



REIWA's Articles

AS AT 25 SEPTEMBER 2018

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REIWA ARTICLES

NAME

1. The name of the association is "The Real Estate Institute of Western Australia (Inc)".

DEFINITIONS

2. In these Articles, and any Codes or Rules made pursuant to these Articles, the following terms shall have the following meanings:

"Act" means the *Associations Incorporation Act 2015*;

"Arbitration Panels" means the panels created and maintained by REIWA to determine arbitration disputes pursuant to Article 34;

"Ballot Paper" means either the physical piece of paper by which votes can be cast in an election for candidates listed on that paper or an electronic voting form contained on an Electronic Voting Site;

"Books of REIWA" includes:

- (a) all registers;
- (b) financial records, financial statements or financial reports, however compiled, stored or recorded;
- (c) a document; and
- (d) any other record of information;

"Branch Manager" means a Person who is nominated as a branch manager pursuant to the terms of section 37(2) of the *Real Estate and Business Agents Act 1978*;

"Business Day" means any day except a Saturday, Sunday or public holiday in Western Australia;

"Business Transaction":

- (a) means a sale, exchange or other disposal and a purchase, exchange or other acquisition of a business and any share or interest in the business or the goodwill thereof; and
- (b) includes any sale, exchange or other disposal or any purchase, exchange, and other acquisition of goods, chattels or other property relating to a business transaction of the kind specified in paragraph (a); and
- (c) also includes an option to enter into a business transaction; but
- (d) does not include the sale, exchange, or other disposal or a purchase, exchange, or other acquisition of a share in the capital of a body corporate carrying on a business or an option in respect thereof;

"Chief Executive Officer" means the Chief Executive Officer of REIWA referred to in these Articles and appointed by the Council pursuant to Article 54;

"Codes" means the members Codes of Practice and any other code prescribed from time to time by the REIWA Council pursuant to Article 54;

“Complaint” means an allegation by a Person that a member of REIWA has breached one of REIWA’s Articles, Codes or Rules, together with a request by that Person that the matter be referred to a Professional Standards Tribunal hearing;

“Continuing Professional Education” means the program for structured continuing professional education required to be undertaken by Ordinary and Associate members who are licensed real estate and business agents in the manner from time to time prescribed by Council.

“Council” means the committee referred to in these Articles and established under Article 52 which is made up of the Persons who have the power to manage the affairs of REIWA as provided for in section 189 of the Act;

“Electronic Vote”, in relation to an election, means a vote cast in the election by means of an electronic ballot form;

“Electronic Voting Site”, in relation to an election, means a secure internet site approved or managed by the Returning Officer for the purposes of enabling eligible voters to cast an Electronic Vote in the election;

“Finance and Risk Management Committee” means the sub-committee known as the Finance and Risk Management Committee or such other name given by the Council to the sub-committee appointed by the Council pursuant to Article 93 to consider REIWA’s financial and risk management matters.

“Financial Records” means all financial records of REIWA and includes:

- (a) invoices, receipts, orders for the payment of money, bills of exchange, cheques, promissory notes and vouchers;
- (b) documents of prime entry; and
- (c) working papers and other documents needed to explain:
 - (i) the methods by which financial statements are prepared; and
 - (ii) adjustments to be made in preparing financial statements;

“Financial Report” means financial statements, reports and other information required to be produced by law;

“Financial Statements” means financial statements prepared by REIWA and includes financial statements which are required to be prepared by the Act;

“Franchisor” means a Person who grants to another Person (the franchisee) the right to carry on the business of supplying the services of acting as an agent in respect of real estate and/or business transactions pursuant to a Franchise Agreement;

“Franchise Agreement” means a Franchise Agreement as defined in the Franchising Code of Conduct, as prescribed under section 51AE, Part IVB of the *Competition and Consumer Act 2010*;

“General Meeting” means the Annual General Meetings or Special General Meetings of members of REIWA held by REIWA as referred to in Articles 0 and 96;

“Licensed Agent” means a real estate agent or business agent licensed pursuant to the provisions of the *Real Estate and Business Agents’ Act 1978*;

“Person” means a natural person of either sex, a public body, company, partnership, or association or body of persons, corporate or unincorporate;

“Person in Bona Fide Control of the Business” means the person who is in bona fide control of a business operated under a licence pursuant to the terms of the *Real Estate and Business Agents Act 1978*;

“Professional Standards Tribunal” means the disciplinary tribunal referred to in these Articles and established pursuant to Article 23;

“Real estate transaction”:

- (a) means a sale, exchange, or other disposal and a purchase, exchange or other acquisition of real estate and any exclusive right whether deriving from the ownership of a share or interest in a body corporate or partnership, or otherwise, to the use or occupation of real estate including the leasing, and letting, and the acquisition under lease or letting or tenancy or occupation of real estate; and
- (b) includes a sale, exchange, or other disposal and any purchase, exchange, or other acquisition of goods, chattels or other property relating to a real estate transaction of a kind specified in paragraph (a); and
- (c) includes the collection of rents or other payments for use or occupation; and
- (d) also includes an option to enter into a real estate transaction;

“REIWA” means the Real Estate Institute of Western Australia (Inc).

“Regional members” means those members of REIWA, no matter their category of membership, who:

- (a) in the case of members who are natural persons, whose principal place where that person conducts or is engaged in business is outside of the Perth Greater Capital City Statistical Area, as that area is defined and published from time to time by the Australian Bureau of Statistics pursuant to section 6(d) of the *Australian Bureau of Statistics Act 1975*; or
- (b) in the case of members who are not natural persons, whose registered office pursuant to section 36 of the *Real Estate and Business Agents Act 1978* is located outside of the Perth Greater Capital City Statistical Area, as that area is defined and published from time to time by the Australian Bureau of Statistics pursuant to section 6(d) of the *Australian Bureau of Statistics Act 1975*;

“Register of Members” means the register of current members kept and maintained by REIWA pursuant to Article 10 and the provisions of section 53 of the Act;

“Returning Officer” means the Chief Executive Officer in his or her capacity as the Returning Officer designated under Article 55 to conduct and control the election of members of the REIWA Council as provided for in these Articles;

“Rules” means any Rules prescribed from time to time by the REIWA Council pursuant to Article 54;

“Scrutineers” means the two persons appointed by the Council pursuant to Article 56.

“Special Resolution” means a resolution that is passed by a majority of not less than 75% of the members of REIWA who are entitled under these Articles to vote and who vote in person or by proxy at a General Meeting of which notice specifying the intention to propose the resolution as a special resolution was given in accordance with these Articles.

“Surplus Property of the Association” has the meaning given to it in the Act and means the property remaining when REIWA is wound up or cancelled after satisfying:

- (a) the debts and liabilities of REIWA; and
- (b) the costs, charges and expenses of winding up REIWA,

but does not include books pertaining to the management of REIWA.

OBJECTS

3. The object and purpose of REIWA shall be to ensure that REIWA members enjoy a reputation as highly professional real estate and/or business agency practitioners operating in a sustainable business environment. In particular, REIWA shall strive to ensure:
 - 3.1 **As to reputation:**
 - 3.1.1 The public knows the REIWA brand and understands the benefits of using a REIWA agent.
 - 3.1.2 REIWA members understand the importance of professional conduct and customer service on the reputation of the industry.
 - 3.2 **As to professional standards:**
 - 3.2.1 REIWA sets the standard for professional conduct in real estate practice in Western Australia and REIWA members are leaders in real estate practice.
 - 3.2.2 To enhance the experience of their customers REIWA members continually strive for excellence in all facets of real estate practice.
 - 3.2.3 REIWA members understand the regulatory environment in which they operate and are committed to generating consumer confidence in the real estate transaction.
 - 3.3 **As to a sustainable business environment:**
 - 3.3.1 REIWA members operate in a regulatory and fiscal framework that is conducive to profitable and efficient real estate businesses.
 - 3.3.2 REIWA members enjoy a range of cost competitive, innovative REIWA services that assist them to run efficient and profitable businesses.
4. The property and the income of REIWA shall be applied solely towards the promotion of the objects or purposes of REIWA and no part of that property or income may be paid or otherwise distributed directly or indirectly, to members of REIWA, except in good faith in the promotion of those objects or purposes, provided that:
 - 4.1 remuneration may be paid in good faith to employees or other persons who are not members or Councillors in return for services rendered to REIWA and/or to reimburse expenses incurred on behalf of REIWA; and

4.2 remuneration may be paid to Councillors as provided for in Article 86A.

