied only to the purpose for which they were raised, unless the members making the contributions agree to some other application.

(d) The Council must approve the imposing of each such levy and the making of each such donation or payment and must satisfy itself that the imposing of each such levy and the making of each such donation or other payment out of the amounts levied is in accordance with the rules of the organisation.

## 16 - SEAL

(1) The Chairperson shall ensure the safe custody of the seal.

(2) The seal shall be used only by the authority of the Council.

(3) Every document to which the seal is affixed shall be signed by an office-bearer or a Council member or a person duly authorised by the Council and be countersigned by another office-bearer or Council member or person duly authorised by the Council.

## 17 - INDEMNITY

Every office-bearer and Council member shall be indemnified out of the funds of the Association against any costs, losses, disbursements, expenses or other outgoings which such person or persons aforesaid may incur or become liable to incur as a result of any act or omission performed by them in their capacity and in the proper discharge of their duties.

## 18 - ACCOUNTS

(1) The funds of the Association and its income and property shall be under the control of the Council which shall have the sole management thereof.

(2) The Council shall cause proper books of account to be kept recording a true account of the financial transactions of the Association and of all receipts and expenditure and the assets and liabilities of the Association. Such books of account shall be kept at the Registered Office of the Association.

(3) The accounts of the Association shall be closed annually as at the thirtieth day of June.

(4) Payments shall be authorised by the Council and cheques shall be signed by any person who is approved by the Council.

## 19 - AUDITS

(1) One or more properly qualified auditor or auditors shall be appointed by the Association at the annual general meeting and shall be eligible for re-appointment, provided that no auditor shall be appointed who is not a competent person as defined under the Act.

(2) The auditor or auditors shall have the powers conferred under the Act and the Regulations.

(3) The auditor or auditors shall audit the annual accounts of the Association prior to their being submitted to the annual general meeting and if correct the auditor or auditors shall certify accordingly.

(4) The auditor or auditors shall hold office from the time of appointment until the next annual general meeting except in the case of death or retirement and any casual vacancy may be filled by resolution of the Council.

Once appointed, an auditor may be removed from office by the Council:

(a) where the auditor's work is found by the Council not to be of the Council's required professional standard; or

(b) where the Council determines the cost of the auditors is excessive for the work being performed.

(5) A copy of the certified accounts and any other prescribed records shall be lodged with Fair Work Australia in accordance with the Act.

## 20 - INVESTMENTS

(1) The Council shall have power to invest any money from time to time in the name of the Association -

(a) in any investment authorised from time to time by law as being a trustee investment;

(b) in any of the stocks or securities of the Commonwealth or any of the States or of any municipal corporation, statutory authority, public undertaking or government instrumentality in the Commonwealth or in any State or States thereof;

(c) on the security of real property in any part of the Commonwealth.

(d) in the bonds, debentures, stock or shares of any company listed for quotation on the Stock Exchange of any of the capital cities of the Commonwealth; or

(e) in such other manner as may be authorised by the Council of the Association.

(2) The Council shall not incur any responsibility by virtue of any such investments except in the case of wilful default or dishonesty.

## 21 - MANAGEMENT OF AFFAIRS

The governance of the Association rests in the members in general meeting. Subject thereto, and to these Rules, the management of its affairs shall be vested in the Council or the Office-Bearers.

## 22 - OFFICE BEARERS

(1) The Office-Bearers of the Association shall be -

(a) the Chairperson; and

(b) the Deputy Chairperson

(2) All Office-Bearers, except for the inaugural Council shall be elected by secret postal ballot by and from the members of the Council in the manner provided by these Rules. These persons elected, subject to earlier termination or removal, shall remain members of and be responsible to the Council and shall hold office for a term of four (4) year, and at the expiration of their term shall be entitled to stand for re-election if they are otherwise eligible under these Rules.

(3) Subject to Rule 24(7), within seven (7) days after declaring the result of the elections for the Council under Rule 33, the returning officer shall call for written nominations for office-bearer positions. Nominations may be made by a member of Council and shall require the consent of the nominee. The closing date for nominations shall, so far as is reasonably practicable, be at least three (3) weeks after nominations are called, or such other period prescribed from time to time by the Act or the Regulations. Any election required will be conducted under the directions of the returning officer in accordance, mutatis mutandis, with the procedures specified in Rule 33(7), as soon as practicable following the election of the Council.

