



Meals on Wheels (S.A.) Incorporated

Constitution

22 October 2020

A handwritten signature in black ink, appearing to read "M. P. ...". The signature is fluid and cursive, with a long horizontal stroke at the end.

Chair

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1. The name of the Association

The name of the Association is Meals on Wheels (S.A.) Incorporated.

2. Definitions and Interpretations

In this Constitution the following definitions and interpretations apply:

- 2.1 The 'Association' means Meals on Wheels (S.A.) Inc.
- 2.2 The 'Council' means the Council of Voting Members and is the body of members entitled to vote at a General Meeting of the Association.
- 2.3 The 'Board' means the Board of the Association and is the elected body that governs the affairs of the Association.
- 2.4 The President of the Association also chairs the Board and is referred to herein as the 'Meals on Wheels (SA) Inc. President and Chair of the Board' and may be referred to in this Constitution as the 'Chair' or the 'President'.
- 2.5 A 'Branch' means each group of members of the Association which serves a separate geographical area and defined group of the community or operates independently of another group of members.
- 2.6 A 'Branch Committee' means a committee established under Clause 16 at a Branch to govern Branch operations.
- 2.7 A 'Branch Representative' on the Board is a committee member from a Branch elected at the AGM of the Association and continuing to serve on the nominating Branch Committee to represent the knowledge base of all Branches of the Association.
- 2.8 A 'Board Committee' means a committee established by the Board under Clause 15.
- 2.9 A 'member' means a member of the Association as defined in Clause 5.
- 2.10 A member of the Association, the Board or any Committee shall be a natural person.
- 2.11 The 'CEO' means the Chief Executive Officer of Meals on Wheels (S.A.) Inc and is responsible for the day to day management of the Association.
- 2.12 'The Act' means the Associations Incorporation Act 1985.
- 2.13 The 'AGM' means the Annual General Meeting of the Association held in accordance with the Act to inform the Association of the activities of the past year, to appoint an Auditor for the following year, to hold elections for any vacant Board positions and for any other business at the discretion of the Chair.
- 2.14 A 'Special General Meeting' of the Association is held to consider items which have a specific purpose or are of an unusual nature such as amendments to the Constitution.
- 2.15 An 'Elected Member' means a Board member elected at an AGM of the Association to a position other than President, Vice President or Branch Representative.
- 2.16 An 'Extraordinary General Meeting' of the Association means a meeting called by at least five Branches of the Association for a specific purpose.
- 2.17 A 'General Meeting' means any meeting of members of the Association and includes the AGM, Special General Meetings and Extraordinary General Meetings.

The headings used in this Constitution are for ease of reference only and do not affect the interpretation of this Constitution.

3. The purposes of the Association

The purposes of the Association are to provide meals and other services to members of the community who are not able to shop or prepare meals for themselves or are nutritionally at risk due to age, disability, poverty, ill health or having a carer responsibility.

4. The powers of the Association

In addition to the powers contained in Section 25 of the Act, the Association has, to enable it to give effect to its purposes, the power to:

- 4.1 engage and dismiss employees,
- 4.2 establish Branches and provide oversight of Branch Committees and to make and vary Association policies relating to Branches and Branch Committees,
- 4.3 charge for or recoup monies for goods and services provided,
- 4.4 seek or receive grants, donations, bequests, gifts and property of any kind,
- 4.5 borrow money on any terms, operate bank accounts and give any security,
- 4.6 deal with property of the Association in any manner,
- 4.7 invest in property of the Association in any manner,
- 4.8 enter into any commercial or other arrangement, including the provision of meals for profit, to provide funding for the purposes of the Association.
- 4.9 publish newsletters, reports or other documents, and
- 4.10 do anything else necessary or incidental to achieving or furthering the purposes-of the Association.

5. The members of the Association

The members of the Association comprise:

- 5.1 all persons registered by the Board or any Branch Committee as active voluntary workers of the Association,
- 5.2 all Board members,
- 5.3 all past Presidents of the Association,
- 5.4 all persons who have been Board members at any time during the two years preceding the last AGM,
- 5.5 the Association's Honorary Legal Advisor and Honorary Medical Advisor,
- 5.6 all volunteers who have been awarded life membership of the Association, and
- 5.7 the CEO.

