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# RULES HANDBOOK

The Master Painters, Decorators and Signwriters  
Association of Western Australia  
(Union Of Employers)



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## **1 NAME**

The Association shall be known as “The Master Painters, Decorators and Signwriters Association of Western Australia (Union of Employers)” hereinafter referred to as “The Association”.

## **2 REGISTERED OFFICE**

The Registered Office of the Association shall be 106 Caledonian Avenue, Maylands, or other such place in the State of Western Australia as may from time to time be decided upon by the Members in General Meeting.

## **3 CONSTITUTION**

The Association shall comprise an unlimited number of persons, firms, companies and corporations who or which have been admitted as members in accordance with the Rules of the Association.

## **4 SCOPE AND EXTENT OF THE PAINTING AND DECORATING INDUSTRY**

Painting and Decorating 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.

### **Painting:**

Means the application by any method recognised or adopted by the painting trade of paint, varnish or stain or any substance or preparation of a composition similar thereto or recognised by the said trade as a substitute therefor to the whole or any part of a building or other structure of a kind recognised by law as a fixture (but not being a floor, path or drive-way composed of concrete or other similar substance) and –

- (a) includes such processes or treatments as are commonly known to the said trade as graining, kalsomining, marbling, distempering, gilding, colour-washing, staining, varnishing and plastic relieving;
- (b) includes the hanging of wall paper and any substitute therefor;
- (c) does not include painting which consists of the application of a protective coating to part of a building or structure (not being a dwelling-house or like building or structure) which has first been treated by a process known as abrasive blasting or mechanical cleaning under a contract whereby the same contractor undertook both that process and the application of the protective coating.

## **5 OBJECTS**

The objects of the Association, being the purposes for which it is formed, shall be as set out in Sub Rules 5.1, 5.2, 5.3 and 5.4.

### **5.1 Industrial, Technical and Commercial**

- (i) To cause the Association to be registered and to continue to be registered as an Industrial Union under the provisions of the Industrial Relations Act 1979 and amendments (“the Act”).
- (ii) To further and protect the interests of members.
- (iii) To assist the public in their dealings with members.
- (iv) To provide advice on industrial, trade and business matters.
- (v) To promote unity of action on behalf of members.

- (vi) To secure representation of the Association to Government and semi-Government authorities affecting the painting industry.
- (vii) To promote or encourage any technical or other forms of education for the development of efficient workmen or employees in all or any branches of the painting industry.
- (viii) To work for improvement in the status and standards of Painting Contractors and painting, and for the observance of a high ethical code of conduct in the technical and commercial aspects of the businesses of members.
- (ix) To promote and develop painting contracting in such a manner as to assist in the development of the manufacturing and industrial and primary resources of Western Australia.
- (x) To promote a spirit of friendship and exchange of ideals and knowledge among members.
- (xi) To promote a better understanding and atmosphere of co-operation among members for the solution of common problems and the betterment of the industry.
- (xii) To recommend means to improve relations between members of the Association and their employees and the organisations and unions of such employees.
- (xiii) To affiliate with, join or enter any alliance with any organisation or association having objects similar to those of the Association for the purposes of mutual benefit or benefit for members of the Association.
- (xiv) To act as an organisation of employers under the laws of Australia or any of its States or Territories.
- (xv) To arrange and promote the adoption of equitable forms of contracts and other documents used in the said trades and to encourage the settlement of disputes by arbitration and to act as or to nominate arbitrators and umpires on such terms and in such cases as may seem expedient.
- (xvi) To undertake by conciliation or arbitration the settlement of disputes between members or between members and others arising out of the conduct of the painting industry.
- (xvii) To provide all current information relative to awards and conditions of employment applicable to all types of staff employed by the Association members.
- (xviii) To provide current information on amendments and additions to the Western Australian Painters' Registration Act or other Government legislation.
- (xix) To provide current information and advice on new materials, new design techniques, new technical applications and procedures applicable to the scope of work.
- (xx) To provide information on business administration affairs, such as cost escalation procedures, charge out rates, interpretation of award, advice on the preparation of documents such as invoices, letters of intent, contract and tender presentations and other matters which may be of assistance to Association members.
- (xxi) To give advice on all current activities by means of a journal or periodical circulars.
- (xxii) To do all such other lawful things as may appear to be incidental or conducive to the above objects or any of them.

## **5.2 Code of Conduct**

The Association has approved of the following believing it to be a means of encouraging the highest standards of business conduct from those engaged in the trade. It is issued to all Association Members to create a spirit of ethical conduct that in itself will bring about an improvement in the trade, assist in developing those personal and business attributes which are the basis of all good trading relations, and promote the advancement of the science of painting in all its branches.