POWERS

5. Subject to the Act and to these Articles, REIWA may do all things necessary or convenient for carrying out its objects and purposes, and in particular, may:
- 5.1 acquire, hold, deal with and dispose of any real or personal property;
 - 5.2 open and operate bank accounts;
 - 5.3 invest its money:
 - 5.3.1 as trust funds may be invested under Part III of the *Trustees Act 1962*; or
 - 5.3.2 in any other manner as determined from time to time by the Council;
 - 5.4 borrow money upon such terms and conditions as REIWA thinks fit;
 - 5.5 give such security for the discharge of liabilities incurred by REIWA as REIWA thinks fit;
 - 5.6 appoint agents to transact any business of REIWA on its behalf;
 - 5.7 enter into any other contract it considers necessary or desirable;
 - 5.8 act as Trustee and accept and hold real and personal property upon trust, as permitted under section 14 of the Act.

MEMBERSHIP

Categories of membership

6. The categories of membership of REIWA shall be Ordinary members, Corporate members, Associate members, Life members, Affiliate members and a category of membership for alumni of REIWA (such category to be named by resolution of the Council from time to time).
7. Subject to Article 8 a Person's eligibility for membership of the various categories stipulated in Article 6 shall be as follows:
- 7.1 Ordinary member. A natural person (not being a corporation, partnership or other body corporate) who is either:
 - 7.1.1 a Licensed Agent; or
 - 7.1.2 not the holder of a real estate or business agent's licence under the *Real Estate and Business Agents Act 1978* but who:
 - (a) is the sole proprietor of a business, a partner in a firm or a director of a company whose business, either alone or as part of or in connection with any other business, is to act as agent in respect of real estate and/or business transactions;
or

- (b) is a sole proprietor of a business, a partner in a firm or a director of a company that carries on business as a Franchisor;

7.1.3 provided that no person shall be entitled to be an Ordinary member unless that person is a director or partner of an entity that is a Corporate member or that person is a Corporate member by virtue of being a sole proprietor whose business, either alone or as part of or in connection with any other business, is to act as agent in respect of real estate and/or business transactions.

7.2 Corporate member

7.2.1 Any natural person who is a sole proprietor of a business, any corporation or any partnership whose business, either alone or as part of or in connection with any other business, is to act as agent in respect of real estate and/or business transactions, provided that:

- (a) the entity concerned actively carries on the business of:
 - (i) acting as agent in real estate and/or business transactions and is the holder of a current triennial certificate issued pursuant to Section 31 of the *Real Estate and Business Agents Act 1978*, or
 - (ii) a Franchisor;
- (b) and all:
 - (i) directors;
 - (ii) partners;
 - (iii) Branch Managers;
 - (iv) persons in Bona Fide Control of the Business; and,
 - (v) in the case of a sole trading business that conducts real estate and/or business transactions, the owner,

of the proposed Corporate member are either Ordinary members or Associate members unless in the case of directors or partners, the director or partner concerned is ordinarily resident outside the State of Western Australia.

7.2.2 Any corporation which is a Licensed Agent and is incorporated outside the State of Western Australia, the directors of which are resident outside the State, provided that the Person in bona fide control of the business operated under the license and any branch managers are Ordinary members or Associate members.

7.3 Associate member. A Person who is a Licensed Agent or the holder of some special qualification allied to real estate, such special qualification being a qualification approved by the Council.

7.4 Life member. An Ordinary member who, in the light of long, continuous and outstanding meritorious service, is:

- 7.4.1 nominated for life membership by another ordinary member of REIWA in writing, who shall provide that nomination to the Chief Executive Officer of REIWA, together with supporting documentation and information stipulated by the Chief Executive Officer;
 - 7.4.2 by resolution of the REIWA Council considered deserving of life membership; and

resolved by ordinary resolution at a general meeting of REIWA to be a life member.
 - 7.4.3 A Life member shall be entitled to the same membership rights as an Ordinary member, save that a Life member shall not be liable to pay any membership subscription for his or her continuing membership.
- 7.5 Affiliate member. A Person who is engaged, in whole or in part, in an occupation designated by the REIWA Council to be sufficiently related to the provision of real estate or business agency services so as to warrant inclusion in this category of membership.
- 7.6 REIWA alumni member. Any Person who has in the past been an Ordinary Member or Associate Member of REIWA, but who:
- 7.6.1 is no longer a member of the categories of REIWA membership set out in Articles 7.1– 7.5 above; and
 - 7.6.2 does not conduct business as a licensed Agent, is not engaged by any real estate or business agency business to act as a Sales Representative (as that term is defined in section 4 of the *Real Estate and Business Agents Act 1978*) and does not act as an agent for any other person in any Real Estate Transactions or Business Transactions.

PROVIDED THAT the name of this category of membership shall be determined from time to time by the Council.

Eligibility for membership

8. No Person shall be eligible to apply for membership or to remain a member of REIWA (no matter when that Person was admitted to membership of REIWA) in relation to any of the classes of membership stipulated in Article 7:
- 8.1 unless that Person agrees in writing to abide by the Articles, Codes and Rules of REIWA;
 - 8.2 if that Person:
 - 8.2.1 is a person whose licence and/or triennial certificate under the *Real Estate and Business Agents Act 1978* is currently under suspension or is currently cancelled by order of the State Administrative Tribunal under that Act;
 - 8.2.2 is an undischarged bankrupt or otherwise is an insolvent under administration within the meaning of the Corporations Law;
 - 8.2.3 is of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
 - 8.2.4 has been convicted of an indictable offence in respect of which a sentence has been imposed of:

- (a) imprisonment for more than one year or for an indeterminate period; or
 - (b) a fine of \$15,000.00 or more or such amount of fine as is stipulated from time to time in relation to the definition of "serious conviction" appearing in section 9 of the *Spent Convictions Act 1988*.
- 8.2.5 is a director of a corporation, is a partner in a partnership or is the sole proprietor of a business which is indebted to REIWA or, alternatively, is indebted to another member of REIWA pursuant to any arbitration award made under REIWA's Articles, Codes or Rules; or
- 8.2.6 is an ex-director of a corporation, is an ex-partner in a partnership or is the ex-sole proprietor of a business which is indebted to REIWA or alternatively, is indebted to another member of REIWA pursuant to any arbitration award made under REIWA's Articles, Codes or Rules unless the corporation, partnership or business did not owe that debt at the date of the Person applying for membership ceased to be a director of that corporation, partner in that partnership or sole proprietor of that business;
- 8.3 unless, in the case of:
- 8.3.1 Ordinary, Corporate and Associate members; and
 - 8.3.2 Life members whose business, either alone or as part of or in connection with any other business, is to act as agent in respect of real estate and/or business transactions;

the member concerned (in this Article referred to as "the member") supplies to REIWA a written declaration in a form required by the REIWA Council that the member is and will be insured for the period of his or her membership of REIWA pursuant to the terms of a professional indemnity insurance contract that includes the following features:

- (a) the policy holder under the insurance contract is a Corporate member referred to in clause 7.2 above;
- (b) the insured pursuant to the insurance contract includes a Corporate member referred to in clause 7.2 above and the member;
- (c) the insurance contract provides a limit of indemnity of at least \$1 million or such other sum as prescribed by the Council from time to time;
- (d) the insurance contract includes as insured events as to which the insured is entitled to indemnity under the contract all activities by the member and the Corporate member referred to in sub-paragraph (a) above in respect to the operations of carrying on the business, either alone or as part of or in connection with any other business, of acting as agent in respect of real estate and/or business transactions in which the member and the Corporate member are involved including, but not limited to, the general provision of real estate services, business agency services and auctions;
- (e) the insurance contract includes as insured events as to which the insured is entitled to indemnity under the contract any claims that

arise out of, or are in any way related to, the provisions of the *Competition and Consumer Act 2010*.

SAVE AND EXCEPT THAT a Person who is entitled to be an Ordinary member, Corporate member or Associate member solely as a consequence of carrying on business as a Franchisor or being a partner of a firm or the director of a company that carries on business as a Franchisor shall be eligible to apply for membership of REIWA and/or to remain as a member of REIWA notwithstanding that the Person does not comply with this clause 8.3.

8.4 unless, in the case of:

8.4.1 existing Ordinary and Associate members who are licensed real estate and/or business agents-

the member completes Continuing Professional Education; and

8.4.2 new applicants for Ordinary and Associate membership who are licensed real estate and/or business agents -

the applicant agrees to complete Continuing Professional Education

Applications for membership

9. 9.1 Applications for membership of REIWA shall be made in a form stipulated by the Council, to be accompanied by the payment by the applicant of a non-refundable application fee as stipulated by the Council.

9.2 Applications for membership of REIWA shall be determined by the Chief Executive Officer of REIWA.

9.3 Applicants for membership shall have no right to be heard prior to the making of the determination regarding that application for membership by the Chief Executive Officer. However, the applicant for membership shall be provided with written notice of the Chief Executive Officer's determination within a period of 14 days following the determination, together with written reasons for any rejection of that application.

9.4 Any Person whose application for membership is rejected may appeal pursuant to Article 43.

9.5 Notice of any successful application for membership of REIWA shall be provided within a month of the application being approved to all existing members by way of written notice, notice by e-mail, notice by posting on the internet or such other method determined by the Council.

