



SPECIAL RESOLUTION 2024 AGM

Agenda Item 8: Consideration of Motion to Amend Rules 12 and 13 of U3A-ACT Inc. Objects and Rules

Introduction and Background to Motion

U3A-ACT Inc. (**U3A**) is an incorporated association under the ACT *Associations Incorporation Act 1991* (**the Associations Act**). It was established in 1984 and operated under its original Objects and Rules (**the Rules**) until 1999.

At the 1999 Annual General Meeting (**AGM**) U3A replaced the 1984 Rules with the “model rules” for associations set out in the Regulations under the Associations Act; with some variations to the model rules allowed by the Act. U3A’s Rules have been amended on a few occasions at subsequent AGM’s and most recently at the 2021 AGM held in March 2022.

On 1 February 2024 new model rules were introduced under the Associations Act. They are largely the same as/similar to the old model rules, but address some additional matters now required or enabled by changes made to the Associations Act, or deal with matters in more detail than the old model rules.

U3A has previously amended its Rules to cover the additional matters required or enabled by changes made to the Associations Act.

The Committee has considered whether any other aspects of the new model rules should be adopted by U3A; and has agreed some changes should be made to rules 12 and 13 dealing with disciplinary proceedings to align with the new model rules.

The proposed amendments are set out below.

A marked up copy of the Rules with the proposed amendments in track changes is attached

The Proposed Amendments

U3A rules 12 and 13 are the same as the old model rules for disciplinary proceedings. The new model rules deal with disciplinary action in largely the same way as the old model rules but set out the procedure in more detail. They also make some changes to the grounds for disciplinary action and how appeals to a general meeting against proposed disciplinary action are determined.

The Committee is satisfied while no major changes are required to rules 12 and 13, two changes should be made for consistency with the model rules.

Sub-rule 12(1) - Grounds for disciplinary action

Under the old model rules, and U3A rule 12, disciplinary action could be taken against a member for either:

- persistent failure to comply with the rules; or
- persistently and wilfully acting in a way that is prejudicial to the interests of U3A.

This requires unsatisfactory conduct to be “persistent” and precludes disciplinary action being taken, for example, for a single serious action.

The new model rules set a lower threshold, allowing for disciplinary action to be taken where a member:

- has failed to comply with either the Associations Act or an association’s rules; or
- has acted in a way that is likely to be harmful to the Association.

The Committee believes it is appropriate to adopt this change to the model rules.

The Committee also believes the grounds should be broadened include failure to comply with by-laws, policies and procedures made by the Committee as a ground for disciplinary action as these documents set out rules for expected behaviour of members, such as in the Code of Conduct Policy and Safety and Wellbeing Policy.

The title of rule 12 could also appropriately be changed – in line with the model rules - to reflect it is about disciplinary action.

It is proposed to amend the title of rule 12 and text of subrule 12(1) as set out in the attachment to this notice paper.

Sub-rule 13(4) – Decisions on appeals against disciplinary action

Under the old model rules, and U3A rule 13, a member could appeal to a general meeting against proposed disciplinary action and the general meeting must confirm the proposed action by special resolution. This is not consistent with normal judicial and administrative procedures where decisions stand unless set aside on appeal.

The new model rules adopt the normal procedure for appeals. Where a member appeals against proposed disciplinary action the decision stands unless set aside by special resolution at a general meeting.

The Committee is satisfied it would be appropriate to adopt this change.

It is proposed to amend the text of subrule 13(4) as set out in the attachment to this notice paper.

Proposed Amendments – Rules 12 and 13

12. Disciplinary procedure~~Expulsion or suspension of members~~

(1) Where the committee is of the opinion that a member:

~~(a)~~ (a) has ~~failed persistently refused or neglected~~ to comply with the Act or a provision of these rules; or

~~(a)~~(b) has failed to comply with a by-law, policy or procedure made by the committee pursuant to these rules; or

~~(b)~~(c) has ~~acted in a way that is likely to be harmful to persistently and wilfully acted in a manner prejudicial to the interests of~~ the association,

the committee may, by resolution –

~~(e)~~(d) expel the member from the association; or

~~(d)~~(e) suspend the member from such rights and privileges of membership of the association as the committee may determine for a specified period.

(2) A resolution of the committee under subrule (1) is of no effect unless the committee, at a meeting held not earlier than 14 days and not later than 28 days after service of the notice under subrule (3), confirms the resolution in accordance with this rule.

(3) Where the committee passes a resolution under subrule (1), the secretary shall, as soon as practicable, cause a notice in writing to be served on the member:

(a) setting out the resolution of the committee and the grounds on which it is based;

(b) stating that the member may address the committee at a meeting to be held not earlier than 14 days and not later than 28 days after service of the notice;

(c) stating the date, place and time of that meeting; and

(d) informing the member that the member may do either of the following-

(i) attend and speak at that meeting, or

(ii) submit to the committee at or prior to the date of that meeting written representations relating to the resolution.

(4) Subject to section 50 of the Associations Act, at a meeting mentioned in subrule (2), the committee shall:

(a) give to the member mentioned in subrule (1) an opportunity to make oral representations;

- (b) give due consideration to any written representations submitted to the committee by that member at or prior to the meeting; and
 - (c) by resolution determine whether to confirm or to revoke the resolution of the committee made under subrule-(1).
- (5) Where the committee confirms a resolution under subrule (4), the secretary shall, within 7 days after that confirmation, by notice in writing inform the member of that confirmation and of the member's right of appeal under rule 13.
- (6) A resolution confirmed by the committee under subrule (4) does not take effect:
- (a) until the expiration of the period within which the member is entitled to appeal against the resolution where the member does not exercise the right of appeal within that period; or
 - (b) where within that period the member exercises the right of appeal, unless and until the association confirms the resolution in accordance with subrule 13(4).

Note: Section 65B(4) of the Associations Act precludes disciplinary action against a member in relation to a matter subject to dispute resolution under rule 11A; and section 65C of the Act sets out procedural requirements to be followed in disciplinary action.

13. Right of appeal

- (1) A member may appeal to the association in general meeting against a resolution of the committee which is confirmed under subrule 12(4), within 7 days after notice of the resolution is served on the member, by lodging with the secretary a notice to that effect.
- (2) Upon receipt of a notice under subrule (1), the secretary shall notify the committee which shall convene a general meeting of the association to be held within 21 days after the date on which the secretary received the notice or as soon as possible after that date.
- (3) Subject to section 50 of the Associations Act, at a general meeting of the association convened under subrule (2):
 - (a) no business other than the question of the appeal shall be transacted;
 - (b) the committee and the member shall be given the opportunity to make representations in relation to the appeal orally or in writing, or both; and
 - (c) the members present shall vote by secret ballot on the question of whether the resolution made under subrule 12-(4) should be confirmed or revoked.

- (4) If the meeting passes a special resolution to set aside in favour of the confirmation made under subrule 12(4), the resolution made under subrule 12(1) is revoked~~that resolution is confirmed.~~