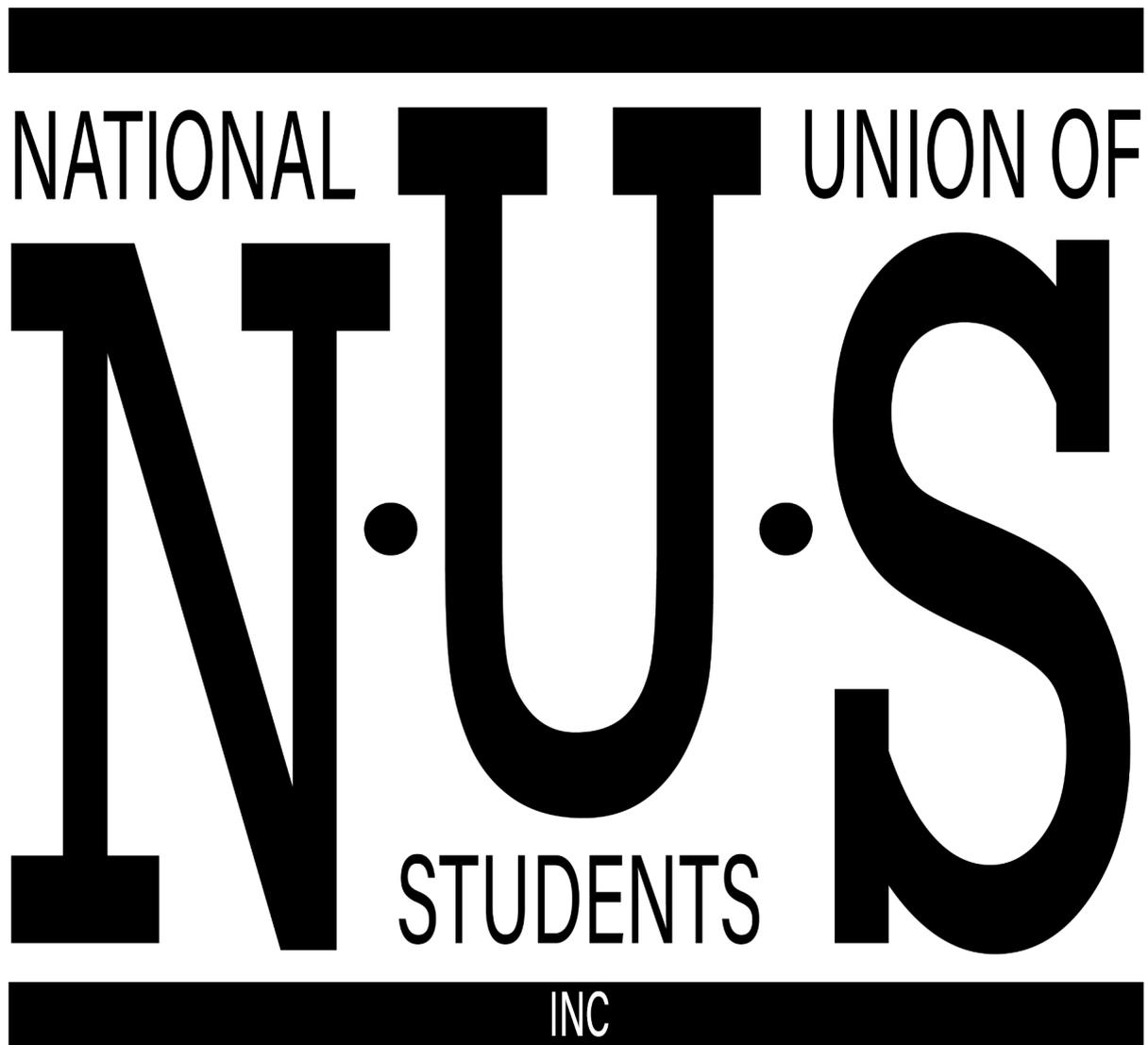


National Union of Students Incorporated

# CONSTITUTION

2018



# **PART 1 – CONTENTS**

## **C1. Contents**

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## **PART 2 – NAME, OBJECTS AND POWERS**

### **C2. Name**

#### *Act 36, 41(b)*

- 2.1 The name of the incorporated association is “National Union of Students Incorporated” (in this constitution, “NUS”).
- 2.2 Under section 41(b) of the Act, the full name of NUS (including “Incorporated” or “Inc.”) must appear in legible characters on every NUS publication, official notice, business letter, order, cheque, invoice, statement of account and receipt.