It is considered that the task of raising the painting standards in the Community is one entrusted to the members of this Association, and in fulfilling this task, every endeavour shall be made to convey this obligation to the staff of a Master Painters' establishment.

- \* A member will observe the highest standards of honesty in all of his transactions, and shall in advertising, avoid all use of false titles, ambiguous statements and misleading claims.
- \* A member shall endeavour to create friendly co-operation with his fellow members and assist them whenever possible, and shall not criticise another Master Painter's workmanship or account without first discussing it with the Master Painter concerned.
- \* In addition to being illegal, it shall also be considered unethical for any member to sign as a Registered Painter, any relevant documents on behalf of an unregistered person to enable him to carry out painting work.
- \* A member shall encourage and foster the training of apprentices and insofar as is practicable will employ an apprentice thus ensuring the continuance of the painting trade.
- \* In all matters relating to the interpretation of this Code a member will recognise the authority of this Association and its Constitution.

### **5.3 Educational**

- (i) To diffuse among its members information on all matters affecting the said trades and to print, publish, issue and circulate such papers, periodicals, books, circulars and other literary undertakings as may seem conducive to any of the objects.
- (ii) To improve and cultivate the technical and general knowledge of persons engaged in or about to engage in the said trades or in any employment (manual or otherwise) in connection therewith and with a view thereto to provide for the delivery of lectures and holding classes and test by examination or otherwise the competence of such persons and to award certificates and distinctions and to institute and establish scholarships, grants, awards and other benefactions.
- (iii) To establish, form and maintain a library and collection of information and other articles of interest in connection with the aforesaid trades.

### **5.4 General**

- (i) To establish a central place of meeting for the use of members and others for meetings, recreation purposes and business.
- (ii) To pursue such other objects as the Association may from time to time decide with the approval of the Registrar of the Industrial Commission and subject to the provisions of the Industrial Relations Act 1979 and amendments.
- (iii) To make financial provision for carrying out the foregoing 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 Industrial Relations Act 1979, or a sole trader working in, or in connection with all or any facet of the Painting Industry described in Rule 4 of these Rules, shall be eligible for membership.

## **6.2 Classes of Membership**

There shall be classes of membership of the Association as follows:-

Ordinary Members

Country Members

Industry Members

Life Members

Teaching Members

Retired Members

all of whom shall, unless the context otherwise requires, be included in any reference to “member” wherever appearing in these Rules and Constitution.

## **6.3 Ordinary Members**

Ordinary members of the Association shall comprise those individuals, sole traders, partnerships, companies or other legal entities carrying on a bona fide painting contracting business and the proprietor/principal/nominee of which shall hold a registration certificate where applicable issued by the appropriate statutory authority.

Such members may be admitted to the Association upon the endorsement of the Executive Committee.

## **6.4 Country Members**

Country members of the Association shall comprise those individuals, sole traders, partnerships or other legal entities who or which meet the criteria for ordinary membership defined in Clause 6.3 but whose business is operated outside the boundaries of the 26 Perth Metropolitan Regional Shires.

Such members may be admitted to the Association upon the endorsement by the Executive Committee.

## **6.5 Industry Members**

Industry members of the Association shall comprise those individuals, sole traders, partnerships, companies or other legal entities carrying on a bona fide business actively engaged in manufacture, distribution and/or servicing of the painting industry interpreted in its broadest sense, and on the endorsement of the Executive Committee, may be admitted to the Association as Industry Members.

Industry members shall be ineligible to hold office, exercise voting rights or display emblems of the Association.

## **6.6 Life Members**

In recognition of faithful services rendered to the Association and/or the painting industry by an ordinary member, a General Meeting may elect such a member as a Life Member of the Association.

Every nomination for the appointment of a Life Member shall be submitted to the Executive Committee in writing and accompanied by not less than three testimonials in support of such application.

Because Life Membership is the highest honour which the Association may bestow upon a member, the conferring of Life Membership shall be restricted to not more than one nominee per annum and such nomination must be submitted to the Annual General Meeting of members each year for approval by that meeting.

Life Membership shall entail all the privileges and rights of ordinary membership of the Association without payment of fees, subscriptions, dues or levies.

## **6.7 Teaching Members**

Any person who is an approved instructor, teacher or lecturer in the School of Painting of the W.A. Department of Technical & Further Education or any person holding a similar position at any private institution either secondary or tertiary in nature, may apply to the Association for teacher membership. Every application for teacher membership shall include details of the qualifications held, and the establishment or establishments at which tuition is currently being given.

