

Australian Passionfruit Industry Association Inc.

A.R.B.N. No. 075 171 265
NSW Incorporation No. Y1464720
ABN No. 98 212 907 857

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Constitution

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CONSTITUTION OF AUSTRALIAN PASSIONFRUIT INDUSTRY ASSOCIATION INC.

1. OBJECTS

1.1 The objects of the Association are:

- (a) To foster and promote the Australian passionfruit industry.
- (b) To do all things which are necessary, advantageous or benefit members including but not limited to, advertising, marketing, conducting research and development.
- (c) To pursue the introduction of an industry based contribution scheme to facilitate (a) and (b) above.

1.2 These Objects and this Constitution may be altered, rescinded or added to only by a Special Resolution of the Association.

2. INTERPRETATION

2.1 In this Constitution, except insofar as the context or subject matter otherwise indicates or requires;

2.2 ORDINARY MEMBER

means a member of the Association who under Clause 3.1 Classes of Membership is classified (a), (b), (c) or (d).

2.3 SECRETARY/TREASURER

means the person holding office under this Constitution as Secretary/Treasurer of the Association.

2.4 PUBLIC OFFICER

must be a resident of New South Wales as the Association is incorporated in that State.

2.5 SPECIAL GENERAL MEETING

means a General Meeting other than the Annual General Meeting.

2.6 THE ACT

means the Associations Incorporation Act 1984 and current amendments.

2.7 THE REGULATIONS

means the Association Incorporation Regulations 1985 and current amendments.

2.8 THE RULES

means this Constitution.

2.9 In this Constitution a reference to a function includes a references to a power, authority or duty.

2.10 In this Constitution a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

2.11 The provisions of the Interpretation Act 1987 and current amendments applies to and in respect of this Constitution in the same manner as if those provisions would so apply of this Constitution were an instrument made under the Act.

3. MEMBERSHIP

3.1 CLASSES OF MEMBERSHIP

- (a) Grower (Commercial enterprise)
- (b) Processor
- (c) Nurseryman
- (d) Seller
- (e) Associate member
- (f) Life member

NOTE: Current contributors to the Proposed Australian Passionfruit Association are entitled to an initial once off automatic entitlement to membership in the applicable Ordinary Member class as of the date of approval by NSW Consumer Affairs Department of the new name and new rules (Constitution). Transfer of the funds of those members from the Proposed Australian Passionfruit Association will be deemed to include their first year membership fee.

3.2 MEMBERSHIP QUALIFICATION AND APPLICATION

A person or organisation is entitled to be a member of the Association if they fall into one of the categories in Clause 3.1, have satisfactorily completed an Application Form, have been nominated by two (2) members on a Nomination Form, have paid the Membership Fee and "The Executive" has approved the application.

Payment of the Membership Fee must be by cheque which will be banked after the application has been approved. If the application is not approved the cheque will be returned.

Applications must be delivered to the Secretary/Treasurer who will refer them to "The Executive". Approved applications will be referred by "The Executive" to the Secretary/Treasurer who will then enter the applicant's name on the Membership Register and advise the applicant in writing. The applicant becomes a member only when their name is entered on the Membership Register and must not exercise any membership rights prior to this time.

Membership, its entitlements and responsibilities are not transferable under any circumstances.

3.3 MEMBERSHIP REGISTER

The Secretary/Treasurer shall establish and maintain a Membership Register of the Association members, specifying the name, postal address, class of membership and original date of membership of each member.

3.4 CESSATION OF MEMBERSHIP

Membership ceases when a member;

- (a) Dies,
- (b) Is expelled from the Association.
- (c) Resigns.

NOTE: A member is not entitled to resign except in accordance with the following;

A member of the Association who has paid all amounts payable in respect of that Membership may resign by first giving notice (being not less than one month or other period as "The Executive" may determine) in writing to the Secretary/Treasurer and upon expiration of the notification period the member ceases to be a member. The Secretary/Treasurer will delete the member's name from the Membership Register in each case, at the time when Membership ceased.

3.5 MEMBERSHIP FEES, SUBSCRIPTIONS AND OTHER COLLECTIONS

A member shall pay an annual Membership Fee as determined from time to time by majority decision of a meeting.

"The Executive" shall determine levies from time to time to be imposed on members and shall issue any directions and conditions applicable to the collection, receipt and disposal of such levies as they see fit, in respect of passionfruit, passionfruit derivatives or passionfruit plants harvested, processed or marketed by each member.

3.6 MEMBERS LIABILITY

The liability of a member to contribute to the payment of the debts or liabilities of the Association or costs incurred in winding up the Association is limited to any amount unpaid by the member in respect of their Membership.

