

**RULES**  
**OF**  
**THE MASTER PLUMBERS AND GASFITTERS ASSOCIATION OF**  
**WESTERN AUSTRALIA**  
**(UNION OF EMPLOYERS)**

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S. KEMP  
DEPUTY REGISTRAR  
20 December 2022

**RULES  
OF  
THE MASTER PLUMBERS AND GASFITTERS ASSOCIATION OF  
WESTERN AUSTRALIA  
(UNION OF EMPLOYERS)**

**1 - NAME**

The name of the Association is “The Master Plumbers and Gasfitters Association of Western Australia (Union of Employers)”.

**2 - REGISTERED OFFICE**

The Registered Office of the Association is 3/353 Shepparton Road, East Victoria Park, or any other place in Western Australia that the Members in General Meeting decide upon from time to time.

**3 - CONSTITUTION**

The Association will be made up of an unlimited number of persons, firms, associations, joint ventures, companies and corporations who or which have been admitted as members in accordance with these Rules.

**4 - SCOPE AND EXTENT OF THE PLUMBING AND MECHANICAL SERVICES INDUSTRY**

Plumbing and Mechanical Services work shall be deemed to be the work and processes as described in the following clauses but shall not be limited to or by these clauses.

Plumbing work or Plumbing trade shall also mean all workmanship skills, trades expertise, applicable technology and materials currently used or which may in the future be used in connection with the design, fabrication, installation, commissioning, alteration, repair and maintenance of the following services:-

- (a) General plumbing, sanitary plumbing, water supply plumbing, domestic and industrial gas fitting.

- (b) Drainage, storm water, sub-soil drainage, trade waste, sewer, nuclear waste treatment and disposal.
- (c) Septic Tanks - construction and installation.
- (d) Services embracing water heating, chilled water, steam and condensate, high temperature hot water, hot water, compressed air, oil, solar heating, condenser water, medical and industrial gases, vacuum, soap, sterile-water installations and recirculated water.
- (e) General roof work, including roof and wall claddings, gutters, downpipes and flashings.
- (f) Domestic, residential, commercial and industrial fire protection.
- (g) Chemical, product, commercial and industrial pipe and ductwork installations.
- (h) Ventilation, air conditioning and refrigeration installations.
- (i) Laying, altering and/or repair of mains such as water, sewer, gas and oil reticulation.
- (j) Installation and services to industrial, hospital, commercial and restaurant equipment (other than electrical services).
- (k) Manufacture, installation and repair of tanks.
- (l) Plumbing work shall be classed as such, wherever it is carried out; whether in employer's workshops, in any class or building or structure; in construction and development sites; in mines, ships, barges; oil rigs and platforms; in air, space and land vehicles.
- (m) As plumbing work covers such a broad spectrum of work and the technological changes in materials and methods, this clause can only be considered a guide and in no way shall limit the scope of the work.

## **5 - OBJECTS**

The objects of the Association, being the purposes for which it is formed, shall be:

### 5.1 Industrial, Technical and Commercial

- (a) To cause the Association to be registered and to continue to be registered as an Industrial Organisation under the provisions of the *Industrial Relations Act 1979 (WA)* ("the Act").
- (b) To further and protect the interests of members.

- (c) To assist the public in its dealings with members.
- (d) To provide advice to members on industrial, trade and business matters.
- (e) To promote unity of action on behalf of members.
- (f) To represent or secure representation of the Association to government, semi-government authorities and other organisations, affecting the plumbing industry.
- (g) To advance the quality of technical education and training in areas related either directly or indirectly to the imparting of skills and techniques relevant to the plumbing and gasfitting industry by developing, promoting and providing such technical and further education.
- (h) To work for improvement in the status and standards of Plumbing Contractors and plumbing, and for the observance of a high ethical code of conduct in the technical and commercial aspects of the businesses of members.
- (i) To promote and develop plumbing and mechanical contracting in such a manner as to assist in the development of the manufacturing and industrial and primary resources of Western Australia.
- (j) To promote an atmosphere of co-operation and friendship among members of the Association for the exchange of ideas and knowledge, the solution of common problems and the betterment of the plumbing industry.
- (k) To recommend methods of improving relations between members of the Association and their employees and the organisations and unions of such employees.
- (l) To affiliate with or enter any alliance, joint ventures or other arrangements with any organisation or association which has objects similar to those of the Association for the purposes of mutual benefit or benefit to members of the Association.
- (m) To act as an organisation of employers under the laws of Australia or any of its States or Territories.
- (n) To arrange and promote the adoption of equitable forms of contracts and other documents used in the plumbing trade.
- (o) To encourage the settlement of disputes between members or between members and others by conciliation and arbitration and

to act as or to nominate conciliators and arbitrators on such terms and in such cases as may be expedient.

- (p) To provide current information on changes to all relevant government legislation and on awards and conditions of employment applicable to all types of staff employed by Association members.
- (q) To provide current information and advice on new materials, new design techniques, new technical applications and procedures applicable to the scope of work.
- (r) To provide information and advice to Association members on business administration affairs, interpretation of Awards and Agreements, preparation of documents and other matters which may be of assistance to Association members.
- (s) To give advice on all current activities by means of a journal or periodical circulars.
- (t) To do all other lawful things as may appear to be incidental or conducive to the above objects or any of them.

## 5.2 Code of Conduct

To prescribe a Code of Conduct which is to be issued to all Association members and applicants for membership, as a means of encouraging the highest standards of business conduct from those engaged in the plumbing industry.

## 5.3 Educational

- (a) To provide its members with information on matters affecting the plumbing industry and to print, publish, issue and circulate any such information and written materials that seem conducive to any of the objects of the Association.
- (b) To improve and cultivate the technical and general knowledge of persons engaged in or about to engage in the plumbing industry or in any employment in connection with it by providing for the giving of lectures and classes, the holding of examinations, the awarding of certificates and other distinctions and the establishment of scholarships, grants and other benefactions.
- (c) To set up and maintain a library and collection of models, designs, drawings and other articles of interest in connection with the plumbing industry.

#### 5.4 General

- (a) To establish a central place for members and others to use for training, meetings, recreation purposes and business.
- (b) To purchase, take on lease or in exchange, hire and otherwise acquire any land, buildings, easements or property, real and personal and any rights or privileges which may be requisite for the purpose of, or capable of being conveniently used in connection with, any of the objects of the Association.
- (c) To subscribe to, become a member of and co-operate with or amalgamate with any other company, institution, society, association or organisation, whether incorporated or not whose objects are similar to those of the Association.
- (d) To pursue any other objects that the Association decides upon from time to time subject to the provisions of the Act.
- (e) To make financial provision for carrying out all or any of its objects.

### **6 - MEMBERSHIP**

#### 6.1 Eligibility

Any person, firm, company or corporation who, or which, is or is usually an employer within the meaning of the Act, or a sole trader working in, or in connection with all or any facet of the Plumbing Industry described in Rule 4 of this Constitution, will be eligible for membership.