Upon endorsement by the Executive Committee such persons may be admitted to membership as Teaching Members.

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 who has sold or otherwise relinquished control or has ceased to exercise control of a painting contracting organisation previously enrolled with the Association as an Ordinary member. An application for retired membership must be made in writing to the Executive Committee and subject to the acceptance of that Committee may be admitted to the Association as a Retired Member.

## **6.9 Admission to Membership**

Admission to membership of the Association shall be conditional upon compliance with the following:

- (a) Members of the Association as at present constituted at the time of the meeting adopting these Rules creating the classes of membership shall be and subject to these rules shall continue to be members of the Association in the applicable category for such membership.
- (b) All new applicants for membership shall lodge with the Director, a signed application on an approved form together with a nomination fee (if applicable) and subscription. The Director shall submit every application received to the Executive Committee which shall review the suitability of the applicant and shall:
  - (i) Accept the application
  - (ii) Reject the application
  - (iii) Defer action in terms of (i) and (ii) pending further enquiries being made except that action in terms of (i) and (ii) shall not be delayed beyond the next schedule meeting of the Executive Committee.
- (c) An application by a firm, company or corporation shall nominate a representative to the Association who shall be a person acceptable to the Executive Committee. The person so nominated shall represent the firm, company or corporation if admitted to membership. The representative shall attend meetings and vote as for the firm, company or corporation he represents and the term Member shall also mean the representative of the Member. In the event of the representative ceasing to represent the firm or company a further representative acceptable to the committee shall be nominated by the firm, company or corporation.

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

Every applicant for membership shall, on acceptance as a member of the Association, be bound by the Rules and Constitution of the Association in force from time to time and until he shall have formally resigned his membership in terms of rule 6.12 or his membership terminated in terms of rule 6.13.

## **6.11 Violation of the Rules and Penalties Therefor**

- (a) The Executive Committee shall be empowered to recommend to General Meeting, supported by reasons in writing, the expulsion, suspension or fine of any member on proof to the satisfaction of the Committee that such member has been guilty of:
  - (i) Failing to observe, or the commission, of any breach of any of these Rules or of the Code of Conduct or refusal to carry out any order or direction of the Committee or of any General Meeting in accordance with these Rules.
  - (ii) 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.

- (b) The Procedure for dealing with charges against a member for violation of the Rules shall be as follows:-
- (i) Any charge against any member shall be in writing signed by the person laying the charge, or by the Director acting on behalf of a member or members at his or their request.
  - (ii) Upon notification by the Director that a charge has been laid against a member, the Executive Committee shall cause a notice to be sent by Certified Mail to the member complained against at his address as shown in the Register of Members, ordering him to attend before the Executive Committee to answer the charge at a Meeting of the Executive Committee called for that purpose and shall also send a copy of such notice to the person laying the charge if other than the Director and such notice shall be sent not less than 7 clear days before the time appointed for the meeting.
  - (iii) The Director shall upon application by either party send a notice to any other member to appear and give evidence providing that such application is made 3 clear days before the date of the hearing of the charge. Should either of the two parties fail to attend, the Committee shall take evidence and decide the case as if all parties were present. The member charged shall remain in attendance while all evidence given against him is taken and shall be given full and complete opportunity to answer the same and to ask questions of all witnesses.
  - (iv) If after hearing the evidence the Committee shall be of the opinion that the charge is sustained, it shall 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.
  - (v) Upon the resolution of General Meeting to approve, amend or reject the recommendation of the Executive Committee in respect of penalty the Director shall thereupon cause notices of such resolution to be sent to the member charged at the said address by Certified Mail.
- (d) Effect of Expulsion and Suspension or Fine
- (i) 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.
  - (ii) No member expelled, suspended or fined shall be entitled to take any action or proceeding whatsoever against the Association for or in respect of any such fine, suspension or expulsion.

**(Rule 6.12 disallowed as of 22/1/96 Appl 1326 Order by the President)**

## **6.12 Resignation of Membership**

Any member shall be entitled to resign from membership of the Association upon giving at least three months written notice to the Director, or by payment of three months membership fees in lieu of notice, but such resignation shall not be effective until such member has paid all fees, fines, levies or other dues payable by him under these rules to the end of the period covered by such notice and obtains a clearance in writing which thereupon shall be issued by the Director. Upon his resignation taking effect a member shall cease to be bound by and to have any rights under these Rules and must forthwith remove all emblems or other indication of membership from vehicles, documentation, advertising or wherever elsewhere displayed.

