

Positive Life South Australia Inc

Constitution

ADOPTED

AT THE SPECIAL GENERAL MEETING OF PLWHA-SA Inc

ON 24 AUGUST 2010

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1. NAME

The name of the Association is Positive Life South Australia Incorporated (referred to in this Constitution as "the Association", or "Positive Life SA ")

2. OBJECTIVES

The Objectives of the Association are:

- a) To advocate on behalf of and promote a positive image of, people with HIV/AIDS, with the aim of eliminating prejudice, isolation and discrimination attributed to HIV/AIDS.
- b) To provide high quality services and facilities which address needs of HIV+ people through the Positive Living Centre. ("The Centre").
- c) To provide at the Centre, information, practical assistance, and a range of health and social programs that promote independent living, empowerment, community participation, and a caring and supportive environment for people living with or closely affected by HIV/AIDS.
- d) To lobby, alongside like-minded organisations, for retention of existing services, to address gaps in services and to challenge unjust policies and practices in South Australia.
- e) To include a wide variety of means for Members and other HIV+ people to participate at all levels within Positive Life SA and its programs.
- f) To be an accountable, responsible, independent and financially sound organisation, broadly recognised as a valuable and successful community resource.

3. POWERS

In addition to all the powers conferred by Section 25 of the Associations Incorporation Act 1985, the Association has the following powers:

- a) To solicit and receive donations, subscriptions, bequests, gifts, grants and loans of money or any other property.
- b) To do all such other things as may be incidental or conducive to the attainment of the Objectives of the Association.

4. MEMBERSHIP

- a) There are three (3) categories of Membership:

Full Members

Full Members of the Association shall comprise:

- Those individuals with HIV/AIDS residing in South Australia who can prove their status, on request of, and to the satisfaction of, the President or the Association's Executive Officer (or person acting in these roles)
- Only Full Members are eligible to vote on Constitutional matters

Associate Members

Associate Members of the Association shall comprise:

- Partners or family members of people with HIV/AIDS
- Individual members of the public who have expressed active support for the objectives of the Association
- Associate Members are non-voting Members of the organisation

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Corporate Members

Corporate Members of the Association shall comprise:

- Organisations that have expressed active support for the objectives of the Association
 - Corporate Members are non-voting members of the organisation
- b) In all cases a prospective member must apply in writing with sufficient details for Membership, express support for the Constitutional and strategic objectives of the Association, and the Positive Life SA *Mission, Vision, Values and Principles*, as may be amended from time to time, pay the prescribed Membership fee, if any applies, and be accepted as a member by a majority vote of the Board at either Ordinary Board meetings or the AGM.
- c) All new Members will be recorded on an annually updated Membership Register of Positive Life SA Inc and will be deleted from the Membership Register should the member resign their Membership in writing, or be suspended according to any of the criteria in 5 (f) below.
- d) The Association is not required to accept the renewal of Membership of an expelled or disqualified member.

5. EXPULSION OR DISQUALIFICATION OF MEMBERS

- a) Subject to the right of appeal in subsection 5 (d), the Board may at any time resolve to expel a member upon a charge of conduct detrimental to the interests of the Association.
- b) Particulars of any such charge shall be communicated to the member at least thirty (30) calendar days before the meeting of the Board at which the matter is to be determined.
- c) The decision of the Board shall be communicated to the member, and in the event of an adverse determination the member shall, subject to subsection 5 (d), cease to be a member of the Association fourteen (14) calendar days after the decision has been communicated to the member.
- d) A member so expelled shall have the right of appeal to the Association in a Special General Meeting called to consider the evidence against the expulsion. The intention to appeal shall be communicated to the Executive Officer or the Chairperson of the Board within fourteen (14) calendar days after the determination of the Board has been communicated to the member.
- e) Upon receipt of notification of intent to appeal against the expulsion of Membership, the Executive Assistant shall convene within sixty (60) calendar days of the date of receipt of such notice, a Special General Meeting to determine the appeal. At any such Special General Meeting the applicant shall be given the opportunity to fully present their case and the Board subsequently shall have the opportunity of presenting its case. The appeal shall be determined by the vote of the Member representatives present at such a meeting. After the appeal has been heard, and if the decision remains to expel the Member, their Membership will be terminated as at the date of the Special General Meeting at which the determination of the Board is upheld.
- f) Membership will cease when:
- The member resigns in writing to the Association, or
 - The member is deceased / passes away, or
 - The member commits an act or omits to act in a manner which is designed to damage the reputation of the Association or significantly hinder its operation, or
 - The member changes their place of normal residence to an interstate address, or
 - Associate or Corporate Membership lapses due to non-renewal within thirty (30) calendar days of 1st January each year