In the event that the number of candidates for each office-bearer position does not exceed the number of vacancies, following the declaration of the returning officer the candidates shall assume office at the first Council meeting following the election of the Council.

(4) Subject to an exemption being granted by Fair Work Australia at the first meeting of the Council after the election of the Council, nominations shall be made by a member(s) for office bearer's positions. Such nominations shall require the consent of the nominee.

Any election required shall be conducted by the members of the Council in accordance with Rule 33.

In the event that the number of candidates for each office bearer position does not exceed the number of vacancies, the candidates shall assume office.

(5) The Chairperson in all official activities of the Association shall take precedence over all other members.

(6) The Chairperson shall take the chair when present at any meeting of the Association or the Council and have a casting vote in addition to a deliberative vote in all cases of equality in the vote or ballot on any question. The Chairperson shall be ex-officio a member of all committees.

(7) In the absence of the Chairperson from any meeting of the Association or the Council, the Chair shall be taken by the Deputy Chairperson, or in the latter's absence or other unavailability to do so, or in their absence, such person as the meeting elects.

(8) The Council, by and from its own members, may fill casual vacancies caused by death, resignation or otherwise among the office-bearers. Provided however that if the unexpired term of office of such office-bearer is more than eighteen (18) months in duration the casual vacancy shall be filled by a secret postal ballot of the members conducted in accordance with Rule 31. The person elected to fill a casual vacancy in such an election shall hold office for the unexpired period of the casual vacancy and shall be eligible for election as an office bearer at the next election.

## 23 - QUALIFICATION OF OFFICE BEARERS AND COUNCIL MEMBERS

(1) A person shall only be eligible for election as an Office-Bearer or Council member if that person:

(a) is a member or representative of a member having voting rights at a general meeting; and

(b) is domiciled in Australia.

(2) No person may hold more than one office as an Office-Bearer.

(3) In the event of a candidate being elected to more than one office, that candidate shall be deemed to have been elected to the more senior office which shall be determined by the following order - namely Chairperson and Deputy Chairperson, and the less senior office shall be filled by the candidate who would have been elected if the election for such office had been conducted disregarding the nomination of the first abovementioned candidate. If there be no candidate who would have been so elected then a further election shall be held for that office.

## 24 - THE COUNCIL

(1) The Council shall be the committee of management of the Association as defined within the Act.

(2) The Council shall consist of fourteen (14) financial Council members, and all of whom must be elected as provided by these Rules.

(3) The Council, which shall consist of fourteen (14) shall comprise up to ten (10) persons elected by the financial members of the Association Group members in the following mix:

(i) Two nominees from New South Wales

(ii) Two nominees from Victoria

(iii) Two nominees from Queensland

(iv) One nominee from South Australia

(v) One Nominee from Western Australia

(vi) One Nominee from the Northern Territory

(vii) One Nominee from Tasmania

Once the Association members provide their nominations for Council, as they have already been preselected by the financial members of the relevant financial Association Group member, nominees shall be deemed elected in accordance with the Rules of the Association.

(4) The Council shall also comprise at least two (2) persons elected from the financial members of the Urban Transport Group and at least two (2) persons elected from the financial members of the Public Transport Group.

(5) Subject to Rule 24(7) the Council members shall be elected every four (4) years by secret postal ballot by and from the members of the Association and, subject to these Rules and to earlier termination or removal, shall hold office for a term of four (4) years and at the expiration of their term shall be entitled to stand for re-election if they are otherwise eligible under these Rules.

(6) The Council shall have the power at anytime to appoint any member or member's representative to fill any casual vacancy caused by death, resignation or otherwise of a Council member. Provided however that if the unexpired term of office of such Council member is more than twelve (12) months in duration the casual vacancy shall be filled by a secret postal ballot of the members conducted in accordance with Rule 31. The person elected to fill a casual vacancy in such an election shall hold office for the unexpired period of the casual vacancy and shall be eligible for election to the Council at the next election.

(7) The inaugural Members and Council members shall be those persons who have been nominated prior to the inaugural General Meeting of the Association and who have been elected by Ballot (the form of the ballot as determined by the meeting) at the first General Meeting. The inaugural Office Bearers shall be those persons who have been nominated at the first Council meeting and who have been elected by Ballot (the form of the ballot as determined by the meeting) at the first Council Meeting. The inaugural Office Bearers and Council members shall hold office until the first election of the Council and Office Bearers in accordance with these Rules, which shall be held on or before 1st July 2014.

