

**AUSTRALIAN FEDERATION OF DISABILITY
ORGANISATIONS (AFDO) LTD
CONSTITUTION
ACN 105 510 898**

**First Registered October 2002
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1 Name of company

The Australian Federation of Disability Organisations (AFDO) Limited (ACN 105 510 898) may also be called the AFDO. It is called the AFDO throughout this constitution.

2 Definitions and explanations

2.1 Disability

In this constitution, 'disability' has the meaning given in section 4(1) of the Commonwealth Disability Discrimination Act 1992, points (a) to (g). That part of the Act says:

"disability, in relation to a person, means:

- a) total or partial loss of the person's bodily or mental functions; or
- b) total or partial loss of a part of the body; or
- c) the presence in the body of organisms causing disease or illness; or
- d) the presence in the body of organisms capable of causing disease or illness; or
- e) the malfunction, malformation or disfigurement of a part of the person's body; or
- f) a disorder or malfunction that results in the person learning differently from a person without the disorder or malfunction; or
- g) a disorder, illness or disease that affects a person's thought processes, perception of reality, emotions or judgment or that results in disturbed behaviour."

2.2 General Meeting

A 'General Meeting' is a meeting of the AFDO at which all member organisations have a vote. There are two kinds:

- an 'Annual General Meeting' (see clause 11.1) must by law be held every year
- a 'Special General Meeting' (see clause 11.2) can be held when necessary to discuss issues that arise at other times.

2.3 Notice of a meeting

'Notice of a meeting' is written information about when a meeting is to be held, what kind of meeting it is to be and the matters to be discussed at the meeting.

Notice of an AFDO meeting is considered to have been given:

- three business days after the written information was posted, or
- if it was sent by fax or email, on the next business day.

2.4 Financial year

A 'financial year' is a period of twelve months chosen for official accounting purposes, which may be different from an ordinary calendar year. The financial year for the AFDO begins on July 1 and ends on the following 30 June.

2.5 Proxy

A 'proxy' is a person who is authorised to act on behalf of someone else.

2.6 Quorum

A 'quorum' at a meeting is the smallest number of people who can make valid decisions at a meeting. The quorum required at any particular type of AFDO meeting is explained in this constitution where the different types of meetings are discussed.

2.7 Resolution

A 'resolution' is a statement of a matter to be voted on. If the vote is 'yes', the resolution is passed and it becomes an official decision. If the vote is 'no', the resolution is rejected. Resolutions may either be 'ordinary' or 'special'.

An 'ordinary resolution' means a resolution that is passed by more than half of the votes cast by those persons present and entitled to vote.

A 'special resolution' means a resolution that is passed by at least 75% of the votes cast by those persons present and entitled to vote.

2.8 A By-law

A 'by-law' is a rule for AFDO which is made by the Board under clause 7.18 of this Constitution.

2.9 The Corporations Act

'The Corporations Act' means the Corporations Act 2001 (Cwlth) as amended from time to time.

3 Mission statement

The mission of the AFDO is to champion the rights of people with disability in Australia and help them participate fully in Australian life.

4 Purposes

The AFDO exists to:

- Represent people with disability in Australia, and
- Help people with disability participate in all parts of social, economic, political and cultural life.

To do this we:

- Lobby governments and other institutions on disability issues,
- Advise government, disability organisations and other organisations about their disability policies,
- Inform and educate the general community about disability,
- Support disability organisations and people with disability, and
- Research disability issues.

5 Limited liability and not for profit status

5.1 Limited Liability status

The AFDO is a company limited by guarantee. Each member agrees to contribute the amount described in clause 24 to the AFDO's assets if it is wound up.

5.2 Not for profit status

The AFDO is a non-profit organisation.

The property and income of the AFDO can only be used for the purposes described in clause 4, or for purposes that are incidental to those described in clause 4 (for example, the administration of the AFDO) and cannot be distributed as profits to members.

6 Membership

6.1 Qualifications for membership

AFDO has 2 categories of membership that apply to all applications for membership received after 7 July 2005.

In exceptional circumstances where an organisation does not meet either of the membership categories, the Board may put a special resolution to the members that the membership application be accepted.

6.1.1. National organisations (that is, their members can come from anywhere in Australia).

- Their members are either:
 - people with disability, or
 - both people with disability and organisations of people with disability
- More than half their members are people with disability,
- They are managed by people with disability,

- They are either ‘incorporated associations’ or ‘companies limited by guarantee’,
- They exist to promote the rights and wellbeing of people with disability,
- They do not have any purposes contrary to the purposes of the AFDO, and
- They have individual members in at least 4 states or territories and a minimum of 50 individual members in each of the four states and territories.