## **6.13 Termination of Membership**

- (a) If a member ceases to be eligible as a member of the Association his membership shall be terminated.
- (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 Director shall make appropriate investigations and recommend:
  - (i) that existing membership or memberships should continue in changed nomenclature
  - (or)
  - (ii) that existing membership or memberships be terminated.



- (c) If any member becomes bankrupt assigns his estate for the benefit of his creditors (or in the case of a partnership is dissolved or in the case of a company is wound up except for the purpose of reconstruction or amalgamation) such membership shall be terminated.
- (d) If any member fails to pay all outstanding dues by the last day of the Association's Financial Year such membership shall be terminated without prejudice to any action initiated in terms of Rule 7.5.
- (e) Recommendations for termination of membership in terms of Rule 6.13 (a) - (d) shall be submitted by the Director to the Executive Committee for approval and the decision of Executive Committee shall be recorded in the Minutes of such Executive Committee Meeting.

#### **6.14 Expulsion from Membership**

Any member committing an offence against these Rules as herein provided may be expelled after such notice and upon such conditions as are set out in Rule 6.11.

#### **6.15 Register of Members**

The Director shall cause to be kept in one or more books a register of the members of the Association with relevant particulars thereof including the name and address of the member and the name of the representative.

### **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 of 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 1st October each year 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) The Executive Committee shall have power in its discretion to defer for such period as it thinks fit any subscription due by a member.
- (c) No Life Member shall pay any Annual Subscription or Levy following his retirement from his business.

#### **7.4 Levies**

The Executive Committee shall have power at any time to impose 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 and such Levy shall forthwith become due and payable by all members levied as from the date fixed by the Committee which shall not be less than one month from the date of the resolution imposing the same.

#### **7.5 Recovery of Arrears of Dues**

- (a) Any member who fails to pay any Annual Subscription by the first day of February after the subscription falls due shall, subject to Rule 7.3(b) be deemed to be in arrears and therefore deprived of all membership privileges until such subscription is paid.

- (b) The Arrears of Dues of any member who fails to pay any Annual Subscription by the thirtieth day of September after the subscription falls due, shall, subject to Rule 7.3(b), be recovered by the Director through:
  - (i) Service upon the member of a final account payable within seven (7) days; (or)
  - (ii) Where the member fails to respond to the final account aforementioned, appropriate legal action for recovery of such unpaid dues.

## **8 ADMINISTRATION AND MANAGEMENT**

### **8.1 Alteration or Amendment of Rules**

- (a) The Association shall have the right to make Rules for its own use and guidance. Rules may be amended, added to, varied, repealed by notice of any proposed alteration to the rules being given by any member to the Executive Director in writing. The same shall be laid before the Executive Committee or before a special meeting of the Association which may amend, add to, vary or repeal the Rules or any part of them in accordance with the proposal in the said notice or any reasonable amendment of same.
- (b) No amendment, addition to, variation, repeal, or substitution, of these Rules shall be made unless a notice of the proposed alteration, and the reasons therefor, is:-
  - (i) sent to each member for his attention or;
  - (ii) published in an Association magazine which shall be distributed to all members.
- (c) In the notice referred to in 8.1 (b) members are to be informed that they or any of them may object to the proposed alteration by forwarding a written objection to the Industrial Registrar to reach him no later than 21 days after the date of issue of the notice in (2)(a) above or 21 days after the date of issue of the magazine as in (2)(b) above, as the case may be.

### **8.2 The Executive Committee**

- (a) The Executive Committee shall consist of the President, Vice President, Immediate Past President, a maximum of seven Committeemen, and the Director (who shall be a non-voting member).
- (b) The Executive Committee shall have power to regulate its own proceedings.
- (c) Any motion significantly affecting the interests of the Association may be introduced at any meeting of the Executive Committee by any member of that Committee and if the Committee so resolves, or if the member introducing the motion so stipulates, it shall be brought forward to the next General Meeting. Neither the Executive Committee nor any member of that Committee may bring forward to any General Meeting of the Association any motion significantly affecting the interests of the Association without first having introduced and pursued the matter in Committee.
- (d) The Executive Committee shall have power to appoint from time to time Representatives and Sub-Committees for such purpose and with such powers as the Committee may deem necessary, but such Representatives and such Sub-Committees shall be subject to the control of the Executive Committee and shall make regular reports of their or its activities to the Executive Committee.

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

- (a) All voting members of the Executive Committee shall be elected annually for the calendar year immediately following the election by secret postal ballot of the financial voting Members of the Association.
- (b) All elections shall be for a term of one year except in the case of the President (cum Immediate Past President) who shall be elected for a term of two years and who shall serve the first year as President and the second year as Immediate Past President, except as provided in Rule 10.2(b)(iv).
- (c) Should any member of the Executive Committee cease to be a member of the Committee, the powers and duties of the Committee shall not be invalidated because of such vacancy.