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6. THE BOARD

- a) The affairs of the Association shall be managed and controlled exclusively by the Board which in addition to any powers and authorities conferred by this Constitution may exercise all such powers and do all such things as are within the objects of the Association, and are not by the Act or by this Constitution required to be done by the Association in a General Meeting.
- b) The Board shall have the power to appoint such officers and employees as are required to carry out the objects of the Association, including a Public Officer required by the Act, and may discuss or delegate any of its powers to such officers and employees.
- c) The Board shall comprise up to eleven (11) members, all of whom shall be HIV positive, and the Executive Officer in an ex-officio role.
The Board may also co-opt other individuals, from time to time, to support the business of the Board. Such co-opted members shall be non-voting Members, who may or may not be HIV positive.
- d) The Association's Executive Officer is responsible for the day-to-day management of all aspects of Positive Life SA operations. This responsibility is subject to availability of requisite management skills and within the parameters set by Board in the Executive Officer's Job and Person Specification, instructions in Board Minutes, performance evaluation and contract of employment.
- e) In addition to the requirements in Clause 6 (c), Board Members will be selected on the basis of their commitment to the values of Positive Life SA and their capacity to further its objects.
- f) The Board may appoint, dissolve or amend the 'terms of reference' of sub committees as it thinks fit and these committees may include non-Members who can vote on any matter before the committee/s.
An Executive Management Team of the Association, comprising the President, Vice President and Executive Officer, will meet regularly to oversee the operations of the organisation.
- g) Staff of Positive Life SA may request, or be invited, to attend meetings of the Board of Management. Staff in attendance will be non-voting attendees of the meeting and may be required to leave the meeting when confidential matters are discussed.
- h) The office of a Board Member shall become vacant if the Board Member:
 - i. reaches the end of his or her term of appointment to the Board, or
 - ii. is incapacitated and unable to properly fulfil their duties on the advice of a professional practitioner in the relevant area, or
 - iii. resigns office by written notice to the Chairperson or Executive Assistant, or
 - iv. is absent for three (3) successive Board meetings without being granted a leave of absence by the Board or providing an explanation which is acceptable to the Board.
- i) Vacancies arising in the Office Bearers or other Board Members may be filled subject to a resolution of the Board, by calling for nominations or by co-opting Members until the next AGM when such positions will be filled through the normal nomination process for the remainder of their term.
- j) The Board will call, on an annual basis or at such times as determined by the Board, for expressions of interest, or appoint or reappoint any representatives to other organisations as required.
- k) Should Board numbers fall below the quorum the remaining Board Members may act only to appoint new Board Members.
- l) The Board may only be dismissed by the passing of a Special Resolution of no confidence, at an Annual or Special General Meeting and the existing Board only has the power to appoint an independent Chair to supervise election of the new Office Bearers and Board.

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7. OFFICE BEARERS

- a) The Office Bearers shall be elected at the AGM and shall hold the office for a term of two (2) years. They shall be eligible for re-election for a further term at the end of each two (2) year period.
- b) The Office Bearers of the Board are the President and Vice President, who must be elected from the Members attending the Annual General Meeting.
- c) The President and Vice President must be Full Members of the Association.
- d) Any Board Member may, by resolution of the Board, assume the responsibilities of an office bearer.
- e) The President, or in the President's absence the Vice-President, will act as Chairperson at each Forum and Board meeting of the Association. Where the President and Vice President are unavailable, a person nominated and approved by Board will temporarily act as Chairperson.
- f) The President and Vice President are jointly responsible for oversight and direction of the Association's Executive Officer, with a provision for the Board to elect one of its Members to undertake this function where the President or Vice President is unavailable to perform these duties.
- g) Only the President and Vice President are authorised to speak publicly on behalf of the Association unless special persons are nominated by the Board.
- h) The Executive Assistant must ensure that records of the business of the Association including the Constitution, Register of Members, minutes of all Annual and Special General Meetings, Forums and Board meetings, and file of Correspondence are kept. These records are available for inspection by any member, provided that the register of Members may only be inspected with permission of the Executive Management Team, or in their absence the President, following written application describing a bona fide purpose for the request and on the understanding that permission may be withheld at their discretion.
- i) The Executive Assistant must ensure that the notice of meetings is given in accordance with the provisions of this Constitution. Notices sent by post will be deemed to have been received two (2) working days after the date of posting.
- j) The Administration Officer must ensure that all money received by the Association is paid into an approved account in the Association's name. Any expenditure beyond the annual approved budget of over \$1000 or 5% greater than the budget must have prior approval by Board.
- k) The Administration Officer must ensure that correct books and accounts are kept showing the financial affairs of the Association. These records must be available for inspection by any member.