Register of members

10.

10.1 Register of members:

10.1.1 The Chief Executive Officer or a person authorised by the Council from time to time must maintain a register of members and make sure that the register is up to date.

10.1.2 The register must contain:

(a) the full name of each member;

(b) a contact postal, residential or email address of each member;

- (c) the class of membership held by the member; and
- (d) the date on which the person became a member;

10.1.3 Any change in membership of REIWA must be recorded in the register within 28 days after the change occurs.

10.1.4 The register must be kept and maintained at such other place as the Council decides.

10.2 Inspecting the register:

10.2.1 Any member is able to inspect the register free of charge, at such time and place as is mutually convenient to REIWA and the member.

10.2.2 A member must contact the Chief Executive Officer to request to inspect the register.

10.2.3 The member may make a copy of details from the register but has no right to remove the register for that purpose.

10.3 Copy of the register:

10.3.1 A member may make a request in writing for a copy of the register.

10.3.2 The Council may require a member who requests a copy of the register to provide a statutory declaration setting out the purpose of the request and declaring that the purpose is connected with the affairs of REIWA.

10.3.3 REIWA may charge a reasonable fee to the member for providing a copy of the register, with the amount to be determined by the Council from time to time.

10.3.4 If the Council denies a member's request for a copy of the register, a member may appeal the decision under the procedures set out in these Articles.

10.4 When using the information in the register is prohibited:

10.4.1 A member must not use or disclose the information on the register:

10.4.2 to gain access to information that a member has deliberately denied them (that is, in the case of social, family or legal differences or disputes);

10.4.3 to contact, send material to REIWA or a member for the purpose of advertising for political, religious, charitable or commercial purposes, or

10.4.4 for any other purpose unless the use of the information is approved by the Council and for a purpose that is:

- (a) directly connected with the affairs of REIWA; or
- (b) related to administering the Act.

Annual membership return

11. Should the REIWA Council at any time, at its sole discretion, think it desirable that a member and/or any class or classes of membership provide information pertaining to those members' eligibility for membership, their compliance with the terms of these Articles and/or any other information relating to their membership, the Council may require members to complete and return to the Chief Executive Officer an annual declaration before 30 June each year in a form to be determined by the Council certifying:
 - 11.1 whether the member continues to comply with the various criteria for membership of the individual categories of membership referred to in these Articles;
 - 11.2 any other information relevant to determine whether a member complies with the provisions of these Articles; and/or
 - 11.3 any other information relating to the member's membership of REIWA.

Requirements for ongoing membership

12. Members of REIWA will at all times adhere to the Articles, Codes and Rules of REIWA.
13. Members of REIWA shall not in any way assist or in any other way be a party to the breach by any Person of REIWA's intellectual property rights or any unauthorised use by a Person of REIWA's membership services.

Members of REIWA shall not:

- 13.1 In any way infringe any intellectual property rights held by REIWA including, but not limited to, REIWA's copyright and REIWA's rights in designs, patents, confidential information and trademarks.
 - 13.2 In any way assist or in any other way be a party to the breach by any Person of REIWA's intellectual property rights (including, but not limited to, REIWA's copyright and REIWA's rights in designs, patents, confidential information and trademarks) or any unauthorised use by a person of REIWA's membership services.
- 13A. Members of REIWA shall not engage in conduct that is misleading or deceptive of REIWA or its servants or agents or is likely to mislead or deceive REIWA or its servants or agents. Further, members of REIWA shall not, with respect to their dealings or association with REIWA or any of its services, engage in conduct that is misleading or deceptive or is likely to mislead or deceive.

Membership subscriptions

14. Members shall pay membership subscriptions in such sums and for such periods as shall be fixed from time to time by the Council as being payable by individual members or groups of members.
15. All membership subscriptions must be paid by members by the date marked on the relevant invoices as being the time that the payment is due. If any member fails to pay the subscription due by that member within 60 days of the due date marked on the relevant invoice the Council may, in its discretion, terminate the Person's membership.
16. Persons who become members of REIWA after the commencement of the period for which annual subscriptions have been set in any particular year shall pay a reduced

initial subscription as determined by the Council, such amount to be paid at the time the Person submits his or her application to become a member of REIWA.

17. Any member aggrieved by a decision or action under this Article may appeal such decision pursuant to Article 43.

SUSPENSION OF REIWA TRADING SERVICES TO MEMBERS

18. If any member of REIWA owes to REIWA a debt in excess of REIWA's stipulated trading terms in relation to the provision to that member by REIWA of membership services, REIWA shall have the ability to cease supplying membership services to that member until the debt has been paid in full. The terms of this clause shall not, when applied, amount to a termination or suspension of a Person's membership and a member aggrieved by a decision under this Article may appeal such decision pursuant to Article 43.

RESIGNATION

19. Any member may at any time submit a resignation from membership of REIWA by providing written notice of that intention to the Chief Executive Officer and such a Person shall cease to be a member of REIWA should that Person's resignation be accepted by the Council pursuant to the provisions of Article 20 below.
20. The REIWA Council may refuse to accept the resignation of a member of REIWA for any reason that it shall in its absolute discretion determine warrants such a refusal including, but not limited to, the fact that a Person is indebted to REIWA or due to the fact that the member is the subject of an arbitration hearing or a Professional Standards Tribunal hearing pursuant to these Articles.

CESSATION OF MEMBERSHIP

21. Should the Chief Executive Officer of REIWA determine that a member of REIWA does not comply with the criteria for membership stipulated in Articles 7 and 8 above, that Person shall cease to be a member of REIWA immediately upon notice of that fact being provided to that member by the Chief Executive Officer.
22. Should a member be provided with a notice by the Chief Executive Officer that that Person ceases to be a member of REIWA pursuant to the provisions of Article 21 above that Person shall have a period of 14 days from the date that the Person is provided with that notice to make written request to the Chief Executive Officer that the issue of that member's compliance with the criteria of membership stipulated in Articles 7 and 8 above be referred to a Professional Standards Tribunal for determination. Upon receipt of any such request, the Chief Executive Officer shall convene a Professional Standards Tribunal hearing and shall reinstate the membership of that Person until further order of the Professional Standards Tribunal.

PROFESSIONAL STANDARDS TRIBUNALS AND THE DISCIPLINING OF MEMBERS

23. REIWA shall establish from time to time Professional Standards Tribunals that shall be made up of three individuals selected by the Chief Executive Officer from a panel of individuals previously approved by the Council. The members of each Professional Standards Tribunal shall not be required to be members of REIWA but, in the case of the Chairperson, shall be a local legal practitioner as defined under Section 3 of the *Legal Profession Act 2008*.
24. Should the Chief Executive Officer:
 - 24.1 receive a complaint from any Person that a member of REIWA has breached REIWA's Auction Code of Conduct;

- 24.2 receive a complaint from a member of REIWA that another member has breached one or more of REIWA's Articles, Codes or Rules;
- 24.3 make a complaint referred to in sub-paragraphs 24.1 or 24.2 himself or herself: or
- 24.4 become aware of a dispute between members or a member (or members) and REIWA under or relating to these Articles,

the Chief Executive Officer must refer that complaint for determination at a hearing by a Professional Standards Tribunal.

- 25. Upon the hearing of a matter referred to a Professional Standards Tribunal the Tribunal shall have the power to:
 - 25.1 terminate or suspend the membership of REIWA of the Person who is the subject of the hearing.
 - 25.2 impose the penalties prescribed in any of REIWA's Articles, Codes or Rules in respect of any breaches of those Articles, Codes or Rules.
 - 25.3 impose monetary penalties of not more than \$10,000.00, or such alternate maximum sum as prescribed from time to time by the Council, for any breach of any of REIWA's Articles, Codes or Rules.
 - 25.4 require the Person the subject of the hearing to undertake a course of further training provided by REIWA or another service provider as stipulated by the Professional Standards Tribunal.
 - 25.5 impose a reprimand.
 - 25.6 dismiss the matter without penalty.
 - 25.7 order the restitution of any monies held or received by the member the subject of the hearing to any Persons determined by the Professional Standards Tribunal to be entitled to those monies, provided that any sum ordered by way of restitution shall be no more than \$25,000.00 in total.
- 26. Notwithstanding the provisions of Article 24 above, a Professional Standards Tribunal that is hearing a particular matter that has been referred to it may decline to hear or determine that matter on the ground that:
 - 26.1 the subject of the matter is not within the capacity of the Professional Standards Tribunal to determine;
 - 26.2 the matter is frivolous or vexatious; or
 - 26.3 it is otherwise inappropriate for the Professional Standards Tribunal to hear or determine the matter concerned.

