

## MOTIONS TO A GENERAL MEETING CONCERNING PROPOSED CONSTITUTIONAL CHANGE.

Numerous motions are proposed to alter the Association's Constitution. There are two broad reasons for this.

1. Some time ago, ACMA (the Federal Government authority that grants and oversees our licence) advised when we applied to renew our licence that it wished to see some changes to our Constitution, principally to revise the conditions under which we grant membership, apply disciplinary proceedings, and provide avenues of appeal by those who wish to contest disciplinary action (including terminating a member's membership).
2. Your Management Committee also wishes to make further changes concerning membership of the Association and its Management Committee.

In the following motions, those labelled A to F inclusive are proposed to meet ACMA's requirements. With two exceptions, they stand or fall separately from each other. Thus, if the SGM accepts one or more of these motions, it is not necessary to accept any of the others in this group; and rejecting one does not stop others proceeding.

Motions labelled G to I inclusive are proposed to effect changes that your Management Committee believes are in the Association's best interests.

**Motion A:** introducing new provisions for admitting members. Motion A consists of a series of proposals, listed below:

1. In Clause 7, dealing with admission of members, it is proposed to delete the existing subclauses (1) and (2), and replace them with the following:
  1. Every applicant to become a member of the Association shall submit to the Secretary a written application in the form prescribed by the Management Committee from time to time, and signed by the applicant (or in the case of a group by a person duly authorised to do so), and accompanied by the required membership fee.
  2. A person or group is qualified to be a member of the Association if and only if
    - a. That person or group has not ceased to be a member of the Association at any time after its Incorporation under the Act; or
    - b. That person or group has
      - i. applied for membership of the Association as provided under this rule;
      - ii. been approved for membership of the Association by the Management Committee.
  3. An applicant (whether person or group) may be rejected if and only if
    - a. There are reasonable grounds to believe that the applicant would not abide by the rules and objectives of the Association; or
    - b. It is required by law that the applicant be rejected; or
    - c. The applicant has been convicted of an indictable offence; or
    - d. There are reasonable grounds to believe that the applicant would not abide by the Community Broadcasting Codes of Practice for Community Radio; or
    - e. There are reasonable grounds to believe that the applicant would pose a security risk to the members, premises or equipment of the Association; or
    - f. The applicant's membership has been revoked in the past for any of the acts identified in (a) – (e) above. *[NOTE this sub-paragraph is not in the CBA's original recommendations, but has been proposed in order to cater for the case where a member who has been expelled on a previous occasion seeks to rejoin, gives assurances of good behaviour, and is accepted on the good faith of those assurances].*  
In case (f) the applicant may be accepted as a member on probation for a period of 6 calendar months, conditional on observing the rules and objectives of the Association, the Community Broadcasting Codes of Practice for Community Radio, and dealing with the Association's members, premises or equipment in a fair and secure manner. Any breach of those conditions if certified by the Management Committee shall result in the immediate and unconditional termination of the applicant's conditional membership.

Subclause 1 would be further modified by Motion I below – but first things first!

Renumber existing subclauses 3 – 6 as 4 – 7.

It is proposed to delete existing subclause 7, which allows the Management Committee to remain silent on its reasons for rejecting a membership application, unless required to do so by a General Meeting. It is proposed to replace it by an addition to the end of the old subclause 6 (renumbered as subclause 7 if this motion is passed), in order to improve the Management Committee's transparency: **Should the Management Committee decide to defer or reject an application for membership, it shall give its reason(s) for doing so in writing as part of the notice of deferment or rejection.**

2. In Clause 8, dealing with termination of membership, it is proposed to delete the existing subclause 3, which requires a member to be given an opportunity to challenge proposed termination. It is then proposed to replace it

by the following insertion to Clause 9, which deals with appeals against both termination of membership and rejection of an application for membership.