#### 6.2 Classes of Membership

The Association will have the following classes of membership:

Ordinary members  
 Country members  
 Associate members  
 Life members  
 Teaching members  
 Retired members

all of whom will, unless the context otherwise requires, be included in any reference to “member” wherever appearing in this Constitution.

#### 6.3 Ordinary Members

Ordinary Members of the Association will consist of those persons, firms, associations, joint ventures, companies and corporations or other legal entities carrying on a bona fide plumbing, roofing, gas installation, plumbing consulting, draining and/or mechanical

contracting business and the proprietor/principal/nominee of which shall hold a license or certificate where applicable issued by the appropriate statutory authority.

Ordinary Members may be admitted to the Association upon the endorsement of the Executive Committee.

#### 6.4 Country Members

Country Members of the Association will consist of those persons, firms, associations, joint ventures, companies and corporations or other legal entities who or which meet the criteria for ordinary membership defined in Clause 6.3 but whose business is operated outside a 58 kilometre radius of the Registered Office of the Association.

Country Members may be admitted to the Association upon the endorsement of the Executive Committee.

#### 6.5 Associate Members

Associate Members of the Association will consist of those persons, firms, associations, joint ventures, companies and corporations or other legal entities carrying on a bona fide business actively engaged in manufacture, distribution and/or servicing of the plumbing industry, and on the endorsement of the Executive Committee, may be admitted to the Association as Associate Members.

Associate members will be ineligible to hold office or exercise voting rights but will be eligible to display emblems of the Association as Associate Members.

#### 6.6 Life Members

- (a) An Annual General Meeting may elect a member as a Life Member of the Association in recognition of faithful service rendered to the Association by that member.
- (b) Every nomination for the appointment of a Life Member must be submitted to the Executive Committee in writing and accompanied by not less than three testimonials in support.
- (c) The conferring of Life Membership will be restricted to not more than one nominee per annum. Nomination must be submitted to the Annual General Meeting of members each year for approval by that meeting.
- (d) Life Membership will entail all the privileges and rights of Ordinary Membership of the Association without payment of fees, subscriptions, dues or levies.



## 6.7 Teaching Members

- (a) Any person who is an approved instructor, teacher or lecturer in plumbing, gasfitting and sheetmetal at any training institution either secondary or tertiary in nature, may apply to the Association for Teacher Membership. Every application for Teacher Membership must include details of the qualifications held, and the establishment or establishments at which tuition is currently being given.
- (b) Teaching Members may be admitted to the membership of the Association upon endorsement by the Executive Committee.
- (c) Teaching Members shall be ineligible to hold office or exercise voting rights.

## 6.8 Retired Members

For the purposes of this clause a Retired Member is a person, sole trader, nominee of a company or other legal entity, previously enrolled with the Association as an Ordinary Member, who has sold or otherwise relinquished control or has ceased to exercise control of a plumbing contracting organisation. Such a person may be admitted to the Association as a Retired Member.

## 6.9 Admission to Membership

Admission to membership of the Association will be conditional on compliance with the following:

- (a) Members of the Association as it is constituted at the time of the meeting adopting this Constitution creating the classes of membership shall be, subject to these rules and shall continue to be members of the Association in the applicable category for such membership.
- (b) All new applicants for membership must lodge with the Executive Director, a signed application agreeing to be bound by the Association's Rules and Code of Conduct. This application must be on an approved form and must be lodged with a nomination fee (if applicable) and subscription. The Executive Director will submit every application received to the Executive Committee which will review the suitability of the applicant and may:
  - (1) Accept the application; or
  - (2) Reject the application; or
  - (3) Defer making a decision to accept or reject the application until further enquires have been made so long as a decision is not delayed beyond the next scheduled meeting of the Executive Committee.

- (c) An application by a firm, company or corporation must nominate to the Association a representative who must be a person acceptable to the Executive Committee. The person so nominated will represent the firm, company or corporation if it is admitted to membership. The representative will attend meetings and vote as for the member he or she represents and the term “member” will also mean the representative of the member. If a representative ceases to represent a member a further representative acceptable to the Executive Committee must be nominated by that member.

#### 6.10 Members Bound by the Rules and Constitution

When an applicant for membership is accepted as a member of the Association he or she will be bound by the Rules and Constitution of the Association in force from time to time until he or she resigns from membership in accordance with rule 6.13 or has his or her membership terminated in accordance with rule 6.14.

#### 6.11 Violation of the Rules and Penalties Therefore

- (a) If the Executive Committee is satisfied that a member has been guilty of misconduct including:
  - (1) Failing to observe these Rules or the Code of Conduct;
  - (2) The commission of any breach of these Rules or of the Code of Conduct;
  - (3) Refusal to carry out any order or direction of the Executive Committee or of any General Meeting in accordance with these Rules;
  - (4) Conduct which may reduce the standing of the Association in the community;
  - (5) Conduct which may bring the Association into disrepute
  - (6) Divulging or making known or making use of correspondence, business, or information gained in a privileged position either as a member or officer of the Association to the advantage of the member or officer to the detriment of the Association or any members.

The Committee may recommend to the General Meeting that the member be expelled, suspended or fined. When it makes a recommendation, the Committee must provide the General Meeting with a written statement of its reasons.

- (b) The procedure for dealing with charges against a member for violation of the Rules shall be as follows:

- (1) Any charge against any member must be in writing signed by the person laying the charge, or by the Executive Director acting on behalf of and at the request of a member or members.
  - (2) When it is notified by the Executive Director that a charge has been laid against a member, the Executive Committee must cause a notice to be sent by Certified Mail to the member complained against at his or her address as shown in the Register of Members, ordering that member to appear before the Executive Committee to answer the charge at a Meeting of the Executive Committee called for that purpose. If the person laying the charge is someone other than the Executive Director, the Executive Director must also send a copy of the notice to that person at least 7 clear days before the time appointed for the meeting.
  - (3) Either party may apply to the Executive Director at least three clear days before the hearing of the charge for a notice to be sent to any other member to appear and give evidence.
  - (4) If either of the two parties fails to attend, the Executive Committee will take evidence and decide the case as if all parties were present.
  - (5) The member charged must remain in attendance while all evidence given against him or her is taken and must be given full and complete opportunity to answer the evidence and to ask questions of all witnesses.
  - (6) If after hearing the evidence the Executive Committee is satisfied that the charge is sustained, it will recommend such penalty as it thinks fit to the next General Meeting or to a Special General Meeting convened (inter alia) for the purpose of considering the Executive Committee recommendation.
  - (7) The General Meeting may make a resolution to approve, amend or reject the recommendation of the Executive Committee in respect of penalty. The Executive Director must then cause notices of this resolution to be sent by Certified Mail to the member charged at his or her address as shown in the Register of Members.
- (c) Any expelled member shall forfeit all claim he may have upon the funds or property of the Association and shall remain liable

for all subscriptions or other monies due by him to the date of his expulsion.

