

**THE CONSTITUTION OF**  
Port Sorell Primary  
**SCHOOL ASSOCIATION INC.**

**1. NAME**

The name of the association is The Port Sorell Primary School Association Inc.

**2. DEFINITIONS AND INTERPRETATION**

**2.1 Definitions**

In this constitution, unless the contrary intention appears:-

- ◆ **"Association"** means the association referred to in rule 1;
- ◆ **"Association Year"** means a 12 month period starting on 1<sup>st</sup> April and ending on 31<sup>st</sup> March.
- ◆ **"Committee"** means the management committee of the Association.
- ◆ **"Community Member"** means any person who does not have children at the school but who has been accepted by the Association for membership of the Association as a Community Member;
- ◆ **"Constitution"** means this constitution;
- ◆ **"The DoE"** means the government agency with current responsibility for the management and administration of public education in Tasmania;
- ◆ **"DoE Secretary"** means the secretary of The DoE or his or her successor in office;
- ◆ **"Education Act"** means the *Education Act 1994* and any amendments thereto;
- ◆ **"Members"** means those persons referred to in clause 2.2(b) and **"Member"** has a corresponding meaning;
- ◆ **"Minister"** means the Minister for the time being administering The DoE or his or her successor;

- ◆ **"Parent Member"** means each person listed in the admission register of the School as a parent or legal guardian of a School student unless the person has notified the secretary of the Association of his or her decision not to be a member of the Association, in writing;
- ◆ **"Principal"** means the appointed principal of the School;
- ◆ **"Public Officer"** has the same meaning as defined in the *Associations Incorporation Act 1964*;
- ◆ **"School"** means Port Sorell Primary School;
- ◆ **"Staff Member"** means each person who is a member of the permanent teaching and non-teaching staff employed on a full-time or part-time basis at the School or who is a member of the temporary teaching/non-teaching staff employed on a full-time basis at the School, unless the person has notified the secretary of the Association of his or her decision not to be a member of the Association;
- ◆ **"Student Member"** means each student at the School in years deemed eligible by the Committee

## 2.2 Interpretation

- (a) Where in relation to this Constitution a person is:
  - (i) a Staff Member and a Parent Member, the person is eligible only as a Staff Member for the purposes of election to the Committee unless the Staff Member is employed on a temporary, part-time basis;
  - (ii) employed by The DoE at another school and is a Parent Member but is not a Staff Member, the person is eligible as a Parent Member for the purposes of election to the Committee.
- (b) The Members are as follows:
  - (i) the Parent Members;
  - (ii) the Staff Members;
  - (iii) the Community Members;
  - (iv) the Student Members;
  - (v) the Principal.
- (c) In this Constitution:
  - (i) the singular includes the plural and conversely;
  - (ii) headings are for convenience, and have no effect

### **3. COMMITTEE**

#### **3.1 Instructions**

The Association is established under the Education Act and must operate according to any lawful instructions issued in writing by the DoE Secretary.

#### **3.2 Management of affairs**

The Committee:

- (a) must manage the business and affairs of the Association for the benefit of the School;
- (b) must exercise all the powers and functions of the Association, except those powers and functions which are required by this Constitution to be exercised by the Members in a general meeting.

#### **3.3 Composition of the Committee**

3.3.1 The Committee must have not less than 8 members nor more than 11 members.

3.3.2 The Principal must be a member of the Committee and is not required to be elected.

3.3.3 Not less than 2 members of the Committee must be Staff Members. For the purpose of this rule, the Principal is not considered a Staff Member.

3.3.4 Not less than 4 members of the Committee must be Parent Members.

3.3.5 Not more than 2 member of the Committee may be a Community Member.

#### **3.4 Election of Committee**

3.4.1. Elections of the members of the Committee for each category of membership must be held each year in the month of March.

3.4.2. The first election of the members of the Committee must be held as soon as possible after the Minister has established the Association under the Education Act and the Association is incorporated under the *Associations Incorporation Act 1964*.

3.4.3. Election of members of the Committee is as follows:

- (a) Staff Members of the Committee must be elected by a ballot of Staff Members.
- (b) Parent Members of the Committee must be elected by a ballot of Parent Members.