1. Where the Management Committee resolves under Clause 7(3) to reject an application for membership, or under Clause 8(2) to terminate membership of a member, the Secretary shall as soon as practicable cause a notice in writing to be served on the applicant or member subject of the resolution
  - a. Stating the resolution of the Management Committee;
  - b. Stating the grounds on which it is based;
  - c. Advising the member or applicant subject of the resolution that he/she/they may address the Management Committee at a meeting to be held not less than 14 days, nor more than 28 days, after the notice has been served;
  - d. Stating the date, time and place of that meeting;
  - e. Advising the member or applicant subject of the resolution that he/she/they may do either or both of
    - i. Attend and speak at the meeting;
    - ii. Submit written representations on the resolution to the Management Committee at or prior to the date of that meeting.
2. At such a meeting held in accordance with clause 9(1) the Management Committee shall
  - a. Give the applicant or member subject of the resolution an opportunity to make oral representations;
  - b. Give due consideration to any written representations submitted to the Management Committee by the applicant or member subject of the resolution at or prior to the meeting; and
  - c. By resolution, determine whether to confirm or revoke the resolution; provided that
  - d. In the judgement of the Management Committee, the volume of written material presented to the Management Committee at or within 2 days prior to the meeting makes it impractical for the Management Committee adequately to scrutinise and comprehend the matters raised by the applicant or member subject of the resolution, to adjourn the meeting to the same time and place one week later, in order that the applicant's or member's representations may be given proper consideration.
3. Where the Management Committee confirms a resolution under clause 9(2), the Secretary shall, within 7 days after that confirmation, by notice in writing inform the applicant or member subject of the resolution of the confirmation and the reasons for the confirmation, and the applicant's or member's right of appeal under clause 9(5).
4. A resolution confirmed by the Management Committee does not take effect
  - a. Until the expiration of the period within which the applicant or member subject of the resolution is entitled to appeal against the resolution, but does not exercise that right of appeal; or
  - b. Where, within that period the applicant or member subject of the resolution exercises that right of appeal, unless and until the Association confirms the resolution under clause 9(5), whichever is the later.
5. A rejected applicant or member may appeal to the Association at a General Meeting against a resolution of the Management Committee under clauses 9(2) and 9(3), within 7 days after the notice of the resolution is provided to the rejected applicant or member, by lodging with the Secretary a notice to that effect.
  - a. The notice may be, but need not be, accompanied by a statement of the grounds on which the rejected applicant or member intends to rely for the purpose of the appeal.
  - b. On receipt of a notice from a rejected applicant or member under this clause 9(5), the Secretary shall notify the Management Committee, which shall convene a General Meeting of the Association to be held within 28 days after that date on which the Secretary received the notice.
  - c. At a General Meeting of the Association convened under clause 9(5)(b);
    - i. No business other than the question of the appeal is to be transacted;
    - ii. The Management Committee and the rejected applicant or member shall be given the opportunity to state their respective cases orally or in writing, or both;
    - iii. The members present shall vote by secret ballot to confirm or revoke the resolution;
    - iv. A simple majority decides the question of confirmation or revocation.

This replaces the entirety of the current Clause 9, while maintaining, indeed enhancing, the protections that the Constitution currently affords to a rejected applicant or a member whose membership is proposed to be terminated.

**Motion B:** This is a consequence of the changes to Clause 9, which require (at 9(5)(c)(iii)) a secret ballot to be held at a General Meeting that considers refusal or termination of membership. If motion A is not accepted, this motion should not be put.

The current Clause 19 provides at subclause 12(e) that voting at a general meeting should be by show of hands or a division of members, unless 20% of those present demand a secret ballot. To avoid internal contradictions, it is proposed that the current wording be modified as shown below, by inserting words at the start of subclause 12(e).

**Save as provided in Clause 9(5)(c)(iii),** voting shall be by show of hands or a division of members, unless not less than one fifth of the members present demand a ballot, in which event there shall be a secret ballot. The Chairperson shall appoint two members to conduct the secret ballot in such manner as he shall determine and the result of the ballot as declared by the Chairperson shall be deemed to be the resolution of the meeting of which the ballot was demanded.

