

Strawberries Australia Incorporated

# Constitution

14 October 2021



## 1 Name

The name of the incorporated association is Strawberries Australia (SAI) Incorporated, referred to herein as 'the Association'.

## 2 Definitions

'**Committee**' means the Committee of management of the Association

'**General Meeting**' means a General Meeting of members of the Association convened in accordance with these rules

'**Member**' means a state strawberry association

'**Month**' shall mean a calendar month

'**Special Resolution**' means a special resolution defined in the Act

'**the Act**' means the *Associations Incorporation Act 1985*

'**the Regulations**' means *Associations Incorporation Regulations 2008*

'**Industry Levy**' means the Strawberry Industry Research and Development Levy collected by the Commonwealth Government as a result of the purchase of certified strawberry runners and plugs by commercial strawberry growers.

'**Subscription**' the fees paid by state associations to be a member of Strawberries Australia Inc

'**Representative**' means the person representing a member

## 3 Objects of the Association

- a) As the national peak body for the Australian strawberry industry, represent and promote the interests of member growers on relevant regional, national and international issues to those authorities having jurisdiction over such matters.
- b) Recognise and promote the highest professional standards, backed by innovative farming practices, to ensure greater efficiency and competitiveness for the strawberry industry.
- c) Initiate, foster and maintain a consultative, cooperative and communicative approach to dealing with governments, other grower related organisations, media, community groups and the public on matters affecting the strawberry industry.
- d) Actively promote the good reputation of the industry and the benefits of strawberries, with a view to increasing per capita consumption.
- e) Undertake other incidental or ancillary activities in accordance with the constitution of the Association.

## 4 Powers of the Association

The Association shall have all the powers conferred by section 25 of the Act to further the objects of the Association.

## 5 Membership

Members are Queensland Strawberry Growers Association, Victorian Strawberry Growers Association, Fruit Growers Tasmania, Strawberry Growers Association of Western Australia, and any other Australian strawberry association that arises from time to time with the proviso that each State can only have one (1) Member organisation. Further, two (2) strawberry growers from South Australia and New South Wales respectively can represent these States and act as Committee members with the support of all other Members.

### 5.1 Representatives

State Strawberry Grower Associations each nominate two (2) representatives, who have full voting rights, to the Association Committee to form the Committee of the Association.

Nominated representatives can be changed by the relevant State Strawberry Grower Association

at any time, so long as written notice is provided to the Committee within twenty-one (21) days of the change coming into effect. Such representatives shall not necessarily assume any office held by the vacating representative. At least one (1) representative from each State Association should be an active, commercial strawberry grower.

## **5.2 Subscriptions**

Subscriptions are calculated annually based on runner or plug plant purchases per annum at a rate determined by the Committee representatives.

## **5.3 Resignations**

A Member can seek to resign by providing written notice to the Committee. If a Member communicates a desire to resign, both the Member and the Association must first undertake mediation to resolve any issues before the Association accepts the resignation.

The mediator must be—

- a) a person chosen by agreement between the parties; or
- b) in the absence of agreement—
  - (i) if the dispute is between a Member and another Member—a person appointed by the Committee; or
  - (ii) if the dispute is between a Member and the Committee or the Association— a person appointed or employed by the Dispute Settlement Centre of Victoria.

A mediator appointed by the Committee may be a Member or former Member of the Association but in any case must not be a person who—

- a) has a personal interest in the dispute; or
- b) is biased in favour of or against any party.

The mediation process:

The mediator to the dispute, in conducting the mediation, must—

- a) give each party every opportunity to be heard; and
- b) allow due consideration by all parties of any written statement submitted by any party; and
- c) ensure that natural justice is accorded to the parties throughout the mediation process.

The mediator must not determine the dispute.

## **5.4 Register of Members**

A register of all Members must be kept and contain:

- a) the name and address of each Member and their representative/s
- b) the email address of each Member and their representative/s
- c) the phone number of each Member and their representative/s
- d) the date on which each Member and their representative/s was admitted to, or resigned from, the Association
- e) the date of and reason(s) for termination of membership (if applicable).

## **5.5 Expulsion of a Member**

- a) Subject to giving a Member an opportunity to be heard or to make a written submission, the Committee may resolve to expel a Member upon a charge of misconduct detrimental to the interests of the Association or if it can be demonstrated that the Member no longer represents the majority of strawberry growers in that state by both number and production area and an alternative body provides the representative function. Non-payment of subscription fees for two (2) consecutive years will also result in membership being revoked.
- b) Particulars of the charge shall be communicated to the Member at least one (1) month before the meeting of the Committee at which the matter will be determined.