4. ELECTIONS

- 4.1 Nomination of candidates for election to "The Executive" shall be on an "Election Nomination Form". The nominee must consent to the nomination by signing the form. The form must be signed and seconded by members. The nominee, nominator and seconder must all be financial members of the Association. Completed forms must be returned to the Secretary/Treasurer no later than eight (8) days prior to the date of the Annual General Meeting.
- 4.2 If there are insufficient nominations to fill all vacant positions, the nominees shall be deemed to be elected unless a resolution adopted by a majority vote rejects any nomination. Positions not filled shall be deemed to be Casual Vacancies.
- 4.3 If the number of nominations exceeds the number required for each category, a ballot will be conducted in accordance with the provisions of clause 10.3.
- 4.4 A member of "The Executive" may be removed from office by a resolution of members of the Association at any meeting. The member submitting the proposed resolution must have it seconded by another member of the Association and present it in writing to the Secretary/Treasurer at least fourteen (14) days prior to a meeting. The Secretary/Treasurer shall notify the member of "The Executive" to whom the proposed resolution refers. If that member makes written representations to the Secretary/Treasurer then those representations shall be mailed to the members of the Association or they are to be read at the meeting at which the proposed resolution is considered.

5. THE EXECUTIVE

- 5.1 "The Executive" shall comprise nine (9) members so shall be elected at the Annual General Meeting. A minimum number of seven (7) must be an Ordinary Member as defined in Clause 2.2 but in addition shall be a Grower as classified in 3.1 (a). These members shall be elected in the following ratios; WA/NT one (1), TAS/SA/VIC one (1), QLD two (2) and NSW three (3). The other two (2) members may be from any of the membership classifications 3.1 (a) to (f).
- 5.2 Each member of "The Executive" shall subject to this Constitution, hold office until the elections at the Annual General Meeting following the date of the members election but is eligible for re-election.
- 5.3 For the purpose of this Constitution a casual vacancy will exist in "The Executive" when a member ceases to be a member of the Association in accordance with Clause 3.4 (a), (b), (c) or additionally, becomes insolvent, becomes unsound of mind (and liable to be dealt with under law relating to mental health), is absent from two consecutive meetings of "The Executive" (without reasonable explanation) or is removed from office in accordance with Clause 4.4 of this Constitution.
- 5.4 In the event of a casual vacancy occurring in "The Executive", "The Executive" may appoint a member of the Association to fill the vacancy.
- 5.5 Members of "The Executive" shall meet immediately after the Annual General Meeting and appoint a Public Officer and elect the following Office Bearers:
- President
 - Vice President
 - Secretary/Treasurer
- 5.6 "The Executive" shall meet regularly for the conduct of the business affairs of the Association and shall, subject to "The Act", "The Regulations" and this "Constitution" have the power to do such things and take such steps as are considered necessary or advantageous for the proper promotion of the objectives of the Association, the passionfruit industry generally and the proper management of the Association excepting those functions that are required by the Constitution to be exercised by the members of the Association at any meeting.
- 5.7 The President shall be the Chairperson of the meetings of "The Executive" or in his/her absence the Vice President shall chair the meeting. If both are absent the attending members shall elect a chairperson.
- 5.8 Oral or written notice of a meeting of "The Executive" shall be given to each member of "The Executive" by the Secretary/Treasurer at least forty eight (48) hours (or such other period agreed by a majority of members of "The Executive") before the appointed time of the meeting.
- 5.9 Meetings of "The Executive" may be conducted by telephone conference link.
- 5.10 Any three (3) members of "The Executive" attending a meeting of "The Executive" constitute a quorum for the transaction of business.
- 5.11 Decisions arising at a meeting of "The Executive" shall be determined by a majority vote of members in attendance or present by phone link. Each member shall be entitled to one vote except in the event of a tied vote wherein the Chairperson (or person acting in that capacity) may exercise a second or casting vote.

- 5.12 Any act or thing done or suffered, or purporting to have been done or suffered by “The Executive” is valid and effective notwithstanding any defect that may afterwards be discovered in the appointment or qualification of any member of “The Executive”.
- 5.13 The “Public Officer” is responsible for ensuring compliance with all aspects of the NSW Incorporation Act including submission of Annual Return. The Secretary/Treasurer reports to the Public Officer and is responsible for:
- keeping written records of all and every matter of business, conducted at every meeting of “The Executive” as well as all other meetings of the Association. This shall include but not be limited to recording of attendance, apologies, discussion, debate, resolutions.
 - Carrying out all administration duties of the Association including dealing with incoming correspondence and issuing outgoing correspondence.
 - Receiving, collecting and banking of monies. Making payments authorised by “The Executive” and the Association. Keeping proper financial records and providing up to date written financial statements of income and expenditure to all meetings of “The Executive” and all other meetings of the Association.
- 5.14 “The Executive” shall call Annual General Meetings of the Association in August of each year and which shall be notified to members in writing. The notification will make clear that the meeting is the Annual General Meeting.