8. NOMINATION AND APPOINTMENT

- a) The Board will accept only written nominations of candidates for election as Office Bearers or Ordinary Board Members and these must be accompanied by a short written statement of their interest, relevant experience, signed by two (2) Full Members.
- b) Nominations from existing Members that comply with Clause 8 (a) will be accepted up to seven (7) calendar days before the AGM. If the Full Members present approve, new Members and nominations for the position of Ordinary Board Member may be accepted during the AGM, before the election is held. All nominees will be required to speak to their nomination at the meeting as instructed by the Chairperson. In the case of a nomination being accepted at the AGM the nominee must provide a written nomination and supporting statement to the Board for its records.
- c) Each member of the Board will hold office for a period of two (2) years from the date of their election. However, only one-half of existing Board Members may retire or vacate their positions at any one AGM.
- d) Retiring Board Members are eligible for re-election and must nominate in accordance with Clause 8 (b).

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9. PROCEEDINGS AT MEETINGS

- a) The Board may meet as often as necessary to conduct the day-to-day business of the Association, and not less than six (6) times in each financial year at intervals of not more than two (2) months. Ordinary Board Meetings shall not be held in the same month as the Annual General Meetings.
- b) The President, Executive Officer, or any two members of the Board may, with reason, call, adjourn or cancel meetings of the Board.
- c) Notice of the Board meetings may be given at the previous Board meeting or by such other means as the Board may decide, including verbally to each Board member.
- d) Items from the Membership of the Association for the attention of the Board must be provided in writing five (5) working days before the date of the meeting to allow inclusion in the Agenda.
- e) A quorum for an Ordinary Board meeting shall be one half (50%) of the current Board Members plus one.
- f) If within thirty (30) minutes after the time appointed for any meeting, a quorum of Members is not present, a meeting convened upon the requisition of the Members shall be deemed in-quorum. An 'inquorate' meeting may proceed, upon approval of three Full Members, without a quorum of Members, but must gain unanimous agreement for any and all resolutions/decisions of such a meeting, from all current members of the Board, at the earliest possible time following and up to the next scheduled meeting of the Board.
- g) The President of the Board shall preside as Chairperson at every General Meeting of the Association unless an external Chairperson has been appointed by the Executive Management Team. If there is no Chairperson or the Vice-President is not present within five (5) minutes after the time appointed to commence a General Meeting the Members present may choose one of their number to chair the meeting.
- h) If a quorum is not present within half an hour of the time appointed for any meeting (Ordinary, Special and AGM), the meeting must be adjourned.
- i) Questions arising at any meeting of the Board shall be decided by a majority of votes, and in the event of equality of votes the Chairperson shall have a casting vote in addition to a deliberative vote.
- j) Voting is by show of hands except that the Board may resolve to vote for any motion or matter by secret ballot.
- k) A member shall be entitled to appoint in writing a person who is also a Full Member of the Association to be their proxy, and attend and vote at any General Meeting of the Association. A Full Member may hold proxies for up to three (3) absent Members.