- (d) 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.
- (e) Should the Executive Committee decide not to fill a casual vacancy on the Executive Committee the vacancy shall nevertheless be filled in accordance with the provisions of these Rules relating to the election of officeholders 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 Director, in which case the Committee shall 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 shall:

- (a) Formulate and direct the objectives and policies under which the Association shall be administered.
- (b) Administer the property and advise on the investment of the funds of the Association.
- (c) Authorise the execution of industrial agreements and other instruments.
- (d) Recommend to General Meeting with reasons given in writing the fine, suspension or expulsion of any member.
- (e) Authorise the expenditure of monies as required for the conduct and purposes of the Association.
- (f) Authorise any application to any court, commission or tribunal.
- (g) Hear and determine all disputes between the Association and any member, or between members.
- (h) 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 or industrial agreement or in connection with any other matter or thing which may involve the well-being of the Association.

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

- (i) To call Special General Meetings or Compulsory Special General Meetings of the Association.
- (j) Be responsible for the employment of the Director and for the determination from time to time of his remuneration and conditions.
- (k) Have the power to suspend from office, any elected office bearer, without advance notice, upon reasonable belief that such office bearer is incapable of carrying out his duties or is culpable of flagrant misconduct or serious breach of Rules or gross neglect of duty.
- (l) Have the power to dismiss the Director from office without advance notice upon it being established conclusively that the Director has misappropriated funds is incapable of carrying out his 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 place.
- (m) Have the power to terminate the employment of the Director, having given three (3) months notice to the Director of its intention to terminate his employment.

#### **8.5 Powers and Duties of the President**

The President shall:

- (a) Preside over General Meetings of the Association.
- (b) Preside over meetings of the Executive Committee.

- (c) Have the same rights to speak at all General Meetings and Executive Committee Meetings as any member but when presiding shall be expected to exercise such right with discretion.
- (d) At meetings at which he 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 duties or is culpable of flagrant misconduct or serious breach of Rules or gross neglect of duty.

## **8.6 Powers and Duties of The Vice President and Immediate Past President**

- (a) The Vice President shall 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) shall in the absence or incapacity of the Vice President exercise all the functions of the Vice President.

## **8.7 Power and Duties of The Director**

The Director shall:

- (a) Be the chief executive officer of the Association and shall act in accordance with directions duly given by the Association in General Meeting and Executive 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) The Director shall facilitate the co-ordination and implementation of the policies and objectives of the Association and secure where possible the legal protection of the Association from action or suit be the official spokesman of the Association and shall on behalf of the Association undertake make or authorise all 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 and rate of remuneration of staff employed by the Association.
- (e) Have the authority if and when considered necessary and feasible to appoint secretaries either permanently or on a part-time or honorary basis whose functions shall be:
  - (i) the taking and drafting of minutes of General Meetings of the Association and of meetings of the Executive Committee and Sub-Committees;
  - (ii) the drafting of correspondence arising out of the minutes of such meetings;
  - (iii) such other functions as the Director may from time to time delegate.
- (f) 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.
- (g) Answer and instigate correspondence and table important items of correspondence before the Executive Committee.
- (h) Be answerable for the conduct of the Association's affairs and expenditures incurred on all matters including staff to the Executive Committee at meetings of that Committee.
- (i) Have his remuneration and conditions of employment determined by the Executive Committee.
- (j) Keep books of account for the Association and present them for audit at least once per fiscal year.

## **8.8 Removal of the President**

- (a) Should the President in the opinion of a majority of the whole of the voting members of the Executive Committee be incapable of carrying out his duties or be culpable of flagrant misconduct or serious breach of Rules or gross neglect of duty he may be suspended from duty.
- (b) Upon such suspension if a General Meeting is due to be held not earlier than one week nor later than four weeks after such suspension the question 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-para (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.

## **8.9 Removal of Elected Office Bearers (Excluding the President)**

- (a) Should any elected Office Bearer, in the opinion of a majority of the whole of the voting members of the Executive Committee, be incapable of carrying out his duties, or be culpable of flagrant misconduct or serious breach of Rules or gross neglect of duty, he 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.

## **8.10 Removal of The Director**

- (a) Upon it being established conclusively that the Director has misappropriated funds or is culpable of flagrant misconduct or serious breach of Rules or gross negligence and upon the unanimous decision of the Executive Committee the Director's dismissal shall be immediate.
- (b) Upon the unanimous decision of the Executive Committee, for whatever reason, to terminate the contract of employment of the Director such contract of employment shall be terminated, the Executive Committee first having given the Director three (3) month's notice in writing of its decision so to do.
- (c) Upon the decision of the Director, for whatever reason, to terminate his contract of employment, such contract of employment shall be terminated, the Director first having given to the Executive Committee three (3) month's notice in writing of his decision so to do.