## 25 - DUTIES AND POWERS OF OFFICE BEARERS

The duties and powers of the office-bearers shall be -

(1) As specified by these Rules.

(2) To exercise such authority as is delegated to them by the Council.

(3) To attend and vote at meetings of the Council.

## 26 - POWERS OF THE COUNCIL

The Council may exercise all such powers of the Association as are not by these Rules required to be exercised by the members in general meeting and, without limiting the generality of the foregoing, shall be responsible for overall policy co-ordination and direction of the Association's activities, including management and allocation of its funds and resources and for the making of by-laws under these Rules. In addition the Council shall have the following specific powers together with such others as are conferred elsewhere in or under these Rules -

(1) To employ or engage persons, including the appointment of a General Manager, to represent or act on behalf of the Association and/or perform any functions or duties as are from time to time determined by the Council to be necessary and/or appropriate to ensure the proper and effective operation of the Association and to further the purposes of the Association.

(2) To adopt such measures from time to time as to it appear proper and expedient for the purpose of giving effect to the purposes or any of them of the Association.

(3) To create State Branches and to determine the number and make-up of Branches which provides best coverage and to formulate Rules, subject the Act for the control and governance of the Branches.

(4) Subject to these Rules, to have the sole management of the income, funds, assets and property of the Association together with the management of and right to supervise all activities in which the Association is concerned to the extent of its interest.

(5) To consider and where necessary authorise expenditure and the payment of accounts and other debts lawfully and properly incurred by the Association.

(6) To make and give receipts, releases and discharges for monies payable to the Association.

(7) To compromise and settle claims and demands made upon the Association or any group or section of the Association.

(8) To draw, accept, make, endorse, negotiate and otherwise deal with cheques and negotiable instruments and to give such indemnities and guarantees and enter into such other obligations as to it may appear proper for carrying out any purpose of the Association.

(9) Subject to the provisions of the Acts and the Regulations, to merge or affiliate the Association with any other organisation, association or body whether registered or otherwise or whether incorporated or otherwise having objects similar or substantially similar to the purposes of the Association and on such terms and conditions as to it appear proper. Provided that, if as a result of any proposal to so merge or affiliate or to amalgamate, fuse or ally with another organisation, association or body, it is intended or likely that the assets of the Association will be transferred to, joined, combined or merged with the assets of the body with which it is proposed to merge, affiliate, amalgamate, fuse or ally, the merger, affiliation, amalgamation, fusion or alliance shall not take effect unless detailed proposals therefore, including the manner in which it is intended or likely that the assets of the Association will be dealt with, are approved by the members of the Association in a secret postal ballot in which at least 50 percent of those members cast a vote and at least 75% of those members vote in favour.

Provided further that any alteration or amendment to or affecting this Sub-rule shall, notwithstanding other provisions of these Rules, not take effect unless those proposed alterations or amendments are approved by 75% of the members of the Council.

(10) To make, alter, vary or rescind such by-laws as may be required for the purpose of carrying out these Rules and for regulating the conduct and proceedings of all or any meetings of the Council or any other meeting held in accordance with these Rules.

(11) To delegate any of its specific powers or specific functions (save and except those reserved to it by statute or operation of law) to the General Manager, an Office-Bearer or the Office-Bearers or to any Committee of the Council and to determine the make- up of such Committee.

(12) To refer any industrial claims or demands by or against the Association or any member or members or other employer or employers to conciliation and arbitration.

(13) To give assistance to any member or group or section of members or members or other employer or employers charged with any breach of law, regulation or award involving the determination of a question of principle or which may have the consequence of altering existing custom and practice in the industry concerned.

(14) To seek, receive, deliberate and decide on reports, recommendations, submissions and papers from members of the Association.

(15) To establish, constitute, vary or dissolve committees of specialised function, subject always to the control of the Council.

(16) To do all such other things as may appear to be incidental or conducive to the attainment or the achievement of the purposes of the Association or the effective implementation or exercise of its powers and functions under these Rules.