- c) The determination of the Committee shall be communicated to the Member, and in the event of an adverse determination the Member shall, (subject to 5.5d below), cease to be a Member 14 days after the Committee has communicated its determination to the Member.
- d) It shall be open to a Member to appeal the expulsion to the Association at a General Meeting. The intention to appeal shall be communicated to the secretary or public officer of the Association in writing within 14 days after the determination of the Committee has been communicated to the Member.
- e) In the event of an appeal under 5.5d above, the appellant's membership of the Association shall not be terminated unless the determination of the Committee to expel the Member is upheld by the Members of the Association in a General Meeting after the appellant has been heard by the Members of the Association, and in such event, membership will be terminated at the date of the General Meeting at which the determination of the Committee is upheld.

## **6 The Committee**

### **6.1 Powers and duties**

- a) The affairs of the Association shall be managed and controlled by a Committee which, in addition to any powers and authorities conferred by these rules, may exercise all such powers and do all such things as are within the objects of the Association, and are not, by the Act, the Regulations or by these rules, required to be done by the Association in a General Meeting.
- b) The Committee has the management and control of the funds and other property of the Association.
- c) The Committee shall have authority to interpret the meaning of these rules and any other matter relating to the affairs of the Association on which these rules are silent.
- d) The Committee shall appoint a public officer as required by the Act.

### **6.2 Appointment**

- a) The Committee shall be made up of three (3) executive positions; a President, Secretary, and Treasurer, and ordinary Committee members. Executive positions shall be decided by the Committee.
- b) Committee members will be appointed by each Member. Each Member can appoint up to two (2) Committee members.
- c) A Committee member shall be a natural person.
- d) A term limit of three (3) x two (2) year terms applies for all executive positions. The term limits will come into effect at the 2027 Annual General Meeting.

### **6.3 Proceedings of Committee**

- a) The Committee shall meet together for the dispatch of business at appropriate intervals.
- b) The Association should settle on how often meetings are to be held.
- c) Questions arising at any meeting of the Committee shall be decided by a majority of votes, and in the event of equality of votes the President shall have a casting vote in addition to a deliberative vote.
- d) A quorum for a meeting of the Committee shall be one (1) representative each from a minimum of three (3) Members.
- e) A member of the Committee having a direct or indirect pecuniary interest in a contract or proposed contract with the Association must disclose the nature and extent of that interest to the Committee as required by the Act, and shall not vote with respect to that contract or proposed contract. The member of the Committee must disclose the nature and extent of his or her interest in the contract at the next Annual General Meeting of the Association.

#### **6.4 Disqualification of Committee members**

The office of a Committee member shall become vacant if a Committee member is:

- a) disqualified from being a Committee member by the Act;
- b) expelled as a Member under these rules;
- c) permanently incapacitated by ill health;
- d) absent without apology from more than four (4) meetings in a financial year; or
- e) no longer the duly appointed representative of a Member.

### **7 Meetings**

#### **7.1 General Meetings**

All meetings other than the Annual General Meeting shall be called General Meetings. Attendance at any General Meeting is by invitation only.

#### **7.2 Annual General Meetings**

The Annual General Meeting of Strawberries Australia Inc shall be held at the time and place as determined by the Committee. All Australian strawberry growers shall be eligible to attend as non-voting attendees.

#### **7.3 Special General Meeting**

The Committee shall also call a Special General Meeting within one (1) calendar month of a requisition in writing by not less than four (4) current Committee members provided they each represent a different Member.

#### **7.4 Notice of General Meetings**

General Meetings shall be held at the time and place as determined by the Committee. Notice of a General Meeting shall be given to all Members of the Association via email to their representatives, or other suitable means.

#### **7.4 Notice of Annual General Meetings**

Notice of the Annual General Meeting shall be published in any electronic newsletter issued by Strawberries Australia Inc or Berries Australia, as well as on the Berries Australia website and via email to all Members. It is recommended that notice of the Annual General Meeting is also listed in any hard copy publications which are published by either Strawberries Australia Inc or Berries Australia and normally distributed to Australian strawberry growers. At least twenty-one (21) days' notice of the Annual General Meeting shall be given by hard copy or electronic communication to all Members.

#### **7.5 Proceedings at Annual General Meetings**

The ordinary business of Annual General Meetings shall be;

- a) To confirm the minutes of the last Annual General Meeting;
- b) To receive the President's report;
- c) To receive from the sub-committees their report from the previous year;
- d) To receive the financial reports;
- e) To receive and accept notification of Member representatives from State Strawberry Grower Associations; and
- f) To conduct any other business as specified in the notice of meeting.

Any Committee member or state grower association (Member) desiring to bring any business before a meeting may give notice of that business in writing to the President, who shall include that business in the notice calling the next meeting after receipt of the notice.

### **7.6 Voting at Annual General Meetings**

- a) Subject to these rules, every representative has only one (1) vote at a meeting of the Association.
- b) Subject to these rules, a question for decision at a General Meeting, other than a special resolution, must be determined by a majority of representatives who vote in person or, where proxies are allowed, by proxy, at that meeting.
- c) Unless a poll is demanded by at least five (5) representatives, a question for decision at a General Meeting must be determined by a show of hands.