#### 6.12 Resignation of Membership

- (a) Any member of the Association may resign by giving written notice of resignation addressed to the Association.
- (b) The notice of resignation in (a) must be given to the Association by:
  - (1) delivering it personally to the Association's office at the Association's registered address; or
  - (2) sending it by certified mail to the registered address or the address of the Association shown in the Perth "White Pages" telephone directory.
- (c) A member's notice of resignation takes effect on the day on which it is served on the Association or on a later day specified in the notice but the member remains responsible for any subscriptions, fees, levies or fines owing up to and including the date of termination of membership.
- (d) Where a member's subscription has expired and has not been renewed, on expiration of a period of three months, the membership expires but the member shall be responsible for any subscriptions, fees, levies or fines owing up to and including the date of termination of membership.
- (e) Where a member's notice of resignation takes effect, the member will cease to be bound by and have any rights under these Rules and must immediately remove all symbols or other indication of membership from vehicles, documentation, advertising or wherever else it is displayed by the member and immediately pay all arrears in membership.

#### 6.13 Termination of Membership

- (a) The membership of any member who ceases to be eligible as a member of the Association will be terminated immediately.
- (b) Where there is a reported alteration in the constitution of a member whether it be the formation or dissolution of a partnership or the formation or winding up of a company the Executive Director must make appropriate investigations and recommend to the Executive Committee:
  - (1) that existing membership or memberships should continue in changed nomenclature; or
  - (2) that existing membership or memberships be terminated.

- (c) The membership of any member who becomes bankrupt, assigns his or her estate for the benefit of his or her creditors, is dissolved or wound up (except for the purpose of reconstruction or amalgamation) will terminate immediately.

#### 6.14 Register of Members

- (a) The Executive Director shall cause to be kept a register of members of the Association showing the name and residential address of each member and details of the financial status of each member in respect of his or her membership.
- (b) The register of members of the Association is to be made available by the Association for inspection by such persons as are authorised by the Registrar, at such times as are appointed by the Registrar, at the office of the Association.
- (c) The Executive Director shall cause the register of members of the Association to be purged on not less than 4 occasions in each year by striking off the names of members whose membership has ended under section 64A or 64B of the Act or under these Rules.

#### 6.15 List of Office Bearers

The Executive Director shall cause to be kept a list of the names, residential addresses and occupations of persons holding office in the Association.

### **7 - NOMINATION FEES, SUBSCRIPTIONS AND LEVIES**

#### 7.1 The Association Financial Year

The Association's Financial Year commences on January 1st and concludes on December 31st each year.

#### 7.2 Nomination Fees

A Nomination Fee, payable upon lodgement of an application for membership may be applied as determined by members in General Meeting or Special General Meeting called (inter alia) for that purpose.

#### 7.3 Subscriptions

- (a) Every member shall pay in advance on the anniversary of the acceptance of their membership an annual subscription determined for the appropriate category of membership by Annual General Meeting or Special General Meeting called (inter alia) for that purpose.
- (b) A member may elect not to have:
  - (1) any portion of their subscription; or

- (2) a proportion of their subscription greater than the proportion specified by the member in accordance with these Rules applied by way of political donation.
- (c) The Executive Committee may defer for such period as it thinks fit any subscription due by a member.
- (d) No Honorary Life Member or Honorary Member shall pay any annual subscription or levy.

#### 7.4 Levies

The Executive Committee may impose at any time such levy as it thinks fit in order to provide funds for the proper working of the Association or to meet any liabilities or to carry out any of the objects of the Association. Such levy will become due and payable by all members levied as from the date fixed by the Executive Committee which must not be less than one month from the date of the resolution imposing the levy.

#### 7.5 Recovery of Arrears of Dues

- (a) Any member who fails to pay any annual subscription within three months after the date on which the subscription falls due shall, subject to Rule 7.3(c) be deemed to be in arrears and their membership shall terminate at the end of that three month period.
- (b) The arrears of dues of any member who fails to pay any Annual Subscription within three months after the date on which the subscription falls due, shall, subject to Rule 7.3(c), be recovered by the Executive Director through:
  - (1) Service upon the ex-member of a final account payable within seven (7) days; or
  - (2) Where the ex-member fails to respond to the final account aforementioned, appropriate legal action for recovery of such unpaid dues so long as such action is commenced within 12 months from the time the cause of action arose.

## **8 - ADMINISTRATION AND MANAGEMENT**

### 8.1 Alteration or Amendment of Rules

- (a) These Rules may be amended, added to, varied or repealed by written notice of any proposed alteration to the rules first being given by any member to the Executive Director in writing. This notice shall then be laid before the Executive Committee or before a General Meeting of the Association which may authorise the proposed alteration and apply to the Registrar, Western Australian Industrial Relations Commission, to register

the alteration in accordance with the proposal in the said notice or any reasonable amendment of same.

- (b) The proposed alteration shall not be authorised by the Executive Committee or a General Meeting unless a notice of the proposed alteration, and the reasons therefor, is:
  - (1) sent to each member of the Association for his or her attention; or
  - (2) published in an Association magazine which must be distributed to all members.
- (c) In the notice referred to in rule 8.1(b) members are to be informed whether the rule change will be laid before the Executive committee or a special meeting of the Association as provided in rule 8.1(a).
  - (i) In the case of the proposed amendment, addition, variation or repeal being laid before the Executive Committee, members are to be informed in the notice referred to in rule 8.1(b) that they may object to the proposed alteration in writing, such objection being addressed to the Director at the Registered Office of the Association, within 21 days after the date of issue of the notice referred to in rule 8.1(b). Any object shall contain therein the reasons for the objection.
  - (ii) The Executive Committee shall not vote on the proposals until members are informed of the proposal in the notice referred to in rule 8.1(b) and until after the expiration of the 21 days specified in sub rule 8.1 (c).
  - (iii) Any member or members who object to the proposed alteration as provided for in rule 8.1(c) (i) shall be allowed reasonable opportunity to address the Executive Committee meeting at which voting will take place on the proposed amendment, addition, variation or repeal.
  - (iv) In the case of the proposed amendment, addition, variation or repeal being laid before a special meeting of the Association then such proposal will be considered in accordance with these rules.

## 8.2 The Executive Committee

- (a) The Executive Committee will consist of the President, Vice President, Immediate Past President and a maximum of ten Committeemen and the Executive Director (who will be a non-voting member).
- (b) The Executive Committee will have power to regulate its own proceedings.

- (c) Any motion significantly affecting the interests of the Association must be introduced at any meeting of the Executive Committee by any member of the Executive Committee and if a majority of the Committee resolves it shall be brought forward to the next General Meeting.
- (d) The Executive Committee will have power to appoint from time to time representatives and sub-committees for such purposes and with such powers as the Committee may deem necessary. These representatives and sub-committees will be subject to the control of the Executive Committee and will make regular reports of their activities to the Executive Committee.