6.1.2 State-based, cross-disability organisations

State or territory based cross-disability organisations that are:

- Either ‘incorporated associations’ or ‘companies limited by guarantee’,
- Have more than half their members being people with disability,
- Managed by people with disability,
- Have at least 50 individual members who are people with disability, and
- Are not eligible to be members of a national organisation member of AFDO.

There may be more than one cross-disability organisation in each state and territory.

6.1.3 Associate members are organisations that:

- Agree with the philosophy of AFDO but which are not eligible to become full members of AFDO.

6.2 Membership rights

Subject to clause 6.5, National organisation members and State Cross-Disability organisation members have the right to:

- one vote at AFDO general meetings on each resolution, and
- to choose a representative to stand for election to the AFDO Board of Directors.

6.3 Application for membership

An organisation wanting to join AFDO must write to the AFDO Company Secretary. The Board will decide whether organisations applying to join AFDO should be accepted as members. The Board will make its decision at the next Board meeting after it receives the application (as long as the application was received at least 21 days before the meeting). The Board will write to the organisation to tell them its decision.

6.4 Payment of membership Fee

Each AFDO member must pay the annual membership fee. Fees are decided by the Board in accordance with clause 17.2.

6.5 Non-payment of membership fee

If a member fails to pay the membership fee in accordance with clause 6.4, that member's rights under clause 6.2 will be suspended until the membership fee is paid in full.

6.6 Termination of membership by member

If a member wishes to terminate its membership with the AFDO it may do so at any time by giving notice to the Company Secretary in writing. A member who terminates their membership will still be liable for any money due to the AFDO before termination.

6.7 Termination of membership by the AFDO

The Board may decide to terminate an organisation's membership if:

- the organisation refuses to comply with this constitution;
- the organisation's conduct is contrary to the purposes of the AFDO described in clause 4; or

- in the Board’s opinion, the organisation cannot or will not pay the membership fee.

If the Board is considering the termination of an organisation’s membership, it will let the member know in advance, and allow the member the opportunity to explain or defend their actions.

6.8 Independence of member organisations

Member organisations will form their own view and policies on particular issues whether or not they are the same as the official views and policies of the AFDO.

7 Board of Directors

7.1 Composition of Board

There will be up to 14 directors on the Board elected from the nominees of member organizations. Up to 13 of these positions will be persons nominated by National members. The remaining one position will be elected by State Members from among the persons nominated by them.

If there are less than 14 National Members all nominees of National Members will serve as directors.

7.2 Eligibility

All directors must be:

- people with disability, and
- members of nominating organisations.

Each member organisation can only have one director on the Board.

No one who has a paid job with the AFDO can be a director.

7.3 Election of Directors

At each Annual General Meeting, directors who have served a full term and replacement directors appointed during that year will resign and member

organisations will elect directors to fill the vacant positions by a postal ballot. Each member organisation can choose one person to stand for election.

7.4 Term of Office of Directors

The term of office of a director is two years. A director's term begins at the conclusion of the Annual General Meeting at which he or she is elected and ends at the conclusion of the second Annual General Meeting after his or her election.

7.5 Re-nomination

A director who resigns may be chosen to stand for election again by their organisation. Subject to sub-clause 7.6.3, no-one may be a director for more than two consecutive terms.

7.6 Replacement of Directors

7.6.1 Where a Director ceases to be a member of the Board before the end of their two year term, the Company Secretary will ask that director's organisation to choose a replacement director. The replacement director will resign at the next annual general meeting and is eligible to be re-nominated.

7.6.2 Where a member organisation wishes to replace their nominee, they can do so by writing to the Company Secretary. The replacement director will resign at the next annual general meeting and is eligible to be re-nominated.

7.6.3 A director who is appointed a replacement director under this sub-clause is able to be nominated for a further two consecutive two year terms.

7.7 Support for directors

All directors will receive whatever support they need from the AFDO to enable them to carry out their duties.

7.8 Sitting fees

The AFDO will pay sitting fees to directors (see clause 21).

7.9 Powers of the Board

The Board will manage the affairs of the AFDO as long as it keeps to the rules in this constitution and follows the Corporations Act and other laws.

7.10 Duties of directors

Each Director must:

- act in the best interests of the AFDO,
- use diligence, skill and care, and
- tell the Board about any conflict of interest in accordance with Sections 180-184 of the Corporations Act 2001 (see clause 7.17).