6. The Membership Register

The CEO shall cause a register to be kept of members of the Association which contains:

- 6.1 the name and address of each member,
- 6.2 the date on which each member was admitted to the Association, and if applicable,
- 6.3 the date of and reason(s) for cessation or termination of membership.

7. Composition of the Council

The Council consists of:

- 7.1 all Board members, and
- 7.2 subject to Clause 8, two delegates from each Branch or their respective proxy.

8. Branch delegates to the Council

- 8.1 Subject to Clause 8.2, each Branch is entitled to appoint two delegates to the Council.
- 8.2 Each delegate must be a member of the Branch Committee.
- 8.3 To be effective, the names of the delegates shall be in writing and be received by post, delivery, fax or email at the Association's head office at least two business days before the meeting at which the delegate is to vote.

9. Management of the Association

- 9.1 The affairs of the Association shall be managed and controlled by the Board which, in addition to any powers and authorities conferred by this Constitution, may exercise all such powers and do all such things as are within the stated purposes of the Association, and are not by the Act or by this Constitution required to be done by the Association at a General Meeting.
- 9.2 The Board shall have authority to interpret the meaning of this Constitution and any other matter relating to the affairs of the Association on which this Constitution is silent.
- 9.3 The Board may make policies and procedures for the efficient and safe operation of the Association provided they are not inconsistent with this Constitution.

10. The Board

- 10.1 The Board consists of:
 - 10.1.1 the President
 - 10.1.2 one Vice President Services
 - 10.1.3 one Vice President Finances
 - 10.1.4 three Elected Members
 - 10.1.5 four Branch Representatives
 - 10.1.6 a person or persons co-opted subject to Clause 13.
- 10.2 The Honorary Legal Advisor and the Honorary Medical Advisor are entitled to attend Board meetings.
- 10.3 The CEO shall attend Board meetings.
- 10.4 The Board must meet at least once every two months.
- 10.5 Subject to Clause 35.1, a meeting of the Board may be held if Board members are linked by telephone, video conference facilities, or other electronic means.

11. Electing the Board

- 11.1 Members of the Board (other than co-opted Board members) are elected at the AGM and remain in office until close of the AGM at which their term expires.

- 11.2 The President, Vice Presidents, and Elected Members of the Board hold office for three years or for such shorter periods as the Board may from time to time decide.
- 11.3 The officers elected in 11.2 may be re-elected for further terms of three years each or for such shorter period as the Board may from time to time decide.
- 11.4 Branch Representatives hold office for three years, and:
 - 11.4.1 must be nominated by their Branch Committee and be a member of that Branch Committee at the time of their nomination and, if elected, for the duration of their term,
 - 11.4.2 no Branch can be represented for successive terms, subject to clause 11.4.4,
 - 11.4.3 Where a Branch Representative appointed in accordance with clause 11.5 is from a different Branch to the original member and the balance of the term of the original member is less than one year, the Branch may nominate for a successive term,
 - 11.4.4 Where a Branch Representative is a member of a Branch Committee that is disbanded upon closure of the Branch in accordance with clause 16.5, or suspended in accordance with clause 16.7, a casual vacancy will occur, effective from the date of Branch closure.
- 11.5 Upon a casual vacancy occurring, the Board shall appoint a replacement member who holds office for the balance of the term of the original member.

12. Election of the Board

- 12.1 Nominations as a Board member must be lodged with the CEO at least 30 days prior to the AGM of the Association.
- 12.2 A person may nominate for more than one notified vacancy for which they are eligible.
- 12.3 Nominations will not be accepted from a member who is an active Branch volunteer and another active volunteer from the same Branch is a continuing Board member in any Board position.
- 12.4 A Branch Committee may only make one nomination for a Branch Representative, subject to clause 11.4.1.
- 12.5 Nominations must be in writing in a form approved by the Board and signed by the nominator and the nominee.
- 12.6 If nominations for a particular position do not exceed the number stipulated in Clause 10, the Chair shall declare the nominee/s duly elected.
- 12.7 If nominations for a particular office exceed the number stipulated in Clause 10, an election will be conducted by way of a secret ballot.
- 12.8 The election process will be conducted in the order of President, Vice President/s, Elected Member/s and Branch Representative/s.