### 8.3 Election and Filling of Vacancies on Executive Committee

- (a) All voting members, excluding the Immediate Past President of the Executive Committee will be elected annually for the calendar year immediately following the election by secret postal ballot of the financial voting members of the Association.
- (b) If any member of the Executive Committee ceases to be a member of the Executive Committee, the powers and duties of the Committee will not be invalidated because of such vacancy.
- (c) Casual vacancies on the Executive Committee, shall, if considered necessary by the Executive Committee, be filled in accordance with the provisions of Rules 10.2 - 10.4 of these Rules provided that any person so elected shall hold office only for the unexpired portion of the term of office of the person vacating office.
- (d) If the Executive Committee decides not to fill a casual vacancy on the Executive Committee the vacancy will nevertheless be filled in accordance with the provisions of these Rules relating to the election of office holders by secret postal ballot if a requisition to do so signed by at least 25% of the financial members of the Association is delivered to the Executive Director, in which case the Committee must take immediate steps to comply with such requisition.

### 8.4 Powers and Duties of the Executive Committee

Subject to the powers of the Association in General Meeting the Executive Committee will:

- (a) Formulate and direct the objectives and policies under which the Association will be administered.
- (b) Recommend to General Meeting with reasons given in writing the fine, suspension or expulsion of any member.



- (c) Authorise any application to any court, commission or tribunal.
- (d) Hear and determine all disputes between the Association and any member, or between members.
- (e) Authorise the execution of industrial agreements and other instruments.
- (f) Summon any member to appear before it to explain any matter and to answer any question which may be put to that member in connection with the Association requiring investigation or in connection with any alleged breach of award agreement or in connection with any other matter or thing which may involve the well-being of the Association.

The Executive Committee will have power to recommend to the General Meeting a fine not exceeding \$200 on any member so summoned who fails to be present without satisfactory explanation.

- (g) Call Special General Meetings or General Meetings of the Association.
- (h) Have the power to suspend from office, any member of the Executive Committee without advance notice, upon reasonable belief that such member is incapable of carrying out his or her duties or is culpable of flagrant misconduct or serious breach of Rules or gross neglect of duty.

#### 8.5 The Management Committee

- (a) The Management Committee will consist of the President, Immediate Past President, Vice President and Executive Director (who shall be a non-voting member).
- (b) The Management Committee will meet as required between meetings of the Executive Committee and will have the power to regulate its own proceedings.

#### 8.6 Powers and Duties of the Management Committee

Subject to the powers of the Association in General Meeting the Management Committee will:

- (a) Conduct the financial management of the Association between General Meetings and make decisions on these matters.

- (b) Be responsible for the appointment of the Executive Director and for the determination from time to time of his or her remuneration and conditions of employment.
- (c) Administer the property and advise on the investment of the funds of the Association.
- (d) Authorise the expenditure of monies as required for the conduct and purposes of the Association.
- (e) Approve the payment of any political donations from the political fund of the Association, at the direction of the membership in General Meeting.
- (f) Have the power to suspend from office any member of the Management Committee without advance notice upon reasonable belief that such member is incapable of carrying out his or her duties or is culpable of flagrant misconduct or serious breach of Rules or gross neglect of duties and appoint any suitable person to act in his or her place.
- (g) The Management Committee will be subject to the control of the Executive Committee and will make regular reports on its activities to the Executive Committee.

#### 8.7 Powers and Duties of the President

The President will:

- (a) Preside over General Meetings of the Association.
- (b) Preside over meetings of the Management and Executive Committees.
- (c) Have the same rights to speak at all General Meetings and Management Committee Meetings as any member but when presiding will be expected to exercise those rights with discretion.
- (d) At meetings at which he or she does not preside have the same rights to speak as any member and at such meetings shall be regarded as titular head and be entitled to be addressed as President.
- (e) Upon pressing emergency between Executive Committee Meetings have the power to suspend from office any elected office bearer upon reasonable belief that such office bearer is incapable of carrying out his or her duties or is culpable of flagrant misconduct or serious breach of these Rules or gross neglect of duty.

## 8.8 Powers of The Vice President and Immediate Past President

- (a) The Vice President will deputise for the President whenever required and in the event of the absence or incapacity of the President exercise all the functions of the President.
- (b) The Immediate Past President (ex officio) will in the absence or incapacity of the Vice President exercise all the functions of the Vice President.

## 8.9 Powers and Duties of The Executive Director

The Executive Director will:

- (a) Be the Chief Executive Officer of the Association and will act in accordance with directions duly given by the Association in General Meeting, the Executive Committee and the Management Committee.
- (b) Subject to those directions, conduct and manage the affairs of the Association and keep and control the minutes, records, subscriptions, levies, fines, monies, property and assets of the Association.
- (c) Co-ordinate and implement the policies and objectives of the Association, arrange legal representation of the Association where necessary, make or authorise publications, public statements and written communications of the Association with its members and the public.
- (d) Be responsible for the employment, instruction, management, conditions of work, rate of remuneration and termination of staff employed by the Association.
- (e) Have responsibility to recommend, advise and speak (but not vote) on any matter at any meeting of the Association, and its Committees, including Sub-Committees.
- (f) Answer and instigate correspondence and table important items of correspondence before the appropriate committees
- (g) Be answerable for the conduct of the Association's affairs and expenditures incurred on all matters including staff to the Management Committee at meetings of that Committee.
- (h) Provide regular reports to the Executive Committee on the affairs of the Association.
- (i) Keep books of account for the Association and cause them to be properly audited in accordance with Clause 8.15(d) of these Rules and arrange for the documents referred to in Clause

8.15(e) of these Rules to be delivered to the Industrial Registrar within one calendar month of such audit.

- (j) Supply a copy of the provisions of the Act and Regulations to each officer of the Association upon that officer's election to office which relate to:
  - (1) the duties of officers of organisations, including Financial Officials.
  - (2) the accounting records of the Association;
  - (3) political donations by organisations.
- (k) To provide to the Registrar in January of each year a list of the names, postal addresses and occupations of persons holding office in the Association and a record of the number of members of the Association, certified by statutory declaration by the Executive Director to be a correct statement of the information contained therein.
- (l) To notify the Registrar of any changes to the address of the registered office of the Association within 14 days of the date of the change of address.
- (m) To notify the Registrar of any changes in the holding of any offices in the Association within 14 days of a change taking place.
- (n) Delegate authority to a properly appointed Executive Officer of the Association.

#### 8.10 Finance Officials

- (a) The financial officials of the Association are the persons who:
  - (1) are entitled to participate directly in the financial management of the Association, including the Executive Director.
  - (2) are elected to the Management Committee and are entitled to participate directly in the financial management of the Association.
- (b) Each finance official is to act honestly at all times and to exercise a reasonable degree of care and diligence at all times, in the performance of the functions of his or her office or employment.
- (c) Each finance official is to ensure that the Association keeps and maintains accounting records as required by the Act.

- (d) Each finance official shall comply with the provisions of the Act.

#### Use of Information

- (e) Except in and for the performance of the functions of a finance official's office or employment, or with the consent of the Executive Committee of the Association, a person who is or has been a finance official of the Association is not to make use of information acquired by virtue of his or her position as a finance official;
  - (1) to obtain or seek to obtain directly or indirectly, a pecuniary advantage for himself or herself or for any other person; or
  - (2) to cause or seek to cause any detriment, loss or damage to the Association.