- (c) The Community Member of the Committee must be elected by a process approved by the Committee.
- 3.4.4. The Principal, the School Executive Officer or the Administrative Assistant of the School may be the returning officer for each election. The Principal must appoint the returning officer.
- 3.4.5. The returning officer must call for nominations for the election of Committee Members at least one month before the date of the elections. Nominations for each category of membership other than Community Membership must be proposed and seconded by Members in that category of membership.
- 3.4.6. If there are fewer nominations than existing vacancies in any category of membership on the Committee, the returning officer must declare that the candidates nominated are elected, and the Committee may appoint, by invitation, suitable persons in the relevant category to take up the vacant memberships of the Committee.
- 3.4.7. Subject to rule 3.5.1 the term of office for all members of the Committee is two years. These members of the Committee are all eligible for re-election.
- 3.4.8. For all members of the Committee the term of office commences at the beginning of the Association Year in the year of their election.
- 3.4.9. If a casual vacancy arises in any category of membership of the Committee the returning officer must determine who was the next candidate in the relevant category from the last election starting with the highest polling candidate and working through candidates in descending polling order until a candidate willing to take up the vacancy is found. If there are no candidates willing to be appointed the procedures in rule 3.4.6 apply. The member appointed under this rule is subject to retirement at the same time as if the member had become a member of the Committee on the day on which the member in whose place that person was last elected became a Committee member.

### **3.5 Rotation of office**

- 3.5.1. At the expiration of the first Association Year following the establishment of the Association under the *Education Act*, unless rule 3.6.1 applies, one-half of the Parent Members, Staff Members and Community Members of the Committee must retire. If the number of Members in any category of membership of the Committee is an uneven number, "one-half" of the members of that category means the next lowest number representing one-half in that category. The retiring members will be identified by voluntary retirement or if agreement cannot be reached, by drawing lots.

3.5.2. At the end of the next Association Year, the remaining Parent Members, Staff Members and Community Members of the Committee must retire from office.

3.5.3. This rotation procedure of retirement will then apply on an ongoing basis.

### **3.6 Transitional**

3.6.1. If the first election of the Committee following the establishment of the Association under the Education Act is held less than six months before the end of the Association Year, one-half of the Parent Members, Staff Members and Community Members or the nearest to one-half as determined under rule 3.5.1, must retire at the end of the second association year after the first election. The remaining one-half of the Parent Members, Staff Members and Community Members must retire at the end of the third Association Year after the first election and the two year appointment provisions of rule 3.4.9 are extended accordingly.

3.6.2. If the first election of the Committee following the establishment of the Association under the Education Act is held more than six months before the end of the Association Year, the rotation of office provisions in rule 3.5.1 will apply as if each Committee member had been appointed on or before the commencement of the first Association Year.

### **3.7 Office bearers**

3.7.1. The officers of the Association will be:

- (a) a chairperson (who must be a Parent Member or the Community Member);
- (b) a deputy chairperson;
- (c) a secretary;
- (d) a treasurer;
- (e) the Public Officer.

3.7.2. All officers of the Association must be elected by the Committee members from amongst Committee members at the first meeting after a Committee election. The Principal must conduct the ballot for the election of office bearers.

3.7.3. If the Committee so approves, any two of the officer roles of deputy chairperson, secretary or treasurer may be held by a single Committee member who is not the chairperson or Public Officer.

3.7.4. Unless the Committee decides otherwise, the Principal will be the Public Officer.

### **3.8 Vacation of office**

The office of a Committee member becomes vacant if the member:

- (a) dies;

- (b) resigns his or her office in writing addressed to the Committee;
- (c) without an apology, fails to attend three (3) consecutive Committee meetings;
- (d) is removed from office by the Association in general meeting;
- (e) is a Parent Member and the parent's child leaves the School;
- (f) is a Staff Member and he or she resigns or transfers to another School.

