

Monash Student Association (Clayton) Incorporated

Reg. No. A0036131Z, ABN 20 147 061 074

CONSTITUTION

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PART 2 – THE ASSOCIATION

2. Name

- (1) The name of the incorporated association is the “Monash Student Association (Clayton) Incorporated” (in this constitution, “the MSA”).
- (2) Under section 23 of the Associations Act, the name and registration number of the MSA must appear in legible characters in all notices, advertisements and other official publications of the MSA, and in all its business documents.

3. Purposes

The purposes of the MSA are:

- (1) to be the recognised means of communication between students and the academic and administrative authorities of the University;
- (2) to make representations on behalf of students to the community at large;
- (3) to publish such student newspapers, magazines and other publications as the MSA from time to time may determine;
- (4) to administer the funds of the MSA in accordance with this constitution, whether received from fees collected from students by the University or otherwise;
- (5) to make recommendations to the appropriate bodies of the University on the allocation of funds to the MSA;
- (6) to use the funds of the MSA for payment of any expenses incurred in furthering the purposes of the MSA;
- (7) to co-operate with, and affiliate to other persons and bodies in pursuit of its purposes;

- (8) to promote the right of all students to a free education;
- (9) to defend the principles of universal membership and the right of students to an autonomous and self-governing organisation;
- (10) to otherwise protect, promote and develop the interests and welfare of students;
- (11) to make representations on matters affecting students to any member or body of the University, and in particular to the Council, the Academic Board, the Vice-Chancellor and the General Manager; and
- (12) to be an accountable, representative and democratic body for students.

4. Legal Capacity and Powers

- (1) Under section 29(2) of the Associations Act, the MSA has the legal capacity of an incorporated body.
- (2) Under section 30(d) of the Associations Act, the MSA has power to do anything incidental or conducive to the attainment of its purposes.
- (3) The MSA may only:
 - (a) exercise its powers; and
 - (b) use its income and assets (including any surplus);for its purposes.

5. Not For Profit Organisation

- (1) Under section 33 of the Associations Act, the MSA must not distribute any surplus, income or assets directly or indirectly to its members.
- (2) Subclause (1) does not prevent the MSA from paying its members:
 - (a) reimbursement for expenses properly incurred by them, and
 - (b) for goods supplied and services provided by them,if this is done in good faith on terms no more favourable than if the member were not a member.

6. Membership

- (1) The members of the MSA are the voting members of:
 - (a) the Monash Student Council,
 - (b) the Committees, and
 - (c) the governing bodies of the Divisions.
- (2) The Secretary must ensure that a register is kept containing:
 - (a) for current members:
 - (i) the name of the member,
 - (ii) the address for notices last given by the member, and
 - (iii) the date of becoming a member; and
 - (b) for former members:
 - (i) the name of the member, and
 - (ii) the date of ceasing to be a member.
- (3) Members must at all times comply with this constitution and the regulations.
- (4) Under sections 46 and 67 of the Associations Act, this constitution is an enforceable contract between each member and the MSA.
- (5) Under section 52(1) of the Associations Act, members are not liable to contribute to the debts and liabilities of the MSA by reason only of their membership.
- (6) There are no entrance fees, subscriptions or other amounts to be paid by members of the MSA in their capacity as members.
- (7) The MSA may not discipline members of the MSA in their capacity as members.

PART 3 – THE DIVISIONS

7. Names

The MSA includes as Divisions within the association:

- (1) the Monash University International Students Service (“MUISS”),
- (2) the Mature-Age and Part-Time Students Association (“MAPS”),

- (3) the Clubs & Societies Council (“C&SC”), and
- (4) Monash University Union Radio Incorporated (“Radio Monash”).

8. Status

The MSA recognises:

- (1) MUISS as the body within the MSA that represents international students;
- (2) MAPS as the body within the MSA that represents mature-age, part-time and distance-education students;
- (3) C&SC as the body within the MSA that represents clubs and societies; and
- (4) Radio Monash as the body within the MSA that represents the contributors to Radio Monash.

9. Constitutions

- (1) The constitutions of the Divisions may only be amended by the Divisions.
- (2) The Divisions do not require the approval of the MSA to amend their constitutions.
- (3) Up-to-date copies of the constitutions of the Divisions must be included as schedules to this constitution.
- (4) The schedules do not form part of this constitution.
- (5) The MSA must not amend:
 - (a) this Part;
 - (b) clause 46;
 - (c) any other provision of this constitution or the regulations so as to directly affect the powers able to be exercised by a Division;

without the approval of each Division affected by the amendment.

- (6) Divisions may only approve amendments to this Part by the same process required to amend their own constitutions.

PART 4 – STUDENT GENERAL MEETINGS AND REFERENDA

10. Convening

- (1) The MSC may by resolution convene a student general meeting.

- (2) The MSC must convene a student general meeting if petitioned by at least 1% of students.
- (3) The MSC must by resolution set the date, place and agenda of each student general meeting.

11. Time and Place

- (1) Student general meetings may only be held between 1:05 p.m. and 1:55 p.m. on an academic day at the Clayton Campus.
- (2) If a student general meeting has not finished by 1:55 p.m., any motion under debate must immediately be put to the vote. The meeting must then be declared closed.

12. Agenda

- (1) At least 3 days before the meeting the preliminary agenda for a student general meeting must be:
 - (a) posted on the MSA notice-board; and
 - (b) advertised throughout the Clayton Campus.
- (2) The final agenda must be:
 - (a) posted on the MSA notice-board at least one hour before the meeting; and
 - (b) distributed to students before the meeting.
- (3) No substantive motions may be added to the agenda later than one hour before the meeting.

13. Notice

- (1) At least 6 academic days' notice of the date, time and place of student general meetings must be given to students by:
 - (a) notice posted on the MSA notice-board;
 - (b) email to students, to the extent practicable; and
 - (c) advertisement throughout the Clayton Campus.
- (2) An urgent student general meeting may be held without the notice required by subclause (1) or a preliminary agenda in accordance with subclause 12(1), but

may only make a binding decision if at least 2% of students vote in favour in accordance with paragraph 14(2)(a).