### **C3. Objects**

#### *Act 29*

- 3.1 The general object of NUS is to represent and advance the interests of post-school students in Australia.
- 3.2 The specific objects of NUS are to work for:
  - (a) the right of all people to a quality education on an equal basis;
  - (b) scholarship, quality in education, access to education, academic freedom, freedom of thought, freedom of expression and freedom of association;

- (c) the interests of students in the fields of social security, health, welfare, cultural activities and sport;
  - (d) the advancement of student perspectives on political and social issues within the broader community;
  - (e) the principles of student unionism; and
  - (f) quality services for students.
- 3.3 NUS must not support directly or indirectly any political or religious organisation, except to the extent necessary for furthering any object of NUS.

#### **C4. Legal Capacity and Powers**

*Act 22,24*

- 4.1 Under sections 22 and 24 of the Act, NUS has:
- (a) the legal capacity and powers of an incorporated body, and
  - (b) the legal capacity and powers of an individual.
- 4.2 NUS may only:
- (a) exercise its powers; and
  - (b) use its income, assets and profit; for its objects.
- 4.3 NUS must not distribute any of its profit, income or assets directly or indirectly to members or officers.
- 4.4 C4.3 does not prevent NUS from paying members and officers:
- (a) reimbursement for expenses properly incurred by them, and
  - (b) for goods supplied and services provided by them, if this is done in good faith on terms no more favourable than if he member or officer were not a member or officer.

## **PART 3 – MEMBERSHIP**

### **C5. Members**

The members of NUS are:

- (a) the member organisations
- (b) the associate members, and
- (c) the individual members.

### **C6. Qualifications**

*Sch. 1*

The qualifications that are a prerequisite to being admitted to membership of NUS are that:

- (a) a member organisation is an organisation that represents all or some of the students of an Australian post- school institution, as specified in the regulations.
- (b) associate member is an organisation that is not qualified to be a member organisation, but that is qualified to be an associate member, as specified in the regulations; and
- (c) an individual member is an officer specified in the regulations to be an individual member.

### **C7. Admission**

Admission to membership is governed by the regulations.

### **C8. Fees and Subscriptions**

*Sch. 2*

8.1 There are no entrance fees payable by member organisations.

- 8.2 Each member organisation must pay an annual subscription amount equal to the EFTSLs of the students represented by that member organisation multiplied by:
- (a) In 2004, \$5.00; and
  - (b) After 2004, the amount for the previous year multiplied by the All Groups Consumer Price Index (CPI) published by the Australian Statistician for the previous calendar year or if a lesser amount is determined by resolution of the National Executive in accordance with the Regulations, that lesser amount.
- 8.3 The amount of any entrance fee, subscription or other charge payable by associate members must be set in the Regulations.
- 8.4 There are no entrance fees, subscriptions or other charges payable by individual members.

## **C9. Rights, Obligations and Liability**

*Act 50, 48, 51; Sch. 3*

- 9.1 Only member organisations are entitled to vote.
- 9.2 Associate members and individual members are not entitled to vote.
- 9.3 Under section 50 of the Act, NUS must comply with the rules of natural justice in adjudicating on any dispute between:
- (a) members, or
  - (b) NUS and a member or members in relation to the rights of members under this constitution.
- 9.4 Members must comply with this constitution and the other rules of NUS.
- 9.5 Under section 48 of the Act, this constitution is an enforceable contract between NUS and each member.
- 9.6 Members have no liability to contribute towards payment of:
- (a) the debts and liabilities of NUS, or

(b) the costs, charges and expenses of winding up NUS, except for any unpaid subscriptions or other charges under C8.

**C10. Discipline**

*Sch. 4*

NUS may not discipline members.

**C11. Cessation**

Cessation of membership is governed by the regulations.