### **3.9 Committee meetings**

- 3.9.1. The Committee must meet at least four (4) times in the Association Year at such place and such times as the Committee determines.
- 3.9.2. Five (5) members of the Committee is a quorum for Committee meetings. Five members must include a majority of Parent Members.
- 3.9.3. The Committee must not deal with any business at a Committee meeting unless a quorum is present.
- 3.9.4. The chairperson or any three (3) Committee members may request a special meeting of the Committee.
- 3.9.5. The secretary must give written notice of such special meetings within seven (7) days of receiving a request.
- 3.9.6. The chairperson must preside at all meetings of the Committee at which he or she is present. If the chairperson is absent from a meeting of the Committee, the deputy chairperson must preside at the meeting. If both the chairperson and deputy chairperson are absent from a meeting, the members of the Committee who are present must appoint a member of the Committee to preside.
- 3.9.7. The Principal must provide to the Committee:
  - (a) regular School financial reports at a minimum of quarterly intervals
  - (b) the School budget for approval
  - (c) the annual report of the School
  - (d) other information that will allow the Association to carry out its functions and powers effectively
- 3.9.8. Members of the Committee who represent sub-committees of the Association must regularly report to the Committee on the activities of those groups.
- 3.9.9. A resolution is carried at a meeting of the Committee if a simple majority of those present and voting, vote in favour of it. Each Committee member present is entitled to one vote unless the member is disqualified from voting by rule 3.9.10. Where there are an equal number of votes of the Committee members present, the

chairperson has a casting vote. Any member of the Committee, including the chairperson, may abstain from voting on any question.

3.9.10. Any member of the Committee must disclose any conflict of interest at the first meeting of the Committee after which the member becomes aware of that conflict of interest. Such a member must not vote at any Committee meeting in relation to the subject of that conflict of interest and must leave the meeting while any such matter is being discussed.

3.9.11. Members of the Association who are not Committee members may attend Committee meetings as observers unless excluded by the chairperson. Observers may address a Committee meeting only on the invitation of the chairperson.

### **3.10 Functions of the Association**

3.10.1. The Association must work within the goals, priorities and policies of the state education system and in conformity with the Education Act for the benefit of the School.

3.10.2. The functions, objectives and purposes of the Association are:

- (a) to participate in the formulation and development of –
  - (i) a set of beliefs, values and priorities for the School;  
and
  - (ii) the School policies and code of conduct;
- (b) to provide advice and recommendations to the Principal in relation to the general operations and management of the School;
- (c) to participate on the selection panel in respect of any advertised permanent vacancy for the position of Principal;
- (d) to foster cooperation among teachers, students, Members, parents and the community;
- (e) to provide advice and recommendations to the DoE Secretary on any matter relating to policy;
- (f) to approve the School budget;
- (g) to undertake any other function the Minister may determine in accordance with Section 27 of the Education Act;

### **3.11 Powers of Association**

3.11.1. The Association must exercise its powers for the purposes of carrying out its functions.

3.11.2. The Association has the following powers:

- (a) to carry out trading activities not relating to education for the benefit of the School;
- (b) to provide, or assist in the provision of, financial or other resources or services for the benefit of the School.

3.11.3. The Association may do anything necessary or convenient to perform its functions.

3.11.4. The Association must exercise its powers in accordance with any instructions issued by the DoE Secretary in accordance with Section 28(3) of the Education Act.

### **3.12 Responsibilities of the Association**

3.12.1. All actions of the Association must be carried out in support of the benefit of the School.

3.12.2. The Association must act within the current instructions and policies issued by the Minister or DoE Secretary or their delegate.

3.12.3. The Association must provide suitable public forums open to any Member.

3.12.4. The Association must report to Members in accordance with Section 29 of the Education Act.

### **3.13 Sub-Committees of the Committee**

3.13.1. The Committee may appoint one or more sub-committees and delegate its powers and functions to them. The Association must state the terms of reference and the powers and functions which are to be delegated to the sub-committee in writing.

3.13.2. A sub-committee must consist of at least one Parent Member of the Committee or their delegate from the Committee and any other Members or persons as deemed appropriate by the Committee.

3.13.3. A quorum for a sub-committee meeting is one-half of the members of the sub-committee plus one. A quorum must include a Parent Member of the Committee or their delegate from the Committee. A sub-committee must not conduct its business unless a quorum is present.

