

### **NA-003 Membership:**

**Policy:** It is NANDTB policy that membership of the Board will be a fair representation of the stakeholder sectors of the Australian aerospace industry.

The Board consists of Members representing specific interests within the aerospace industry with respect to using AS 3669 and EN4179. Representatives may include manufacturing, airline AMOs, general aviation AMOs, NDT service providers, NDT training providers, the Australian Defence Force and others.

*Board Structure:* The Board shall be not less than 6 and limited to 14 members. At least six members shall be current NDT Level 3, however all members shall have relevant aerospace knowledge. The ordinary membership of the Board constitutes the committee as defined in the Associations Incorporation Reform Act of Victoria, viz: “*committee, of an association, means the committee of, or other body having management of, the association.*” Accordingly, ordinary members are considered to be “office holders” and obligated to comply with Division 3 of the Act.

*Management Sub-Committee:* The Chairman, Deputy Chairman and Secretary/Treasurer constitute the management sub-committee. The Chairman’s position is restricted to a NANDTB recognised Level 3 qualified person. Should the Chairman’s position become vacant, the Deputy Chairman acts as Chairman until a new Chairman is elected, with the proviso that if he/she not a Level 3, any decisions requiring Level 3 involvement, would be referred to the Board directly for determination. Should the secretary’s position become vacant, it will be filled by appointment within 14 days until a person is elected by the membership. The Registrar is notified within 14 days of the elected secretary.

*Classes of Member:*

- (i) Ordinary Member is a member representing an interest described in the opening paragraph.
- (ii) Observer is a non-voting participant who may provide relevant input to the Board to assist its deliberations
- (iii) Co-opted Member- From time to time the Board may seek co-opted members, who, through their expertise or qualification may assist with the conduct of business. Co-opted members do not have voting rights.

*Appointment to the Board:* Board positions are open to the aerospace industry. Nominees are to be proposed by their employer. Self-employed persons may be nominated by one of their contracting organisations. Where there are multiple nominations for limited vacant positions, an election for the position(s) shall be conducted in accordance with procedure NA-008. The objective is that its membership is a fair representation of the various Australian aerospace sectors which use AS 3669, EN4179 or comparable standards.

*Period of appointment:* Members are elected to the Board for 2 years and shall be eligible for re-election. However a person may be the Chairman for only 4 years in any 8 consecutive years.

*Removal of a Member/Observer:* A member of the committee may be removed or vacate his/her position as described in Section 78 of the Act.

*Casual Vacancy:* A casual vacancy on the Board may be filled by seeking nominations from the aerospace industry. The Board may appoint one of the nominees to the Board for the remainder of the term.

*Formation of sub-committees:* The Board may from time to time form sub-committees and co-opt persons to assist the conduct of the Board's business. The Chairman will provide the sub-committee or co-opted person with directions as to the scope and limitations of the task to be undertaken.

*Fees and subscriptions:* None.

**Board Members/Observers Agreement**

*Legal Obligation*

The NANDTB Rules of Governance detail the duties and responsibilities of Board members/Observers. Members also have a legal responsibility under the Associations Incorporation Reform Act 1012 of Victoria. Board membership is conditional on the acceptance by the member to honour, the Rules of Governance, the relevant sections of the Act and other relevant policy documents. Members and observers are to note in particular, the confidentiality of the Board’s deliberations.

*Professional Indemnity Insurance*

The Board has professional indemnity insurance. A condition of the issuance of the insurance by the insurer is that certain information is required from Board members. Accordingly, to hold a position on the NANDTB, members must answer truthfully the following questions from the insurer. Failure to provide answers of false information will void the insurance.

1. Has the member signing this agreement ever been declared bankrupt?  
 Yes  No
2. Has the member signing this agreement ever been a member of an organisation placed in receivership, liquidation or provisional liquidation?  
 Yes  No
3. Has the member signing this agreement ever had a conviction of crimes involving dishonesty?  
 Yes  No

If any of these questions are answered yes, the member must contact the insurer and provide what information the insurer requires.