#### Use of Position as Finance Official

- (f) Except in respect of acts done in and for the performance of the functions of a finance official's office or employment, a finance official is not to make use of his or her position as a finance official;
  - (1) to obtain or seek to obtain, directly or indirectly, a pecuniary advantage for themselves or for any other person; or
  - (2) to cause or seek to cause detriment, loss or damage to the Association.

#### Pecuniary and Personal Interests

- (g) In any matter involving the Association, each finance official is to disclose the nature of all material personal interests as soon as practicable after the relevant facts become known to him or her.
- (h) Each finance official shall provide a list twice per year of all his or her pecuniary interests. The list is to be in the form of a statutory declaration and shall set out all relevant details of interests which result in, or which would give rise to an expectation of, the payment, loss or saving of money, by or to, the finance official.

### 8.11 Removal of The President

- (a) If the President, in the opinion of a majority of the whole of the voting members of the Executive Committee, is incapable of carrying out his or her duties or culpable of flagrant misconduct or serious breach of these Rules or gross neglect of duty he or she may be suspended from duty.

- (b) If the President is suspended in accordance with sub-rule 8.11(a) and a General Meeting is due to be held between one and four weeks after such suspension the question of the removal of the President from Office shall be put to such meeting, notice in writing first having been given to all members.
- (c) In the event that no General Meeting is due to be called in the time specified in sub-rule 8.11(b) above, a Special General Meeting shall be called (*inter alia*) for that purpose.
- (d) The President may be removed from office by a two thirds majority of voting members at such meeting.

#### 8.12 Removal of Elected Office Bearers (Excluding the President)

- (a) If any elected Office Bearer, excluding the President in the opinion of a majority of the whole of the voting members of the Executive Committee, is incapable of carrying out his or her duties, or is culpable of flagrant misconduct or serious breach of these Rules or gross neglect of duty, he or she may be suspended from duty.
- (b) The question of removal of an elected office bearer from office shall be put to the next General Meeting following notice in writing to all members.
- (c) An elected office bearer may be removed from office by a two thirds majority of voting members at such General Meeting.

#### 8.13 Removal of The Executive Director

- (a) If the Executive Director, in the opinion of a majority of the whole of the voting members of the Management Committee, has misappropriated funds or is culpable of flagrant misconduct or serious breach of Rules or gross negligence he or she may be dismissed immediately upon the unanimous decision of the Management Committee.
- (b) If the Management Committee decides unanimously, for whatever reason, to terminate the contract of employment of the Executive Director such contract will be terminated, the Management Committee first having given the Executive Director three (3) months notice in writing of its decision so to do.
- (c) Upon the decision of the Executive Director, for whatever reason, to terminate his or her contract of employment, such contract of employment shall be terminated, the Executive Director first having given to the Management Committee three (3) months notice in writing of his decision to do so. In the

event of a replacement being available, who is, in the opinion of the majority of the Management Committee, suitable for the position of Executive Director, one (1) months notice in writing will be sufficient.

#### 8.14 Funds

The Funds of the Association however accumulated, shall form the funds of the Association and shall be applied by the Executive Director carrying out the Rules and Objects of the Association.

#### 8.15 Finance, Banking And Audit

- (a) The funds of the Association will be deposited in a bank account or accounts in the name of the Association.
- (b) All cheques drawn on the Association's bank account must be signed by any two of the President, Vice President, Immediate Past President and Executive Director.
- (c) Any member and person who has an interest in the funds may inspect the books and register of members at any reasonable time.
- (d) An auditor or auditors will be appointed yearly and must be registered under section 18 of the Companies (Western Australia) Code. Within 6 calendar months of the end of each financial year the Auditor(s) shall attend at a place appointed before the holding of the Annual General Meeting by arrangement with the Executive Director and shall thoroughly examine all the accounts of the Association for the period since the last audit, inspect the vouchers and receipts and expenditure, satisfy themselves as to the correctness of the cash balance, the balance in the bank and sign the balance sheet.
- (e) Within one calendar month after the completion of the audit referred to in (d) the Executive Director must deliver to the Registrar of the Industrial Commission the following:
  - (1) a duly audited balance sheet of the assets and liabilities of the Association made up to the date of the closing of the accounts of the Association for that financial year.
  - (2) a duly audited statement of the receipts and expenditure of the Association during the financial year.
  - (3) a duly audited sources and application of funds statement of the Association for the financial year
  - (4) a report as to whether any person has contravened or failed to comply with section 74 or section 97P of the Act, or, if the auditor is of the opinion that the accounting records are not in a form that enables an

informed opinion to be expressed regarding compliance with section 74 or section 97P, a report to that effect.

The balance sheet and statement of receipts and expenditure of the Association referred to in (1) and (2) above must be itemised with sufficient particularity to show that the financial affairs of the association have been conducted in accordance with the Rules of the Association and must be accompanied by a statutory declaration signed by the Executive Director which states that the Executive Director has placed at the disposal of the auditor all the relevant books and documents in relation to the financial affairs of the Association.

- (f) For the purposes of auditing the accounting records of the Association, or of performing any function conferred on the auditor under the Act the auditor of the Association is entitled:
  - (1) to have full and free access at all reasonable times to all records or documents relating to the receipt or expenditure of moneys by the Association, or the acquisition, use or disposal of assets of the Association or the incurring of liabilities by the Association.
  - (2) To require any officer or employee of the Association to provide the auditor with any information or explanation that the auditor wants.

#### 8.16 Political Donations By Associations

- (a) The Association shall set up a separate fund as a political fund and must credit to this fund any amounts received from any of its members to be applied by way of political donation. Any interest earned and accruing from the investment of such a fund will be credited to the political fund.
- (b) The Association shall not credit any moneys from a member's subscription to a political fund.
- (c) The Association may not make any payment by way of political donation except from moneys standing to the credit of its political fund.
- (d) Any payment by way of political donation must be approved by a majority of the members.

#### 8.17 Control of Property

- (a) The members in General Meeting will have the control of all property belonging to the Association.
- (b) No part of the Association funds or property is to be paid or applied to or in connection with or to aid or assist any person engaged in any strike or lockout in Western Australia.



- (c) The income and property of the Association when derived shall be applied solely towards the promotion of the objects of the Association as set out in these Rules. No portion of the income and property of the Association will be paid or transferred directly or indirectly by way of dividend, bonus or otherwise by way of profit to the members of the Association.
- (d) Nothing contained in sub-rule (c) will prevent the payment in good faith of remuneration to any officer or servant of the Association or to any member of the Association in return for any services actually rendered to the Association or the payment of interest at rates determined by the Executive Committee on sums loaned by members to the Association.

#### 8.18 Common Seal

The Common Seal of the Association will bear the words “The Master Plumbers and Gasfitters Association of Western Australia (Union of Employers)”. The Executive Director will have custody of the Seal and will be a co-signatory with either the President or Vice President or Immediate Past President to its affixion.