**C12. Register of Members**

*Act 67(1); Reg. 10*

Under section 67(1) of the Act and regulation 10 of the Regulations, NUS must keep and maintain a register of members, in which are entered:

- (a) NUS' name
- (b) the name and address of each member,
- (c) the date on which each member became a member, and
- (d) the date (if any) on which each member ceased to be a member

## **PART 4 – GENERAL MEETINGS**

**C13. National Conference**

13.1 For the purposes of the Act, meetings of National Conference are general meetings of NUS.

13.2 National Conference is constituted in accordance with the regulations.

**C14. Annual General Meeting**

*Act 69, 73*

- 14.1 For the purposes of the Act, the annual meeting of National Conference is the annual general meeting of NUS.
- 14.2 Under section 69 of the Act, NUS must hold an annual general meeting:
- (a) once in each calendar year, and
  - (b) within 5 months of the end of its financial year.
- 14.3 Under section 73 of the Act:
- (a) the audited statement of accounts for the last financial year,
  - (b) the auditor's report on those accounts, and
  - (c) a report signed by 2 members of National Executive, must be presented to the annual general meeting.

## **C15. Convening and Conduct**

### *Sch. 6*

NUS must make regulations for the following matters in relation to meetings of National Conference:

- (a) the frequency with which meetings are to be convened (in addition to the annual meeting under C14)
- (b) the way in which meetings, including special meetings, are to convened;
- (c) the procedure to be followed;
- (d) the quorum
- (e) whether or not voting by proxy is allowed; and
- (f) the time within which and the manner in which notices of meetings and notices of motion are to be given, published or circulated.

## **C16. Amendment of Constitution**

### *Act 30, 33, 70*

- 16.1 Under sections 30(1) and 33(1) of the Act, this constitution may only be amended by special resolution.

- 16.2 Under section 70 of the Act, a special resolution is only passed if:
- (a) at least 21 days notice of:
    - (i) the meeting, and
    - (ii) intention to propose the resolution as a special resolution, has been given to all members; and
  - (b) the resolution is passed by a three- quarters majority of votes cast.
- 16.3 Under sections 30(2) and 33(2) of the Act, NUS must within 1 month after the special resolution is passed lodge with the Registrar- General a notice in the approved form.
- 16.4 Under sections 30(3) and 33(5) of the Act, an amendment to this constitution is of no effect until the notice has been lodged.
- 16.5 Once the notice has been lodged, the amendment is deemed to have come into operation at the time the special resolution was passed, unless the special resolution provides otherwise.

#### **C17. Regulations**

- 17.1 National Conference may by resolution passed by a three-quarters majority of votes cast make regulations to give effect to this constitution.
- 17.2 Regulations may be made by postal ballot, as well as at a meeting.

#### **C18. By-Laws**

- 18.1 National Conference may by resolution passed by a simple majority of votes cast make by-laws to give effect to this constitution and the regulations.
- 18.2 By-laws may be made by postal ballot, as well as at a meeting.

## **PART 5 – THE COMMITTEE**

### **C19. National Executive**

*Act 60; Sch.5.1*

- 19.1 For the purposes of the Act, National Executive is the committee of NUS.
- 19.2 National Executive is constituted in accordance with the regulations.
- 19.3 Under section 60(2) of the Act, National Executive has the management of NUS.
- 19.4 National Executive may exercise all powers of NUS on its behalf, subject to C19.5.
- 19.5 National Executive is subject to direction by National Conference.

### **C20. Election, Term of Office and Vacancy**

*Act 60; Sch. 5.1*

- 20.1 NUS must make regulations for the following matters in relation to members of National Executive:
  - (a) their election or appointment,
  - (b) their term of office,
  - (c) the grounds on which their office becomes vacant, and
  - (d) the manner of filling casual vacancies.
- 20.2 Under section 62(1) of the Act, NUS must within 1 month of:
  - (a) a person becoming a member of National Executive;
  - (b) a person ceasing to be a member of National Executive; or
  - (c) a member of National Executive changing address lodge with the Registrar-General a notice in the approved form
- 20.3 Under section 62(2) of the Act, members of National Executive must within 1 month of changing address notify NUS

## **C21. Convening and Conduct of Meetings**

*Sch. 5.2(e)&(f)*

NUS must make regulations for the convening and conduct of meetings of National Executive, including:

- (a) the quorum, and
- (b) the procedure to be followed.