14. Quorum

- (1) There is no minimum quorum for student general meetings.
- (2) However, decisions of student general meetings are only binding for the purpose of clause 18:
 - (a) in the case of:
 - (i) urgent student general meetings under subclause 13(2),
 - (ii) removal from office under subparagraph 42(1)(g)(i), and
 - (iii) the passing of a special resolution under subclause 60(2),if at least 2% of students vote in favour; or
 - (b) in all other cases, if at least 1% of students vote in favour.

15. Chairing

- (1) The President is entitled to chair student general meetings.
- (2) If the President is not present, or does not wish to chair the meeting (or part of the meeting), the Deputy Chair is entitled to chair.
- (3) If neither the President nor the Deputy Chair is present, or if neither wishes to chair the meeting, the MSC must appoint a chair.
- (4) The chair has a deliberative vote, but does not have a casting vote.

16. Voting

- (1) Each student present at student general meeting is entitled to one vote.
- (2) Voting is by show of hands.
- (3) The declaration by the chair of the result of the vote as recorded in the minutes is conclusive evidence of that result.
- (4) If an equal number of votes are cast for and against a motion or amendment, the chair must declare the motion or amendment lost.

17. Student Referenda

- (1) Decisions of student referenda override decisions of student general meetings.
- (2) The MSC may by resolution passed by an absolute majority hold a student referendum.
- (3) The MSC must hold a student referendum if petitioned by at least 5% of students.
- (4) The MSC must by resolution set the dates, times and places of polling, and the question or questions to be put.
- (5) Each student is entitled to one vote.
- (6) Decisions of student referenda are only binding for the purpose of clause 18 (including removal from office under subparagraph 42(1)(g)(ii) and the passing of a special resolution under subclause 60(2)) if at least 5% of students vote in the referendum.
- (7) The MSC may make regulations for the conduct of student referenda.

18. Binding Decisions

- (1) All MSA bodies, and all office-bearers and members of MSA bodies must give effect so far as they are able to binding decisions of student general meetings and referenda.
- (2) Decisions of student general meetings are not binding if:
 - (a) a student referendum has been petitioned to change the decision; and
 - (b) that student referendum has not yet been decided.
- (3) Binding decisions of student general meetings remain binding until changed by a further binding decision of a student general meeting or referendum.
- (4) Binding decisions of student referenda remain binding until changed by a further binding decision of a student referendum.

PART 5 – MONASH STUDENT COUNCIL

19. Responsibility and Powers

- (1) The Monash Student Council (“the MSC”) is responsible for the management of the MSA, subject to clause 18.
- (2) The MSC may exercise all powers of the MSA on its behalf, subject to subclause (3).
- (3) The MSC must not exercise its powers so as to interfere with the proper exercise of the powers of a Division.
- (4) Without limiting subclauses (1) and (2), the MSC is responsible for:
 - (a) the governance of the MSA;
 - (b) all policy of the MSA (subject only to clause 18);
 - (c) strategic planning for the MSA;
 - (d) ensuring that all office-bearers carry out their duties and responsibilities;
 - (e) the acquisition and disposal of property for the purposes of the MSA;
 - (f) contracts with or on behalf of the MSA;
 - (g) the expenditure and investment of the funds of the MSA;
 - (h) setting the parameters for and adopting the budget of the MSA; and
 - (i) borrowings by or on behalf of the MSA.
- (5) Nothing in clause 34 affects this clause. Paragraph 34(9)(d) is not affected by this clause.

20. Wholefoods Restaurant

The MSC must manage the Wholefoods Restaurant (“Wholefoods”) in accordance with the following aims:

- (1) to provide only vegetarian and vegan food, using organic ingredients wherever possible;
- (2) to encourage voluntary student participation at all levels of operation of Wholefoods, in an atmosphere of mutual respect and co-operation;

- (3) to demonstrate that a collective operating with a consensus decision making process is a viable alternative to a hierarchical organisation;
- (4) to create an atmosphere that promotes social awareness and the possibilities for social change through encouraging the use of Wholefoods as a venue for student cultural, social and political activities;
- (5) to purchase produce from local suppliers and use alternative marketing systems, including other co-operatives wherever possible; and
- (6) to maintain a not-for-profit philosophy whereby Wholefoods aims to break even. This means covering all costs, including contributions to the MSA capital reserve fund and major equipment fund, and generating extra revenue to reinvest into Wholefoods or to offset less profitable years.

21. Membership

The members of the MSC are:

- (1) the President,
- (2) the Secretary,
- (3) the Treasurer,
- (4) the Education (Public Affairs) Officer,
- (5) the Education (Academic Affairs) Officer,
- (6) the Activities Chairperson,
- (7) the Welfare Officer,
- (8) the Environment and Social Justice Officer,
- (9) the Women's Officer,
- (10) the Queer Officer,
- (11) the Indigenous Officer,
- (12) the Disabilities and Carers Officer,
- (13) the People of Colour Officer,
- (14)–(17) the President of each Division, or their nominees (who must be a member of the governing body of that Division), and
- (18)–(22) 5 members directly elected by and from students.

22. Meetings

- (1) The MSC must meet at least 9 times each year between February and December.
- (2) Meetings of the MSC may be convened by the Secretary or any 5 members of the MSC.
- (3) Meetings of the MSC are to be chaired on the same basis as student general meetings, subject to subclauses (4) and (5).
- (4) Each member of the MSC present in person at the meeting has one vote, other than the chair.
- (5) The chair has a casting vote only.

PART 6 – EXECUTIVE

23. Responsibilities

- (1) The Executive is responsible on behalf of the MSC for:
 - (a) the day to day management of the MSA;
 - (b) the employment of staff by or on behalf of the MSA;
 - (c) all industrial, media and legal matters;
 - (d) monitoring the finances of the MSA;
 - (e) authorising expenditure:
 - (i) on administrative items within limits set by resolution of the MSC;
 - (ii) where an expenditure decision was to have been made by another MSA body, but the relevant meeting was inquorate;
 - (iii) as delegated by the MSC;
 - (f) preparation of a budget for adoption by the MSC;
 - (g) the delivery of MSA services; and
 - (h) implementation of policy made by the MSC, particularly in relation to publications.
- (2) For the purposes of clause 46, the Executive is the Budget Committee of the MSA.