7.11 Frequency of Board meetings

The Board of Directors must meet in person at least once a year. They can hold other meetings, if necessary, including meetings by telephone link-up or whatever other method suits their purposes.

7.12 Quorum

The Board can make binding decisions only if more than half its members participate throughout the meeting.

A member will be counted as having participated throughout the meeting

- if the only reason they did not join in at some point was because of a conflict of interest (see clause 7.17), or
- if they did not vote because of a suspension of voting rights in accordance with this clause.

If a quorum is not present

- another meeting must be arranged at a time and place determined by the Board.
- If not enough directors have arrived at the second meeting 30 minutes after it is due to begin, the directors who are present can continue with the meeting and their decisions will be binding.

7.13 Attendance of Chief Executive Officer

The Chief Executive Officer of the AFDO (who will also be the company secretary) will attend Board meetings but is not a director and cannot vote.

7.14 Voting at meetings

Questions considered by the Board of Directors will be decided by a majority of the votes cast by those at the meeting who are entitled to vote and who choose to do so. Each director is entitled to one vote per resolution.

A director who has been nominated by a member that has had its membership rights suspended under clause 6.5 due to non-payment of membership fees is also suspended from voting until the organisation pays its membership fee in full.

Directors do not have to vote on a particular issue if they do not want to.

7.14.1 Method of voting

The Chairperson will decide what method will be used to vote on each question as it arises.

7.14.2 Tied vote

If a vote is tied, the Chairperson will cast another vote to decide the issue.

7.14.3 Dissenting views

If a director disagrees with a Board decision, that director's views, and the reasons for them, are to be recorded in the minutes and in any other document about the decision on the request of the director.

7.15 Voting on a resolution without holding a meeting

The Board can vote on a matter without holding a meeting. The Board may develop by-laws setting out the procedures to be followed for this purpose.

7.16 Removal of directors

A member organisation that wants to remove the director it has nominated should write to the Company Secretary to say that it has removed the director under its own procedures. The AFDO must then remove that director.

The only other way a director can be removed is the way described in the Corporations Act 2001.

7.17 Disclosure of conflict of interest

A director who:

- belongs to a group that is negotiating with the AFDO or doing work for the AFDO;
- has a financial interest in any business dealings with the AFDO, or
- has a material personal interest in a matter that relates to the affairs of the AFDO,

must write to the Company Secretary explaining the situation (called a 'conflict of interest') as soon as the director becomes aware of it.

The director must not vote on issues connected with the conflict of interest or be present while the matter is being considered at a meeting unless:

- the non-conflicted directors pass a resolution that identifies the conflicted director, the nature of the conflict and states that the non-conflicted directors are satisfied that the conflicted director should not be disqualified from voting or being present; or
- if an order or declaration from ASIC allows the conflicted director to be present.

7.18 By-laws

The Board may make by-laws for AFDO. By-laws may be made for matters for which they are required by this Constitution. The Board may also make any other by-laws it considers necessary to run the AFDO properly as long as they are in keeping with this constitution and with the law. The Board may change or repeal by-laws. Members must follow all by-laws until they are repealed either by the Board or by a resolution at a General Meeting.

8 The Executive

8.1 Members of the Executive

Immediately after each Annual General Meeting the Board of Directors will elect from among themselves:

- a chairperson,
- two deputy chairpersons, and
- a treasurer.

The Chairperson, Deputy Chairpersons and Treasurer, together with the Company Secretary will form the Executive of the AFDO.

8.2 Role of the Executive

The Executive shall support the CEO in the day-to-day management of the AFDO.

9 The Company Secretary

There must be at least one Company Secretary appointed by the Board of Directors. The Company Secretary's duties are those prescribed by the Corporations Act.

10 Committees

The Board of Directors can appoint committees to do work for the AFDO.

10.1 Membership

The Board can appoint any suitable person to serve on a committee, as long as:

- more than half the members of the committee are people with disability, and
- each committee is chaired by a director.

10.2 Duties

Committees must get the approval of the Executive before:

- representing the AFDO to the public, and
- using AFDO finances.

All committees must abide by the Corporations Act 2001, all other laws, this constitution and the by-laws of the AFDO.

10.3 Committee meetings

Committees should meet as often as required. The frequency of meetings is to be approved by the Board.

11 General meetings

11.1 Annual General Meeting

11.1.1 When it must be held

An Annual General Meeting must be held as soon as possible after the end of each financial year (30 June). The meeting must be held before 1 December.