Should a Professional Standards Tribunal decline to hear or determine a matter pursuant to this Article, the Chief Executive Officer must then refer the matter to the Department of Commerce and its successors if, in the opinion of the Professional Standards Tribunal or the Chief Executive Officer, the matter might amount to a breach of the provisions of the *Real Estate and Business Agents Act 1978* or the Code of Conduct issued pursuant to section 101 of that Act.
- 27. Prior to the commencement of any hearing before a Professional Standards Tribunal, the Person who originally made the complaint pursuant to Article 24 above that is the

subject of the particular hearing may give written notice that he or she wishes to withdraw that complaint. In that event, the hearing before the Professional Standards Tribunal shall not take place unless the Chief Executive Officer decides that a matter should nevertheless proceed to be heard by a Professional Standards Tribunal.

28. The following procedure shall apply with respect to any hearing conducted by a Professional Standards Tribunal:
 - 28.1 Not less than 14 days before the Professional Standards Tribunal meets to hear the relevant matter, the Tribunal shall give to the defendant member:
 - 28.1.1 written notice of the nature of the matter to be heard and particulars of the events that are alleged to have occurred;
 - 28.1.2 copies of any documentary evidence proposed to be considered by the Professional Standards Tribunal at the hearing including, but not limited to, any relevant written complaints that have been made; and
 - 28.1.3 written notice stating the date, time and place of the hearing and informing the member that the member may attend and speak at the hearing and/or submit to the Professional Standards Tribunal written representations at or prior to the date of the hearing.
 - 28.2 At the hearing by the Professional Standards Tribunal, prior to the Tribunal making its determination, the Tribunal shall call before it any evidence that it deems fit and the defendant member shall be given an opportunity to call evidence and make oral representations. The Tribunal shall give due consideration to all the evidence and representations before it.
 - 28.3 Following the hearing by the Professional Standards Tribunal, the Tribunal shall deliver its decision and the reasons for that decision in writing. A copy of the decision and the reasons for that decision shall be provided to the defendant member within 14 days of the decision being made.
 - 28.4 Should a Member be convicted as a consequence of a disciplinary hearing conducted by a Professional Standards Tribunal and that conviction not be overturned upon appeal pursuant to Article 43, the outcome of the Tribunal hearing and any appeal must be communicated to REIWA Members through the REIWA publication REIWA News or an equivalent publication. That communication shall take place upon the latter of either the determination of any appeal under Article 43 or, if there is no appeal, upon the expiration of the time permitted under Article 43 for an appeal to be lodged. Further, the relevant Professional Standards Tribunal shall have the power to exercise its discretion to rule that the identity of the member the subject of the hearing concerned shall not be published if the Tribunal considers that this would be substantially unfair in the circumstances. Any member aggrieved by the exercising of such discretion by a Tribunal may appeal against such a determination pursuant to Article 43.
29. The Professional Standards Tribunal shall not have the power to make any costs orders with respect to the hearing of any matters before it.
30. Notwithstanding any suspension of a member pursuant to Article 25 above, the member shall remain liable for all monies that otherwise would have been payable if the member had not been under suspension during the period of suspension.
31. Notwithstanding any termination of a member's membership pursuant to Article 25 above the member shall remain liable for all monies due at the date of that termination to:

- 31.1 REIWA; or
 - 31.2 another member.
32. Any member who is expelled or suspended from membership of REIWA or who is penalised by a Professional Standards Tribunal pursuant to these articles shall have a right of appeal against that expulsion, suspension or penalty in accordance with the provisions of Article 43 below; provided that if a member has been expelled or suspended the member shall remain under suspension until the determination of the appeal.
33. Expulsion of a member pursuant to Article 25 above shall be deemed to not take effect until:
- 33.1 the date upon which any time given to appeal against the decision to expel expires pursuant to Article 43 below; or
 - 33.2 the date that notice of the determination of any such appeal is given to the member,
- whichever is the later.

ARBITRATIONS

34. REIWA shall create and maintain Arbitration Panels for the purpose of hearing and resolving:
- 34.1 disputes between member agents to which any of REIWA's Articles, Codes or Rules relate or which otherwise arise out of the provision of real estate or business agency services by one or more members of REIWA; and
 - 34.2 any disputes between members of REIWA and members of the public to which any of REIWA's Articles, Codes or Rules relate or which otherwise arise out of the provision of real estate or business agency services by one or more members of REIWA; provided that the member(s) of the public concerned agrees in writing to submit the dispute to the REIWA Arbitration Panel to be determined pursuant to these Articles and to abide by such a determination.

So as to avoid any doubt, Arbitration Panels and the processes referred to in Articles 34 to 41 have no application to the matters set out in these Articles as being matters to be determined by the Professional Standards Tribunal, the Appeals Board or the Chief Executive Officer.

35. Arbitration Panels shall be empowered to determine arbitration disputes under these Articles in accordance with the terms of the *Commercial Arbitration Act 1985* and all parties to such arbitration hearings shall be bound by the provisions (including appeal provisions) of that Act, except insofar as the terms of the *Commercial Arbitration Act 1985* are lawfully modified by REIWA's Articles, Codes or Rules and/or the terms of the Dispute Resolution Manual approved by the Council.
36. All disputes between members to which any of REIWA's Articles, Codes or Rules relate or which otherwise arise out of the provision of real estate or business agency services by one or more members of REIWA must be submitted to REIWA for resolution by arbitration pursuant to the provisions of these Articles.
37. Any member who is a party to a dispute with a member of the public or another member shall, if and when required by REIWA through the Chief Executive Officer, submit such dispute for arbitration to an Arbitration Panel provided that no dispute with a member of the public can be referred for resolution by arbitration under these

Articles unless the member of the public concerned agrees in writing to submit to and abide such a resolution. The opinion of the Chief Executive Officer as to whether any member is or is not a party to a dispute shall be final.

38. Notwithstanding the provisions of these Articles, an Arbitration Panel that is hearing or resolving a particular dispute may decline to hear or determine that dispute on the ground that the subject matter of the dispute is not within the capacity of the Arbitration Panel to determine or that it is otherwise inappropriate for the Arbitration Panel to hear or determine the dispute concerned. No arbitration shall determine any dispute in which the subject matter of that dispute exceeds a monetary amount of \$50,000.00, or such other sum as shall be stipulated from time to time by the Council.
39. Arbitration Panels shall be made up of individuals selected by the Chief Executive Officer and shall be administered in accordance with the terms of a Dispute Resolution Manual approved by the Council.
40. Before any Arbitration Panel may commence to hear any arbitration pursuant to these Articles, the parties to the dispute may be required by direction of the Chief Executive Officer, upon the giving of not less than 14 days' notice, to attend a conciliation conference before a conciliator appointed by the Chief Executive Officer who shall be an individual determined by the Chief Executive Officer to be skilled in conciliation techniques. The procedures for such conciliation conferences may be stipulated in the Dispute Resolution Manual approved by Council.
41. With respect to any arbitration:
 - 41.1 any Person seeking arbitration of a dispute pursuant to these Articles shall at the time of lodging the request for arbitration forward such sum as the Chief Executive Officer shall determine to be appropriate, together with such sums as the Chief Executive Officer may consider as being in dispute, which sums shall be held in trust in an interest bearing account for the benefit of that party;
 - 41.2 the Chief Executive Officer may require any other party to an arbitration held pursuant to these Articles holding monies in dispute to lodge such sum as the Chief Executive Officer may determine with REIWA, such sum to be held in trust in an interest bearing account for the benefit of such party;
 - 41.3 after an arbitration has been finalised, any sum held pursuant to this Article may be retained or refunded in whole or in part as determined by the Arbitration Panel after the hearing of the dispute.

LEGAL REPRESENTATION

42. A Person shall be entitled to legal representation at any hearing or appeal conducted pursuant to these Articles or any of REIWA's Codes or Rules if the decision-maker conducting that hearing or appeal considers that such legal representation is necessary to enable the party concerned to effectively present the party's case and it is otherwise appropriate in the circumstances for the party to be legally represented.

APPEALS

43. Any Person who is given a right to appeal against a decision pursuant to the provisions of these Articles may so appeal by notice in writing addressed to the Chief Executive Officer, such notice of appeal to be lodged with the Chief Executive Officer, together with a written statement of the grounds of that appeal, within 28 days from the date REIWA providing the notice of the decision appealed against.