#### 8.19 Zones or Branches

Members may, with approval of the Executive Committee form District Committees of the Association in various metropolitan and country centres. These committees will be authorised to meet and to make recommendations to the Executive Committee and the Association on matters of local interest. Each Committee must appoint its own Chairman who will report any recommendations of the Committee to the Executive Director.

#### 8.20 Disputes

- (a) All industrial disputes in which the Association or any of its members may be concerned must be referred for settlement pursuant to the Act unless settled first by mutual consent.
- (b) All disputes between the Association and any member or between any two or more members relating to Association matters must be heard and determined by the Executive Committee or a sub-committee established by the Executive Committee for that purpose.
- (c) The Executive Committee may appoint and instruct a person or persons to represent the Association before any Courts or Commissions constituted under the Act. Such person or persons will have the power to sign and execute on behalf of the Association any documents that are necessary in Court or Commission proceedings, apart from documents requiring the Common Seal of the Association.

## 8.21 Dissolution

- (a) The Association will not be dissolved, nor will its funds be appropriated to any purpose other than those set out in the Rules so long as ten voting members remain clear on the books of this Association. This Rule must not be rescinded or amended unless twelve months' notice has been given to that effect at a General Meeting of voting members of the Association.
- (b) The Association may be dissolved by a Resolution to be passed by a seventy-five percent majority (calculated in number of votes) of members present personally or by proxy at a meeting summoned for such purpose of which 14 days notice in writing must be given to all members of the Association.
- (c) If upon the distribution or winding up of the Association there remains after the satisfaction of all its debts and liabilities any property whatsoever, the same shall not be paid to or distributed among the members of the Association but shall be transferred to some other organisation having objects similar wholly or in part to the objects of the Association and which shall prohibit the distribution of its income and property among its members.

## **9 - MEETINGS**

### 9.1 General Meetings

A General Meeting of the Association will be held at least three times annually at the registered office of the Association or at such other time and place as the Executive Committee may from time to time determine. In the event of any change in the time or place of the General Meeting, 7 days notice thereof shall be given by the Executive Committee to all members of the Association. An ordinary General Meeting shall not be held in the quarter in which the Annual General Meeting is held.

### 9.2 Special General Meetings

- (a) The Executive Committee may at any time instruct the Executive Director to call a Special General Meeting of the Association.
- (b) The Executive Director may also call a Special General Meeting upon the written requisition of at least 10 per cent of the total voting members stating the objects for which the meeting is requested. If the Executive Director neglects to hold such meeting the meeting may be convened by the requisitionists.

- (c) At least 7 days notice must be given to all members of a Special General Meeting stating the purpose of the meeting and the business to be transacted thereat.

### 9.3 Annual General Meeting

- (a) The Annual General Meeting must be held not later than three months after the closing of the financial year of the Association as defined in Rule 7.1.
- (b) 30 days notice of the Annual General Meeting must be sent to all members.

### 9.4 Executive Committee Meetings

Executive Committee meetings may be held as often as is considered necessary at such time and place as the Executive Committee decides.

### 9.5 Management Committee Meetings

A meeting of the Management Committee shall be held at least once per month or as often as is considered necessary at such time and place as the Management Committee decides.

### 9.6 Quorums

- (a) A quorum for a General Meeting, Special General Meeting or Annual General Meeting of the Association will consist of ten voting members. If no quorum is present within half an hour of the time for the commencement of the meeting, then the following provision shall apply:
  - (1) In the case of a General Meeting the voting Members present shall constitute a quorum.
  - (2) In the case of an Annual General Meeting or any Special General Meeting the meeting will be adjourned to the same time and at the same place the following week, and if no quorum is present at that meeting within half an hour of the commencing time the members present will constitute a quorum.
- (b) The quorum of an Executive Committee Meeting shall be 5 voting members.

### 9.7 Order of Proceedings at Meetings

- (a) At Annual General Meetings of the Association the regular order of proceedings unless otherwise determined by the President, shall be as follows:
  - (1) Minutes
  - (2) President's Report
  - (3) Reception and adoption of balance sheet

- (4) Election Report
  - (5) General business
- (b) At General Meetings of the Association the regular order of proceedings unless otherwise determined by the President, shall be as follows:
- (1) Minutes
  - (2) Reports
  - (3) General Business

#### 9.8 Voting at Association Meetings

- (a) Every member, not otherwise debarred by the rules of the Association, shall be a voting member at all General Meetings of the Association.
- (b) All questions at General Meetings will be decided on the voices, unless the Chairman otherwise decides or at least 10 voting members present personally or by proxy demands a poll; in either of which events the questions will be decided on a show of hands.
- (c) Each voting member is entitled to appoint a proxy to represent him or her at any General Meeting and such appointment shall be in writing signed by the member and shall be handed to the Executive Director not less than 24 hours prior to commencement of the General Meeting. A duly appointed proxy need not be a member of the Association and may participate in any debate at the General Meeting and may vote at the General Meeting. No person is to act as proxy for more than one voting member.
- (d) Each voting member is entitled by himself or herself or by his or her proxy to one vote in respect of any motion put at any General Meeting and in the event of an equality of votes the Chairman of the meeting has the casting vote.
- (e) Any voting member may abstain from voting on any motion. At any General Meeting of the Association, a declaration by the Chairman of the meeting that a resolution has been carried or rejected by a majority of voting members and an entry to that effect in the minute book of the Association shall be conclusive evidence of the fact.
- (f) Motions on matters at any General Meeting or Special General Meeting which affect the assets or ownership of the Association or which significantly affect the interests of the Association must be by way of notice of motion only and in the absence of

provision to the contrary such notice shall be given in writing to all members by mail or facsimile 14 days prior to such meeting.

- (g) In the event of dispute a decision of whether a matter is one significantly affecting the interests of the Association shall be with the Chairman.

## **10 - ELECTIONS**

### 10.1 Returning Officer

- (a) The Executive Committee shall each year request the Registrar, Western Australian Industrial Relations Commission, to arrange with the Electoral Commissioner to appoint a Returning Officer for the purpose of conducting the Annual Ballot for the Executive Committee and Management Committee. The Returning Officer shall not be the holder of an office or be an employee of the Association but must hold office under the Electoral Act 1907 or be authorised in writing by the Electoral Commissioner.
- (b) The Returning Officer shall determine the time and dates of the commencement and close of the period for lodging nominations of candidates for election for an office having regard to:
  - (1) the time of expiration of the term of office of the holder of the office;
  - (8) the time required to lodge nominations;
  - (9) the time required to complete the election;
  - (10) the requirement that the Returning Officer shall forward the certificate of result and declaration of the election to the Association to be tabled at the Annual General Meeting.
- (c) The Returning Officer shall determine the place for lodging nominations of candidates for election.