6. ANNUAL GENERAL MEETING

- 6.1 The Association shall convene in August each year for an Annual General Meeting for the purpose of:
- Confirming the Minutes of the preceding Annual General Meeting and any Special General Meeting(s) in between.
 - Receiving reports from the Chairman of the activities of the Association in the preceding year.
 - Presentation of the balance sheets and auditors report.
 - Conducting any other business properly brought before the meeting.
 - Electing “The Executive”.

7. SPECIAL GENERAL MEETING

- 7.1 “The Executive” may, whenever it thinks fit, convene a Special General Meeting.
- 7.2 “The Executive” shall on the requisition in writing of not less than ten percent (10%) of the total membership or seven (7), whichever is larger, convene a Special General Meeting. A requisition shall state the purpose of the meeting, be signed by the members and be delivered to the Secretary/Treasurer. It may be as one document or several individual documents but if so these must all be similar.
- 7.3 If “The Executive” fails to convene a Special General Meeting within seven (7) days after the requisition is lodged, any one or more of those requisitioning members may convene a Special General Meeting not later than twenty eight (28) days after that date.
- 7.4 A Special General Meeting convened by a member as referred to in Clause 7.3 shall be convened as nearly as practicable in the same manner as General Meetings are convened and any member who thereby incurs expense is entitled to be reimbursed by the Association for any expense so incurred.

8. GENERAL MEETING

- 8.1 The Association shall meet at least three (3) times each year at a place, on a date and at a time determined by "The Executive" and shall notify members of the details in writing or verbally.
- 8.2 Except where the nature of the business proposed to be dealt with at a General Meeting requires a Special Resolution, "The Executive" shall at least fourteen (14) days before the meeting date cause to be sent by prepaid post, a notice listing the place, date and time of the meeting and the nature of the business proposed to be transacted at the meeting.
- 8.3 A member desiring to bring any business before a General Meeting may give notice in writing of that business to the Secretary/Treasurer who shall include that business in the next notice calling a General Meeting after receipt of the notice from the member.
- 8.4 No item of business shall be transacted at a General Meeting unless a quorum of members entitled under this Constitution to vote is present during the time the meeting is considering that item. Seven members present shall constitute a quorum for a General Meeting.
- 8.5 If within half an hour after the appointed time for commencement of the meeting a quorum is not present the meeting if convened upon the requisition of members shall be dissolved. In any other case the meeting shall be adjourned to the same day and time of the following week unless the Chairperson decides differently and notifies all members of that decision. If at the adjourned meeting a quorum is not present within half an hour of the appointed commencement time, the members present shall constitute a quorum.
- 8.6 No motion shall be discussed until it is seconded and shall not be withdrawn without the consent of the meeting. When a motion shall be moved and seconded any member shall be at liberty to move an amendment which shall not be discussed until seconded. No second amendment shall be taken into consideration until the previous amendment has been disposed of.
- 8.7 The Chairperson shall have power to decide when sufficient discussion shall have taken place on any matter. The Chairperson shall preserve order and may at any time call to order any member he deems to be out of order and when two or more members rise to speak at the same time he shall decide who is to be heard first. Any member may call the attention of the Chairperson to another member being out of order or to any point of order. Every point of order shall be taken into consideration immediately upon it arising and will be decided by the Chairperson.
- 8.8 The person responsible for acting as Chairperson of General Meetings shall be the same as in Clause 5.7 of this Constitution.
- 8.9 The Chairperson may adjourn a General Meeting with the consent of a majority of members present. No business shall be transacted at an adjourned meeting other than that business left unfinished from the previous meeting. When a General Meeting is adjourned for more than fourteen (14) days the Secretary/Treasurer shall give notice in writing in the manner set out in Clause 7.
- 8.10 A question arising out of a General Meeting shall be determined by a show of hands and a declaration by the Chairperson that the resolution is carried or lost unless a poll is determined by the Chairperson or a minimum of three (3) members. Polls shall be taken immediately in the case of election of a Chairperson or resolution to adjourn and in any other case when the Chairperson directs. The resolution of the poll shall be deemed to be the resolution of the meeting on that matter and shall be duly recorded in the Minutes.