44. All appeals pursuant to Article 43 above shall be heard by an Appeals Board made up of the following individuals who shall not have been members of the original decision-making body:
 - 44.1 a Chairperson, being a local legal practitioner as defined under section 3 of the *Legal Profession Act 2008*, appointed by the President of the Australian Institute of Arbitrators and Mediators, who is a member of that Institute but is not a member of REIWA and is not a licensed real estate/business agent or sales representative under the *Real Estate and Business Agents Act 1978*;
 - 44.2 a consumer representative who shall be appointed by the Council but who is not a licensed real estate/business agent or sales representative under the *Real Estate and Business Agents Act 1978* and who is not a member of REIWA; and
 - 44.3 an individual appointed by the REIWA Council who is a real estate or business agent licensed under the *Real Estate and Business Agents Act 1978*.
45. The Chairperson of the Appeals Board shall be responsible for making all determinations on issues of law. Issues of fact shall be determined by a majority decision of three members of the Appeals Board.
46. Any Person appealing pursuant to Article 43 above shall pay to REIWA at the time that the appeal is lodged such sum as the Council shall determine from time to time. A notice of appeal shall not have been duly lodged pursuant to Article 43 above unless and until the required sum is paid to REIWA.
47. Any sum of money lodged with REIWA pursuant to Article 46 above with respect to the hearing of an Appeal shall be retained or refunded in whole or in part as determined by the Appeals Board.
48. Appeals to the Appeals Board under these Articles from decisions of the Professional Standards Tribunal will be by way of re-hearing and not by way of hearing *de novo*. Appeals to the Appeals Board under these Articles from the decision or action of any other Person will be by way of hearing *de novo*.
49. Upon the hearing of an appeal the Appeals Board shall only have the power to make a decision that the decision-maker who made the original decision appealed from was empowered to make; provided that the Appeals Board may make such orders as to the costs of the hearing of the appeal as the Appeals Board considers to be just including, but not limited to, payment of the administrative costs of REIWA relating to the appeal and the costs of the parties to the appeal.
50. At any appeal to the Appeals Board, REIWA shall be a respondent to that appeal and shall be entitled to appear at the hearing of the Appeal.
51. The following procedure shall apply with respect to the hearing of any appeal by the Appeals Board pursuant to these Articles:
 - 51.1 Not less than 14 days before the Appeals Board sits to hear the relevant appeal the Chief Executive Officer shall give to the parties to the appeal:
 - 51.1.1 written advice of the appeal and copies of the notice of appeal and grounds of appeal lodged in accordance with Article 43 above;
 - 51.1.2 copies of any documentary evidence considered by the decision-maker who made the decision the subject of the appeal;

- 51.1.3 written notice stating the date, time and place of the hearing or, if ordered by the Appeals Board, any preliminary conference to be held with respect to the Appeal, and informing the parties to the appeal that they may attend and speak at the hearing and/or submit to the Appeals Board written representations at or prior to the date of the hearing;
- 51.2 At the hearing of the appeal by the Appeals Board, prior to the Appeals Board making its determination, the parties to the appeal shall be given an opportunity to be heard and the Appeals Board shall give due consideration to any oral or written representations submitted by the parties to the appeal;
- 51.3 Following the hearing of the appeal the Appeals Board shall deliver its decision in writing. A copy of the decision and the reasons for that decision shall be provided to the parties to the appeal within 14 days of the decision being made.
- 51.4 If a party is dissatisfied with the outcome following the hearing of the appeal by the Appeals Board, any party to the dispute may apply to the State Administrative Tribunal to determine the dispute in accordance with the Act or otherwise at law.

THE REIWA COUNCIL

Name of Management Committee

52. The persons who have the power to manage the affairs of REIWA and thereby constitute the committee of REIWA for the purposes of the Act shall be known as “the Council”.

Membership of Council

53. The Council shall comprise nine individuals and:
- 53.1 all nine of those members shall be either Ordinary members or Life members of REIWA and in order to be eligible to stand for election or appointment as a member of the Council, the member concerned:
- (a) must have been an Ordinary and/or Life member for no less than three consecutive years immediately prior to the General Meeting at which time the person becomes a member of the Council; and
 - (b) must not be a member whose membership is under suspension.
- 53.2 two of those members shall be elected by Ordinary and/or Life members of REIWA who are Regional Members and whose membership is not under suspension. For this purpose Western Australia shall be divided into two regional electoral areas and the regional members of the Council shall be elected from each of those two regions, with only Ordinary and/or Life members whose principal place of residence is inside the regional area concerned and whose membership is not under suspension, being eligible to vote for that regional member of Council. The two regional electoral areas shall be as follows, with reference to the non-metropolitan regions defined in section 4 and detailed in schedule 4 of the *Planning and Development Act 2005*:
- 53.2.1 the Northern and Eastern Regional Electoral Area, made up of the regions of Kimberley, Pilbara, Gascoyne, Mid-west, Goldfields-Esperance and the Wheatbelt;

53.2.2 the South-Western Regional Electoral Area, made up of the regions of Peel, the South-West and the Great Southern.

PROVIDED THAT, to the extent that the two regional electoral areas referred to in Articles 53.2.1 and 53.2.2 above include any portion of the Perth Greater Capital City Statistical Area (as that area is defined and published by the Australian Bureau of Statistics pursuant to section 6(d) of the *Australian Bureau of Statistics Act 1975*), that portion shall be excluded from those regional electoral areas.

53.3 seven of those members of the Council shall be elected by the Ordinary and/or Life members of REIWA. All Ordinary and/or Life members of REIWA whose membership is not under suspension shall be eligible to vote for those seven positions, including Ordinary and/or Life members who are Regional Members.

53.4 All members of the Council must:

53.4.1 not, within the meaning of section 13D of the *Interpretation Act 1984*, be bankrupts or persons whose affairs are under insolvency laws;

53.4.2 be of sound mind and not persons whose estates are liable to be dealt with in any way under the law relating to guardianship; and

53.4.3 not be ineligible to be a members of the Council due to the provisions of Part 4 of the Act.

Powers of the Council

54. The Council shall have the power to do all things necessary so as to effectively manage the affairs of REIWA, including the power to appoint or dismiss a Chief Executive Officer and to prescribe from time to time Codes and Rules, so long as those Codes and Rules are not inconsistent with these Articles.

Council Elections

55. The Chief Executive Officer will act as the Returning Officer to conduct elections for the members of the Council PROVIDED THAT the Chief Executive Officer may appoint a delegate to perform all or some of the duties of the Returning Officer set out in these Articles.

56. At the meeting of the Council held in June or July each year, prior to the Annual General Meeting, the Council will appoint two Scrutineers to observe the conduct of the Council election process and who will be required to:

56.1 advise the Returning Officer of any issues or problems that arise in their view with respect to that election process; and

56.2 report to the Annual General Meeting as to any observations by them of any issues or problems with the Council election process.

PROVIDED THAT, to the extent that the election is conducted by the casting of an Electronic Vote on an Electronic Voting Site, the Scrutineers shall not participate in that aspect of the election process.

57. A candidate for election as a member of the Council must lodge with the Returning Officer no earlier than the last Monday in July and no later than the second Friday in August prior to the election concerned a nomination in writing signed by two Ordinary or Life members and counter-signed by the candidate.

58. The Returning Officer shall reject the nomination of any candidate who:
- 58.1 is not an Ordinary or Life member of REIWA;
 - 58.2 is a person whose membership of REIWA is under suspension; or
 - 58.3 is a candidate who lodges his or her nomination before the last Monday in July or after the second Friday in August.
59. Prior to the preparation of the Ballot Paper for the election of Councillors there shall be a draw conducted or caused to be conducted by the Returning Officer in the presence of the Scrutineers to determine the order of the names of the candidates appearing on the Ballot Paper. The candidates shall be entitled to attend the draw but it is not mandatory for them to do so.
- 59A. The election of Councillors is able to be conducted, in the discretion of the Returning Officer (such discretion to be exercised prior to the draw referred to in Article 59 above), by the casting of votes on a Ballot Paper that is a physical piece of paper and/or by the casting of an Electronic Vote on an Electronic Voting Site.
60. Following the draw referred to in Article 59 above, Ballot Papers shall be prepared or caused to be prepared by the Returning Officer, upon which shall be printed or otherwise identified the names of all candidates. The Returning Officer shall:
- 60.1 post or cause to be posted a Ballot Paper to each member who is entitled to vote as soon as practicable; and/or
 - 60.2 if the Returning Officer determines, as provided for in Article 59A above, that voting shall be permitted to occur by the casting of an Electronic Vote on an Electronic Voting Site, give notice to members entitled to vote of that fact.
- 60A. In the case of a ballot that is conducted that enables the casting of Electronic Votes, the Returning Officer is to ensure that each member who is entitled to vote is provided with notice of all the necessary information required in order to vote in the election, including (but not limited to):
- 60A.1 the internet address of the Voting Site; and
 - 60A.2 the passwords (if any) required to access the voting site.
- 60B. In the case of a ballot that is conducted that enables the casting of Electronic Votes, the Returning Officer is to ensure that the Voting Site contains:
- 60B.1 instructions for voting;
 - 60B.2 a method of declaration of identity and entitlement to vote; and
 - 60B.3 any other information that the Returning Officer considers appropriate.
61. To ensure secrecy in the election process the Returning Officer will prepare or cause to be prepared Ballot Papers in such a way so as to keep confidential the manner in which a member has voted but in a way by which the Returning Officer can readily ascertain which members have actually voted and to prevent multiple voting.
62. 62.1 Members entitled to vote in Council elections shall mark on their Ballot Papers in a manner directed by the Returning Officer those candidates for whom the member wishes to vote. The number of candidates selected by the

member on the Ballot Paper shall be equal to or less than the number of vacant Council positions the subject of the election.