## **C22. Disclosure of Interest**

*Act 65*

22.1 Under section 65 of the Act, members of National Executive who have any direct or indirect financial interest in a contract or proposed contract with NUS must:

(a) disclose the nature and extent of the interest:

- (i) to the National Executive as soon as the interest becomes apparent to the member and;
- (ii) at the next annual meeting of National Conference;

(b) not take part in any decision of National Executive with respect to that contract, but may participate in any deliberations of National Executive with respect to that contract.

22.2 C22.1 does not apply to interests in a contract or proposed contract that arise only because the member of National Executive is an employee of NUS.

## **PART 6 – OFFICERS**

### **C23. Obligations and Liability**

*Act 51*

23.1 By nominating for election or accepting appointment, officers agree to comply with this constitution and the other rules of NUS.

- 23.2 Officers have no liability to contribute towards payment of:
- (a) the debts and liabilities of NUS, or
  - (b) the costs, charges and expenses of winding up NUS.

**C24. Duties**

- 24.1 Officers and former officers must not make improper use of:
- (a) their position, or
  - (b) information acquired by virtue of holding their position; so as:
  - (c) to gain, directly or indirectly, an advantage for themselves or any other person; or
  - (d) to cause detriment to NUS.
- 24.2 Officers must exercise their powers and discharge their duties:
- (a) honestly and in good faith;
  - (b) for a proper purpose;
  - (c) in the best interests of NUS; and
  - (d) with reasonable care and diligence

**C25. Indemnity**

NUS indemnifies its officers against any liability incurred by them in their capacity as officers, unless the liability arises out of conduct involving a breach of their duties to NUS:

- (a) under this constitution or the other rules of NUS, or
- (b) under any statute or at common law.

**C26. Public Officer**

*Act 57, 64(3), 59, 122(1)(a)*

- 26.1 Under section 57 of the Act, NUS must appoint a public officer, who:
- (a) lives in the ACT; and

- (b) s at least 18 years old
- 26.2 Under section 64(3) of the Act, NUS must fill any vacancy in the office of public officer within 14 days of the vacancy occurring.
- 26.3 Under section 59 of the Act, the public officer must within 1 month after:
  - (a) being appointed, or
  - (b) changing addresslodge with the Registrar-General a notice in the approved form.
- 26.4 Under section 122(1)(a) of the Act, a document, including legal process, may be served on NUS by leaving it at or posting it to the last notified address of the public officer.

## **PART 7 – FINANCIAL AND LEGAL**

### **C27. Financial Year**

*Sch. 7*

The financial year of NUS is from 1 October to 30 September

### **C28. Sources of Funds**

*Sch. 8.1*

The funds of NUS may be derived from subscriptions, interest and any other sources approved by National Conference or National Executive.

### **C29. Management of Funds**

*Sch.8.2; Act 71*

- 29.1 National Executive is responsible for the management of the funds of NUS.
- 29.2 Under Section 71 of the Act, NUS must keep accounting records:
  - (a) that correctly record and explain the transactions and financial position of NUS;

(b) in such a way that:

- (i) true and fair accounts can be prepared from time to time; and
- (ii) a statement of accounts can conveniently and properly be audited in accordance with Part V of the Act; and

(c) for at least 7 years after the transactions to which they relate were completed.

**C30. Expenditure and Cheques**

*Sch. 8.2 Act 57, 64(3), 59, 122(1)(a)*

30.1 All expenditure must be approved by at least 2 persons authorised in accordance with the regulations.

30.2 All cheques must be signed by 2 people authorised in accordance with the regulations.

**C31. Annual Statement of Accounts**

*Act 72*

Under section 72(1) of the Act, National Executive must cause a statement of accounts to be prepared in accordance with section 72(2) of the Act for:

- (a) audit in accordance with C32, and
- (b) presentation to the annual meeting of National Conference in accordance with C14.3.