### 10.2 Nomination for Offices

- (a) The Returning Officer shall not less than 14 days and not more than 21 days before the date of commencement of the period for lodging nominations of candidates for election for an office, cause to be published in a newspaper or newspapers circulating widely within Western Australia, a notice setting out:
  - (1) the name of the Association;
  - (2) the title of the office;
  - (3) the form in which nominations are to be made;
  - (4) the place for lodging nominations;

- (5) the times and dates of the commencement and close of the period for lodging nominations, which shall be a period of not less than 7 days and inviting nominations of persons eligible for election to the office under the Rules of the Association to stand as candidates for election for the office.
- (b) A member is not eligible for election for an office unless the nomination is signed by that person signifying his willingness to accept the office if elected and is also signed by two other voting members of the Association as proposer and seconder of the nomination for the office.
- (c) Where the Returning Officer finds that a document lodged at the place and within the period determined by the Returning Officer and purporting to be the nomination of a person as a candidate for an election for an office is not a nomination in accordance with the Rules, the Returning Officer, shall, if practicable, give notice to that person by telegram, facsimile, electronic mail or letter delivered to the candidate's residential address of the reasons why the document is not a nomination in accordance with the Rules, and advise that person that a proper nomination may be lodged within a period of seven days after the date upon which the telegram, facsimile, electronic mail or letter is sent.
- (d) A person nominated as a candidate may by notice signed by him, witnessed by a voting member, and addressed to and lodged with, the Returning Officer before the time fixed for the expiry of the period for lodging nominations, withdraw his consent to the nomination and that person shall thereupon be deemed not to have been nominated.
- (e) A President, Immediate Past President or Past President may be nominated again for any office including the Presidency provided the Executive Committee decides to consent to this and its decision is recorded in the minutes of the Executive Committee meeting at which the decision was made subject to the consent of the nominee and otherwise in accordance with Rule 10.2 (b). If the Executive Committee consents to the President standing for a consecutive second or subsequent term of office and if the President is re-elected, the Immediate Past President at the time of the nomination shall continue to be Immediate Past President for a further term.
- (f) Where on the expiry of the period for lodging the nomination of a candidate for election for an office, only one candidate is nominated for election for the office, the Returning Officer shall declare in accordance with these Rules that the candidate has been elected to that office.

- (g) Where on the expiry of the period for lodging the nomination of a candidate for election for an office, no nomination for that office has been received, the returning Officer shall, as soon as practicable after the expiry of that period, so advise the Association.
- (h) The full names and the addresses of the members of the Association who are entitled under the Rules of the Association to vote at that election, shall form the electoral roll for the election.
- (i) The Association will provide the Returning Officer with a roll of the persons who on the 21st day before the date determined under sub-rule (a) of Rule 10.3 of these Rules for the commencement of issuing ballot papers are entitled to vote in the election, and that roll shall:
  - (1) be so provided 14 days before the dates so determined under sub-rule (a) of Rule 10.3 of these Rules;
  - (2) be certified as correct by a member of the Executive Committee;
  - (3) show the full names in alphabetical order of surname, and where the surnames are identical in alphabetical order of Christian or given names, (the surname being in each case given before the Christian or given names relating thereto) with a consecutive number against each name in a margin at the left hand side of the surname.
- (j) The Association must advise the Returning Officer of the names and addresses of persons who after the day referred to in sub-rule (i), become entitled to vote in the election.
- (k) The Association must advise the Returning Officer the names of persons who after the date referred to in that sub-rule (i) cease to be entitled to vote in the election. The Returning Officer shall delete such names and addresses from the roll.
- (l) The Returning Officer must at the place where he or she carries out his or her functions as Returning Officer make the electoral roll applicable to an election for an office available for inspection by members of the Association, or by any person authorised by the Returning Officer during the ordinary hours of business in the period that commences on the day referred to in sub-rule (i) and ends on the day on which the result of the election is declared.
- (m) For the purpose of receiving ballot papers in respect of an election the Returning Officer shall use the Post Office Box of

the Western Australian Electoral Commission with reply paid envelopes printed with the Association's name.

### 10.3 Conduct of Ballot

- (a) Where more than one candidate is nominated for election for an office, the Returning Officer shall determine the date of commencement of issuing ballot papers and the time and date of the close of the ballot, having regard to:
  - (1) the date of expiration of the term of the office of the holder of the office;
  - (2) the time required to send and return ballot papers by post;
  - (3) the time required to complete the election;
  - (4) the requirement that the Returning Officer shall declare the result of the election of office holders at the Annual General Meeting.
- (b) As soon as practicable after the date determined under sub-rule (a) for the commencement of issuing ballot papers and in respect of an election, the Returning Officer shall issue by posting by prepaid post to each person:
  - (1) whose name is on the roll referred to in sub-rule (i) of Rule 10.2 of these Rules;
  - (2) whose name is under sub-rule (j) of Rule 10.2 added to the roll; and
  - (3) whose name has not, before the issue of the ballot paper, been deleted from the roll under sub-rule (k) of Rule 10.2 at the address shown on the roll, a ballot paper and the other ballot material in a sealed envelope, and provide for the return of the ballot paper without expense to the voter.
- (c) Where in respect of an election the Returning Officer has under sub-rule (b) issued a ballot paper to a person whose name is after the issue of the ballot paper, deleted from the roll under sub-rule (k) of Rule 10.2 the person shall be deemed to be entitled to vote in the election.
- (d) The envelope referred to in sub-rule (b) shall bear an instruction that if it is not delivered to the addressee, it should be returned to the post-office box referred to in sub-rule (m) of Rule 10.2.
- (e) The envelope referred to in sub-rule (b) shall contain:
  - (1) a ballot paper initialled by the Returning Officer or bearing a facsimile of those initials;
  - (2) an envelope marked "ballot paper";



- (3) an envelope addressed to the Returning Officer at the private box referred to in sub-rule (m) of Rule 10.2 being an envelope that may be posted without expense to the voter, the back of which envelope may be used as a counterfoil and where the back of that envelope is not so used, a separate counterfoil.

The counterfoil shall be numbered with a number coinciding with the voter's consecutive number on the electoral roll and shall make provision for the endorsement thereon of:

- (i) the office or offices to which the election relates;
  - (ii) the full name of the voter;
  - (iii) the address of the voter;
  - (iv) the signature of the voter.
- (f) The Returning Officer shall obtain from the printer of the ballot papers a certificate stating the number of ballot papers printed in respect of the election.
- (g) The full names of the candidates for election for an office shall appear on the ballot paper in the alphabetical order of the surnames of the candidates or in relation to candidates whose surnames are identical, in the alphabetical order of their Christian or given names.
- (h) Voting at elections shall be on the "first past the post" principle. Each voter shall indicate the candidate for whom he or she wishes to vote by placing a cross on the ballot paper in the square opposite the name of the candidate. The candidate receiving the majority of the votes cast will be declared elected to the position.
- (i) The Returning Officer must include on the ballot paper information and instructions to the voter that are substantially in accordance with the following form:
- (1) the title of the office to which the election relates;
  - (2) the time and date of the close of the ballot;
  - (3) how to mark the ballot paper in order to record a formal vote;
  - (4) not to put on the ballot paper any mark or writing by which the voter can be identified;
  - (5) to place the ballot paper when completed in the envelope marked "ballot paper" then to seal that envelope;
  - (6) to complete the details on the counterfoil;