3.13.4. The members of each sub-committee must appoint a secretary.

3.13.5. Each sub-committee must submit a written report to the Committee as frequently as required by the Committee.

## **4. MEETINGS OF THE SCHOOL ASSOCIATION**

### **4.1 Annual general meeting**

4.1.1 The Association must hold an annual general meeting at the end of each Association Year.



- 4.1.2 The annual general meeting is in addition to any other general meeting (called "a special general meeting") that may be held in the same year.
- 4.1.3 The ordinary business of the annual general meeting is:
- (a) to confirm the minutes of the preceding annual general meeting and any special general meeting held since that meeting;
  - (b) to receive and if approved, to ratify the Association's annual report;
  - (c) to receive the annual report of the School and provide feedback to the Principal on it;
  - (d) to receive and if approved, to ratify the annual financial statement of the Association;
  - (e) to receive other relevant reports;
  - (f) to appoint an auditor and determine the auditor's remuneration;
  - (g) where possible, to announce the results of the Association election.
- 4.1.4 The annual general meeting may deal with special business if notice of that business is given to Members in accordance with this Constitution.
- 4.1.5 Each Member is entitled to vote.
- 4.1.6 No proxy voting is permitted.
- 4.1.7 The person presiding at an Annual Meeting may determine any matter of procedure not referred to in this Constitution.

## **4.2 General meetings**

- 4.2.1 The Committee may convene a general meeting of the Association.
- 4.2.2 On the written request of not less than 10% of the Members the secretary of the Association must convene a general meeting of the Association.
- 4.2.3 The request by the Members for a general meeting must state the purpose of the meeting. The Members requesting the meeting must sign the request and deliver it to the secretary of the Association.
- 4.2.4 If the Association does not hold the general meeting within twenty one (21) days from the date on which the request by the Members is delivered to the secretary of the Association, the Members requesting the meeting, or any one of them, may convene the meeting within three (3) months from the date the request is delivered to the secretary of the Association.

4.2.5 A general meeting must be convened in the same way as is required for an annual general meeting. The Committee must refund all reasonable expenses incurred by a Member in convening the meeting.

### **4.3 Notices of general meetings**

At least fourteen (14) days before the date fixed for holding a general meeting of the Association, the secretary must take reasonable steps to advertise the meeting through media such as the school newsletter, on the school notice board or a local newspaper. The advertisement must specify the place, day and time for the holding of the meeting and the nature of the business of the meeting.

### **4.4 Quorum of general meetings**

4.4.1 The Association must not deal with any business at a general meeting unless a quorum is present.

4.4.2 Not less than 10% of the Members is a quorum for a general meeting.

4.4.3 If no quorum is present within 15 minutes of the scheduled start time, the person presiding may adjourn the meeting to a time and place to be determined by the person presiding or if the meeting has been convened upon the request of members, the meeting must be dissolved.

### **4.5 Procedure at general meetings**

4.5.1 The chairperson must preside at all general meetings at which he or she is present. If the chairperson is absent from a general meeting, the deputy chairperson must preside at the meeting. If both the chairperson and the deputy chairperson are absent from a meeting, the Members present must appoint a Member of the Committee to preside. If no Member of the Committee is present, the Members present must appoint a Member to preside.

4.5.2 Any question arising at a general meeting must be decided on a majority of the Members present and voting on the question. Each Member present at the general meeting is entitled to one vote.

4.5.3 No proxy voting is permitted.

## **5. ADMINISTRATION**

### **5.1 Income**

5.1.1 The income and the property of the Association must be used and applied solely to the promotion of its objectives and functions and the exercise of its powers as set out in this Constitution and the Education Act.

- 5.1.2 The Committee must not pay, give or apply (directly or indirectly) the income, profits or property of the Association to any Member.
- 5.1.3 Nothing in rule 5.1.2 prevents the Committee paying in good faith to a Member:
- (a) reasonable remuneration in return for services actually rendered to the Association by the Member or for goods supplied to the Association by the Member in their ordinary course of business;
  - (b) a reasonable rent for any property let to the Association by the Member;
  - (c) reasonable out-of-pocket expenses of the Member incurred with the authority of the Committee and for the proper purposes of the Association.

## **5.2 Records and Accounts and Register of Members**

- 5.2.1 The treasurer of the Association must ensure that true and proper records and accounts of receipts and expenditure connected with the operations and business of the Association are kept.
- 5.2.2 The secretary of the Association must ensure that minutes of all Committee meetings and general meetings of the Association are kept. The secretary of the Association must also keep a register of Members and officers of the Association.
- 5.2.3 All records, accounts and minutes and the register of Members must be kept at the Association's office or at some other place the Committee decides.
- 5.2.4 Copies of all written instructions concerning school associations issued by the DoE Secretary or his or her delegate, are to be kept with the records of the Association.