24. Membership

- (1) The members of the Executive are:
 - (a) the President;
 - (b) the Secretary;
 - (c) the Treasurer;
 - (d) one member elected by and from the members of the MSC referred to in subclauses 21(14)–(16);
 - (e) one member elected by and from the members of the MSC referred to in subclauses 21(17)–(21);
- (2) The MSC may by resolution passed by an absolute majority remove the members elected under paragraph (1)(d) and (e), and hold another election.

25. Meetings

- (1) Meetings of the Executive may be convened by the Secretary or any 3 members.
- (2) The chairing of, and voting at meetings of the Executive is to be on the same basis as for meetings of the MSC.

PART 7 – THE COMMITTEES

26. Establishment of Committees

- (1) The MSC must by regulation establish the following Committees:
 - (a) the Women’s Affairs Committee,
 - (b) the Activities Advisory Committee,
 - (c) the Student Affairs Committee,
 - (d) the Academic Affairs Committee,
 - (e) the Queer Affairs Committee,
 - (f) the Environment and Social Justice Collective,
 - (g) the Indigenous Affairs Collective,
 - (h) the Disabilities and Carers Collective, and
 - (i) the People of Colour Collective.
- (2) The regulations under subclause (1) must specify:
 - (a) the responsibilities, and
 - (b) the membership, of each Committee.

- (3) The regulations under subclause (1) may specify:
 - (a) the Chair or Convenor of the Committee,
 - (b) a quorum for the Committee other than that under clause 28,
 - (c) which members of the Committee are entitled to vote, and
 - (d) the procedure otherwise of the Committee.

PART 8 – BODIES GENERALLY

27. Powers

- (1) Each MSA body may:
 - (a) establish committees or subcommittees with such membership and terms of reference as it thinks appropriate; and
 - (b) delegate its responsibilities and powers as it thinks appropriate; subject to subclause (3).
- (2) A body to which or person to whom a responsibility or power is delegated may not delegate that responsibility or power further, unless the resolution under which the responsibility or power is delegated (or a subsequent resolution) specifically empowers that body or person to do so.
- (3) Despite paragraph (1)(b), the MSC may not delegate its powers:
 - (a) to make regulations under subclause 58(1); or
 - (b) to interpret this constitution and the regulations under subclause 64(5).

28. Quorum

The quorum for meetings of each MSA body is the presence in person of half or more of the voting members at the time, unless some other quorum is specified by this constitution or the regulations.

29. Meetings

- (1) The MSC must make regulations for the convening and conduct of meetings of MSA bodies, except the Divisions.

- (2) The Divisions must make regulations for the convening and conduct of their meetings.
- (3) Meetings of MSA bodies may be held at more than 1 place, provided that the technology used enables each member of the body present at all places the meeting is held to clearly and simultaneously communicate with every other such member. Without limiting this clause, meetings of MSA bodies may be held by telephone. This subclause is subject to the regulations made under subclauses (1) and (2).
- (4) Members of MSA bodies may exercise their votes by proxy, unless this constitution, the regulations or the resolution establishing the body specifies that votes on that body must be exercised in person. The member must appoint the proxy in writing. The regulations or the resolution establishing a body may also limit how, when and the number of proxies that may be exercised.
- (5) Meetings of MSA bodies may only proceed in camera if:
 - (a) the business to be considered relates to a confidential personal, staffing or legal matter;
 - (b) the body passes a resolution to do so by an absolute majority; and
 - (c) the meeting is reopened to non-members as soon as the in camera business has been considered.
- (6) Subject to this constitution and the regulations, MSA bodies may:
 - (a) meet, adjourn and conduct their meetings as they think appropriate; and
 - (b) decide any question by simple majority of votes cast.
- (7) Vacancies in the membership of MSA bodies do not prevent them from meeting, so long as a quorum is present.
- (8) Each Committee must meet at least 8 times per year.

30. Conflict of Interest

- (1) Members of MSA bodies who have a material personal interest in a matter that is being considered at a meeting of the body must:
 - (a) disclose the nature and extent of their interest to the body as soon as they become aware of the interest;
 - (b) not be present while the matter is being considered at the meeting; and
 - (c) not vote on the matter.
- (2) Subclause (1) does not apply to material personal interests that:
 - (a) exist only because the member of the MSA body is a student; or
 - (b) the member of the MSA body has in common with all or a substantial proportion of the members of the MSA.
- (3) In addition, members of the MSC who have a material personal interest in a matter that is being considered at a meeting of the MSC must disclose the nature and extent of their interest to the next general meeting of members.

31. Affiliated Bodies

- (1) The MSC may by resolution accept the affiliation of any body that represents a group of students of the University.
- (2) The MSC accepts the affiliation of the Queer Collective.
- (3) Without limiting subclause 19(2), the MSC may provide funding for affiliated bodies.
- (4) The MSC may by resolution passed by an absolute majority disaffiliate any affiliated body, subject to subclause (5).
- (5) The MSC will continue to accept the affiliation of the Queer Collective while the MSC is satisfied that the Queer Collective properly represents self-identified queer students.
- (6) The MSC may make regulations for the purposes of this clause.
- (7) Affiliated bodies are not MSA bodies for the purposes of this constitution.