11.1.2 Notice of Annual General Meetings

The Company Secretary must write to members about the meeting at least 21 days before it is to be held, telling them:

- that the meeting is the Annual General Meeting for that year,
- the time and place of the meeting,
- what is to be discussed or decided at the meeting,
- a copy of the minutes of the previous Annual General Meeting, and
- business to be transacted.

At the Annual General Meeting, members will:

- confirm that the minutes of the previous Annual General Meeting are accurate, or correct them if they are not,
- receive the Board's reports about the previous financial year including the audited financial statement,
- Announce the election of directors which has been undertaken via postal ballot, and
- consider any other matters that were listed in the notice of the meeting.

Members cannot do anything else at the Annual General Meeting.

11.2 Special General Meetings

11.2.1 When they may be held

The Board may call a Special General Meeting at any time to discuss particular issues.

The Board must call a Special General Meeting if any four (4) AFDO member organisations ask it to do so, or if it is required to call a Special General Meeting by law.

11.2.2 Notice to be given

The Company Secretary must write to members at least 21 days before the meeting is to be held telling them

- the time and place of the meeting, and
- what issues are to be raised at it.

11.2.3 Business to be transacted

Only the matters listed in the notice of the meeting can be considered at the meeting.

11.3 Quorum

An Annual General Meeting or a General Meeting can make valid decisions only if representatives of more than half the member organisations are present throughout the meeting. Validly appointed proxies (see clause 11.5), representatives of corporate members (see clause 11.4.2), members participating via a postal ballot (see clause 12) and members participating through technological means (see clause 11.6) will be included in the quorum.

If a quorum is not present

- another meeting must be arranged at a time and place determined by the Board.
- If more than half the members are not present 30 minutes after the starting time of that meeting the members who are present may continue with the meeting and their decisions will be valid.

11.4 Voting at general meetings

11.4.1 Matters that do not require a vote

Members will not vote on AFDO policy or on public statements made by the AFDO. The AFDO Board must ensure that its policies and public statements accurately represents all views of the disability sector.

11.4.2 Who may vote

Each member organisation can choose one person to vote on its behalf at a General Meeting.

Unless the law or this constitution says that a special resolution is required, resolutions will be ordinary resolutions, and decided by a majority of the votes of those present at the meeting who are entitled to vote and who choose to do so.

11.4.3 Dissenting views

If a member disagrees with a resolution that has been passed that member's views and their reasons for holding those views must be recorded in the minutes and in any other document about the matter on the request of the member. The words used must be approved by the member.

11.4.4 Method of voting

The Chairperson will decide how votes are to be cast for each matter as it arises.

11.4.5 Tied vote

If the vote is tied, the Chairperson will cast another vote to decide the issue.

11.5 Proxy voting at General Meetings

Subject to the Corporations Act and this clause a member of AFDO entitled to attend a meeting of the AFDO may appoint a proxy. A proxy has the

same right as the Member to speak and vote at the meeting and may be appointed in respect of more than one meeting.

To be effective a completed document (as per Appendix 1 of this constitution) appointing a proxy under this clause must be received by the Company Secretary at least 48 hours before the meeting together with any authority under which the document was signed or a certified copy of the authority.

11.6 Technological means for meetings

A general meeting may be held by the AFDO at 2 or more locations, with members communicating with each other by any means which gives them a reasonable opportunity to participate. Members participating in a meeting through technological means are to be included in the quorum.

12 Postal Ballots

Subject to the provisions of the Corporations Act and this clause, the directors may submit any question or resolution, including election of directors, to the vote, of members entitled to vote at a general meeting of the AFDO, by means of a postal ballot in the form and returnable in the manner as the directors decide. A resolution approved by a majority of the members voting by postal ballot has the same force as if passed at a general meeting.

At least 21 days before the closing date of a Postal Ballot, the Company Secretary will send ballot papers, in the form and with the content as the directors approve, to all voting members giving particulars of

- the business in relation to which the Postal Ballot is conducted,
- an explanation of the method of voting and notice of the closing date of the Postal Ballot, and
- a voting form.

The Company Secretary will receive all voting forms from voting members in respect of a Postal Ballot and promptly advise the directors of the result of the Postal Ballot. Any voting form received after 5.00pm on the closing date of a Postal Ballot is invalid and will not be counted.

13 Minutes of Meeting

The Board will make minutes, to be kept in the AFDO's books, of:

- all appointments made by the Board,
- the names of the directors present at each board meeting and any committee meeting, and
- all resolutions and proceedings of the AFDO, the Board and any committees.