*Worker’s Compensation Insurance*

There is no contract of employment between the Board and any Member/Observer, and therefore does not have Worker’s Compensation insurance. Members/Observers are nominated and sponsored by their employer and continue to be in that employment when conducting the business of the Board. Accordingly, matters involving worker’s compensation payments are encompassed by the employer’s worker’s compensation insurance. The Board does provide travel insurance for members whilst travelling on Board business.

The Secretary shall retain the original signed copy of this agreement in the Membership file.

By signing the agreement below the Member/Observer guarantees that he/she has read Division 3 of the Associations Incorporations Reform Act (Appendix 1 to this procedure), and the Board’s governance procedures, commits to honour these instructions and to adhere to the stated objectives of the Board.

I ..... accept my appointment to the National Aerospace Non-destructive Test Board of Australia. I have read and understood my role and responsibilities as a Board member/observer representing the industry sector ..... and agree to be bound by the Board’s policies and Rules of Governance.

Sign.....(Member/Observer).

Date .....

## Appendix 1: Division 3—Duties of office holders

### 82 Definitions

In this Division— office holder, of an incorporated association, means any of the following—

- (a) a member of the committee;
- (b) the secretary;
- (c) a person, including an employee of the association, who makes, or participates in making, decisions that affect the whole, or a substantial part, of the operations of the association;
- (d) a person who has the capacity to significantly affect the association's financial standing;
- (e) a person in accordance with whose instructions or wishes the committee of the association are accustomed to act (but excluding a person who gives advice to the association in the proper performance of functions attaching to the person's professional capacity or to the person's business relationship with members of the committee or with the association).

### 83 Improper use of information or position

(1) An office holder or former office holder of an incorporated association must not make improper use of information acquired by virtue of holding that office—

- (a) to gain an advantage for himself or herself or any other person; or
- (b) to cause detriment to the association.

*Note Under section 146, subsection (1) is declared to be an applied Corporations legislation matter in relation to the provisions of Part 9.4B (Civil consequences of contravening civil penalty provisions) of the Corporations Act. The effect of that application is that subsection (1) is a civil penalty provision and a person who contravenes this provision may be ordered to pay a pecuniary penalty of up to \$20 000.*

(2) An office holder of an incorporated association must not make improper use of that office—

- (a) to gain an advantage for himself or herself or any other person; or
- (b) to cause detriment to the association.

*Note Under section 146, subsection (2) is declared to be an applied Corporations legislation matter in relation to the provisions of Part 9.4B (Civil consequences of contravening civil penalty provisions) of the Corporations Act. The effect of that application is that subsection (2) is a civil penalty provision and a person who contravenes this provision may be ordered to pay a pecuniary penalty of up to \$20 000.*

(3) An office holder or former office holder of an incorporated association must not knowingly or recklessly make improper use of information in the manner described in subsection (1). Penalty: 60 penalty units.

(4) An office holder of an incorporated association must not knowingly or recklessly make improper use of that office in the manner described in subsection (2). Penalty: 60 penalty units.

(5) If a person is found guilty of an offence against subsection (3) or (4), the court, in addition to imposing any penalty, may order the person to pay a sum specified by the court to the incorporated association as compensation.

(6) This section—

(a) has effect in addition to, and not in derogation of, any rule of law relating to the duty or liability of a person because of their office or employment in relation to an incorporated association; and

(b) does not prevent the commencement of civil proceedings for a contravention of a duty or in respect of a liability referred to in paragraph (a).