PART 9 – OFFICE-BEARERS AND MEMBERS OF MSA BODIES

32. Office-Bearers

- (1) The following office-bearers must be directly elected by and from students:
 - (a) the President,
 - (b) the Secretary,
 - (c) the Treasurer
 - (d) the Education (Public Affairs) Officer,
 - (e) the Education (Academic Affairs) Officer,
 - (f) the Activities Chairperson,
 - (g) the Welfare Officer,
 - (h) the Environment and Social Justice Officer, and
 - (i) the Editors of *Lot's Wife*.
- (2) The Women's Officer must be directly elected by and from women students.
- (3) The Queer Officer must be directly elected by and from self-identified queer students. At least 1 person holding the position of Queer Officer must identify as female.
- (4) The Indigenous Officer must be directly elected by and from Indigenous students.
- (5) The Disabilities and Carers Officer must be directly elected by and from students with a disability and students who are carers.
- (6) The People of Colour Officer must be directly elected by and from students of colour.
- (7) The MSC may by regulation establish other office-bearer positions to be directly or otherwise elected by students.
- (8) The MSC may only pay an honorarium to office-bearers directly elected by students (which includes the Women's Officer).
- (9) The MSC may by resolution:
 - (a) grant leave of absence to any office-bearer who is paid an honorarium for a period of not more than 3 months;

- (b) elect a member of the MSA to hold the position for that period, subject to subclause (8); and
 - (c) pay an honorarium to the office-bearer so elected.
- (10) Only members of the MSC directly elected by students (which includes the Women's Officer) are eligible to be elected to hold the positions of President, Secretary and Treasurer under paragraph (7)(b).
 - (11) If the University makes provision for the President, Secretary and Treasurer to be enrolled students of the University by virtue of holding those positions and without being required to undertake studies but subject to the statutes and regulations of the University, the President, Secretary and Treasurer must be enrolled students of the University.
 - (12) If the University does not make the provision referred to in subclause (9), the words "other than the President, Secretary and Treasurer in paragraph 42(1)(b) and subparagraph 64(1)(v)(iii) do not apply.
 - (13) Office-bearers, including those paid an honorarium, are not employees of the MSA.

33. Sharing of Positions

- (1) Any number of students may stand for and hold the position of Editor of *Lot's Wife*.
- (2) 2 students may stand for and hold any other officer position, except President, Secretary and Treasurer.
- (3) The MSC may make regulations specifying the conditions under which positions may be shared.

34. Direction and Responsibilities

- (1) The President:
 - (a) is subject to the direction of the MSC;
 - (b) is the official spokesperson for the MSA;
 - (c) is responsible to the MSC for the day-to-day management of the MSA, including:
 - (i) staff, and

- (ii) publication of all public documents, except *Lot's Wife*; and
 - (d) has other responsibilities as determined by the MSC.
- (2) The Education (Public Affairs) Officer is subject to the direction of the Student Affairs Committee and the MSC, and is responsible for:
- (a) initiating research relating to educational issues;
 - (b) raising awareness of educational issues amongst students, staff and the broader community;
 - (c) collecting, collating, publishing and disseminating information relating to education policy;
 - (d) organising regular forums, guest speakers and debates on matters of educational policy interest to students;
 - (e) considering, developing and recommending education policies to the MSC;
 - (f) developing and implementing strategies for increasing public support of the education policies of the MSA;
 - (g) initiating and co-ordinating education campaigns;
 - (h) considering issues relating to education policy;
 - (i) attending all education policy meetings as requested;
 - (j) encouraging student participation in the Education Department of the MSA; and
 - (k) in co-operation with other officer-bearers, implementing campaigns, initiatives and research.
- (3) The Education (Academic Affairs) Officer is subject to the direction of the Academic Affairs Committee and the MSC, and is responsible for:
- (a) initiating research relating to academic affairs;
 - (b) raising awareness of academic issues amongst students, staff and the broader community;
 - (c) collecting, collating, publishing and disseminating information relating to academic affairs;
 - (d) organising regular forums, guest speakers and debates on academic issues of interest to students;
 - (e) considering, developing and recommending academic policies to the MSC;
 - (f) developing and implementing strategies for increasing public support of the academic policies of the MSA;
 - (g) initiating and co-ordinating academic campaigns;
 - (h) considering issues relating to academic policy;
 - (i) attending all academic policy meetings as requested;
 - (j) encouraging student participation in the education department; and
 - (k) in co-operation with other officer-bearers, implementing campaigns, initiatives and research.
- (4) The Secretary:
- (a) is subject to the direction of the MSC;
 - (b) is responsible on behalf of the MSC for ensuring that the MSA keeps proper records, including minutes of all meetings;
 - (c) is responsible for:
 - (i) liaising with, monitoring the activities of and recording information relating to all student service provider at the Clayton Campus to ensure quality services are provided to students;
 - (ii) after consulting with and as directed by the President, providing accurate and useful information about the MSA and its services and policies to student, the University and outside bodies; and
 - (iii) official promotion of student general meetings, referenda and MSA elections; and

- (d) has the other responsibilities specified in this constitution.
- (5) The Treasurer is subject to the direction of the MSC, and is responsible on behalf of the MSC for:
 - (a) the day-to-day management of the funds of the MSA;
 - (b) ensuring that the MSA keeps proper financial records;
 - (c) ensuring that the MSA establishes and maintains effective financial management systems;
 - (d) providing monthly financial reports to the Executive and the MSC; and
 - (e) ensuring that the accounts of the MSA are audited in accordance with clause 50.
- (6) The Activities Chairperson is subject to the direction of, and has the responsibilities determined by the MSC.
- (7) The Welfare Officer is subject to the direction of the Student Affairs Committee and the MSC, and is responsible for:
 - (a) initiating research relating to welfare issues;
 - (b) raising awareness of welfare issues amongst students, staff and the broader community;
 - (c) collecting, collating, publishing and disseminating information relating to welfare policy;
 - (d) organising regular forums, guest speakers, and debates on matters of welfare policy interest to students;
 - (e) considering, developing and recommending welfare policies to the MSC;
 - (f) developing and implementing strategies for increasing public support of the welfare policies of the MSA;
 - (g) initiating and co-ordinating welfare campaigns;
 - (h) considering issues relating to welfare policy;
 - (i) attending all welfare policy meetings as requested;
- (j) encouraging student participation in the Welfare Department of the MSA; and
- (k) in co-operation with other officer-bearers, implementing campaigns, initiatives and research.
- (8) The Environment and Social Justice Officer is subject to the direction of, and has the responsibilities determined by the Environment and Social Justice Collective.
- (9) The Editors of *Lot's Wife*:
 - (a) are responsible for editing, producing and distributing *Lot's Wife* regularly throughout the academic year;
 - (b) may be directed by the MSC to include material in *Lot's Wife*;
 - (c) may be directed by the Executive not to include material in *Lot's Wife* that is considered potentially defamatory; and
 - (d) are not otherwise subject to the direction of any MSA body in relation to the content of *Lot's Wife*.
- (10) The Women's Officer is subject to the direction of, and has the responsibilities determined by the Women's Affairs Committee.
- (11) The Queer Officer is subject to the direction of, and has the responsibilities determined by the Queer Affairs Committee.
- (12) The Indigenous Officer is subject to the direction of, and has the responsibilities determined by the Indigenous Affairs Collective.
- (13) The Disabilities and Carers Officer is subject to the direction of, and has the responsibilities determined by the Disabilities and Carers Collective.
- (14) The People of Colour Officer is subject to the direction of, and has the responsibilities determined by the People of Colour Collective.
- (15) The MSC may by regulation specify additional direction and responsibilities for office-bearers.

(16) If there is a vacancy in the position of President, or the President is otherwise unable to act, the Deputy Chair must act as President.

(17) The Treasurer is Deputy Chair, unless the MSC by a two-thirds absolute majority appoints another directly elected office-bearer as Deputy Chair.

35. Duties

- (1) Office-bearers and members of MSA bodies must exercise their powers and discharge their duties:
 - (a) in good faith in the best interests of the MSA; and
 - (b) for a proper purpose.
- (2) Office-bearers and members of MSA bodies must exercise their powers and discharge their duties with reasonable care and diligence.
- (3) Office-bearers and members of MSA bodies, and former office-bearers and members of MSA bodies must not make improper use of:
 - (a) their position, or
 - (b) information acquired by virtue of holding their position,so as:
 - (c) to gain an advantage for themselves or any other person; or
 - (d) to cause detriment to the MSA.
- (4) Office-bearers and members of MSA bodies must not behave in a racist, sexist, queerphobic, transphobic, ableist or militaristic manner in their capacity as office-bearers and members of MSA bodies.

36. Indemnity

The MSA indemnifies office-bearers and members of MSA bodies against any liability incurred in good faith by them in the course of performing their duties.

PART 10 – ELECTIONS

37. Application

- (1) In this constitution, “MSA election” means an election for an MSA body, subject to subclause (2).

- (2) This Part, other than subclause 38(2) and clause 43, does not apply to the Divisions.
- (3) The Divisions must provide in their constitutions or by regulation for the matters the subject of this Part.

38. Conduct

- (1) The MSC must make regulations for the conduct of MSA elections.
- (2) All MSA elections must be conducted by secret ballot using the optional preferential proportional representation method of election.
- (3) Office-bearers and members of the MSC and Committees directly elected by students must be elected at the annual elections.
- (4) The annual elections must be held over at least 4 academic days.

39. Eligibility to Stand and Vote

- (1) All students may stand in MSA elections, except for:
 - (a) students who are full-time staff of the MSA or the University; and
 - (b) office-bearers who have ceased to be enrolled students of the University, and to whom the definition of “student” in subparagraph 64(1)(v)(ii) does not apply.
- (2) All students may vote in MSA elections.
- (3) Subclauses (1) and (2) do not prevent this constitution or the regulations from limiting the eligibility to stand and vote in particular elections to a specified group or groups of students.
- (4) The regulations made under subclause 38(1) must provide that:
 - (a) In all MSA elections where multiple positions are to be elected in the same ballot at least half of the candidates elected must be women, provided sufficient women candidates have nominated;

- (b) If the filling of a vacancy in one of a number of positions to which paragraph (a) applied at the time of the original election by a man would result in less than half of those positions being held by women, the vacancy must be filled by a woman, provided a woman candidate nominates; and
- (c) For the purposes of the regulations made pursuant to paragraphs (a) and (b), in calculating half of a number, fractions must be rounded down.

40. Eligibility to Hold Positions

- (1) A person may stand for but not hold more than one office-bearer position.
- (2) A person may stand for but not hold more than one voting position on the same MSA body.
- (3) A person may stand for but not hold more than 2 separate positions as an office-bearer or member of the MSC or Committees.
- (4) A person who holds the position of Editor of *Lot's Wife* may not hold a voting position on any MSC body.

41. Term of Office

- (1) Office-bearers elected at the annual elections hold office from the following 1 December to 31 December of the next year, subject to subclause 42(1).
- (2) Other members of MSA bodies elected at the annual elections hold those positions from the following 1 January to 31 December, subject to subclause 42(1).
- (3) In the case of office-bearers elected at the annual elections, until the following 1 January:
 - (a) their position is termed “[insert name of position to which office-bearer has been elected]-Elect”; and
 - (b) the voting and other rights and powers of the position may only be exercised by their immediate predecessor in office; but
 - (c) the MSC may pay the office-bearer an honorarium in accordance with subclause 32(8).

42. Vacancies

- (1) The position of an office-bearer or member of an MSA body becomes vacant if the person holding the position:
 - (a) delivers a signed resignation to the Secretary (or, in the case of the Secretary, to the President);
 - (b) except in the case of office-bearers other than the President, Secretary and Treasurer, ceases to be a student;
 - (c) becomes a full-time member of the staff of the MSA or the University;
 - (d) does not vote in favour of a special resolution in accordance with subclause 60(5)(d) and the binding decision of a student general meeting or referendum;
 - (e) in the case of members of the MSC, the Executive and the Committees directly elected by students (including office-bearers), is removed by a resolution passed by an absolute majority of the members of that body on the ground that:
 - (i) the member has without prior leave of the body failed on 3 consecutive occasions to attend within 45 minutes of the time specified for the commencement of a meeting of the body; or
 - (ii) the member has been certified by a registered medical practitioner to be incapable of carrying out the responsibilities of the position because of injury or illness;
 - (f) is removed by a resolution passed by a four-fifths absolute majority of the MSC on the ground that they have breached their duties to the MSA under clause 35, provided that the office-bearer or member of an MSA body has been given:
 - (i) particulars in writing of what it is alleged they have done or failed to do in breach of their duties under clause 35, at least 1 week before the meeting at which the motion to remove them is to be considered; and

- (ii) a reasonable opportunity to make written submissions to, attend and be heard at that meeting;
- (g) is removed by binding decision of:
 - (i) a student general meeting in accordance with paragraph 14(2)(a), or
 - (ii) a student referendum in accordance with subclause 17(6); or
- (h) dies.
- (2) In addition, under section 78(2) of the Associations Act, the position of a member of the MSC becomes vacant if the person holding the position becomes:
 - (a) insolvent under administration as defined in section 38 of the Victorian *Interpretation of Legislation Act 1984*, or
 - (b) a represented person under the Victorian *Guardianship and Administration Act 1986*.
- (3) The position of a person nominated or appointed to an MSA body becomes vacant if the person or body making the nomination or appointment withdraws it.
- (4) Vacancies must be filled within 30 academic days:
 - (a) in the case of office-bearer positions directly elected by students – by a by-election being held, subject to subclause (5);
 - (b) in the case of other elected positions – in accordance with the regulations; or
 - (c) in the case of positions that are not elected – by another nomination or appointment being made.
- (5) If a vacancy occurs within 3 months before the annual elections, the MSC may appoint a person to fill the vacancy.
- (6) Persons filling vacancies hold those positions for the remainder of the term of office, subject to this clause.

43. Validation

Even if it is later found that a person who has acted as an office-bearer or member of an MSA body was not properly elected, the validity of:

- (1) the acts of that person as an office-bearer or member of an MSA body, and
 - (2) decisions of meetings of MSA bodies in which that person has participated,
- is not affected.

PART 11 – FINANCIAL AND LEGAL

44. Sources of Funds

The funds of the MSA may be derived from:

- (1) fees collected from students by the University; and
- (2) any other sources approved by the MSC.

45. Financial Year

The financial year of the MSA is from 1 January to 31 December.

46. Budget

- (1) The MSA may only spend money in accordance with a budget allocated to an MSA body.
- (2) Each MSA body may by resolution expend money from any budget allocated to that body by the MSC.
- (3) The MSC may only adopt a budget if:
 - (a) it has considered a draft budget prepared by the Budget Committee;
 - (b) it is satisfied that the Budget Committee has considered the draft budgets for each Committee and Division submitted by those bodies; and
 - (c) the budgets of the Divisions:
 - (i) are not less than the amount provided in the last financial year for staff salaries, occupancy, light and power, telephone, affiliation fees and election expenses, unless otherwise agreed by that Division; and

- (ii) for all other costs, are neither 10% less nor more than the last financial year, unless approved by resolution of the MSC passed by an absolute majority.
- (4) Before the Executive prepares the draft budget, the Divisions may jointly or separately make recommendations about the draft budget to the Executive. The Executive must consider the recommendations and respond in writing.
- (5) Before the MSC adopts the budget, the Divisions may jointly or separately make recommendations about the budget to the MSC.
- (6) Once the budget for a Division has been adopted by the MSC:
 - (a) it may not be changed by the MSC without the approval of that Division;
 - (b) the funds allocated are to be treated as funds standing to the account of that Division; and
 - (c) the Division may expend the funds allocated within the approved budget as it thinks appropriate.
- (7) Divisions and affiliated bodies may carry forward any unexpended funds standing to their account or which they were entitled to receive from one financial year to the next.

47. Management of Funds

- (1) The MSC is responsible for the management of the funds of the MSA.
- (2) Under section 89(1) of the Associations Act, the MSC must ensure that the MSA keeps financial records that:
 - (a) correctly record and explain its transactions and financial position and performance; and
 - (b) would enable true and fair financial statements to be prepared in accordance with clause 49.
- (3) All money received by or on behalf of the MSA must be deposited immediately into a bank account in the name of the MSA.

48. Cheques

- (1) All cheques must be signed by 2 signatories nominated by the MSC by regulation or resolution, subject to subclause (3).
- (2) The MSC may nominate a list of individuals or positions to be signatories for the purpose of subclause (1), subject to subclause (3).
- (3) For the purposes of subclauses (1) and (2), at least 2 of the signatories must be:
 - (a) in the case of cheques drawn on the account of a Division – members of the governing body of that Division; and
 - (b) in all other cases – office-bearers.
- (4) Signatories must not sign cheques until the payee and amount have been written in.

49. Financial Statements

- (1) As soon as practicable after the end of the financial year of the MSA under clause 45, the MSC must cause financial statements of the MSA for that year to be prepared in accordance with the Australian Accounting Standards.
- (2) The financial statements must contain particulars of:
 - (a) the income and expenditure of the MSA during and at the end of its last financial year,
 - (b) the assets and liabilities of the MSA at the end of its last financial year,
 - (c) the mortgages, charges and securities of any description affecting any property of the MSA at the end of its last financial year,
 - (d) the same particulars in respect of each trust of which the MSA was trustee during any part of its last financial year, and
 - (e) any trust, held on behalf of the MSA by a person or body other than the MSA, in which funds or assets of the MSA are placed.
- (3) The financial statements must also deal with any matters prescribed by the regulations under the Associations Act.

- (4) The financial statements must have a certificate attached in the form prescribed under the Associations Act signed by 2 members of the MSC in accordance with a resolution of the MSC certifying that the financial statements give a true and fair view of the financial position and performance of the MSA during and at the end of its last financial year.
- (5) The MSC must submit the financial statements (including the attached certificate) to the annual general meeting under clause 59(2).

50. Audit

- (1) The MSC must:
 - (a) have the financial statements audited in accordance with section 99 of the Associations Act; and
 - (b) submit the audit report to the annual general meeting under clause 59(2).
- (2) Subclause (1) applies whether the MSA is required to be audited under section 99 of the Associations Act or not.
- (3) All members of the MSA and the Divisions must promptly provide any records, information or explanation requested by the auditor.
- (4) An auditor may only be removed by a general meeting of members in accordance with the procedure set out in sections 106 and 107 of the Associations Act.

51. Retention of Records

- (1) The MSC must provide for the safe keeping of the records of the MSA.
- (2) Under section 89(2) of the Associations Act, the MSA must keep its financial records for at least 7 years after the transactions covered by the records are completed.
- (3) Under section 105(1) of the Associations Act, the MSA must keep the financial statements submitted to the annual general meeting under clause 59(2) for at least 7 years after the annual general meeting.

- (4) Under section 105(2) of the Associations Act, the MSA must keep the certificate referred to in clause 49(4) for at least 7 years after the certificate was signed.
- (5) The MSA must keep all its other records for at least 7 years after the record was created.
- (6) Under section 88 of the Associations Act, a person who is no longer entitled to custody of records of the MSA must return them to the MSA within 28 days.

52. Access to Records

- (1) Members and students may on request inspect:
 - (a) the constitution and regulations,
 - (b) the register of members,
 - (c) the minutes of general meetings of members, and
 - (d) a copy of any trust deed referred to in clause 49(2)(e),at any reasonable time.
- (2) The MSC must by regulation determine:
 - (a) whether members and students are entitled to inspect some or all of the other records of the MSA; and
 - (b) if so, on what conditions.
- (3) The MSA must on request make copies of the constitution and regulations available to members and students without charge.
- (4) The MSA must within 7 days of request make copies of:
 - (a) the register of members (subject to subclause (5)), and
 - (b) the minutes of general meetings of members,available to members and students without charge.
- (5) A member may request that access to their personal information in the register of members be restricted in accordance with section 59 of the Associations Act, if there are special circumstances that justify doing so.

53. Secretary for Purposes of the Associations Act

- (1) The President is the secretary of the MSA for the purposes of the Associations Act (in this constitution, “the Secretary”).
- (2) If there is a vacancy in the position of President, the Deputy Chair is the Secretary until the vacancy is filled.
- (3) Under section 74 of the Associations Act, the Secretary must notify the Registrar within 14 days of appointment.
- (4) Under section 215 of the Associations Act, the secretary whose appointment was last notified to the Registrar remains the Secretary in some circumstances under the Associations Act until the appointment of a new Secretary is notified.

54. Registered Address

- (1) The registered address for the service of documents on the MSA is the address of the MSA office, unless the MSC by regulation nominates a different address.
- (2) Under section 28(3) of the Associations Act, the MSA must notify the Registrar within 14 days of any change of registered address.

55. Common Seal

- (1) The common seal of the MSA may only be used if authorised by resolution of the MSC.
- (2) Under section 23(1)(a) of the Associations Act, the name of the MSA must appear in legible characters on the common seal.
- (3) The use of the common seal must be witnessed by the signatures of 2 members of the MSC nominated by the MSC by regulation or resolution.
- (4) The MSC may nominate a list of individuals or positions to be signatories for the purposes of subclause (3).
- (5) The MSC must provide for the safe keeping of the common seal.

56. Minutes

The MSC must ensure that minutes are taken and kept of all student general meetings and meetings of MSA bodies.

57. Publications

- (1) The President is the publisher of all material published by the MSA, except *Lot's Wife*.
- (2) The Editors of *Lot's Wife* are the publishers of *Lot's Wife*.
- (3) The MSA must not publish any material that is racist, sexist, queerphobic or militaristic.

58. Regulations

- (1) The MSC may by resolution passed by an absolute majority make regulations to give effect to this constitution.
- (2) New regulations must promptly be published on the MSA notice-board for at least 10 academic days, but the accidental failure to comply with this provision does not affect the validity of the regulations.

59. Annual General Meeting

- (1) The MSC must convene an annual general meeting of the members of the MSA each year, to be held within 5 months after the end of the financial year of the MSA under clause 45.
- (2) The ordinary business of the annual general meeting is to consider the financial statements and accompanying audit report submitted to members by the MSC in accordance with clauses 49 and 50.
- (3) The only other business that may be considered at the annual general meeting is a special resolution or a motion to remove the auditor in accordance with clause 60.
- (4) Under section 100(3) of the Associations Act, at, or as soon as practicable after, the conclusion of the annual general meeting, a member of the MSC must certify in the form approved by the Registrar that:
 - (a) the member attended the annual general meeting; and

- (b) the financial statements were submitted to the members of the MSA at the annual general meeting.
- (5) Under section 102 of the Associations Act, the Secretary (as defined in clause 53) must lodge with the Registrar:
 - (a) an annual statement in the form approved by the Registrar,
 - (b) the financial statements and accompanying audit report, and
 - (c) a statement of the terms of any resolution passed at the annual general meeting concerning the financial statements,within 1 month after the annual general meeting.
- (6) The financial statements and accompanying audit report must be published in *Lot's Wife* as soon as practicable after being submitted at the meeting.
- (7) The minutes of the annual general meeting must include a copy of the financial statements and accompanying audit report submitted at the meeting.

60. General Meetings of Members

- (1) Except for the annual general meeting, general meetings of the members of the MSA may only be held for the purpose of passing:
 - (a) a special resolution, or
 - (b) a resolution to remove the auditor under clause 50(4).
- (2) Special resolutions may only be put to general meetings of members if authorised by a binding decision of:
 - (a) a student general meeting in accordance with clause 14(2)(a), or
 - (b) a student referendum in accordance with clause 17(6).
- (3) The MSC must convene general meetings of members when required.
- (4) At least 21 days' notice of general meetings of members must be given to each member of the MSA.
- (5) For special resolutions:
 - (a) notice must be given in accordance with clause 64(1)(u);

- (b) the quorum is the presence in person of at least one member of the MSA;
- (c) members are not entitled to vote by proxy; and
- (d) all members of the MSA present must vote in favour, as required by clause 18.
- (6) The procedure at general meetings of members is otherwise the same as for meetings of the MSC.
- (7) If any member of the MSA votes against a special resolution contrary to subclause (5)(d) and clause 18, the position held by that person becomes vacant in accordance with clause 42(1)(d).
- (8) The minutes of general meetings of members must include a copy of any financial statements submitted at the meeting.

61. Grievance Procedure

- (1) In order to comply with section 55 of the Associations Act, the MSC must by regulation establish a grievance procedure for dealing with disputes under this constitution between:
 - (a) a member and another member, and
 - (b) a member and the MSA (or a MSA body).
- (2) Under section 55 of the Associations Act, the grievance procedure must provide that:
 - (a) The person or each of the members of the body conducting the grievance procedure must not:
 - (i) have a personal interest in the dispute; or
 - (ii) be biased in favour of or against any party;
 - (b) Each party is given a reasonable opportunity to be heard; and
 - (c) A party may appoint another person to act on its behalf in the grievance procedure.

62. Amendment of Constitution

- (1) Under section 50(1) of the Associations Act, this constitution may only be amended by special resolution.

- (2) Under section 50(2) of the Associations Act, an amendment to this constitution does not take effect until it has been approved by the Registrar.
- (3) Under section 50(3) of the Associations Act, the Secretary (as defined in clause 53) must apply to the Registrar for approval of the amendment within 28 days after the special resolution was passed.

63. Winding Up

- (1) The MSA may be wound up voluntarily by special resolution under section 125 of the Associations Act.
- (2) Under section 132(4) of the Associations Act, if the MSA is:
 - (a) wound up voluntarily or otherwise; or
 - (b) its incorporation is cancelled;the surplus assets of the MSA must not be distributed to any member.
- (3) The surplus assets must be given to the University to hold on trust to be given to an association of students of the University that:
 - (a) has similar purposes to those of the MSA;
 - (b) is not less representative of students of the University than the MSA;
 - (c) requires at least two-thirds of the voting members of its governing body to be directly elected by students of the University; and
 - (d) also prohibits the distribution of any surplus, income and assets to its members to at least as great an extent as the MSA.
- (4) Under section 132(3) of the Associations Act, the surplus assets of the MSA do not include any property supplied by a government department, public authority or municipal council, including the unexpended portion of a grant. On winding up, that property must be returned to the body that supplied it or its nominee.

64. Interpretation

- (1) In this constitution, unless the contrary intention appears:

- (a) “absolute majority” means a majority of the votes of all members of the body at the time, whether present at the meeting and voting or not;
- (b) “academic day” means a day on which undergraduate lectures are scheduled to be held at the Clayton Campus of the University by a majority of faculties holding undergraduate lectures at that campus;
- (c) “the Associations Act” means the *Associations Incorporation Reform Act 2012*;
- (d) “carer” means a person who provides care for a person with a disability or an elderly person;
- (e) “Committee” means a committee of the MSA established under Part 7;
- (f) “C&SC” is defined in subclause 7(3);
- (g) “disability” has the same meaning as in the Victorian *Equal Opportunity Act 2010*;
- (h) “Division” means a division of the MSA established under Part 3;
- (i) “general meeting of members” means a general meeting of the members of the MSA under clause 59 or 60, and includes the annual general meeting, but not a student general meeting;
- (j) “MAPS” is defined in subclause 7(2);
- (k) “MSA” is defined in clause 2;
- (l) “MSA body” means a body established by or under this constitution, and includes the Divisions;
- (m) “MSA notice-board” means the MSA notice-board in the Campus Centre;
- (n) “MSC” is defined in subclause 19(1);
- (o) “MUISS” is defined in subclause 7(1);
- (p) “office-bearer” means an office-bearer of the MSA under clause 32;

- (q) “President” in the case of a Division means the senior office-bearer of that Division, by whatever title called;
- (r) “Radio Monash” is defined in subclause 7(4);
- (s) “the Registrar” means the Registrar of Incorporated Associations under the Associations Act;
- (t) “regulations” means regulations of the MSA made under clause 58, and “regulation” has a corresponding meaning;
- (u) “special resolution” means a resolution at a general meeting of the members of the MSA under clause 60(2), where:
 - (i) at least 21 days’ notice of the proposed resolution has been given to each member;
 - (ii) the notice specifies that it intended that the resolution be proposed as a special resolution; and
 - (iii) three-quarters of the members who are present and who vote, vote in favour;in accordance with section 64 of the Associations Act;
- (v) “student” means:
 - (i) a student of the University who is currently enrolled in a course located at the Clayton Campus;
 - (ii) a person who:
 - (A) was an enrolled student of the University within the past 6 months;
 - (B) has applied to become a graduate student of the University enrolled in a course located at the Clayton Campus; and
 - (C) is eligible to make that application under the statutes and regulations of the University; or
 - (iii) an office-bearer other than the President, Secretary or Treasurer who has ceased to be enrolled; and

- (w) “the University” means Monash University.
- (2) To avoid doubt, “in writing” and “written” include emails and other forms of writing sent electronically.
- (3) The headings form part of this constitution.
- (4) Words and expressions used in this constitution have the same meaning as in the statutes and regulations of the University unless otherwise defined.
- (5) The MSC is responsible for the interpretation of this constitution and the regulations.
- (6) The provisions of this constitution are the rules of the MSA for the purposes of the Act.
- (7) This constitution is intended to make provision for all matters required by Schedule 1 to the Associations Act, with the intention that none of the model rules prescribed under section 49 of the Associations Act apply to the MSA under section 48(3) of the Associations Act.

65. Transitional

- (1) Despite anything to the contrary in this constitution or the regulations, before 1 January 2017 the MSC must elect the People of Colour Officer for 2017, who takes office at the later of:
 - (a) the time of their election, or
 - (b) 1 December 2016.
- (2) From 1 December 2016 to 31 December 2017, the position of Queer Officer is held by the 2 persons elected as the Female Queer Officer and the Male Queer Officer at the annual elections in 2016, subject to clause 42.
- (3) This clause and the references to it in the table of contents in clause 1 and the index in Part 12 are deleted on 1 January 2018.

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