13. Power to co-opt

- 13.1 The Board may co-opt up to three persons onto the Board.
- 13.2 A co-opted member holds office for a term at the discretion of the Board but not exceeding three years.
- 13.3 A co-opted member may hold office for consecutive terms.

14. Power to appoint Honorary Advisors

- 14.1 The Board may appoint, by invitation, an Honorary Medical Advisor and/or an Honorary Legal Advisor to advise the Board on medical and legal matters respectively.
- 14.2 The Honorary Advisors shall hold recognised professional qualifications and registrations acceptable to the Board.
- 14.3 The Honorary Advisors are members of the Association (as per Clause 5.5) and are entitled to attend Board meetings (as per Clause 10.2).
- 14.4 The Honorary Advisors hold office at the discretion of the Board.
- 14.5 An Honorary Advisor may resign at any time by notice to the Board.

15. Board Committees

- 15.1 The Board may establish committees to carry out the functions it decides.
- 15.2 At the discretion of the Board, any person (including a non-member) may be appointed as a member of a committee.
- 15.3 The Board may at any time –
 - 15.3.1 appoint and remove a Chair of a Committee,
 - 15.3.2 disband any Committee,
 - 15.3.3 remove or replace any member of any Committee, or
 - 15.3.4 vary the functions of any Committee.
- 15.4 Committees shall meet as and when required by the Board.
- 15.5 All Committees must operate under any rules set down by the Board from time to time.

16. Branches and Branch Committees

- 16.1 The Board may authorise the creation of a Branch on any terms it decides.
- 16.2 A Branch Committee will be established for each Branch which shall be accountable to the Board for the efficient and responsible operation of the Branch in accordance with Association policies.
- 16.3 The Board may set or vary Association policies for management of Branches, Branch expenditure authorities, limits for Branch disbursements and the funds the Branch may hold.
- 16.4 All property and assets held within a Branch remains in the ownership of the Association.
- 16.5 The Board may disband any Branch and Branch Committee where the Branch Committee has requested the Board take such action or where the Board considers it is in the best interests of the Association.
- 16.6 Where a Branch is to be closed, the delegations to the Branch Committee to manage property and the funds lapses from a date set by the Board and all property and funds in the possession of the Branch Committee must be immediately returned to the CEO.
- 16.7 Where the Board is satisfied that a serious breach of Association policies relating to the management of the Branch has occurred, the Board, after having provided written notice to the Branch, may suspend the committee for a specified period and assume its operations.

17. The CEO

- 17.1 The Board shall appoint a CEO from time to time under terms and conditions it decides.
- 17.2 The CEO is responsible to the Board for:
 - 17.2.1 implementing the decisions of the Board,
 - 17.2.2 ensuring the day to day operations of the Association are conducted effectively and efficiently, and
 - 17.2.3 managing the salaried staff and the volunteers.
- 17.3 The CEO shall report to the Board as and when required by the Board.

18. The Public Officer

The CEO will be the Public Officer of the Association for the purposes of the Act.

19. The property of the Association

The income and property of the Association shall be applied exclusively to the promotion of its purposes and no portion shall be paid or distributed directly or indirectly to members or their associates except as bona fide remuneration of a member for services rendered or expenses incurred on behalf of the Association.

20. The Association funds

- 20.1 The Board has the management and control of the funds and other property of the Association.
- 20.2 For this purpose the Board shall establish and operate accounts only with Approved Deposit-taking Institutions authorised under the Banking Act 1959.
- 20.3 Branch Committees shall assist the Board in carrying out this responsibility and shall follow such rules and procedures for dealing with Association funds as are determined from time to time by the Board.
- 20.4 Subject always to the financial capacity of the Association, the Board shall ensure that each Branch Committee has sufficient funds for its immediate needs.
- 20.5 Funds surplus to the immediate requirements of the Association may be invested for the long term benefit of the Association in such manner as may be determined from time to time by the Board.