14 Indemnity

To the extent that the law allows, the AFDO indemnifies every director and officer of the AFDO against any liability incurred by that person:

- in that person's capacity as a director or officer of the AFDO; and
- to a person other than the AFDO (or any related body corporate of the AFDO).

This indemnity extends to the costs and expenses of defending any proceedings in which a judgement is given in favour of the director or officer (or the director or officer is acquitted) or in which the court grants relief to the director or officer.

15 Insurance

To the extent that the law allows, the AFDO may pay a premium for a contract insuring a person who is or has been a director or officer of the AFDO against a liability incurred by that person in their capacity as a director or officer of the AFDO.

16 Format of publications

Any public document put out by the AFDO should be provided in alternate format where practical to meet the needs of its members.

17 Funds and accounts

17.1 Deposits and receipts

All money received by the AFDO must be deposited promptly according to standard financial and accounting practice.

The AFDO must issue receipts as soon as possible after receiving money.

17.2 Annual subscriptions

The Board will decide the annual membership fees. Fees are based on a financial year.

17.3 Authorisation of payments

All payments made by the AFDO which are over \$1,000.00 and not already included in the annual budget approved by the Board must be authorised by any two of the following: Chairperson, Deputy-Chairpersons, Treasurer and Chief Executive Officer.

18 Establishment and operation of gift fund

The AFDO will establish a special account called the 'gift fund'.

Any money gifted to the AFDO to carry out its purposes must be deposited in the gift fund.

If property is given to the AFDO to carry out its purposes, and the property produces income that income must also be deposited in the gift fund.

Money from the gift fund can only be used for the purposes of the AFDO listed in clause 4.

If the gift fund is wound up, or the endorsement of the AFDO as a deductible gift recipient is revoked, any money in the gift fund at that time must be transferred to another fund that can receive deductible gifts.

19 Financial reports

19.1 At Board meetings

A financial report will be presented to the Board at each Board meeting.

19.2 At Annual General Meetings

An audited financial statement will be presented to the next Annual General Meeting following the end of any financial year.

20 Auditor

20.1 Appointment of auditor

At each Annual General Meeting members will appoint the Auditors for the coming year. The Board will provide members with a recommendation as to the appointment of the Auditors.

20.2 Frequency of audits

Audits must be conducted at regular intervals. At least one audit must be conducted every year.

21 Sitting fees

AFDO shall pay fees to directors for attendance at Board meetings.

21.1 Level of fees

The Board may make by-laws prescribing the circumstances in which fees may be paid to Board members under this clause.

21.2 Disclosure to members

The amount paid to each director must be included in the Annual Report (as required by the Corporations Act).

22 Amendments to the constitution

This constitution may be amended by a special resolution passed by members present and voting at any General Meeting.

At least 21 days notice must be given of the proposed amendment.

23 Replaceable Rules

The replaceable rules in the Corporations Act apply to the AFDO to the extent they do not conflict with the terms of this constitution.

24 Winding up

24.1 Method

If the AFDO is to be wound up, application for deregistration may be made on Form 6010 (see the Corporations Act) if:

- all members agree to de-register,
- the AFDO is not carrying on a business,
- the AFDO has paid all penalties and fees under the Corporations Act,
- the AFDO has no outstanding debts, and
- the AFDO is not engaged in any legal proceedings.

Otherwise, if the AFDO is wound up, it will be done in accordance with Section 491 of the Corporations Act.

24.2 Distribution of assets

If the AFDO is deregistered or wound up and there is any property or money left after all its debts have been paid, the property or money must be given to one or more organisations that:

- have similar purposes to the AFDO,
- are non-profit organisations, as described for the AFDO in clause 5, and
- an organisation endorsed as a deductible gift recipient because it is a public benevolent institution.

The organisation is to be determined by the Members at or before the time of dissolution.

24.3 Liability of members

If the AFDO is deregistered or wound up the liability of its members is limited to the level of one year's membership fee.

Appendix 1

Form for appointing a proxy

(Name of person appointing the proxy)

(Address)

being a member of the Australian Federation of Disability Organisations hereby appoint

(Print Full Name of proxy)

(Address)

as my proxy to vote for me at the

meeting of the AFDO to be held on

and at any adjournment of that meeting.

My proxy can vote only on the following issues:

1 _____

2 _____

3 _____

4 _____

5 _____

6 _____

Signed

Date

Witness

Date