**Motion C:** Enshrine processes for conflict resolution in the Constitution. Currently, these are defined in Policy Statements, which may be changed by Management without such changes being open to members to influence, other than after the event. It is proposed to insert a new Clause 11 reading:

## 11. CONFLICT RESOLUTION.

1. Disputes between members in their capacity as members of the Association, and disputes between members and the Association, are to be handled in accordance with the CBAA Codes of Practice for Community Radio, dated

23 October 2008, code 1.5 and code 7, and in accordance with this Constitution and any Policy Statements in force from time to time relating to dispute or conflict resolution.

2. The Association shall appoint and maintain a Human Relations Unit (HRU) to assist members experiencing conflict or disputes, whether with other members or with the Association, to resolve such conflict or dispute. The HRU's role, membership and responsibility shall be fully defined in Policy Statements.
3. The HRU has no investigatory or decision-making power or authority, nor can it impose solutions to conflict or disputes.
4. If and only if a member or members cannot resolve conflict or dispute with the assistance of the HRU, the Management Committee may propose resolutions, but is not compelled to do so.
5. If a conflict or dispute
  - a. contains disciplinary elements as laid out in Clause 8(2), and
    - i. the HRU advises that its advice cannot resolve the conflict or dispute or
    - ii. the member(s) in conflict or dispute refuse to accept advice from the HRU;
  - b. Then the Management Committee must intervene to resolve the conflict or dispute, if necessary imposing a solution to prevent harm to the Association, its members, its premises or equipment, and if necessary considering the future of a member or members according to Clause 8(2).

**Motion D:** this is not an immediate requirement of ACMA, but is recommended as desirable to confirm the status of the Policy Statements that, developed since the late 1990s, have guided the Association in its operations. It is proposed to amend the existing Clause 20 by inserting at the end:

The Management Committee may from time to time make, amend or repeal by-laws, not inconsistent with these Rules, for the internal management of the Association and any by-law may be set aside by a general meeting of members. **Within the meaning of this clause, Policy Statements adopted by the Management Committee shall have the same authority and status as by-laws. Policy Statements shall be freely available to all members to view during normal office hours.**

**Motion E:** Tidying up some wording. This motion is essentially administrative and makes no change to the principles enshrined in our Constitution. It is proposed that:

1. Clause 4(2) dealing with classes of membership be amended by inserting the words "Membership is" preceding the words "Subject to Rule 7"
2. Clause 6(3) dealing with membership fees be amended by deleting superseded wording and consolidating the remaining words. The detail is:
  - \*3. A financial member at any material time is a member who is not ~~then~~ indebted to the ~~organisation in respect of annual subscription or levy or overpayment whatsoever~~  
~~\_\_\_\_\_~~ Altered to now read  
\*A financial member is a member who is not indebted to the Association.
3. Current Clause 19(7), dealing with AGMs, GMs and SGMs: replace the word "amending" with the word "attending".

**Motion F:** If motion C is accepted, introducing a new Clause 11, all subsequent clauses are renumbered, and all references to them elsewhere in the Constitution are adjusted accordingly (clauses 3(1), 3(18), 27). If motion C is not accepted, this motion should not be put.

Proposals by your Management Committee to change the Constitution.

**Motion G:** In the current Clause 12(1), dealing with the composition of the Management Committee, it is proposed to change the number of general committee members from 4 to 6. The effect is to increase the normal size of the Management Committee from 9 to 11. The current provision to elect or appoint more than that number at any general meeting (not necessarily an AGM) remains in place, so that faced with a wealth of enthusiastic talent at an AGM, the Association may properly choose to elect a Management Committee that is larger than the size prescribed in the Constitution.

