

# Nomination, appointment and removal of directors

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The following rules for the nomination, appointment and removal of directors of the Board of LGIAsuper have been extracted from the Trust Deed:

## Board of directors

9. The directors of the trustee must consist of:

- (a) 3 employer representatives;
- (b) 3 member representatives; and
- (c) 3 independent directors.

## Appointment of employer representatives

10.

- (a) The employer representatives must be persons qualified under Superannuation Law, each appointed on the nomination of LGAQ Ltd.
- (b) Before a person is appointed under this clause, the person must make a declaration that he or she is qualified to be a director under Superannuation Law.
- (c) The term of appointment is 4 years ending on 30 June in the year of a quadrennial local government election.
- (d) Subject to clause 10(e), an employer representative whose term has ended may be reappointed under clause 10(a).
- (e) A person is not eligible to be appointed or reappointed as an employer representative if the sum of the term of appointment and the terms of all previous service by that person as a director (appointed or nominated in any capacity), whether continuous or broken, exceeds 12 years.

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## Appointment of member representatives – preliminary steps

11.

- (a) The member representatives must be persons nominated by members of the Scheme.
- (b) An employee of the Board is not eligible for nomination as a member representative.
- (c) Also, a person is not eligible for nomination as a member representative:-
  - (i) if he or she is not a member of the Scheme; or
  - (ii) if the sum of the term of appointment (if the person were appointed) and the terms of all previous service by that person as a director (appointed or nominated in any capacity), whether continuous or broken, exceeds 12 years.
- (d) For the purpose of carrying out and overseeing the appointment of member representatives, the Board must appoint an independent person as returning officer.

*Note:* Member representatives are appointed following an election by members. Rules governing the election process are contained in clauses 11(e) to (i) and clauses 12 to 14 of the Trust Deed.

14.

- (f) The term of appointment is 4 years.

## Appointment of independent director(s)

15.

- (a) 3 independent directors must be appointed to the Board.
- (b) Independent directors must be appointed in accordance with procedures determined by the Board which conform to this clause and Superannuation Law.
- (c) Before a person is appointed under this clause, the person must make a declaration that he or she is qualified to be a director under Superannuation Law.
- (d) The term of appointment:-
  - (i) is the term, not exceeding 4 years, decided by the Board when the appointment is made; and
  - (ii) need not be the same for each director.
- (e) At the expiration of the term of appointment, subject to clause 15(f), an independent director whose term has ended may be reappointed;
- (f) A person is not eligible to be appointed or reappointed as an independent director if the sum of the term of appointment and the terms of all previous service by that person as a director (appointed or nominated in any capacity), whether continuous or broken, exceeds 12 years.

- (g) An independent director appointed under this clause does not have, and must not purport to exercise, a casting vote in any proceedings of the Board.

## Vacancy in office of director

16.

- (a) A director's office is vacated, by force of this clause and without the need for any further notice or action, upon:-
- (i) the death of the director;
  - (ii) expiration of the term of appointment of the director (unless the director is reappointed);
  - (iii) resignation (by notice in writing) by the director;
  - (iv) the director suffering from mental or physical incapacity which prevents him or her from practicably or effectively carrying out his or her duties;
  - (v) the director becoming a disqualified person under Superannuation Law;
  - (vi) the director ceasing to be a person eligible for nomination or appointment under clauses 10(e), 11(b), 11(c) or 15(f);
  - (vii) the director no longer meeting one or more of the criteria for fitness and propriety relevant to the director under Superannuation Law; or
  - (viii) the suspension or removal of the director under Superannuation Law.
- (b) For clause 16(a)(vii), a director is conclusively taken to no longer meet one or more of the relevant criteria if:-
- (i) an assessment carried out in accordance with the Board's policy relating to the fitness and propriety of its responsible persons concludes that the director no longer meets one or more of the criteria;
  - (ii) a copy of the assessment is provided to the director;
  - (iii) the director is given not less than 14 days to make written submissions about the assessment or any other matter which the director considers relevant to his or her fitness or propriety; and
  - (iv) the Board, after giving proper and genuine consideration to both the assessment and any written submissions from the director, resolves that it is satisfied that the director no longer meets one or more of the criteria for fitness and propriety relevant to the director under Superannuation Law.
- (c) A decision under clause 16(b)(iv) must state the criterion or criteria on which the decision is based.

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- (d) A director to whom a current or proposed process under clause 16(b) relates must not be present at or otherwise participate at a meeting of the Board:-
- (i) at which the Board considers whether to commence the process under clause 16(b) for the director; or
  - (ii) at which the Board makes a decision under clause 16(b)(iv).

## Removal of directors

17. Apart from the circumstances under which a position as director becomes vacant under clause 16:-
- (a) employer representative directors nominated by LGAQ Ltd may be removed by it;
  - (b) member representative directors may be removed pursuant to a ballot of members in which the majority of members vote in favour of such removal;
  - (c) an independent director may be removed in accordance with the procedure adopted by the Board (which procedure must comply with any requirements under Superannuation Law for removal of an independent director).

## Publishing procedures for removal of directors

18. The Board must publish the procedures for the removal of member representative directors and independent directors in such a way that members of the Scheme are aware of those procedures.

## Filling of vacancies - member representatives

- 19.
- (a) If there is a vacancy in a position of member representative director (otherwise than by expiry of the term of appointment), that vacancy may be filled by the appointment of the unsuccessful candidate at the last election of member representatives who received the highest number votes if he or she is qualified under Superannuation Law, eligible under clauses 11(b) and 11(c), and willing to accept appointment.
  - (b) Where the unsuccessful candidate who received the highest number of votes at the last election:
    - (i) is not qualified under Superannuation Law, not eligible under clauses 11(b) or 11(c) or not willing to accept appointment; or
    - (ii) has previously been appointed as member representative under clause 19(a) to fill a previous vacancy,

the vacancy may be filled by the appointment of the unsuccessful candidate at the last election of member representatives who received

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the next highest number of votes if he or she is qualified under Superannuation Law, eligible under clauses 11(b) and 11(c) and willing to accept appointment.

- (c) Clause 19(b) may continue to be applied to successive candidates in descending order of number of votes received at the last election until the vacancy is filled.
- (d) This clause does not prevent the Board from filling a vacancy in a position of member representative by nomination and election in accordance with clause 11 (with any adaptations or modifications to those provisions considered necessary by the Board) in any case where the Board, in its absolute discretion, decides not to apply this clause.
- (e) A vacancy in a position of member representative must be filled within 90 days after the vacancy occurs.
- (f) Before a person is appointed under this clause, the person must make a declaration that he or she is:-
  - (i) qualified to be a member representative under Superannuation Law; and
  - (ii) eligible under clauses 11(b) and 11(c).
- (g) The term of appointment of a person appointed to fill a vacancy is the balance of the term of the original appointee.

## Filling of other vacancies

20.

- (a) A vacancy in a position of employer representative must be filled in the manner set out in clause 10.
- (b) A vacancy in a position of employer representative must be filled within 90 days after the vacancy occurs.
- (c) A vacancy in the position of independent director may be filled in the manner set out in clause 15.
- (d) Before a person is appointed under this clause, the person must make a declaration that he or she is qualified to be a director under Superannuation Law.
- (e) The term of appointment of a person appointed to fill a vacancy is the balance of the term of the original appointee.

## **Conflicts Policy**

21. The Board must adopt a policy for managing conflicts of interest or conflicts of duty that may arise as a consequence of a director also being a director of another superannuation scheme. This policy is in addition to, but may form part of, any other policy adopted by the Board to comply with requirements of Superannuation Law or otherwise.

(2 July 2018)