21. The financial year of the Association

The financial year of the Association commences on the first day of July each year.

22. The accounts of the Association

- 22.1 The Association shall keep and retain such accounting records as are necessary to correctly record and explain the financial transactions and financial position of the Association in accordance with the Act.
- 22.2 The accounts, together with the auditor's report on the accounts, the Board's statement and the Board's report, shall be laid before members at the AGM of the Association.

23. The Auditor

- 23.1 An Auditor shall be appointed at each AGM.
- 23.2 The Auditor holds office until the next AGM or until a new Auditor is appointed by the Board under Clause 23.3.
- 23.3 Should the appointed Auditor leave office for any reason, the Board shall appoint another Auditor in their place.

24. The Association AGM

- 24.1 The AGM of the Association shall be held no later than 31 October each year on a day fixed by the Board.
- 24.2 The Board shall set the Agenda for the meeting.

25. Special General Meetings

Apart from the AGM, the Association shall meet if a meeting is called by the President of the Association or by the Board.

26. Extraordinary General Meetings

Apart from the AGM or a Special General Meeting, the Association shall meet within one month of receiving a requisition for a meeting signed by delegates to the Council from not less than five Branches provided the requisition states the purpose of the meeting.

27. Notice of meetings

- 27.1 At least 14 days notice of any AGM shall be provided to the Board and all Branches.
- 27.2 At least 21 days notice of any Special or Extraordinary General Meeting shall be provided to the Board and all Branches.
- 27.3 The Notice shall state the place, day and hour of the meeting, and the general nature of the business.
- 27.4 Notice must be given in one or more of the ways mentioned in Clauses 29 and 30.
- 27.5 An accidental failure to give notice of a meeting to anybody entitled to notice of it does not invalidate any proceedings of the meeting.

28. Meetings at two or more venues

- 28.1 The Association may hold a General Meeting at two (2) or more venues using any technology such as telephone, internet, video conferencing or other means of instantaneous communication which gives the members as a whole a reasonable opportunity to communicate. A meeting held in two (2) or more places using technology shall as a minimum allow each person who participates:
 - 28.1.1 to hear or read each of the other participating members addressing the meeting; and
 - 28.1.2 if a participating member wishes, to address each of the other members participating simultaneously.
- 28.2 At a General Meeting held in two (2) or more places using technology:
 - 28.2.1 a quorum shall be deemed to be present if the provisions set out in this Constitution regarding quorums are met in respect of the minimum number of Council members;

- 28.2.2 will be deemed to be held at the place where the largest group of participating members is assembled, or if no such group is identifiable, at the place at which the Chair is attending;
- 28.2.3 no member may leave the meeting by disconnecting their means of communication unless having obtained the express permission of the Chair and the members shall be conclusively presumed to have been present and to have formed a quorum at all times during the meeting unless such express consent is obtained;
- 28.2.4 if there is any inadvertent break-down in the telephone, internet link, video conference or other means of instantaneous communication, such disconnection shall not be deemed to disrupt the meeting provided that at all times a quorum of Council members remain in sufficient communication with one another;
- 28.2.5 a minute of proceedings of the meeting shall be sufficient evidence of such proceedings and of the observance of all necessary formalities if a certified record by the Chair of the meeting.

29. How notices must be given

- 29.1 Any notice required under this Constitution may be given in writing to any member personally.
- 29.2 A notice may also be given to any member or Branch by leaving it at or sending it by post or electronic means to the Branch or the last known address of the member.
- 29.3 Notice of any General Meeting of the Association is not required to be given to individual members.
- 29.4 If any notice is given to a Branch, it is deemed to be given to all members registered with that Branch.

30. Notice by post or electronic means

- 30.1 Subject to Clause 30.2, a notice is sufficiently given by post if it is sent in a pre-paid envelope and addressed to the Branch concerned or the last known address of the member.
- 30.2 The Notice so sent is deemed given on the second business day after the day it is posted.
- 30.3 A Notice is sufficiently given by electronic means if it is properly addressed to the Branch concerned or the last known email address or fax number of the member.