## 27 - LOANS, GRANTS AND DONATIONS

Rule 26 shall be read subject to the proviso that, notwithstanding anything herein to the contrary, no loan, grant or donation (but not including the provision for, or reimbursement of, out of pocket expenses incurred by persons for the benefit of the Association) shall be made by the Association unless the Council -

(a) has satisfied itself -

(i) that the making of the loan, grant or donation would be in accordance with these Rules; and

(ii) in relation to a loan - that, in the circumstances, the security proposed to be given for the repayment of the loan is adequate and the proposed arrangements for the repayment of the loan are satisfactory; and

has approved the making of the loan, grant or donation, and

within the 90 days of the end of each financial year, lodged with the FWA a statement containing relevant particulars in relation to each loan, grant or donation of an amount exceeding $1,000.00 made by the organisation during the financial year.

## 28 - PROCEEDINGS OF THE COUNCIL

(1) Unless otherwise resolved or matters of urgency otherwise require it, the Council shall meet each calendar year on dates determined by the Council. The Chairperson may, if of the opinion that it is advisable to do so, alter the date of Council meetings after the date of such meetings has been determined by the Council.

(2) The Council shall have power to discuss and decide all questions brought before it on business of the Association, excepting those which, according to these Rules, can only be decided at a general or special meeting of the members of the Association.

(3) Between meetings of the Council any urgent and emergency business of the Association shall be conducted by the office-bearers who shall meet whenever convened by the Chairperson or in his absence or unavailability by the Deputy Chairperson, for that purpose. At the next Council meeting, the Council shall receive a full report from the office-bearers on any business conducted by them under this Sub-rule.

(4) Decisions of the Council shall be made by a majority of Council members who are present. A majority of the Council shall be at least fifty percent of those Council members who are present and where an equality of votes arises, the Chairperson shall be entitled to a casting vote.

##  29 - ACTS OF THE COUNCIL, ETC.

Subject to the Act and the Regulations, all acts done by any meeting of the Council, the office-bearers, or any committee shall, notwithstanding that it be afterwards discovered that there was some irregularity in the election or appointment of any member of the Council or such committee or that such person was disqualified, be as valid as if such person had been duly elected or appointed to be a member of the Council or of such Committee and was qualified.

## 30 - VACATION OF OFFICE AND ELIGIBILITY TO HOLD OFFICE

(1) No person shall be eligible to hold or maintain the position of office-bearer or Council member who:

(a) becomes bankrupt or insolvent or makes any assignment for the benefit of creditors or compromises with creditors.

(b) is a representative of a firm which, or any partner in which, becomes bankrupt or insolvent or makes an assignment for the benefit of its creditors, or is a representative of a corporation, which is in the course of liquidation, otherwise than for the purpose of reconstruction; or

(c) ceases to be a member of the Association the representative of a member of the Association.

(2) The Council, by resolution of a majority of its members present, may remove from office with immediate effect any office-bearer or any Council member who has ceased, according to these Rules, to be eligible to hold office.

(3) If the Council is of the opinion that any Office- Bearer or Council member falls within the provisions of this Sub-rule, the Council may discharge such person from his duties with immediate effect and call an extraordinary general meeting of members.

(4) A person may resign from any office in the Association by giving notice in writing to the Chairperson.

(5) A Council member or an office-bearer may be removed from office by an extraordinary general meeting of members if the Council member or office-bearer is found guilty of misappropriation of the funds of the Association, a substantial breach of the Rules of the Association or gross misbehaviour or gross neglect of duty. Such extraordinary general meeting will be called on receipt of a petition, praying the removal of the Office-Bearer or Council member on one or more of the above grounds, signed by not less than 15 members of the Association with voting rights at an annual meeting. All members will be given not less than 28 days' notice of the meeting and the petition by letter delivered or posted in a pre-paid envelope to their registered or last known address. All notices shall be deemed to have been received at the expiration of 24 hours after posting. The accidental omission to give notice to any member shall not invalidate the proceedings of any meeting.

A person charged with an offence pursuant to this Rule shall be given not less-than 28 days' notice in writing by registered mail to the Council member's last known residential address of the time, date and place of the extraordinary general meeting at which the charge or charges will be heard and shall also be given adequate particulars of the charge or charges laid against that person. Provided further that the person concerned shall be given an opportunity to show cause why that person should not be removed from office. The extraordinary general meeting may proceed to hear and determine a matter under this Sub-rule notwithstanding the absence of the person charged if due notice of the hearing has been given in accordance with this Sub-rule. In the event of a resolution in favour of the petition being passed at such meeting by not less than 75% of the members present in person or by proxy, the Council member or Office-Bearer shall immediately cease to hold office and the vacancy may thereafter be filled in accordance with these Rules.

## 31 - ELECTION PROCEDURES

(1) Appointment of returning officer and scrutineers

Subject to the Act and the Regulations and subject to an exemption concerning the Returning Officer having been granted by the General Manager under the Act, as soon as practicable after the last ordinary meeting of the Council each year, a person shall be appointed by the Council to be the Returning Officer (who shall not be an office holder or employee of the Association) for the conduct of such elections as may be held throughout the ensuing year by the Association. At the same meeting, the persons appointed from time to time by the Council as the scrutineers shall be scrutineers for the conduct of those elections.

Subject to the Act and the Regulations, candidates at such elections may also nominate scrutineers to represent them in a ballot.

(2) Conduct and duties of returning officer

The conduct and duties of the returning officer shall, subject to the Acts and the Regulations, be as follows:

(a) To take such action and give such directions as are reasonably necessary to ensure that no irregularity occurs in or in connection with an election or in order to remedy any procedural defects. No person shall refuse or fail to comply with any such directions or obstruct or hinder a returning officer or any other person in the conduct of such an election.

(b) The decision of a returning officer on any matter in connection with the conduct of an election concerning the validity or formality of any nomination or vote or any other matter concerning such an election and the conduct thereof shall be final.

(c) Subject to the Act and the Regulations, if an informality should occur in the conduct of an election and in the opinion of the returning officer such informality will affect the result of the election then such election and all steps taken in connection therewith shall be null and void and a further election under these Rules shall be held forthwith. Any person holding office immediately prior to an election which is so nullified will continue in office until a successor is elected.

(d) In all elections if the returning officer finds that a nomination is defective, before rejecting the nomination the returning officer shall notify the person concerned of the defect and, where it is practicable to do so, give that person the opportunity of remedying the defect before the time and date fixed for close of nominations.

(3) Conduct and duties of scrutineers

The conduct and duties of scrutineers shall be:

(a) A scrutineer shall be entitled to be present throughout a ballot and may query the inclusion or exclusion of any vote in the count but the returning officer shall have final determination of any votes so queried.

(b) A scrutineer shall not be entitled to remove, mark, alter or deface any ballot paper or other document used in connection with the election.

(c) A scrutineer shall not interfere with or attempt to influence any member at the time such member is casting a vote.

 In every case the scrutineer shall observe any direction given by the returning officer and the returning officer shall take all-reasonable steps by notification or otherwise to enable scrutineers to exercise their rights but no election shall be vitiated by reason of the fact that a scrutineer does not, in fact, exercise any or all of such rights having had reasonable opportunity so to do.

## 32 - TERM OF OFFICE

Notwithstanding the provisions of any other Rule, Office-bearers shall hold office in accordance with these Rules for four (4) year and Council members shall hold office in accordance with these rules for four (4) years or until their successor has been duly elected and assumes office in accordance with these Rules.

## 33 - ELECTION OF COUNCIL MEMBERS

The election of Council members, subject to Rule 24(7), shall be conducted by a secret postal ballot in accordance with the following procedures -

(1) The returning officer shall deliver by hand or forward by post to each member of the Association an election notice and nomination form calling for nominations for the offices of Council members and setting out such other information as is required from time to time by the Act and the Regulations. The closing date of nominations shall be, as far as is reasonably practicable, at least 3 weeks from the date of such delivery or posting.

(2) The notification shall also state

(a) that nominations will not be received after the closing date specified therein;

(b) that a nomination will not be valid unless a signed consent of the nominee is received before the closing date; and

(c) that a person nominated may appoint a scrutineer, being a member of the Association, as that nominee's representative.

(3) All nominations shall be in writing, shall be signed by the nominator, shall be assented to in writing signed by the nominee and shall contain the information required by the Act and the Regulations.

(4) Nominations shall only be made by and from members and members' representatives. In this regard the roll of members and members’ representatives shall close 30 days prior to the date of the opening of nominations for election.

(5) The returning officer shall inspect the nominations and consents received and be satisfied, as far as is reasonably practicable, that each of them is in order.

(6) If no more than the number of nominations required to fill an office are received the returning officer shall declare the candidate or candidates to have been elected unopposed.