## **8.11 Funds**

The Funds of the Association consisting of nomination fees, subscriptions, levies, fines and interest on investments and any other monies which may be received, shall form the funds of the Association and shall be applied by the Director carrying out the Rules and objects of the Association and in furtherance of its objects.

## **8.12 Finance, Banking and Audit**

- (a) The funds of the Association shall be deposited in a bank account in the name of the Association.
- (b) All cheques drawn on the Association's bank account shall be signed by any one of the President or Vice President and counter-signed by the Director.
- (c) Within one calendar month after the completion of the yearly audit of the accounts the Director shall furnish the Registrar of the Industrial Commission with a duly audited statement of receipts and expenditure which shall be up to the end of the financial year of the Association.

- (d) In the month of January of each year the Director shall furnish to the Industrial Registrar a list of the names, postal addresses and occupations of persons holding office in the Association and the number of members in the Association.
- (e) An auditor or auditors shall be elected yearly at the Annual General Meeting of the Association. The Auditor(s) shall attend at a place appointed before the holding of the Annual General Meeting by arrangement with the 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. They shall audit the accounts at least once in every year. The Auditor(s) shall be duly qualified public accountant(s).
- (f) Any member and person (if any) having an interest in the funds may inspect the books and register of members at any reasonable time.

### **8.13 Control of Property**

- (a) The members in General Meeting shall 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 this State.
- (c) The income and property of the Association whensoever derived shall be applied solely towards the promotion of the objects of the Association as set forth in these Rules and no portion thereof shall be paid or transferred directly or indirectly by way of dividend, bonus or otherwise howsoever by way of profit to the members of the Association provided that nothing herein contained shall 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.

### **8.14 Common Seal**

The Common Seal of the Association shall be square in shape and bear the words "The Master Painters, Decorators and Signwriters Association of Western Australia (Union of Employers)". The Director shall have custody of the Seal and shall be a co-signatory with the President or Trustee to its affixion.

### **8.15 Zones of Branches**

Members may with approval of the Executive Committee form District Committees of the Association in various metropolitan and country centres with authority to meet and to make recommendations to the Executive Committee and the Association on matters of local interest.

They shall appoint their own Chairman who shall forthwith report to the Director of the Association the recommendations of such District Committees.

### **8.16 Disputes**

- (a) All industrial disputes in which the Association or any of its members may be concerned shall unless settled by mutual consent be referred for settlement pursuant to the Industrial Relations Act 1979 (and amendments).
- (b) All disputes between the Association and any member or between any two or more members relating to Association matters shall be heard and determined by the Executive Committee.
- (c) The Association shall be represented before any courts or commissions constituted under the Act by such person or persons as shall act under instructions from and be appointed by the Executive Committee. Such representative or representatives shall also have power to sign and execute on behalf of the Association all documents and instruments necessary or requisite in proceedings before such courts or commissions other than documents requiring the Common Seal of the Association.

## **8.17 Trustees**

There shall be three (3) Trustees of the Association, one of whom shall be the Director, together with two others who shall be appointed by Annual General Meeting. They shall carry into effect all resolutions respecting the control of the property or the investment of the funds passed by General or Special Meetings of members.

## **8.18 Dissolution**

So long as ten voting members remain clear on the books of this Association it shall not be dissolved nor its funds appropriated to any purpose other than those set forth in the forgoing rules. This Rule shall 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.

# **9 MEETINGS**

## **9.1 Ordinary General Meetings**

An ordinary General Meeting of the Association shall 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 and in the event of any change in the time or place of the Meeting, 7 day's notice therefore shall be given by the Committee to all members of the Association.

## **9.2 Special General Meetings**

The Executive Committee may at any time instruct the Director to call a Special General Meeting of the Association and at least 7 day's notice of such Special General Meeting stating the purpose of the same and the business to be transacted thereat shall be conveyed to all members. Special General Meetings shall also be called by the Director in similar manner on the written requisition of at least 10 per cent of the total voting members stating the objects for which the meeting is requested and in the event of the Director neglecting to do so, such requisitionists shall themselves convene the meeting.

## **9.3 Annual General Meeting**

The Annual General Meeting shall be held not later than three months after the closing of the financial year and 30 day's notice of such meeting shall be sent to all members.