**Motion H:** To provide for 2-year terms for Management Committee members, so that there is continuity from one Committee to the next. Two changes are needed, both in the current Clause 11(2), and it is proposed that "all the members ... shall retire from office" be replaced by "**approximately half** the members"; and insert at the current 11(2) (to cover the transitional situation in the first AGM after these proposals are accepted, if they are):

- a. **At the first Annual General Meeting after this provision takes effect, all members shall retire and new members shall be elected to the various positions.**
- b. **The Vice-President and Treasurer then elected shall serve one year in those positions, and members elected to those positions at subsequent Annual General Meetings shall serve two years in those positions.**
- c. **The President, Secretary and Youth membership representative first elected after this provision takes effect shall serve two years in those positions.**
- d. **Of the six (6) general committee members elected at the first Annual General Meeting after this provision takes effect,**
  - i. **the three (3) receiving the highest number of votes shall serve two years, and the three (3) receiving the lowest number of votes shall serve one year;**

- ii. in the event that successful candidates for general committee member positions receive an equal number of votes, such that third and fourth candidates cannot be separated, the names of the successful candidates who tied and must be separated into two- and one-year members shall be drawn in a ballot, and the first name or names drawn shall be allocated a two-year term so that three (3) successful candidates are identified as two-year members, and three (3) as one-year members.
- e. Thereafter, the general committee members elected at an Annual General Meeting shall serve two years in their positions.
- f. If a casual vacancy occurs for any position on the Management Committee, the member who fills that vacancy or any subsequent casual vacancy in that same position will serve the remainder of the term of the person originally elected and whose departure, for whatever reason, created the casual vacancy.

**Motion I:** to remove all barriers to membership in order to grow the membership base. Currently, a new member must be proposed and seconded by two existing members, and approved by Management, before becoming a member. They must complete a paper application; there's no provision for electronic applications. In addition, a new member is not allowed to vote until 3 months after their membership application was approved by the Management Committee. This was a mechanism adopted in the 1990s to prevent "branch-stacking" – a flood of new members joining immediately before an Annual General Meeting in order to impose a new direction on the Association. Your Management Committee considers that this is an unlikely event, and the impediment it presents to newly-joined members taking a full role in the Association's activities should be removed. It is therefore proposed to delete the first sentence in Clause 4, dealing with classes of membership, which currently reads

~~Members' voting rights commence 3 months after their membership application has been approved by the Management Committee.~~

In order to remove the need for paperwork (allowing membership applications to be made online) and the formality of proposing, seconding and approving, Clause 7 would require change. Motion A above has already proposed changes to meet ACMA's requirements; this change will cause further modification to that Clause. It is therefore proposed that the recently-modified Clause 7 be further modified in respect of subclause 1, to read:

1. Every applicant to become a member of the Association shall submit to the Secretary ~~an written application,~~ which may be in writing or electronic, in the form prescribed by the Management Committee from time to time, and signed or otherwise authorised by the applicant (or in the case of a group by a person duly authorised to do so), and accompanied by the required membership fee.

Clause 7 (2)(b) is proposed to be modified as shown below, to remove the requirement for approval by Management. The requirement for proposal and seconding was removed in order to meet ACMA requirements in motion A, above.

2. A person or group is qualified to be a member of the Association if and only if
  - a. That person or group has not ceased to be a member of the Association at any time after its Incorporation under the Act; or
  - b. That person or group has
    - i. ~~applied for membership of the Association as provided under this rule;~~
    - ii. ~~been approved for membership of the Association by the Management Committee.~~

Members who wish to take active roles as volunteers may need to complete further requirements to demonstrate their suitability to take on those roles. Rather than enshrining those requirements in the Constitution, your Management Committee proposes to record those requirements in policy statements, which may be altered by Management as needs dictate, without reference to a General Meeting. (It should be noted that, as with any act of the Management Committee, a policy statement that members consider inappropriate or incorrect may be struck down by a majority of members voting in General Meeting).

END: