

**CORPORATIONS ACT 2001**  
**A Public Company Limited by Guarantee**  
**CONSTITUTION**  
**of**  
**CHINESE MEDICINE INDUSTRY COUNCIL OF AUSTRALIA**

---

## 1. Name of Corporation

The name of the company is **Chinese Medicine Industry Council of Australia (CMIC)** and hereinafter referred as” **the Council**”.

## 2. Company Type

The Council is a public company limited by guarantee.

The liability of the Member is limited.

## 3. Objects

### **3.1 The objects of the Council are:**

- (a) purely for non-profitable and charitable purposes to promote the development and safeguard the interests of Chinese medicine in Australia.
- (b) to unite and support Members for a better, healthier and sustainable development in Australia.
- (c) to undertake independent research, and foster innovative thinking on issues that may affect Chinese medicine industry in Australia.
- (d) to lobby, communicate and liaise with government bodies on issues that concern the Chinese medicine industry.
- (e) to enhance the exchange of information and networks for sponsors, dealers, suppliers, researchers, educators, manufacturers, farmers and other related interested groups in the industry.
- (f) to encourage research contributions by government agencies, organizations, academics, business people and individuals for Chinese medicine.

- (g) to set a code of practice, rules or other standards for the supply of Chinese medicine and facilitate the government to implement a fair, practical and effective scheme with respect to the management of the Chinese medicine industry in Australia.
  - (h) to promote the awareness and image of Chinese medicine in Australia by ensuring that the public be benefited in terms of efficacy, quality and safety.
- 3.2 In furtherance of the objects of the Council, the Board of Directors may:
- (a) purchase, take on lease or in exchange, hire and otherwise acquire any lands, buildings, easements, or property, real and personal, and any rights or privileges which may be requisite for the purposes, of, or capable of being conveniently used in connection with, any of the objects of the Council.
  - (b) Provided that in case the Council shall take or hold any property that may be subject to any trusts, the Council shall only deal with the same in such manner as is allowed by law, having regard to such trusts.

## 4. Status of the Constitution

### 4.1 Constitution of the Council

This is the constitution of the Council.

## 5. Replaceable Rules

- 5.1 This Constitution displaces the Replaceable Rules and accordingly, none of the Replaceable Rules apply.

## 6. Interpretation

### 6.1 Definitions:

In this Constitution:

**Board** means the Directors present at a meeting, duly convened as a board meeting, at which a quorum is present.

**Business Day** means a day which is not a Saturday, Sunday or bank or public holiday in Sydney, NSW.

**Constitution** means the constitution for the time being of the Council as constituted by this document and any resolutions of the Council modifying this document.

**Corporations Act** means the Corporations Act 2001 (Cth).

**Council** means Chinese Medicine Industry Council of Australia

**Director** means a person who is a director elected by the Members for the time being of the Council and **Directors** means more than one Director, and in relation to rules applying to meetings of the Board, including voting by Directors and material personal interests, references to Directors includes alternates.

**General Meeting** means an Annual General Meeting, an Extraordinary General Meeting or a Special Resolution;

**Honorary President** means a person appointed by the Board commensurate with his or her substantial financial contributions to the Council.

**Honoured President** means a director who is appointed by the Board for his or her contributions to the Chinese medicine industry.

**Lifetime Member** means a member who contributes AU\$2,000.00 or more (or for an amount determined by the Board to be significant from time to time) at the time of joining the Council. A Lifetime Member is not subject to payment of the annual membership renewal fee.

**Lifetime Honoured President** means a President who retires or steps down from the office having made, and being recognised by the Board, of his or her significant contributions to the operations and promotion of the Council.

**Member** means a person or an organization that is registered as a member of the Council who has a voting right.

**Register of Members** means the register of Members maintained pursuant to the Corporations Act.

**President** means a director who was elected by the Board for the time being as the President of the Council.

**Replaceable Rules** mean the replaceable rules applicable to a public company limited by guarantee set out in the Corporations Act. The Council shall comply with all laws of Australia that apply to a public company limited by guarantee.

**Seal** means the common seal for the time being of the council.

**Secretary** means a person appointed by the President to perform the functions of, secretary of the council.

**Special resolution** means a resolution of which notice has been given and that has been passed by achieving at least 75% of the votes cast by Members entitled to vote on the resolution.

**Sub-Committee** means a group of academics, experts and specialists appointed by the President with a specific focus on areas of interests concerning the Chinese medicine industry in Australia.

**Treasurer** means a person appointed by the Board to maintain the accounts of the Council and supervise all funds and the collection of the subscriptions. The Treasurer shall pertain to that office and such other duties as the Board may from time to time directs.

**Vice President** means a director or directors appointed by the Board to assist the President and represent the President while he or she is temperately unavailable.

## 6.2 Interpretation

In this Constitution:

- (a) the words “including”, “include” and “includes” are to be construed without limitation;
- (b) a reference to legislation is to be construed as a reference to that legislation, any subordinate legislation under it, and that legislation and subordinate legislation as amended, re-enacted or replaced for the time being;
- (c) headings are used for convenience only and are not intended to affect the interpretation of this Constitution; and
- (d) a word or expression defined in the Corporations Act and used, but not defined, in this Constitution has the same meaning given to it in the Corporations Act.

## 7. Power of the Council

7.1 The Council must be managed by or under the direction of and controlled by the Board.

7.2 The Board has and may exercise the functions conferred or imposed on it by or under the Constitution.

7.3 Without prejudice to and without limiting the powers conferred by the Constitution, the Council and its Board shall have the power to do any of the following:-

- (a) open and maintain a bank account or bank accounts to be operated by such person or persons whether Directors of the Board or not as it shall from time to time determine;
- (b) appoint any staff as may be necessary;
- (c) employ and superannuate officers and employees;
- (d) review staff position at intervals not exceeding five (5) years;
- (e) publish and distribute information concerning the Constitution and the regulations to Members and other interested persons or groups;

- (f) do all such other things that are in the opinion of the Board incidental to or conducive to the attainment of the objects of the Council; and
- (g) do all things necessary to give effect to the powers contained in the Constitution.

## 8. Member's liability

- 8.1 The liability of the Members is limited to the respective amounts that the Members undertake to contribute to the property and operation of the Council if it is wound up.

## 9. Member resolutions

### 9.1 **Written resolutions**

The Member may pass a resolution through a General Meeting by having the resolution being recorded and signed for.

### 9.2 **Minutes**

- (a) Within one (1) month after the Member passes a resolution, the record of the resolution must be recorded in a minute book.
- (b) A Director must sign the minutes within one (1) month after the passing of the resolution.
- (c) The minute books must be kept at the registered office.
- (d) The Member may inspect the minute books between the hours of 10.00 am and 4.00 pm on any Business Day if the Secretary is available.

## 10 Appointment and removal of Directors

### 10.1 **Number of directors**

The Council must have at least seven (7) Directors and a maximum of eleven (11). At least three (3) Directors must reside ordinarily in Australia.

### 10.2 **Appointment of Directors**

- (a) The Directors are to be elected by the Member at annual general meeting where the quorum is seven (7).
- (b) The Board may by a special resolution appoint a natural person who is a current Member as a Director, as an additional Director or to fill the office of a Director vacated when a Director ceases to be a director.

- (c) An appointment of a person as a Director is not effective unless a signed consent to the appointment is provided by that person to the Council. The appointment of a person as a Director will take effect on the later of the date of appointment and the date on which the Council receives the signed consent.

#### 10.3 **Removal of Director**

- (a) The Council may remove a Director by resolution.
- (b) On the removal of a Director, the Council may by resolution appoint another person as a Director instead.

#### 10.4 **Confirmation of appointment**

If a person is appointed as a Director by the Board, the Council must confirm the appointment by resolution within six (6) months after the appointment is made. If the appointment is not confirmed, the person ceases to be a Director at the conclusion of that period.

#### 10.5 **Cessation of a directorship**

A person ceases to be a Director and the office of Director is vacated if the person:

- (a) Having been appointed by the Board as a Director, the appointment is not confirmed by resolution of the Council within six (6) months after the appointment is made;
- (b) Is removed from office as a Director by a resolution of the Council;
- (c) Resigns as a Director in accordance with this Constitution;
- (d) Is subject to assessment or treatment under any mental health law and the Board resolves that the person should cease to be a Director;
- (e) Dies;
- (f) Is disqualified from acting as a Director under the Corporations Act;
- (g) Is absent for a board meeting continuously for two (2) times or a period of six(6) months without leave of absence from the Board and the Board resolves that the Director's office should be vacated; or
- (h) Is required by the Board to resign or vacate the office of Director.

#### 10.6 **Resignation of Directors**

A Director may resign from the office of Director by giving notice of resignation to the Council at its registered office.

## 11 Powers and duties of Board

- 11.1 Subject to this Constitution and the Corporations Act, the activities of the Council are to be managed by, or under the directions of, the Board.
- 11.2 Subject to this Constitution and the Corporations Act, the Board may exercise all powers of the Council that are not required to be exercised by the Council.
- 11.3 The powers of Board include the power to:
- (a) Borrow or otherwise raise money;
  - (b) Mortgage, charge (including in the form of a floating charge) any of the Council's assets (both present or future); and
  - (c) Issue debentures and other securities, and any instrument (including any bond).
- 11.4 The Board may delegate any of its powers to:
- (a) a Director;
  - (b) a committee
  - (c) an employee of the Council; or
  - (d) any other person.
- 11.5 The Directors must act in the best interests of the Council.

## 12 Negotiable instruments

- 12.1 All negotiable instruments and all receipts for money paid to the Council must be in writing, signed, drawn, accepted, endorsed or otherwise executed in such manner as the Board may determine.

## 13 Appointment of President

- 13.1 The President is to be appointed by a resolution of the Board.
- 13.2 The standard term of a President is for three (3) years. The Constitution allows a President be re-appointed at the conclusion of his or her term so long as the Board considers the person is suitable and qualified to hold such office.
- 13.3 A President shall not be re-appointed for more than two (2) consecutive terms.
- 13.4 The Board confers the President the powers to act in the best interests of the Council that the President may exercise.
- 13.5 The Board may vary or revoke a conferral of any power on the President.
- 13.6 A person ceases to be the president if he or she ceases to be a Director.

## 14 Remuneration and reimbursement for expenses

### 14.1 Remuneration of Director

The Council shall not pay a Director any fee (or other remuneration) for services performed as a Director.

### 14.2 Reimbursement of expenses

Directors are entitled to be reimbursed by the Council for reasonable costs and expenses incurred or to be incurred in connection with:

- (a) Attendance at meetings of the Board or committees of the Board; and
- (b) The Council's business.

And all expenses incurred by directors must be approved by the President and the Treasury.

## 15 Board meetings

### 15.1 Convening meetings

At least two (2) directors may at any time convene a Board meeting by notice to the other Directors.

### 15.2 Notice of meetings

- (a) Reasonable notice of each Board meeting must be given to the Directors and each alternate entitled to receive notice (if any).
- (b) Each notice must state:
  - i. The date, time and place (or places) of the Board meeting;
  - ii. The general nature of the business to be conducted at the Board meeting; and
  - iii. Any proposed resolutions.

### 15.3 Omission to give notice

No resolution passed at or proceedings at any Board meeting will be invalid because of any unintentional omission or error in giving or not giving notice of:

- (a) That Board meeting;
- (b) Any change of place (or places) of that Board meeting;
- (c) Postponement of that Board meeting; or
- (d) Resumption of that adjourned Board meeting.

### 15.4 Use of technology

- (a) A Board meeting may be convened or held using any technology consented to by all Directors. The consent may be a standing one. A Director may withdraw consent to the use of a particular technology within a reasonable time period before a Board meeting.



- (b) If a number of Directors equal to the quorum is able to hear or to see and to hear each other Director contemporaneously using any technology consented to by all Directors, there is a meeting and that meeting is quorate. The rules relating to meetings of Directors apply to each such meeting as determined by the chair of the meeting.
- (c) A Director participating at a meeting using technology consented to by all Directors is treated as being present in person at the meeting.
- (d) A meeting using technology consented to by all Directors is to be taken to be held at the place determined by the chair of the meeting.
- (e) A Director is presumed conclusively to have been present and to have formed part of a quorum at all times during a meeting using technology consented to by all Directors, unless the chair consents to that Director leaving in which case that Director will be treated as having been present until that Director leaves.

#### 15.5 **Quorum at meeting**

A quorum at a Board meeting is **three (3)** of the Directors present in person. The quorum must be present at all times during the Board meeting.

#### 15.6 **Chair of meetings**

- (a) At the first Board meeting a chair will be elected from the Directors present in person (not by alternate). The person that has been elected as chair may chair each subsequent Board meeting. At any subsequent Board meeting, a new chair may be elected. On the election of the new chair, the new chair will chair subsequent Board meeting. The Directors may elect a Director to chair a Board meeting by a majority vote.
- (b) If the chair is not present within 30 minutes after the time appointed for a Board meeting or if the chair is unwilling or unable to act as chair for the whole or any part of that Board meeting, the Directors present may elect a Director present to chair that Board meeting.

#### 15.7 **Passing resolutions at meetings**

- (a) A resolution of the Board must be passed by a majority of the votes cast by the Directors entitled to vote on the resolution.
- (b) Each Director present in person or by alternate is entitled to vote and has one vote.

#### 15.8 **Casting vote**

If on any resolution an equal number of votes is cast for and against a resolution, the chair has a casting vote in addition to any vote cast by the chair as a Director.

#### 15.9 **Conduct of meetings**

The chair of each Board meeting has charge of conduct of that meeting, of the procedures to be adopted and the application of those procedures at that meeting.

#### 15.10 **Written resolutions**

The Board may pass a resolution without a Board meeting being held if all the Directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. For this purpose, signatures can be contained in more than one document, with each document to be identical to each other document.

#### 15.11 **Minutes of meetings**

- (a) Within one month after each Board meeting, the Director must record or cause to be recorded in the minute books:
  - i. The proceedings and resolutions of each Board meeting; and
  - ii. All resolutions passed without a Board meeting.
- (b) The chair, or the chair of the next Board meeting, must sign the minutes within one month after the meeting.
- (c) The minute books must be kept at the registered office.
- (d) The Director may inspect the minute books between the hours of 10.00 am and 4.00 pm on any Business Day. No amount may be charged for inspection.

#### 15.12 **Committee meetings**

The Board will determine how meetings of any Sub-committee are to be conducted, including the procedures to be adopted and the application of those procedures.

## 16 Director's interests

#### 16.1 **Declaration of interest**

- (a) Any Director who has a material personal interest in a contract or proposed contract of the Council, holds any office or owns any property such that the Director might have duties or interests which conflict or may conflict either directly or indirectly with the Director's duties or interests as a Director, must give the Board notice of the interest at a Board meeting.
- (b) A notice of a material personal interest must set out:
  - i. The nature and extent of the interest; and
  - ii. The relation of the interest to the affairs of the Council.
- (c) The notice must be provided to the Board at a Board meeting as soon as practicable.

## 16.2 **Voting by interested Directors**

A director who has a material interest in a matter that is being considered at a Board meeting:

- (a) Must not vote on the matter at a meeting; and
- (b) Must not be present while the matter is being considered at the meeting, and accordingly will not count for the purposes of determining whether there is a quorum.

## 17 Appointment of Secretary

- 17.1 The Council must have at least one (1) Secretary. The President has the power to appoint a natural person to act as secretary on the terms and for such period as the President may determine.
- 17.2 Any Secretary appointed may be removed at any time by the Board.

## 18 Common Seal

- 18.1 If the Council has a common seal:
  - a) the President must provide for the safe custody of the seal during his or her term.
  - b) The seal must not be used without the prior authority of the Board, and when used, the Seal must be used in accordance with any direction of the Board.
  - c) If a document is to be executed by the use of the Seal, the fixing of the seal must be witnessed by two Directors or a Director and Secretary.

## 19 Financial records

### 19.1 **Member's access to financial records**

The Board may by resolution authorise the Member to inspect the council financial record.

### 19.2 **Director's access to financial records**

Any Director may at any time access and inspect any financial record of the Council.

### 19.3 **Access to financial records after ceasing to be a Director**

The Board may determine that any person who is to cease or has ceased to be a Director may continue to have access to and inspect any financial record of the Council relating to the time during which the person was a Director.