31. Chairing of meetings

- 31.1 The President shall Chair all meetings of the Association and the Board.
- 31.2 In the absence of the President, a Vice President shall chair the meeting.
- 31.3 If none of the President or Vice Presidents are present at any meeting within 15 minutes of the start time, those present shall elect one of their number to be the Chair provided -
 - 31.3.1 that if the President or a Vice President joins the meeting, they will resume the chair, and
 - 31.3.2 a quorum of members is present.

32. Rulings by the Chair

The Chair's ruling on any matter of procedure at a meeting of the Association is final and binding on a meeting provided it is not at variance to this Constitution.

33. Power to take other business at a General Meeting

The Chair may permit any person with a vote to raise any matter for discussion but not for resolution.

34. Adjournment of meetings

34.1 If a meeting consents, the Chair may adjourn the meeting to any time and place.

34.2 No business may be transacted at any adjourned meeting other than business mentioned in the Notice for the original meeting.

35. Quorum for meetings

35.1 At a meeting of the Board, a majority of those elected or appointed for the time being present in person or connected by electronic means per Clause 10.5, constitute a quorum.

35.2 At a General Meeting, not less than 50 Council members present in person or contemporaneously connected by electronic means in accordance with clauses 28.1 and 28.2, constitute a quorum.

35.3 At an AGM or Special General Meeting of the Association, or a meeting of the Board, if a quorum is not present at any meeting within 30 minutes of the start time, the Chair must adjourn the meeting to a place and time (3 – 7 days) later set by the Chair, provided as much notice as is practical of the date, time and place of the adjourned meeting is provided to those entitled to attend.

35.4 Those present at an adjourned meeting constitute a quorum.

35.5 At an Extraordinary General Meeting, if a quorum is not present within 30 minutes of the notified start time, the meeting lapses.

36. Voting on a motion arising at a meeting

36.1 At a General Meeting:

36.1.1 motions are decided by majority vote, in each case by a show of hands,

36.1.2 only Council members are entitled to vote and each has one vote only,

36.1.3 proxy voters may vote equal to the number of authorised proxy votes they hold, and

36.1.4 the Chair has a deliberative vote and in the event of an equality of votes, also has a casting vote.

36.2 At a meeting of the Board:

36.2.1 only Board members are entitled to vote,

36.2.2 the Chair has a deliberative vote and in the event of an equality of votes, also has a casting vote,

36.2.3 motions are decided by consensus but if consensus is not clear, by majority vote, in each case by show of hands, and

36.2.4 immediately after any vote, any Board member may request the recording of the manner in which each Board member voted.

- 36.3 At a meeting of a Board Committee:
- 36.3.1 only those Committee members appointed to the Committee by the Board and ex-officio Committee members, are entitled to vote,
 - 36.3.2 the Chair has a deliberative vote only, and
 - 36.3.3 motions are decided by consensus but if consensus is not clear, by majority vote by a show of hands.

37. Proxy voting

- 37.1 Any person entitled to vote at a General Meeting may, subject to Clause 37.2, appoint a proxy to vote in their place.
- 37.2 A proxy must be a member of any Branch Committee or be a Board member.
- 37.3 A proxy must be appointed in writing in a form approved by the Board and signed by the appointer.
- 37.4 The appointer may, on the proxy form, direct how the proxy is to vote in relation to any particular matter.
- 37.5 The proxy form must be received by post, personal delivery, fax or email at the Association's central office at least two business days before the meeting at which the proxy is to vote.

38. The Minutes

- 38.1 The CEO shall cause proper minutes of all General Meetings and meetings of the Board and its Committees to be prepared within one month after the relevant meeting in a form approved by the Board.
- 38.2 Such minutes shall be confirmed by the Board or Board Committee (as relevant) at its next meeting.
- 38.3 Such minutes shall be signed by the Chair of the relevant meeting at which the proceedings took place or by the Chair of the succeeding meeting at which the minutes are confirmed.
- 38.4 Where minutes are signed they shall, until the contrary is proved, be evidence that the meeting was convened and duly held, that all proceedings at the meeting have been duly held and that all appointments made at the meeting are valid.