9 SPECIAL RESOLUTIONS

- 9.1 A resolution is a Special Resolution if it is passed by a majority of three quarters of eligible voting members attending any meeting in person or by proxy and of which not less than twenty one (21) days notice in writing was given in accordance with this Constitution.

10 VOTING AND ELECTIONS

- 10.1 Upon any question arising out of any meeting a member has only one vote excepting in a tied vote where the Chairperson can exercise the right to an additional vote as detailed in Clause 5.11 of this Constitution.
- 10.2 Except in the case of election of "The Executive", all votes shall be given personally or by proxy on the appropriate form. A member or proxy is not entitled to vote unless all monies including any levies pursuant to rule which are due and payable by the member and the proxy have been paid. Each member shall be entitled to appoint another member as proxy by notice given in writing to the Secretary/Treasurer, no later than twenty four (24) hours before the time of the meeting in respect of which proxy is appointed. Such notice shall be in the form set out in appendix 2 to this Constitution.
- 10.3 Members may cast their votes for election of "The Executive" by;
- Attending the Annual General Meeting
 - Have another member attending Annual General Meeting vote on their proxy. Proxy forms must be returned in accordance with Clause 10.2.
 - Submission of an "Election Voting Form". Forms must be returned to the Secretary/Treasurer no later than one (1) day prior to the Annual General Meeting.

The Chairperson will declare all positions vacant and nominate a Returning Officer. The immediate past Chairperson will remain in the chair for the purpose of conducting the elections. Elections will be carried out in turn for each category as detailed in Clause 5.1.

11 INSURANCE

- 11.1 The Association shall effect and maintain such insurance as "The Executive" shall deem appropriate or necessary.

12 FINANCE

- 12.1 The funds of the Association shall be derived from Annual Membership fees. Levies are subject to any resolution passed by the Association at a meeting, such other sources as "The Executive" determines.
- 12.2 All monies received shall be deposited as soon as practicable and without deduction to the credit of the applicable Association bank account.
- 12.3 The Secretary/Treasurer shall as soon as practicable after receiving monies, issue an appropriate receipt.
- 12.4 Subject to any resolution passed by the Association at a meeting, the funds of the Association shall be used in pursuance of the Objectives of the Association in such manner as "The Executive" determines.
- 12.5 All cheques, drafts, bills of exchange, promissory notes and any other negotiable instruments shall be signed by any two of the President, Vice President or Secretary/Treasurer for the time being of the Association.

13 RECORDS

- 13.1 Except as otherwise provided by this Constitution, the Public Officer shall keep in his/her custody or under his/her control, all records, books and other documents relating to the Association.
- 13.2 The records, books and other documents of the Association shall be open for inspection, free of charge by any member of the Association at any reasonable hour.

14 DISCIPLINE, DISPUTES AND ARBITRATION

- 14.1 Where "The Executive" is of the opinion that a member has persistently refused or neglected to comply with the provisions of this Constitution or has wilfully acted in a manner prejudicial to the interest of the Association, "The Executive" may by resolution suspend (for a period) or expel the member from the Association.
- 14.2 Any resolution adopted in accordance with Clause 14.1 shall be notified to the member immediately in writing by the Secretary/Treasurer and shall detail the resolution verbatim and the grounds for its adoption. The correspondence shall be delivered by certified mail to the member's home address and shall give date, time and venue details of a meeting with "The Executive" not less than fourteen (14) days nor more than twenty eight (28) days from the date of posting. The correspondence shall also inform the member that he/she may attend and speak at the meeting and can present written representations prior to or at the meeting.
- 14.3 During the meeting "The Executive" shall allow the member to make oral representations and will give due consideration to all written and oral representations and then determine whether to confirm or revoke the resolution. "The Executive" will instruct the Secretary/Treasurer to notify the decision to the member in writing within seven (7) days of the meeting.
- 14.4 Disputes between members, or between members and the Association which are unresolvable by "The Executive" can be determined in Arbitration of either of the disputing parties so elects. The person to nominate an arbitrator is the President of The Australian Institution of Arbitrators. The costs of arbitration will be borne by the party so nominated by the Arbitrator in his decision.

15 SERVICE OF NOTICES

- 15.1 A notice may be served on behalf of the Association upon any member by certified mail addressed to the address shown in the Membership Register.

16 DISSOLUTION

- 16.1 In the event of the Association being dissolved, the amount which remains after such dissolution and the satisfaction of all debts and liabilities shall be paid and applied by "The Executive" in accordance with their powers to any fund, institution or authority, which itself is exempt from income tax.