### **7.7 Poll at Annual General Meetings**

If a poll is demanded by at least five (5) Committee members, it must be conducted in a manner specified by the person presiding and the result of the poll is the resolution of the meeting on that question.

A poll demanded for the election of a person presiding or on a question of adjournment must be taken immediately, but any other poll may be conducted at any time before the close of the meeting.

### **7.8 Special and ordinary resolutions**

A special resolution means;

- a) A resolution passed at a duly convened meeting of the Members if
  - (i) at least twenty-one (21) days written notice specifying the intention to propose the resolution as a special resolution has been given to all Members of the Association and;
  - (ii) it is passed at the meeting referred to in this paragraph by a majority of not less than three-quarters of such Members of the Association as, being entitled to do so, vote in person or, where proxies are allowed, by proxy, at that meeting.

An ordinary resolution is a resolution passed by a simple majority at a General Meeting.

### **7.9 Proxies**

A Member representative shall be entitled to appoint in writing a natural person who is also a Member representative to be their proxy, and attend and vote at any General Meeting of the Association.

## **8 Minutes**

- a) Proper minutes of all proceedings of General Meetings of the Committee shall be completed within one (1) month of each meeting.
- b) The minutes kept pursuant to this rule must be confirmed by the members of the Committee at a subsequent meeting.
- c) The minutes should be circulated to all Member representatives in a timely manner.

## **9 Dispute resolution**

- a) The dispute resolution procedure set out in this rule applies to disputes under these Rules between
  - (i) a Member and another Member
  - (ii) a Member and the Association
  - (iii) a representative and another representative
  - (iv) a representative and the Association.

The parties to the dispute must meet and discuss the matter in dispute and, if possible, resolve the dispute within fourteen (14) days after the dispute comes to the attention of all of the parties.

If the parties are unable to resolve the dispute at the meeting the parties may choose to meet and discuss the dispute before an independent third person agreed to by the parties.

Section 40 of the Act provides that where the Committee exercises any power of adjudication in relation to a dispute between the Members, or a dispute between itself and Members of the Association, the rules of natural justice must be observed.

Section 61 of the Act provides that an application to the Court for an order under this section may be made by a Member of an incorporated association or by a former Member expelled from the Association (provided that the application is made within six (6) months of the expulsion), who believes that the affairs of the Association are being conducted in a manner that is oppressive or unreasonable.

## **10 Financial reporting**

### **10.1 Financial year**

The financial year of the Association shall be the period ending on the next 30 June following incorporation, and thereafter a period of twelve (12) months commencing on 1 July and ending on 30 June of each year.

### **10.2 Accounts to be kept**

The Association shall keep and retain such accounting records as are necessary to correctly record and explain the financial transactions and financial position of the Association in accordance with the Act.

### **10.3 Accounts and reports to be laid before members**

The accounts, together with the auditor's report on the accounts, the Committee's statement and the Committee's report, shall be laid before Members at the Annual General Meeting.

### **10.4 Appointment of auditor**

This rule applies to a prescribed association; however, it may be adopted for an association that is not prescribed.

- a) At each Annual General Meeting, the Members shall appoint a person to be auditor of the Association.
- b) The auditor shall hold office until the next Annual General Meeting and is eligible for re-appointment.
- c) If an appointment is not made at an Annual General Meeting, the Committee shall appoint an auditor for the current financial year.

## **11 Prohibition against securing profits for members**

The income and capital of the Association shall be applied exclusively to the promotion of its objects and no portion shall be paid or distributed directly or indirectly to Members or their associates except as bona fide remuneration of a Member for services rendered or expenses incurred on behalf of the Association. Section 55 of the Act provides a prohibition against securing profits for Members.

## **12 Rules**

- a) These rules may be altered (including an alteration to the Association's name) by special resolution of the Members of the Association. This includes revision or replacement by substitute rules.
- b) The alteration shall be registered with Consumer and Business Services which administers the Corporate Affairs Commission, as required by the Act.
- c) The registered rules shall bind the Association and every Member to the same extent as if they have respectively signed and sealed them, and agreed to be bound by all of the provisions thereof.

### **13 Winding up**

The Association may be wound up in the manner provided for in the Act. Winding up is normally by the passing of a special resolution by the Members of the Association and in accordance with the Act.

### **14 Application of surplus assets**

- a) If after the winding up of the Association there remains 'surplus assets' as defined in the Act, such surplus assets shall be distributed to any organisation which has similar objects and has rules which prohibit the distribution of its assets and income to its members.
- b) Such organisation or organisations shall be identified and determined by a resolution of members in a General Meeting.