## 20 Notices

## 20.1 **General**

Any notice, statement or other communication under this Constitution must be in writing, except that any notice convening a Board meeting does not need to be in writing.

## 20.2 **How to give a communication**

In addition to any other way allowed by the Corporations Act, a notice or other communication may be given by being:

- (a) Personally delivered;
- (b) Left at the person's current address as recorded in the Register of Members;
- (c) Sent to the person's address as recorded in the Register of Members by pre-paid ordinary mail or, if the address is outside Australia, by pre-paid airmail;
- (d) Sent by fax to the person's current fax number for notices; or
- (e) Sent by email to the person's current email address for notices.

## 20.3 **Communications by post**

A communication is given if posted:

- (a) Within Australia to an Australian address, three Business Days after posting;
- (b) Outside Australia to an address outside Australia, ten Business Days after posting.

## 20.4 **Communications by fax**

A communication is given if sent by fax, when the sender's fax machine produces a report that the fax was sent in full to the addressee. That report is conclusive evidence that the addressee received the fax in full at the time indicated on that report.

## 20.5 **Communications by email**

A communication is given if sent by email, when the information system from which the email was sent produces a confirmation of delivery report which indicates that the email has entered the information system of the recipient, unless the sender receives a delivery failure notification, indicating that the email has not been delivered to the information system of the recipient.

## 20.6 **After hours communications**

If a communication is given:

- (a) After 4:00 pm in the place of receipt; or
- (b) On a day which is a Saturday, Sunday or bank or public holiday in the place of receipt,

It is taken as having been given at 10:00 am on the next day which is not a Sunday or bank or public holiday in the place of receipt.

## 21 Indemnity and insurance

### 21.1 Indemnity

- (a) To the extent permitted by the Corporations Act and subject to the Corporations Act, the Council must indemnify each officer, Director and Secretary or any person who has been an officer, Director or Secretary of the Council out of the assets of the Council against any liability, loss, damage, cost or expense incurred or to be incurred by the officer, Director or Secretary in or arising out of the conduct of any activity of the Council or in or arising out of the proper performance of the officer's, Director's or Secretary's duties including any liability, loss, damage, cost or expense incurred by that officer, Director or Secretary in defending any proceedings, whether civil or criminal, which relate to anything done or omitted to be done or alleged to have been done or omitted to be done by the officer, Director or Secretary, in which judgment is given in the officer's, Director's or Secretary's favour or in which the officer, Director or Secretary is acquitted or in connection with any application in relation to any such proceedings in which relief is granted by the court to the officer, Director or Secretary.
- (b) This indemnity is not intended to indemnify any officer, Director or Secretary in respect of any liability in respect of which the Council must not give an indemnity, and should be construed and, if necessary, read down accordingly.

### 21.2 Insurance

- (a) To the extent permitted by the Corporations Act and subject to the Corporations Act, the Council may pay any premium in respect of a contract of insurance between an insurer and an officer, Director or Secretary or any person who has been an officer, Director or Secretary of the Council in respect of the liability suffered or incurred in or arising out of the conduct of any activity of the Council and the proper performance by the officer, Director or Secretary of any duty.
- (b) If the Board determines, the Council may execute a document containing rules under which the Council agrees to pay any premium in relation to such a contract of insurance.

## 22 Winding up

- 22.1 As a non-profit organisation, if the Council is wound up any property that remains after satisfaction of all debts and liabilities of the Council and the payment of the costs, charges and expenses of winding up must not be distributed to the Member unless approved by the government authorities.

## 23 Adoption and modification of Constitution

- 23.1 The English version of the Constitution is to be adopted as the authentic version. Any subsequent translation or translations may be accepted by the Board but does or do not bear the same authenticity as the English version.
- 23.2 **Modification of Constitution**
- (a) The Member may modify or repeal the Constitution, or a provision of the Constitution, by special resolution passed at a General Meeting.
  - (b) A written notice of the proposed alternations must be provided to the Members at least thirty (30) days prior to the date that the special resolution is to be voted for.
- 23.3 A special resolution adopting, modifying or repealing the Constitution takes effect on the date which the resolution is passed, if no later date is specified in the resolution.