- 62.2 No vote shall be counted unless the Ballot Paper is received by the Returning Officer not later than two business days prior to the time set for the commencement of the General Meeting at which the Ballot Papers are to be used.
63. As Ballot Papers are received by the Returning Officer they shall be stored in a secure closed ballot box or, in the case of Electronic Votes, in a secure electronic format, in the custody of the Returning Officer. Neither the Returning Officer nor any other person shall count or access the contents or substance of Ballot Papers until the formal voting procedure occurs as set out immediately below. The Returning Officer shall open the ballot box and access any Electronic Votes prior to the commencement of the Annual General Meeting and count the votes received according to the following procedure:
- 63.1 the Returning Officer shall first ascertain the identity of the Person who has purported to vote and shall reject the vote of any member not qualified to vote;
- 63.2 the Returning Officer shall then proceed to access and count the valid Ballot Papers;
- 63.3 the Returning Officer shall then total the number of votes cast for each candidate;
- 63.4 this procedure, in so far as it applies to Ballot Papers that are physical pieces of paper, shall be conducted in the presence of the Scrutineers. However, in so far as the procedure applies to Electronic Votes, the procedure shall not be conducted in the presence of the Scrutineers.
64. The candidates elected to the Council positions the subject of the election shall be those candidates receiving the highest number of votes cast for them.
65. In the event that candidates to a Council position receive the same number of votes then the candidate elected shall be determined by way of a lot organised by the Returning Officer.
66. The Returning Officer shall sign a certificate of the results of the Council election and hand the same, together with details of the number of votes each candidate at the election received, to the Chairperson of the Annual General Meeting, who shall then:
- 66.1 declare the result of the Council election to the meeting;
- 66.2 announce the number of votes received by each candidate at the election; and
- 66.3 direct the Chief Executive Officer to enter the result of the election and the number of votes received by each candidate in the Minutes.
67. Contemporaneously with the announcement by the Chairperson of the result of the Council election as provided for in Article 66 above the scrutineers shall provide a report to the meeting on their observations of the conduct of the election process and any issues or problems they have observed with that process.
68. All ballot papers shall be destroyed or caused to be destroyed by the Returning Officer as soon as practicable after the result of the ballot is declared by the Chairperson at the General Meeting.

69. If for any reason an election scheduled to occur at an Annual General Meeting cannot or does not take place then the Returning Officer shall call a Special General Meeting for as soon as possible following the date of the original General Meeting for the purpose of conducting the necessary Council election and the procedures set out above in these Articles in relation to the conducting of the Council election pertaining to the Annual General Meeting shall apply to the following Special General Meeting *seriatim*.
70. If there are no nominations in excess of the Council vacancies the members nominated shall be declared elected by the Chairperson at the Annual General Meeting and those facts shall be entered in the Minutes.
71. If the candidates nominated and elected at a General Meeting are fewer than the Council positions then vacant, the positions that remain unfilled shall be deemed to be casual vacancies and shall be treated in accordance with the provisions of Article 84 below.

Councillors' terms of office

72. Each member of Council shall hold office for a period of three years and at the expiry of each such period the position on Council held by a Councillor shall become vacant. However, the Councillor concerned shall be eligible for re-election subject to the provisions of Article 73 below.
73. No member of Council shall remain on the Council at the expiration of a cumulative, although not necessarily consecutive, total of 12 years total service on the Council. However, at the expiration of a further three years any person who has been rendered ineligible to serve on the Council as a consequence of this provision shall become re-eligible to do so and may again stand for election to the Council.
74. Each successful candidate for election to the Council shall take office from the close of the General Meeting at which he or she was elected and shall remain in office until the commencement of business at the Annual General Meeting at which time that Council position has become vacant.
75. Subject to Article 73 above, if the three year electoral term of a Councillor expires at a time when that Councillor is President of REIWA, that person shall be entitled to continue to fill that position on the Council until the next election occurs for any other Council position following the ending of that person's term as President.

Council office bearers

76. The office bearers of REIWA shall be the President, Deputy President and the Chairperson of the Finance and Risk Management Committee (who must be a member of the Council).
77.
 - 77.1 The position of President, shall be appointed from the members of the Council at an election conducted by that Council in the manner it sees fit at the Council's first meeting after the Annual General Meeting at which the previous President's term expired.
 - 77.2 The positions of Deputy President and Chairperson of the Finance and Risk Management Committee shall be appointed from the members of the Council at an election conducted by that Council in the manner it sees fit at the Council's first meeting after the Annual General Meeting at which the previous Deputy President and Chairperson of the Finance and Risk Management Committee's positions term expired.

- 78 At the election of the office bearers the position of President (if vacant) shall be voted for firstly, the position of Deputy President shall be voted for secondly and the position of the Chairperson of the Finance and Risk Management Committee shall be voted for thirdly.
79. 79.1 The President, elected as provided for in Article 77 above, shall remain in office in that position for a period of two years until the commencement of business at the Annual General Meeting that occurs at about that time.
- 79.2 The Deputy President and Chairperson of the Finance and Risk Management Committee, elected as provided for in Article 77 above, shall remain in office in those positions for a period of one year until the commencement of business at the Annual General Meeting that occurs at about that time.
- 80 A person shall be eligible to be elected as President, Deputy President or Chairperson of the Finance and Risk Management Committee without having served any minimum term as a Councillor.

Removal of Office Bearers

- 81 The Council may remove any office bearer from his or her position as President, Deputy President or Chairperson of the Finance and Risk Management Committee upon two thirds of the Councillors of REIWA resolving at a meeting to so remove the office bearer from that position.

Removal of Councillors

- 82 A member of the Council may be removed from that position as a Councillor before the expiration of his or her period of office should members determine by way of Special Resolution at a Special General Meeting convened pursuant to Article 96 below that the person concerned shall be so removed as a Councillor. In such circumstances, the members voting at that Special General Meeting may resolve by ordinary resolution to appoint a person to fill the position on the Council made vacant by the earlier removal of the member of Council for the balance of the relevant term. Otherwise the vacancy concerned shall be treated as being a casual vacancy in accordance with the provisions of Article 84 below.

- 83 Any member of the Council who shall:

- 83.1 cease to be an Ordinary or Life member of REIWA, or be suspended from that membership;
- 83.2 cease to be eligible to be a member of the Council pursuant to these Articles or the Act; or
- 83.3 be absent without leave of the Council for three consecutive meetings of the Council,

shall vacate his or her position as a Councillor unless, in the latter case, the disqualification shall be dispensed with by resolution of the Council.

Casual vacancies

- 84 A Councillor may resign his or her position by giving written notice of that action to the Chief Executive Officer.
85. 85.1 For the purposes of this Article, a casual vacancy in the office of a member of the Council occurs if the member:

- 85.1.1 dies;
 - 85.1.2 is, within the meaning of section 13D of the *Interpretation Act 1984*, a bankrupt or a person whose affairs are under insolvency laws;
 - 85.1.3 resigns office by notice in writing and it is given to the Council;
 - 85.1.4 becomes of unsound mind or a person whose estate is liable to be dealt with in any way under the law relating to guardianship;
 - 85.1.5 is absent without consent of the Council from all meetings of the Council held for a period of 3 months;
 - 85.1.6 becomes otherwise ineligible to be a member of the Council as a consequence of the provisions of Article 83 or Part 4 of the Act; or
 - 85.1.7 is removed from office as a consequence of a resolution of the members as set out in Articles 81 and 82.
- 85.2 If a casual vacancy arises with a Council position, then the Council may appoint by its own resolution a person to fill that vacant Council position who must be a member of REIWA who would otherwise be eligible to stand for election to the Council in accordance with the terms of Article 58 above. That person shall continue to fill that Council position until the commencement of business at the next Annual General Meeting. Further, an election for that Council position shall take place in accordance with the procedures set out in Articles 55 to 71 above on the basis that the results of that election will be declared at that next Annual General Meeting following the occurrence of the casual vacancy.
- 85.3 If the Council determines not to fill a casual vacancy as provided for in Article 85.1 above then:
- 85.3.1 that position shall remain vacant for the balance of the term of that vacant position unless the position is filled pursuant to the provisions of Articles 85.3.2 or 85.3.3 below;
 - 85.3.2 should a Special General Meeting of members be called in accordance with Article 96 below for the purpose of moving a resolution to fill a casual vacancy for the balance of the term of the vacant Council position, at such a Special General Meeting it may be moved by ordinary resolution that the casual vacancy be filled by a specified person for the balance of the term concerned;
 - 85.3.3 should the number of casual vacancies on the Council be such that it is not possible to have a quorum pursuant to Article 87 below the Chief Executive Officer shall call a Special General Meeting for the purpose of appointing by ordinary resolution persons to fill the vacant Council positions for the balance of the terms of those positions.
86. In the case of a casual vacancy in the office of President, Deputy President or Chairperson the Council shall appoint from its own number by way of election by members of the Council a replacement President, Deputy President or Chairperson, as the case may be, until the expiration of that office bearer's term.