*Note Under section 1317M of the Corporations Act which is applied by section 146, civil proceedings under Part 9.4B (Civil consequences of contravening civil penalty provisions) of the Corporations Act may not be instituted against a person in respect of conduct for which the person has been convicted of an offence.*

#### **84 Duty of care and diligence**

(1) An office holder of an incorporated association must exercise his or her powers and discharge his or her duties with the degree of care and diligence that a reasonable person would if that person—

(a) were an office holder of the association in the circumstances applying at the time of the exercise of the power or the discharge of the duty; and

(b) occupied the office held by, and had the same responsibilities within the association as, the office holder.

*Note Under section 146, subsection (1) is declared to be an applied Corporations legislation matter in relation to the provisions of Part 9.4B (Civil consequences of contravening civil penalty provisions) of the Corporations Act. The effect of that application is that subsection (1) is a civil penalty provision and a person who contravenes this provision may be ordered to pay a pecuniary penalty of up to \$20 000.*

(2) An office holder of an incorporated association who makes a business judgment is taken to meet the requirements of subsection (1), and his or her equivalent duties at common law and in equity, in respect of the business judgment if the office holder—

(a) makes the judgment in good faith for a proper purpose; and

(b) does not have a material personal interest in the subject matter of the judgment; and

(c) informs himself or herself about the subject matter of the judgment to the extent that he or she reasonably believes to be appropriate; and

(d) rationally believes that the judgment is in the best interests of the association.

(3) For the purposes of subsection (2)—

(a) a business judgment means any decision to take or not take action in respect of a matter relevant to the operations of the incorporated association;

(b) an office holder's belief that a business judgment is in the best interests of the incorporated association is a rational belief unless the belief is one that no reasonable person in the position of the office holder would hold.

(4) This section—

(a) has effect in addition to, and not in derogation of, any rule of law relating to the duty or liability of a person because of their office or employment in relation to an incorporated association; and

(b) does not prevent the commencement of civil proceedings for a contravention of a duty or in respect of a liability referred to in paragraph (a).

(5) Subsection (4) does not apply to subsections (2) and (3) to the extent to which they operate on the duties at common law and in equity that are equivalent to the requirements under subsection (1).

### **85 Duty of good faith and proper purpose**

(1) An office holder of an incorporated association must exercise his or her powers and discharge his or her duties—

(a) in good faith in the best interests of the association; and

(b) for a proper purpose.

*Note Under section 146, subsection (1) is declared to be an applied Corporations legislation matter in relation to the provisions of Part 9.4B (Civil consequences of contravening civil penalty provisions) of the Corporations Act. The effect of that application is that subsection (1) is a civil penalty provision and a person who contravenes this provision may be ordered to pay a pecuniary penalty of up to \$20 000.*

(2) This section—

(a) has effect in addition to, and not in derogation of, any rule of law relating to the duty or liability of a person because of their office or employment in relation to an incorporated association; and

(b) does not prevent the commencement of civil proceedings for a contravention of a duty or in respect of a liability referred to in paragraph (a).

### **86 Reliance on information or advice**

(1) This section applies if the reasonableness of an office holder's reliance on information or advice given to the office holder arises in a proceeding brought to determine whether the office holder has performed a duty under this Act or an equivalent common law duty.

(2) Unless the contrary is proved, the office holder's reliance on the information or advice is taken to be reasonable if—

(a) the information or advice was given or prepared by—

(i) an employee of the incorporated association whom the office holder reasonably believed to be reliable and competent in relation to the matters concerned; or

- (ii) a professional advisor or expert in relation to the matters that the office holder reasonably believed to be within that person's professional or expert competence; or
  - (iii) another office holder in relation to matters within the other office holder's authority; or
  - (iv) a sub-committee of the incorporated association of which the office holder was not a member in relation to matters within the sub-committee's authority; and
- (b) the reliance was made—
- (i) in good faith; and
  - (ii) after making an independent assessment of the information and advice, having regard to the office holder's knowledge of the incorporated association and the complexity and structure of the incorporated association.

### **87 Indemnity of office holders**

An incorporated association must indemnify each of its office holders against any liability incurred in good faith by the office holder in the course of performing his or her duties as an office holder.