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10. ANNUAL GENERAL MEETINGS

- a) The Annual General Meeting (AGM) of the Association must be held within five (5) months of the end of the Association's financial year, which is the twelve (12) month period ending on 30th June each year.
- b) Notice (invitation to attend) of at least twenty one (21) calendar days of an AGM will be provided to registered Members, Board Members and anyone else the Board chooses to notify. Notice will include a proxy voting form for Full Members only.
- c) Only a Full Member shall be entitled to vote at any Annual General Meeting.
- d) Only a Full Member shall be entitled to appoint a person who is also a Full Member of the Association to be their proxy. Such proxies must be in writing in the form of an official proxy voting sheet provided by the Association.
- e) A quorum for an Annual General Meeting shall be ten (10) Full Members.
- f) At the Annual General Meeting the following business must be transacted:
 - Confirmation of the minutes of the last Annual General Meeting and any Special General Meeting held since that meeting
 - Receipt of the President's report of activities in the last financial year
 - Receipt of the Executive Officer's report on programs and services provided
 - Receipt of the Administration Officer's report, financial statements and Auditor's report for the previous financial year, together with the financial budget for the current financial year
 - Appointment of the Auditor (although this can be made subsequently by the Board)
 - Any Special Resolutions
 - Election of Office Bearers and other members of the Board
- l) Any other business.

11. SPECIAL GENERAL MEETINGS

- a) A Special General Meeting can be called by either:
 - A resolution of the Board, or
 - Upon a request of not less than five percent (5%) of the total number of registered Full Members, in writing, signed by the relevant Members and clearly stating the purpose for requesting the meeting
- b) Within one (1) month of the Board's resolution or Membership request the Board will convene a Special General Meeting for the required purpose, giving at least twenty-one (21) calendar days' notice of the Special General Meeting to registered Members, Board Members and anyone else the Board chooses to notify.
- c) A quorum for a Special General Meeting shall be ten (10) Full Members.
- d) At the Special General Meeting at least three quarters of those eligible persons present must vote in favour of the resolution.

12. FORUMS

- a) A principal mechanism for community participation and feedback to Positive Life SA is the use of the Forum. Forums will be encouraged, supported and recognised by Positive Life SA, under the conditions listed below, to give members of the public with an interest in HIV/AIDS and related issues the opportunity to learn, debate, inform and advise Positive Life SA. Positive Life SA will assist the Forum where practicable with information regarding relevant issues, strategically important matters, and administrative support.
- b) Forums may be held as often as required and shall be open to all.
- c) A Forum will prepare Minutes of its meeting and will provide these Minutes together with any recommendations to the Board. The Board will give proper and full consideration to any issues raised and will provide a written response of Positive Life SA's determination and possible actions to the Forum within sixty (60) calendar days.

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- d) A Forum can be Board initiated or Membership initiated. Where Positive Life SA receives a written request from at least five percent (5%) of the formally registered Membership of the Association an official delegate must convene a Forum within thirty (30) calendar days.

13.COMMON SEAL

The Association shall have a Common Seal, which may be affixed only by resolution of the Board. The Minutes will record every use of the Seal and the Chairperson is to ensure the safe keeping of the Common Seal.

14.MINUTES

- a) Proper Minutes of all proceedings of meetings of the Association shall be prepared and stored safely within thirty (30) calendar days of the relevant meeting.
- b) These Minutes shall be signed by the Chairperson of the meeting at which the proceedings took place or by the Chairperson of the next succeeding meeting.
- c) When Minutes have been confirmed by the Board and duly signed they shall be evidence that the meeting was convened, all proceedings were properly conducted and all resolutions of the meeting were valid.

15.CONFLICT OF INTEREST

A Board member who has a direct or indirect interest in a contract or service that may confer a benefit or financial gain to them, their family, friends or close Associates, will declare the nature and extent of their interest to the Board as soon as they become aware of the interest, and to the next AGM of Positive Life SA, and will not vote in any decision related to the contract or service.

16.FINANCES AND PROPERTY

- a) The income, property and funds of the Association must be used solely for the promotion of the Objectives of the Association and may not be paid or transferred to any Members or relatives of Members; provided that payment in good faith may be made to any person in return for services actually rendered or to any person in furtherance of the Objectives of the Association.

17.AMENDMENT OF THE CONSTITUTION

- a) Notice of the proposed amendment/s setting out the precise terms shall be sent to all registered Members of the Association and Board Members at least twenty one (21) calendar days before the date of the Special General Meeting at which the proposed amendment/s are to be considered.
- b) No proposed amendment shall be carried except by resolution of the Special General Meeting at a properly constituted meeting having a quorum.

18.DISSOLUTION

- a) The Association may only be dissolved by special resolution in accordance with Clause 11 of this Constitution.
- b) On dissolution, all property remaining after payment of all legal liabilities must be transferred to another incorporated body formed for promoting objects similar to that of the Association.