## **5.3 Banking, finance and Auditor**

- 5.3.1 The bank accounts of the Association must be kept with a bank selected by the Committee. All cheques must be signed by the treasurer and must be countersigned by at least one other Committee Member appointed by the Committee for that purpose.
- 5.3.2 Except with the authority of the Committee, no payment of an amount exceeding twenty dollars (\$20) can be made from the funds of the Association other than by cheque drawn on the Association's bank account. Where the School or the Committee has provided the treasurer with moneys to meet minor expenditure, the treasurer must comply with all conditions imposed by the School or the Committee (as applicable). No cheques may be drawn on the Association's bank account or used except for the payment of expenditure that has been authorised by the Committee.

- 5.3.3 The Association's accounts for the Association Year must be audited annually by a person appointed as auditor by the Members at the annual general meeting of the Association.
- 5.3.4 The auditor must report as to the truth and fairness of the Association's accounts for the Association Year to the Members at the annual general meeting.
- 5.3.5 The first auditor may be appointed by the Committee before the first annual general meeting and hold office until the first annual general meeting, unless earlier removed by a resolution of the Members at a general meeting, when that meeting may appoint an auditor to act until the first annual general meeting.

## **6. CONSTITUTION**

### **6.1 Alterations**

- 6.1.1 Any proposal to alter this Constitution must first be presented by the Member or Members proposing the alteration in writing to the Committee for consideration.
- 6.1.2 A notice convening a general meeting at which an alteration to this Constitution will be proposed, must set out all the alterations proposed and the reasons for the alterations. The procedures set out in this Constitution in relation to the convening and conduct of a general meeting to alter this Constitution must be adhered to.
- 6.1.3 Subject to rule 6.1.2, the constitution may only be altered by a special resolution. A special resolution is a resolution passed by 75% of Members present and voting at a general meeting of the Association. Any alteration to this Constitution is of no effect until the Minister has approved the alteration in accordance with Section 26(4) of the Education Act.

### **6.2 Winding up the Association**

- 6.2.1 The Minister may exercise his/her powers under Section 26(5) of the Education Act, and abolish the Association as a school association.
- 6.2.2 If the Association is wound-up or its incorporation cancelled, the assets remaining after satisfying all liabilities must not be paid or distributed amongst the Members but must be transferred to:
  - (a) the School; or
  - (b) if the School no longer exists, the Minister, to be applied for the benefit of public education in Tasmania.

## **7. THE COMMON SEAL**

The common seal of the Association must be kept by the secretary of the Association. The Committee must authorise the affixing of the common seal to any document, and it must be affixed in the presence of two Members of the Committee.

#### **8. NOTICE TO MEMBERS**

Any notice to a Member required by this Constitution is sufficient if posted or delivered to the last address of that Member notified in writing to the secretary of the Association. Notice to a Member is deemed to have been received on the second day after it was posted.

#### **9. VALIDATION OF ACTS OF THE COMMITTEE**

If it is afterwards discovered that there was some defect in the appointment or election of a person as a Member of the Committee, or that a person so appointed or elected was ineligible, all acts done at any meeting of the Committee or of a sub-committee or by any person acting as a Member of the Committee are as valid as if that person had been duly appointed or elected and was eligible to be a Member of the Committee.

#### **10. INDEMNITY**

Every Member of the Association, auditor, employee or agent of the Association, must be indemnified out of the property of the Association against any liability incurred by that person in that capacity in defending any proceedings:

- (a) in which judgment is given in favour of that person; or
- (b) in which the person is acquitted; or
- (c) in connection with any application in relation to any such proceedings, in which relief is granted to that person.

#### **11. LIABILITY OF MEMBERS AND OFFICERS**

In accordance with Section 27 of the *Associations Incorporation Act 1964*, and except as otherwise provided in the *Associations Incorporation Act 1964*, a Member or officer of the Association shall not, by reason only of his being such a Member or officer, be liable to contribute towards the payment of the debts and liabilities of the Association or the costs, charges and expenses of the winding-up of the Association.