(7) If more than the required number of valid nominations are received, the returning officer shall prepare or cause to be prepared a sufficient number of ballot papers on which shall appear the position to be contested and names of the candidates for such offices, in accordance with the provisions of the Act and the Regulations, and a direction to the voter to place a tick or to otherwise indicate by way of numbers placed alongside the name of the candidate or candidates for whom the voter desires to vote and thereafter to fold the ballot paper so that the marking thereon is not visible until unfolded. One ballot paper may contain provisions for voting in more than one election.

(8) Each member of the Association shall have one vote only in respect of each office which is to be filled.

(9) Within 14 days after the closing date for nominations the returning officer shall forward by pre-paid post to each member of the Association (at the address for such member registered with the Association) a ballot paper or papers as the case may be, prepared in accordance with this Rule, together with an envelope marked 'Voting Paper' suitable to contain the ballot paper or papers and not otherwise disclosing any identification, and an envelope that may be posted without expense to the voter and which suitable to contain the foregoing addressed to the returning officer at an address arranged for the return of the ballot papers.

(10) If the returning officer is satisfied that any such ballot paper has been destroyed, lost, damaged or misused and in the case of a damaged or misused ballot paper on receipt thereof the returning officer shall supply to the person to whom the original ballot paper was supplied a substitute ballot paper initialled and marked 'Substitute Ballot Paper'.

(11) The returning officer shall advise all voters of the closing date for the receipt of returned ballot papers, substitute ballot papers being excluded. As far as is reasonably practicable, there is to be a period of at least 4 weeks between the closing date for the receipt of nominations and the closing date for the receipt of returned ballot papers.

(12) The returning officer will arrange for the use of a post office box or other suitable post office receptacle to which completed ballot papers may be returned and will arrange for the same not to be opened by any other person. After the closing date for the receipt of returned ballot papers, the returning officer shall collect the ballot papers from the box or receptacle and, after opening the same, shall mix the ballot papers so that separate identification becomes impossible.

(13) The returning officer shall count the votes indicated on the ballot papers which are properly marked.

(14) As between candidates who receive an equal number of votes the returning officer shall determine which candidate is elected by lot and thereupon shall declare such candidate to have been elected.

(15) After the completion of the election the returning officer shall declare the result of the ballot and the office-bearers and Council members so elected shall assume office at the next Council meeting following such declaration.

(16) The Council may invite former members of the Council who were not re-elected to participate, without vote, in the first Council meeting after the election of Council members.

## 34 - ANNUAL GENERAL MEETING

The annual general meeting of the Association shall be held at such time and place as the Council shall determine but it shall be held within six (6) months after the end of the financial year. At such meeting a report on the affairs of the Association during the preceding year shall be submitted by the Council together with a financial report and balance sheet duly audited covering the same period. The auditors for the ensuing year shall be appointed and any other business may be transacted which, in the opinion of the Chairperson, is expedient.

## 35 - SPECIAL MEETINGS

(1) A special general meeting of the Association shall be called at any time upon the authority of the Chairperson or on the written requisition of four members or on the resolution of the Council.

(2) A special meeting of the Council may be summoned by direction respectively of the Chairperson or Deputy Chairperson or on the written requisition of three members of the Council.

(3) Notice of any such meeting shall be given by the Chairperson in writing. The notice of such meeting shall state the time and place of the meeting and the general nature of the business to be brought forward.

## 36 - ALTERNATIVE DECISION MAKING METHODS

(1) Where, under these Rules, a meeting is required to be held of the Council or the Office-Bearers, other than a special general meeting called under Rule 35(2), by written requisition of members of the Council, or the Council, the Chairperson or the Deputy Chairperson as the case may be, may decide that the matters required or proposed to be dealt with at such a meeting, including the alteration of these Rules, shall nevertheless be dealt with by:

(a) a postal ballot of the members which may include the use of facsimile, or telex media; or

(b) a telephone or video conference or other electronic or like communications process which permits members jointly participating in that process to express their views, and as necessary vote on the business which is under consideration.

(2) Where, the alternative methods specified in Sub-rule (1) of dealing with the business in question are used, the provisions of these Rules as to:

(a) notice of meetings, including the period of notice, and of the business to be conducted; and

(b) the quorum and majority required; shall, mutatis mutandis, apply to those alternative methods.

(3) Any decision or resolution made in accordance with the provisions of this Rule shall be and shall be regarded as being a decision or resolution of the Council or office-bearers as the case may be.