Remuneration of Councillors

- 86A. 86A.1 REIWA may pay from the funds of REIWA a Councillor's travelling and other expenses as properly incurred:
- 86A.1.1 in attending Council meetings or sub-committee meetings;
 - 86A.1.2 in attending any General Meetings of REIWA; and
 - 86A.1.3 in connection with REIWA's business.
- 86A.2 REIWA may also pay to Councillors from the funds of REIWA, such other remuneration for their services as authorised by resolution of the members of REIWA at a General Meeting.
- 86A.3. A member of the Council must not accept any other payments or remuneration in whatever form or kind for performing any other work for REIWA (or its related entities), other than as permitted by this Article.

Responsibilities of Councillors

- 86B. 86B.1 Responsibilities of Councillors:
- 86B.1.1 A Councillor must exercise his or her powers and discharge his or her duties with a degree of care and diligence that a reasonable person would exercise in the circumstances.
 - 86B.1.2 A Councillor must exercise his or her powers and discharge his or her duties in good faith in the best interests of REIWA and for a proper purpose.
 - 86B.1.3 A Councillor or former Councillor must not improperly use information obtained because he or she is a Councillor to:
 - (a) gain an advantage for himself or herself or another person;
or
 - (b) cause detriment to REIWA.
 - 86B.1.4 A Councillor or former Councillor must not improperly use his or her position to:
 - (a) gain an advantage for himself or herself or another person;
or
 - (b) cause detriment to REIWA.
 - 86B.1.5 A Councillor having any material personal interest in a matter being considered at a Council meeting must:
 - (a) as soon as he or she becomes aware of that interest, disclose the nature and extent of his or her interest to the Council;
 - (b) disclose the nature and extent of the interest at the next General Meeting of REIWA; and
 - (c) must not be present while the matter is being considered at the Council meeting or vote on the matter.

86B.1.6 Article 86B.1.5 does not apply in respect of a material personal interest that:

- (a) exists only because the Councillor belongs to a class of persons for whose benefit REIWA is established; or
- (b) that the Councillor has in common with all, or a substantial proportion of, the members of REIWA.

86B.1.7 The Chief Executive Officer must record every disclosure made by a Councillor under Article 8B.1.5 in the minutes of the Council meeting at which the disclosure is made.

Quorum and procedures at Council meetings

- 87. At any meeting of Council the necessary number of Councillors participating in that meeting, whether in person, by telephone or electronically, to form a quorum, shall be six.
- 88. Meetings of the Council shall be held from time to time as determined by resolution of the Council, as directed by the Chief Executive Officer by notice to each of the members of the Council in the manner stipulated in Article 89 below or as requested in writing by no fewer than five members of the Council to the Chief Executive Officer.
- 89. Notice shall be given of every meeting of the Council to every Council member and shall be sent by post or by e-mail to the addresses for the Councillors concerned appearing in REIWA's membership records. However, notice need not be given of any meeting which has been fixed by a previous resolution of the Council, either as a specific date for the holding of a meeting or as a day upon which meetings are to be regularly held.
- 90.
 - 90.1 All questions and resolutions at a meeting of the Council shall be determined by a majority of the votes of the members of the Council participating in the meeting determining that question or resolution, whether participating in person, by telephone or electronically.
 - 90.2 The Chairperson of a Council meeting shall be entitled to vote with respect to any question or resolution and, in the case of any equality of votes, shall have a second and casting vote.
 - 90.3 Meetings of the Council and the determination of questions and resolutions may be conducted by the Council with members of the Council meeting physically, speaking by telephone or by video conference, participating by electronic means such as e-mail or in such other manner as the Council deems fit to transact its business.
- 91. Council members shall ensure that they disclose any interest in a contract or proposed contract made by or in the contemplation of the Council as is required under section 42 of the Act. Further, Council members shall ensure that they comply with the prohibition upon taking part in any deliberations or decisions of the Council with respect to contracts as stipulated in section 42 of the Act.
- 92. Information disclosed and matters discussed during the course of a meeting of a Council meeting are to be regarded as strictly confidential. All persons present at a Council meeting have a duty of confidentiality in respect of such information and matters unless agreed to the contrary by a decision of the meeting.

SUB-COMMITTEES, INCLUDING COMMITTEES FOR COUNTRY AREAS AND SPECIALIST PRACTICE AREAS

93. The Council shall have the power to create at its discretion sub-committees of REIWA. Those sub-committees shall include a Finance and Risk Management Committee and such other sub-committees as the Council may, in its discretion, determine. Each such sub-committee shall:
- 93.1 be established for such purposes as thought appropriate by the Council including, but not limited to:
 - 93.1.1 for the purpose of providing specialised membership services to particular groups of REIWA members, including groups defined with reference to particular regional areas or areas of practice speciality; and
 - 93.1.2 for the purpose of enabling groups of members to have a voice in REIWA affairs, including to lobby outside institutions or to provide advice and representations to the REIWA Council.
 - 93.1 be made up of persons either stipulated individually by the Council, whether or not those persons are members of REIWA, or who shall be elected. In the case of elected positions, the manner in which those elections are to take place, including which groups of members shall be entitled to vote at a particular election and whether non-members of REIWA shall be entitled to stand for that election, shall be determined by the Council;
 - 93.2 not charge any fees of REIWA members or others with respect to the delivery of REIWA services associated with that sub-committee unless those fees have been approved by the Council.

GENERAL MEETINGS

Annual General Meetings

94. The Annual General Meeting shall be held each calendar year on a date and at a time the Council determines but no later than within 6 months of the end of REIWA's financial year (and provided for in Article 112 below) and shall be convened by not less than 14 days' notice being provided to members.
- 94A. REIWA may convene an Annual General Meeting within a longer period as the Commissioner may allow, and if REIWA requires the approval from the Commissioner to hold its Annual General Meeting within a longer period, the Chief Executive Officer must apply to the Commissioner no later than four months after the end of REIWA's financial year.
95. The following resolutions shall be included by the Chief Executive Officer in the notice convening the Annual General Meeting and may be moved at that meeting:
- 95.1 any resolution determined by the Council by a date no less than 35 days before the Annual General Meeting;
 - 95.2 any resolution, notice of which is provided to the Chief Executive Officer by a date no less than 35 days before the Annual General Meeting in writing signed by no fewer than 20 Ordinary and/or Life members of REIWA; and
 - 95.3 any resolutions required to approve payments to Councillors pursuant to Article 86A.2.

The calling of Special Meetings

96. The Chief Executive Officer shall convene a Special General Meeting to be held no less than 14 days nor more than 28 days from the date of the following:
- 96.1 the Council determining that a specified resolution or resolutions should be put to a Special General Meeting; or
 - 96.2 the Chief Executive Officer receiving a request to hold a Special General Meeting, together with a proposed resolution or resolutions, in writing signed by no fewer than 6% of the total number of Ordinary and/or Life members.
97. The Chief Executive Officer shall provide to Ordinary members and Life members notice of each Special General Meeting specifying the date, time and place of that meeting and the resolutions proposed to be put at that meeting.
98. All members of REIWA are entitled to receive notice of and to attend any Special General Meeting of REIWA.

Special and ordinary resolutions

99. All resolutions put to General Meetings, whether those meetings are Annual General Meetings or Special General Meetings, shall be ordinary resolutions determined by a simple majority vote excepting resolutions required by these Articles or by the Act to be Special Resolutions.
- 99.1 Where a resolution is required by these Articles or under the Act to be a Special Resolution, notice of the meeting at which that resolution will be put must specify the intention to propose the resolution as a Special Resolution.

Agenda for Annual General Meeting

100. The following shall be the agenda of each Annual General Meeting:
- 100.1 the confirmation of the Minutes of the last Annual General Meeting and of any Special General Meeting held since the preceding Annual General Meeting;
 - 100.2 receipt of the formal reports of the Council;
 - 100.3 the receipt of the submitted Financial Statements of REIWA showing the financial position of REIWA at the end of the immediately preceding financial year;
 - 100.4 the determination of all resolutions;
 - 100.5 the election of Councillors;
 - 100.6 the appointment of an auditor for the ensuing year in accordance with the Act;
 - 100.7 presenting a copy of the auditor's report to REIWA;
 - 100.8 general business and any other business which it may be lawful for the members to consider.

Procedure at General Meetings

101. At any General Meeting 20 ordinary and/or life members present personally or by proxy and whose membership shall not be under suspension shall form a quorum. If

within half an hour from the time appointed for a General Meeting to commence a quorum is not present the meeting shall be dissolved.