## **9.4 Executive Committee Meetings**

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

## **9.5 Quorums**

- (a) Ten per cent of the voting members residing within 30 kms of the meeting place shall constitute a quorum at any General Meeting of the Association. If no quorum is present within half an hour of the time for the commencement of the meeting, then the following provision shall apply –
  - (i) In the case of an Ordinary General Meeting the voting Members present shall constitute a quorum.
  - (ii) In the case of an Annual General Meeting or any Special General Meeting convened by the Executive Committee the meeting shall stand adjourned to the same time and at the same place the following week, and if no quorum is present within half an hour of the commencing time of such meeting the members present shall constitute a quorum.
  - (ii) In the case of a Special General Meeting convened by members the meeting shall lapse.
- (b) The quorum of an Executive Committee Meeting shall be 5 voting members.

## **9.6 Order of Proceedings at Meetings**

- (a) Annual General Meetings - 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) Ordinary General Meetings - At Ordinary General Meetings of the Association the Regular order of proceedings unless otherwise determined by the President, shall be as follows:
  - (1) Minutes
  - (2) Financial Report
  - (3) Reports of Executive Committee
  - (4) General Business

## **9.7 Voting at Association Meetings**

- (a) Every Member, not otherwise debarred by the rules of the Association, shall be a voting member at all meetings of the Association.
- (b) All questions at General Meetings shall be decided on the voices, unless the Chairman shall otherwise decide or at least 10 voting members present personally or by proxy shall demand a poll; in either or which events the questions will be decided on a show of hands.
- (c) Each voting member shall be entitled to appoint a proxy to represent him at any General Meeting and such appointment shall be in writing signed by the member and such written appointment shall be handed to the Director not less than 24 hours prior to commencement of the Meeting. Such proxy as so appointed need not be a member of the Association. A duly appointed proxy shall be permitted to participate in any debate at such General Meeting and to vote thereat. No person shall act as proxy for more than one voting member.
- (d) Each voting member shall be entitled by himself or his 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 shall have 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 voters and an entry to that effect in the minute book of the Association shall be conclusive evidence of the fact.
- (f)
  - (i) Motions on matters significantly affecting the interests of the Association shall 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 the members 14 days prior to such meeting.
  - (ii) 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 appoint a Returning Officer for the purpose of conducting the Annual Ballot for the Executive Committee. The Returning Officer shall not be the holder of an office or be an employee of the Association.



- (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:
- (i) the time of expiration of the term of office of the holder of the office
  - (ii) the time required to lodge nominations
  - (iii) the time required to complete the election
  - (iv) the requirement that the Returning Officer shall declare the result of the election of officeholders at the Annual General Meeting.
- 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 the State, a notice setting out:
- (i) the name of the Association
  - (ii) the title of the office
  - (iii) the form in which nominations are to be made
  - (iv) the place for lodging nominations
  - (v) 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)
- (i) A person 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.
  - (iii) 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, given notice to that person by telegram 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 of sending the telegram.
  - (iii) A person nominated as a candidate may by notice signed by him, witnessed by an elector, 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.
  - (iv) A President, Immediate Past President or Past President may be nominated again for any office including the Presidency provided the written consent of or written invitation from the Executive Committee is forthcoming and subject to the consent of the nominee and otherwise in accordance with Rule 10.2 (b) (i). In the event of the Executive Committee consenting to the President standing for a consecutive second term of office and in the event of his election thereto, the Immediate Past President at the time of the nomination shall continue to be the Immediate Past President for a further term.
- (c)
- (i) 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.
  - (ii) 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.
- (d)
- (i) 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.
  - (ii) The Returning Officer shall be provided by the Association 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 9.3 of these Rules;
    - (2) be certified as correct by an authorised officer of the Association;
    - (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.

- (iii) The Returning Officer shall add to the roll referred to in sub-rule (d) (ii) the names and addresses of persons who after the day referred to in that Rule, become entitled to vote in the election.
- (iv) The Returning Officer shall delete from the roll referred to in sub-rule (d) (ii) the names of persons who after the date referred to in that sub-rule cease to be entitled to vote in the election.
- (v) The Returning Officer shall at the place where he carries out his 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 (d) (ii) and ends on the day on which the result of the election is declared.
- (vi) The Returning Officer shall use for the purpose of receiving ballot papers in respect of an election, a private box at a post office being a private box used exclusively for that purpose.