(4) A record shall be kept of the proceedings or the correspondence involved in any of the alternative methods adopted under this Rule and shall be signed by the person who, under these Rules, would have been the Chairman had a meeting taken place. Such a record shall have the same status under these Rules as minutes under Rule 39.

## 37 - NOTICE OF MEETING

Seven (7) clear days' notice of every annual general or special general meeting of the Association or the Council shall be given in such newspapers as the Council may decide, or by letter delivered or posted in a pre-paid envelope to every member and office-bearer or Council member as the case may require respectively, at the registered or last known address thereof or notified in any regular publication of the Association which is circulated to all members. All notices shall be deemed to have been received at the expiration of 24 hours after posting. The accidental omission to give notice to any member shall not invalidate the proceedings of any meeting.

## 38 - QUORUM

Two Office-Bearers present at any meeting of the office-bearers, six members of the Council present in person at any meeting of the Council, and seventy five percent (75%) of the members present in person at an annual general or special general meeting of the Association, shall constitute a quorum but should no such quorum be present at the expiration of thirty minutes from the time for the commencement of the meeting it shall be competent for those members who are present thereat to adjourn the said meeting to some other date not more than seven (7) days thereafter. In the event of there being no quorum at such adjourned meeting the same shall lapse.

## 39 - MINUTES

The minutes of any meeting purporting to be signed by the Chairperson of such meeting or by the Chairperson of the next succeeding meeting shall be receivable as prima facie evidence of the matters stated in such minutes.

## 40 - VOTING

(1) Every question or resolution put to a general meeting of the membership shall be decided in the first instance by a show of hands of every member present or represented and entitled to vote, in which case the votes shall be counted in the following way:

(i) Members of the Association Group will be entitled to one vote and one further vote for each of their members who employs more than 50 persons, and

(ii) Members of the Urban Transport Group and the Public Transport Group shall be entitled to one vote for each member.

(2) The Chairperson shall, in the case of an equality of votes, both on a show of hands and a ballot, have a casting vote in addition to a deliberative vote.

(3) At any meeting, general meeting or special general meeting unless a ballot is demanded by at least four (4) members present in person, or by proxy, entitled to vote, a declaration by the Chairperson that a resolution has been carried by a majority or lost or not carried by a majority and an entry to that effect in the Minute Book of the Association shall be conclusive of the fact.

(4) If a ballot is demanded as aforesaid, it shall be taken at such time and place as the meeting shall declare, and either at once or after an interval or adjournment or otherwise. The result of the ballot shall be deemed to be the resolution of the meeting at which the ballot was demanded. The demand for a ballot may be withdrawn.

(5) Every financial member of the Association has a right to vote whenever a vote of the Association's members is to be taken for the purpose of submitting a matter to a vote at any ballot of the Association or of any section or group in which the member is included.

## 41 - INDUSTRIAL AGREEMENTS, ETC

Industrial agreements or similar instruments may be executed by and on behalf of the Association in accordance with a resolution or delegation of the Council.

## 42 - INDUSTRIAL DISPUTES AND OTHER MATTERS

(1) The Council may deal with any industrial dispute or disputes or matter or matters which affect or are likely to affect a member or members of the Association or such other employer(s) as the Council may determine from time to time, and to this end may delegate its powers in this respect to a Committee or to another person.

(2) The Council may, if it thinks fit, act conjointly with any employer group or body or any organisation of employers.

(3) Any member desirous of obtaining the assistance of the Association shall, before becoming involved in any industrial dispute, notify the Association but the Council shall be competent to deal with any dispute in regard to which it may be satisfied that it was not practicable for the members involved to previously so notify.

## 43 - DISSOLUTION

(1) For the purpose of dissolving the Association the affirmative vote of not less than seventy-five per cent of such members as attend and vote personally or who vote by proxy at a special general meeting called for that purpose by the Council on not less than 21 days notice to the members shall first be required. At such meeting if such an affirmative vote for dissolution is recorded in accordance with this Rule the meeting will then adopt proposals providing for distribution of the assets and funds of the Association.

(2) Before such dissolution shall take effect, the motion put at that meeting and the proposals adopted for the distribution of the assets and such motion and proposals shall require the affirmative vote of seventy-five percent of the members of the Association by way of a secret postal ballot.

(3) Upon such dissolution, providing that any and all assets remaining after full settlement of all just debts incurred by the Association shall be distributed to the members of the Association.