102. The person who is President immediately prior to the commencement of business at the General Meeting, or in the absence of the President the Deputy Presidents at that time, or in the absence of those persons, an ordinary member of the Council at that time, shall chair every General Meeting of REIWA. If within 10 minutes after the time appointed for the commencement of the General Meeting concerned none of the persons referred to above are present, the meeting may elect its own Chairperson.
103. A General Meeting may be adjourned from time to time and from place to place upon an ordinary resolution to that effect by the persons physically present at that meeting, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

Voting at General Meetings

104. At any General Meeting voting with respect to a resolution shall be by way of a show of hands and whether a resolution has been carried, carried by a particular majority, or lost, shall be determined by the Chairperson; provided that if a poll is demanded by at least 20 Ordinary and/or Life members present personally or by proxy at the General Meeting, the voting with respect to the resolution shall be conducted by such a poll.
105. If a poll is demanded in accordance with the provisions of Article 104 above it shall be taken immediately in such a manner as determined by the Chairperson and the result of the poll should be deemed to be the resolution of the meeting at which the poll was demanded. The demand for a poll may be withdrawn.
106. Every Ordinary and/or Life member shall be entitled to vote on resolutions put at General Meetings and shall have one vote on a show of hands and at a poll; provided that no member who has been suspended from membership shall be entitled to attend at the meeting, vote at the meeting, vote in relation to the election of Councillors or to act as a proxy.
107. In the case of an equality of votes the Chairperson of the General Meeting shall have a casting vote in addition to the vote that the Chairperson was entitled to as a member.
108. Votes may be cast either personally or by proxy, but no person may be appointed a proxy who is not an Ordinary or Life member of REIWA and entitled on his or her own behalf to be present and to vote at the meeting for which the proxy is given.
109. The instrument appointing a proxy shall be deposited at the office of REIWA no later than 12 noon on the Business Day immediately prior to the day of the General Meeting, and if it is expressed as applying to an entire meeting it shall stand for every adjournment of that meeting.
110. Every instrument of proxy shall, as nearly as circumstances will admit, be in the following form or effect:

- 111.2 keep its Financial Records in such a manner as will enable true and fair accounts of the association to be prepared from time to time; and
- 111.3 keep its accounting records in such a manner as will enable true and fair accounts of REIWA to be conveniently and properly audited and ensure that all requirements relating to the preparation of Financial Statements and Financial Reports are complied with under the Act.
- 112. The financial year for REIWA will be for the period of 12 months commencing on 1 July and ending on 30 June of each year.
- 113. REIWA shall submit to its members at the Annual General Meeting its accounts showing the financial position of REIWA at the end of the immediately preceding financial year.
- 114. A copy of REIWA's financial statements for the immediately preceding financial year shall be provided by mail or e-mail to each member entitled to attend or vote at the Annual General Meeting seven days prior to that meeting occurring.

AUDITOR

- 115. At every Annual General Meeting REIWA shall appoint an auditor or auditors for the ensuing year.
- 116. If a casual vacancy should occur in the office of auditor the Council may fill such casual vacancy.
- 117. A member of the Council shall not be eligible for election as auditor.
- 118. The Council must ensure that an audit is undertaken by appointed auditors of the Financial Statements and Financial Report of REIWA at least once per year or as directed by the Commissioner.

COMMON SEAL OF REIWA

- 119. The common seal of REIWA engraved with the name of REIWA shall be kept in the care of the Chief Executive Officer. The seal shall not be used or affixed to any deed or other document except pursuant to a resolution of the Council or a General Meeting. Further, the seal shall not be used or affixed to any deed or other document except in the presence of two members of the Council, both of whom shall subscribe their names as witnesses to the use or affixing of the seal.

AMENDMENT TO THE ARTICLES

- 120. REIWA may amend these Articles by Special Resolution at a General Meeting but not otherwise.
- 121. Within one month of the passing of a Special Resolution altering its Articles, or such further time as may be allowed pursuant to section 30 of the Act the Chief Executive Officer shall lodge as required by section 30 of the Act notice of the Special Resolution setting out particulars of the alteration together with a certificate given by a member of the Council. That certificate shall certify that the resolution was duly passed as a Special Resolution and that the Articles of REIWA as so altered conform with the requirements of the Act.
- 122. In accordance with section 30 of the Act, an amendment to the Articles of REIWA shall not take effect until the provisions of Article 121 above have been complied with.

THE CUSTODY AND INSPECTION OF RECORDS AND DOCUMENTS

123. The custody of all Books of REIWA shall be held by the Chief Executive Officer or as otherwise determined by the Council, and shall be retained for at least 7 years.
124. Members of REIWA shall not be entitled to inspect any of the records and documents of REIWA unless the member is otherwise entitled to do so pursuant to the terms of these Articles or pursuant to the terms of the Act or unless a written request for such an inspection is made to the Chief Executive Officer and approved by the REIWA Council.
- 124.1 If a member is entitled to inspect any of the Books of REIWA, the member must contact the Chief Executive Officer to request to inspect the particular Books of REIWA concerned.
- 124.2 The member may copy details from any of the Books of REIWA to which he or she is entitled to inspect including, but not limited to, these Articles, but has no right to remove any of the Books of REIWA for that purpose.

ARTICLES TO BE AVAILABLE TO MEMBERS

125. REIWA shall keep and maintain in an up-to-date condition these Articles and, upon the request of a member of REIWA, shall make available those Articles for the inspection of the member and the member may make a copy or take an extract from the Articles but shall have no right to remove the Articles for that purpose.

RECORD OF OFFICE HOLDERS

126. REIWA shall maintain a record of:
- 126.1 the names and residential, postal or email addresses of the persons who are the office bearers of REIWA, including all offices held by the persons who constitute the Council of the association and persons who are authorised to use the common seal of the association;
- 126.2 in accordance with the terms of section 58 of the Act, the names and residential or postal addresses of any Persons who are appointed to act as trustees on behalf of the association;
- 126.3 REIWA shall, upon the request of a member of REIWA, make available the record for the inspection of the member and the member may make a copy of or take an extract from the record but shall have no right to remove the record for that purpose.
- 126.4 A member must not use or disclose information in the record maintained under this Article except for a purpose that is directly connected with the affairs of REIWA or that is related to the administration of the Act.

DISSOLUTION

127. REIWA may at any time be dissolved, at a General Meeting called for that purpose with the consent of 75% of those who are entitled to vote and are present at the General Meeting or have submitted a proxy. If upon the dissolution or winding up of REIWA there remains after the satisfaction of all its debts and liabilities, any property whatsoever, the same must not be paid or distributed among members, or former members.
128. If, upon the winding up or any dissolution of REIWA, there remains any Surplus Property of the Association, that Surplus Property can only be distributed in accordance with section 24 of the Act to one or more of the following:

- 128.1 an incorporated association;
 - 128.2 a company limited by guarantee that is registered as mentioned in the Corporations Act section 150;
 - 128.3 a company holding a licence that continues in force under the Corporations Act section 151;
 - 128.4 a body corporate that at the time of the distribution is the holder of a licence under the Charitable Collections Act 1946;
 - 128.5 a body corporate that:
 - 128.5.1 is a member or former member of the incorporated association; and
 - 128.5.2 at the time of the distribution of surplus property, has rules that prevent the distribution of property to its members;
 - 128.6 a trustee for a body corporate referred to in Article 128.5,
- and which association shall be determined by a Special Resolution of the members of REIWA.

NOTICES

- 129. Any notice required to be provided under these Articles shall, unless stipulated otherwise under the terms of these Articles, must be in writing and must be served on the recipient by ordinary post, facsimile or e-mail.
- 130. Service of any notice pursuant to the Articles by REIWA shall be deemed to have occurred:
 - 130.1 the next business day after the notice was posted by mail to the address of a member recorded in REIWA's Register of Members or the address of any other Person previously provided by that Person to REIWA;
 - 130.2 on the day upon which REIWA transmits the notice to a Person by facsimile to a facsimile number previously provided by that Person to REIWA and when the facsimile machine which transmits the notice prints an acknowledgement that every page comprising that notice has been transmitted to the specified number;
 - 130.3 on the day upon which REIWA transmits the notice to a Person by e-mail to an e-mail address previously provided by that Person to REIWA and when an electronic receipt recording that the e-mail containing the notice has been received or read at the specified e-mail address.

MANAGEMENT OF FUNDS

- 131. The funds of REIWA shall be used in such a manner as the Council determines but solely pursuant to the objects of REIWA.
- 132. All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments shall be signed by suitable persons who are authorised by the Council or the Chief Executive Officer to operate the bank account or accounts. The transacting of electronic banking shall be conducted by persons authorised by the Council or the Chief Executive Officer to operate bank accounts.