39. Resignation by a member

A member may resign at any time.

40. Cessation of Board membership

- 40.1 A Board member may resign at any time by notice in writing to the Board.
- 40.2 In the event that a Board member is unable to fulfil their duties, acts in a manner contrary to the interests of the Association or become a disqualified person under the Act, the Board may appoint another eligible person in their place to hold office for the balance of the term of office of the person replaced.

41. Suspension and termination of membership

- 41.1 If a member defined at clause 5.1 or 5.6 of this Constitution engages in conduct which, in the opinion of the CEO, is detrimental to the interests of the Association, the CEO may:

- 41.1.1 Issue a disciplinary warning, or
 - 41.1.2 Suspend the member for such a period and upon such conditions as the CEO determines, or
 - 41.1.3 Expel the member from the Association,
 - 41.1.4 Provided that the member is given written reasons for any such warning, suspension or expulsion.
- 41.2 A person who is suspended or expelled from the Association by the CEO under clause 41.1 may appeal to the Board against that decision. Any appeal to the Board shall:
- 41.2.1 be made in writing, addressed to the President and Chair of the Board and include the name of the appellant and the address to which the Board's determination of the appeal may be sent;
 - 41.2.2 be received by the President and Chair of the Board within 28 days of the date of the decision;
 - 41.2.3 lay out the member's reason/s for appealing the decision;
 - 41.2.4 be considered and determined at a meeting of the Board, or by a standing Committee of the Board with authority to do so expressed in its Charter within 28 days of receipt of the appeal; and
 - 41.2.5 conclude with a notice of the determination of the appeal, including reasons, sent to the appellant at the address provided.

In the event of an appeal under this clause 41.2 being upheld, the membership of the member shall be reinstated.

- 41.3 If a member defined at clauses 5.2, 5.3, 5.4 or 5.5 of this Constitution engages in conduct which, in the opinion of the Board, is detrimental to the interests of the Association:
- 41.3.1 The Board may suspend the member for such a period and upon such conditions as the Board determines;
 - 41.3.2 The Board may expel the member from the Association, subject to giving the member an opportunity to be heard or to make a written submission, provided:
 - (a) particulars of the charge are advised to the member at least one month before the meeting of the Board at which the matter will be determined,
 - (b) the member is advised of the decision of the Board and, in the event of an adverse decision, the member shall cease to be a member 14 days after the Board has advised the member of its decision.
 - 41.3.3 It shall be open to the member to appeal the expulsion to the Association at a General Meeting. The intention to appeal shall be advised to the Public Officer of the Association within 28 days after receipt of such a decision.
 - 41.3.4 In the event of an appeal under Clause 41.3.2 being upheld, the membership of the member shall be reinstated.

42. Common Seal of the Association

- 42.1 The common seal of the Association may only be used with the authority of the Board.
- 42.2 Every document to which the seal is affixed must be signed by two Board members and every use of the seal shall be recorded in a manner approved by the Board.

43. Altering this Constitution

- 43.1 Subject to Clause 43.2, this Constitution may be changed or replaced by resolution of at least three quarters of those present and entitled to vote at a Special General Meeting.
- 43.2 At least 21 days prior written notice of the details of the proposed changes and the reasons for the changes shall be provided to all Branches and all Board members.

44. Winding up

Should the Association be wound up in accordance with the Act and there remain surplus assets (as defined in the Act):

- 44.1 such surplus assets shall be distributed to any organisation or organisations with similar objects and which has rules which prohibit the distribution of its assets and income to its members, and
- 44.2 such organisation/s shall be identified and determined by a resolution of members at a Special General Meeting.

45. Indemnity

Each member is indemnified by the Association against all loss, damages and expenses paid or incurred by them in the proper exercise of their duties as a Board Member, volunteer or employee.

46. No Liability

Unless due to the proven negligence of the member, no member shall be liable for:

- 46.1 any error, default, negligence or dishonesty of any other member,
- 46.2 any defect of Title to any property acquired by or on behalf of the Association,
- 46.3 any loss or damage arising from the insolvency of tortuous act of a person controlling any property of the Association, or
- 46.4 any other loss or damage to the Association.