### **10.3 Conduct a Ballot**

- (a)
  - (i) 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 officeholders at the Annual General Meeting.
  - (ii) As soon as practicable after the date determined under sub-rule (i) 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 (ii) of Rule 10.2 (d) of these Rules;
    - (2) whose name is under sub-rule (iii) of Rule 10.2 (d) 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 (iv) of Rule 10.2 (d) 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.
  - (iii) Where in respect of an election the Returning Officer has under sub-rule (ii) issued a ballot paper to a person whose name is after the issue of the ballot paper, deleted from the roll under sub-rule (iv) of Rule 10.2 (d) the person shall be deemed to be entitled to vote in the election.
  - (iv) The envelope referred to in sub-rule (ii) shall bear an instruction that if it is not delivered to the addressee, it should be returned to the private box referred to in sub-rule (vi) of Rule 10.2 (d).
  - (v) The envelope referred to in sub-rule (ii) 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 (vi) of Rule 10.2 (d) 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 being numbered to coincide with the number shown against the name of that person on the electoral roll.
  - (vi) 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:
    - (1) the office or offices to which the election relates;
    - (2) the full name of the voter;
    - (3) the address of the voter;
    - (4) the signature of the voter.

- (vii) 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.
- (viii) 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.
- (ix) Voting at elections shall be on the “first past the post” principle. Each voter shall indicate the candidate for whom he wishes to vote by placing a cross on the ballot paper in the square opposite the name of the candidate. Any ballot paper which does not conform strictly with the foregoing provisions shall be invalid and shall not be counted. The candidate receiving the majority of the votes cast shall be declared elected to the position.
- (x) The Returning Officer shall 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.
- (b)
  - (i) 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 shall issue to that person a duplicate ballot paper or return envelope as the case may be.
  - (ii) An application under sub-rule (b) (i) by a person for a duplicate ballot paper or return envelope for an election shall 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.
- (c) 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 (e) but is not present at the appointed time, in his absence the Returning Officer shall:
  - (i) collect all envelopes from the private box at the post office;
  - (ii) take all envelopes so collected to the place of count, and proceed to make the count;
  - (iii) keep all those envelopes in safe custody until the count is complete.
- (d) The Returning Officer in consultation with the Executive Committee shall make provision for the preservation in the custody of the Association of:
  - (i) all ballot papers admitted as formal;
  - (ii) all ballot papers rejected as informal;
  - (iii) all counterfoils relating to the ballot papers, whether formal or informal;
  - (iv) all envelopes received after the close of the ballot;
  - (v) the marked electoral roll against which the counterfoils were checked;
  - (vi) 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.
- (e)
  - (i) 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.
- (ii) 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.
- (iii) 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 (v) of Rule 10.3(a) 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 (xi) of Rule 10.3(a).
- (iv) Where during the scrutiny, the Returning Officer is informed by a Scrutineer appointed under Rule 10.3(e) 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 decision on the ballot paper.
- (f) (i) 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.
- (ii) A Scrutineer appointed in sub-rule (i) of this Rule shall be given sufficient notice in writing by the Returning Officer prior to the date and time when the Returning Officer opens the private box at the post office to enable him to be present while the Returning Officer performs his functions.
- (iii) Subject to sub-rule (iv) a Scrutineer appointed under this Rule may:
- (1) be present while the Returning Officer carries out his functions under Rule 10.3(c) and Rule 10.3(d);
  - (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;
  - (3) carry out any other functions of a Scrutineer under the Rules of the Association.
- (iv) Where a Scrutineer appointed under sub-rule (i) of this Rule:
- (1) interrupts the scrutiny otherwise than in accordance with paragraph (2) or paragraph (3) of sub-rule (iii),
- 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.
- (v) The Scrutineer appointed under sub-rule (i) of this Rule, shall comply with a direction by the Returning Officer given under sub-rule (iv).
- (g) (i) Where practicable, the Returning Officer shall in accordance with the Rules of the Association declare the results of the election.
- (ii) Where it is not practicable for the Returning Officer to declare the result of an election under sub-rule (i) of this Rule, 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.
- (iii) The Returning Officer shall in the manner and at the time of declaring the result of an election under sub-rule (i) or (ii) 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(viii) of Rule 10.3(a);
  - (7) the number of votes admitted as recorded in favour of each candidate.
- (h)
  - (i) 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 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.
  - (ii) A person shall not:
    - (1) refuse or fail to comply with a direction given under sub-rule (i) of this sub-rule;
    - (2) obstruct or hinder a person referred to in sub-rule (i) in the performance of his functions in relation to an election or in the taking of any action under sub-rule (i); or any other person in the carrying out of a direction under sub-rule (i).
  - (iii) 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**

In the event of any candidates for any office having an equal number of votes, then any such candidate who is the retiring office holder and is applying for re-election shall be declared, and in the event of there being no such distinction between the applicants the Returning Officer shall have a casting vote.