- (7) to place the ballot paper envelope (and the counterfoil if a separate one is used) in the envelope addressed to the Returning Officer and then to seal the envelope addressed to the Returning Officer and post it to reach the Returning Officer before the time of the close of the ballot.
- (j) Where on application before the time of the close of the ballot in an election, the returning Officer is satisfied that a ballot paper or returned envelope issued to a person whose name is on the electoral roll, has not been received or has been lost, destroyed or spoilt, he or she shall issue to that person a duplicate ballot paper or return envelope as the case may be.
- (k) An application under sub-rule (j) by a person for a duplicate ballot paper or return envelope for an election must be in writing setting out the grounds on which the application is made and declaring that the person has not voted in the election, and shall, if practicable, be accompanied by any evidence that is available of that non-receipt, loss, destruction or damage.
- (l) Each candidate nominated for election may, by written notice, given to the Returning Officer not less than seven days prior to the close of ballot, appoint to be a Scrutineer, a person who is eligible under the Rules of the Association, to be a Scrutineer in respect of that election, being a person other than a candidate and may by notice in like manner appoint another such person to carry out the functions of Scrutineer where the first mentioned person does not carry out these functions.
- (m) A Scrutineer appointed in sub-rule (l) shall be given sufficient notice in writing by the Returning Officer prior to the date and time when the Returning Officer opens the post office box of the Western Australian Electoral Commissioner to enable him or her to be present while the Returning Officer performs his or her functions.
- (n) Subject to sub-rule (m) a Scrutineer appointed under this Rule may:
- (1) be present while the Returning Officer carries out his or her functions under Rule 10.3(q) and Rule 10.3(r);
  - (2) direct the attention of the Returning Officer to any irregularity concerning the issue of ballot papers, the admission of any envelope to scrutiny, the admission of a ballot paper as formal, the rejection of a ballot paper as informal, or the counting of the votes.
- (o) Where a Scrutineer appointed under sub-rule (l) of this Rule:

- (1) interrupts the scrutiny otherwise than in accordance with paragraph (2) of sub-rule (n); or
- (2) fails to carry out a lawful request by the Returning Officer

the Returning Officer may direct the Scrutineer to leave the place where the scrutiny is being conducted.

- (p) The Scrutineer appointed under sub-rule (l), must comply with a direction by the returning Officer given under sub-rule (o).
- (q) At the time of the close of the ballot, but not before, and in the presence of the Scrutineers, or where a Scrutineer has been informed in accordance with Rule 10.3 but is not present at the appointed time, in his or her absence the Returning Officer shall:
  - (1) Collect all reply paid envelopes printed with the Association's name from the Western Australian Electoral Commission's private box at the post office;
  - (2) set aside returned ballot papers in a sealed ballot box until the end of the poll;
  - (3) after the close of poll take all returned ballot papers to the place of count, and proceed to make the count;
  - (4) keep all those ballot papers in safe custody until the count is complete.
- (r) The Returning Officer in consultation with the Executive Committee shall make provision for the preservation in the custody of the Association of:
  - (1) all ballot papers admitted as formal;
  - (2) all ballot papers rejected as informal;
  - (3) all counterfoils relating to the ballot papers, whether formal or informal;
  - (4) all envelopes received after the close of the ballot;
  - (5) unused ballot papers, counterfoils and other documents prepared in connection with the election

which shall be respectively placed in separate containers, each endorsed with the name of the Association and the office to which the election relates, and shall be sealed, signed and dated by the Returning Officer and retained for a period of not less than 1 year after the date of election.

- (s) The Returning Officer before proceeding to count the number of votes to ascertain which candidate is successful in the election, shall:

- (1) check each counterfoil against the member's name on the electoral roll, and if the voting papers are in order, mark the roll;
  - (2) remove the ballot paper envelope from the envelope addressed to the Returning Officer and place the ballot paper envelope unopened into a separate container until all counterfoils are checked;
  - (3) when all the counterfoils are checked and cleared, open the ballot paper envelopes, and shall then proceed with the count.
- (t) Where any voting papers are rejected, the Returning Officer shall replace the counterfoil and the envelope marked "ballot paper" in the envelope in which they were received, endorse the latter envelope "rejected" with the reasons for rejection, and set it aside for safe keeping.
- (u) The Returning Officer shall reject as informal a ballot paper that:
- (1) does not bear the initials of the Returning Officer or the facsimile of those initials that is referred to in paragraph (1) of sub-rule (e) of Rule 10.3 of these Rules.
  - (2) has upon it a mark or writing by which the voter can be identified.
  - (3) Is not marked substantially in accordance with the instructions referred to in sub-rule (h) of Rule 10.3.
- (v) Where during the scrutiny, the Returning Officer is informed by a Scrutineer appointed under Rule 10.3(1) of these rules, that the Scrutineer objects to a ballot paper being admitted as formal, or rejected as informal as the case may be, the Returning Officer shall decide the matter and endorse his or her decision on the ballot paper.
- (w) Where practicable, the Returning Officer shall in accordance with the Rules of the Association declare the result of the election.

Where it is not practicable for the Returning Officer to declare the result of an election, the Returning Officer shall declare the result of the election by giving notice of the result in writing to the Association at its registered office.

- (x) The Returning Officer shall in the manner and at the time of declaring the result of an election under sub-rule (w) as the case may be, declare in respect of the election:

- (1) the number of ballot papers, other than duplicate ballot papers issued;
  - (2) the number of duplicate ballot papers issued;
  - (3) the number of ballot papers admitted as formal;
  - (4) the number of ballot papers rejected as informal;
  - (5) the number of unused ballot papers;
  - (6) the number of ballot papers certified by the printer pursuant to sub-rule (f) of Rule 10.3;
  - (7) the number of votes admitted as recorded in favour of each candidate.
- (y) The Returning Officer or a person taking a step in or in connection with an election, may take such action and give such directions as he or she considers necessary in order to ensure the secrecy of the ballot and that no irregularities occur in or in connection with the election, or to remedy any inconsistency or inadequacy that arises in the application of the Rules of the Association, to the conduct of an election for an office.
- (z) A person shall not:
- (1) refuse or fail to comply with a direction given under sub-rule (y);
  - (2) obstruct or hinder a person referred to in sub-rule (y) in the performance of his or her functions in relation to an election or in the taking of any action under sub-rule (y); or any other person in the carrying out of a direction under sub-rule (y).
- (aa) An election or a step taken in or in connection with an election, is notwithstanding anything contained in the Rules of the Association not invalid by reason only of:
- (1) an act done under this Rule; or
  - (2) an act done in compliance with a direction under this Rule.

#### 10.4 Equality of Votes

If the candidates, for any office have an equal number of votes, then the candidate who is the retiring office holder and is applying for re-election will be declared. If neither of the candidates is the retiring office-holder the Returning Officer will draw lots.