## 44 - BY-LAWS

In order to give effect to these Rules, the Council shall have power to prescribe by-laws not inconsistent with these Rules and to vary or revoke those by-laws from time to time.

## 45 - ALTERATION TO RULES

Subject to the Act and the Regulations, these Rules may be altered, deleted or added to at any special general meeting called for that purpose by the Council on not less than 21 days notice to the members and provided that no Rule shall be altered, deleted or added to except by a resolution carried by not less than a three-quarter (3/4th) majority of the members of the Association who attend and vote.

## 46 - CUSTODY OF BOOKS, DOCUMENTS AND SECURITIES

The Chairperson shall ensure the safe custody of books, documents and securities of the Association.

## 47 - INSPECTION OF BOOKS AND DOCUMENTS

Subject to the Act and the Regulations, the Council may in its absolute discretion determine from time to time at what times and places and under what conditions books and documents of the Association shall be open to inspection by members. This rule does not apply to the register of members that may be inspected pursuant to sub-rule 8(2).

## 48 - ORGANISATIONAL POLICIES AND PROCEDURES

The Organisation through its Council Members shall develop and implement policies and procedures relating to expenditure in addition to those already identified in the Rules of the Association.

## 49 - DISCLOSURE OF OFFICER’S RELEVANT REMUNERATION AND NON-CASH BENEFITS

A. Each officer of the organisation shall disclose to the organisation any remuneration paid to the officer:

(a) because the officer is a member of the board, if:

(i) the officer is a member of the board only because the officer is an officer of the organisation; or

(ii) the officer was nominated for the position as a member of the board by the organisation, a branch of the organisation, or a peak council; or

(b) by any related party of the organisation in connection with the performance of the officers’ duties as an officer.

B. The disclosure required by sub-rule (A) shall be made to the organisation:

(a) as soon as practicable after the remuneration is paid to the officer; and

(b) in writing.

C. The organisation shall disclose to the members of the organisation and its branches:

(a) the identity of the officers who are the five highest paid in terms of relevant remuneration for the disclosure period, and

(b) for those officers:

(i) the actual amount of the officers’ relevant remuneration for the disclosure period; and

(ii) either the value of the officer’s relevant non-cash benefits or the form of the officers’ relevant non-cash benefits, for the disclosure period.

D. For the purposes of sub-rule (C), the disclosure shall be made:

(a) in relation to each financial year;

(b) within six months after the end of the financial year; and

(c) in writing.

## 50 - DISCLOSURE OF OFFICER’S MATERIAL PERSONAL INTERESTS

A. Each officer of the organisation shall disclose to the organisation any material personal interest in a matter that:

(a) the officer has or acquires; or

(b) a relative of the officer has or acquires;

that relates to the affairs of the organisation.

B. The disclosure required by sub-rule (A) shall be made to the organisation:

(a) as soon as practicable after the interest is acquired; and

(b) in writing.

C. The organisation shall disclose to the members of the organisation and its branches any interests disclosed to the organisation pursuant to sub-rule (A).

D. For the purposes of sub-rule (C), the disclosures shall be made:

(a) in relation to each financial year;

(b) within six months after the end of the financial year; and

(c) in writing.

## 51 - DISCLOSURE BY ORGANISATION OF PAYMENTS

A. The organisation shall disclose to the members of the organisation and its branches either:

(a) each payment made by the organisation, during the disclosure period:

(i) to a related party of the organisation or of a branch of the organisation; or

(ii) to a declared person or body of the organisation or a branch of the organisation; or

(b) the total of the payments made by the organisation, during the disclosure period:

(i) to each related party of the organisation; or

(ii) to each declared person or body or the organisation; or

B. Sub-rule (A) does not apply to a payment made to a related party if the payment consists of amounts deducted by the organisation from remuneration payable to officers or employees of the organisation.

C. For the purposes of sub-rule (A), the disclosures shall be made:

(a) in relation to each financial year;

(b) within six months after the end of the financial year; and

(c) in writing.

## 52 - TRAINING

A. Each Officer of the organisation, who has duties relating to the financial management of the organisation shall regularly undertake training approved from time to time by the General Manager which pertains to the financial duties of each office of the organisation.

B. The training referred to in sub-rule A shall take place within six months of the person assuming office or in the case of existing officers upon approval to this Rule within six months of the proclamation of the Fair Work (Registered Organisations) Amendment Act 2012.

\*\*\*END OF RULES\*\*\*