**C32. Audit**

*Act 74, 76; Regs 12 & 13*

32.1 National Executive:

- (a) must appoint an auditor whenever there is a vacancy in the position;
- and

(b) may remove the auditor at any time, subject to the terms of engagement of the auditor.

32.2 Under regulation 12 and 13 of the Regulations:

(a) if NUS has gross receipts for a financial year exceeding \$500,000 the auditor must be appointed in accordance with sections 72(2) and 76(1) of the Act;

(b) if NUS has

(i) gross receipts, or

(ii) gross assets, at the end of financial year exceeding \$150,000 – the auditor must be appointed in accordance with sections 74(2) and 76(1) of the Act; and

(iii) C32.2(a) does not apply – the auditor must be appointed in accordance with sections 74(2) and 74(3) of the Act; or

(c) otherwise – the auditor must be appointed in accordance with section 74(2) of the Act.

32.3 Under section 74(1) of the Act, National Executive must take reasonable steps to ensure that the accounts for the last financial year are audited at least 14 days before the annual meeting of National Conference.

### **C33. Annual Return**

*Act 79*

Under section 79 of the Act, NUS must within 6 months of the end of its financial year lodge with the Registrar General an annual return in the approved form.

### **C34. Common Seal**

*Act 41(a); Sch. 9*

- 34.1 Under section 4(a) of the Act, the full name of NUS (including “Incorporated” or “Inc.”) must appear in legible characters on its common seal.
- 34.2 The common seal must be kept in secure custody in accordance with the regulations.
- 34.3 The common seal may only be used in accordance with the regulations.

**C35. Records**

*Sch.10,11;Act35(1), 67(2)(a)*

- 35.1 The records of NUS including its accounting records, securities and other documents, must be kept in secure custody in accordance with the regulations.
- 35.2 Under section 35(1) of the Act, NUS must give any member on request:
  - (a) a copy of this constitution as currently in force; or
  - (b) a copy of the deeds of any trust relevant to NUS
- 35.3 Under section 67(2)(a) of the Act, NUS must make the register of members available for inspection by members.
- 35.4 Under section 67(2)(a) of the Act, NUS must make the register of members available for inspection by members.
- 35.5 Except as provided in C35.2 and C35.3, the records of NUS may only be inspected by members in accordance with the regulations.

**C36. Validity of Acts and Decisions**

- 36.1 The acts and decisions of bodies established by NUS are not invalid by reason only of:
  - (a) a vacancy in membership (including a vacancy arising out of the failure to elect or appoint an original member),
  - (b) a defect or irregularity in, or in connection with, the election or appointment of a member, or

(c) a defect or irregularity in, or in connection with the election of the chair of a meeting

36.2 The acts and decisions of officers are not invalid by reason only of a defect or irregularity in, or in connection with, their election or appointment.

### **C37. Winding Up**

#### *Act Part VII*

37.1 NUS may be wound up voluntarily by special resolution in accordance with section 88 of the Act.

37.2 If NUS is:

(a) wound up:

(i) voluntarily, or

(ii) by a court; or

(b) its incorporation is cancelled the remaining assets of NUS must not be distributed to any member.

37.3 Instead the remaining assets must be given to a body that:

(a) has similar objects to NUS; and

(b) also prohibits the distribution of profit, income and assets to its members to at least as great an extent as this constitution; subject to the Act.

37.4 The body referred to in C37.3 should be decided by special resolution.

37.5 If it is impracticable to pass a special resolution, National Executive may decide the body.

37.6 In C37.3-37.5, "body" includes trust and fund

### **C38. Interpretation**

38.1 In this constitution, unless the contrary intention appears:

(a) "the Act" means the Associations Incorporation Act 1991 of the ACT;

- (b) “the ACT” means the Australian Capital Territory;
- (c) “the by-laws” means the by-laws of NUS made under C18;
- (d) “EFTSLs” means equivalent fulltime student load based on the most recent available data from the Commonwealth Government, post-school institutions and member organizations;
- (e) “member” means member organisation, associate member and individual member;
- (f) “National Conference” has the meaning given in C13;
- (g) “National Executive” has the meaning given in C19;
- (h) “NUS” has the meaning given in C2.1;
- (i) “Officer” means a person holding an officer created by NUS, and includes members of National Executive and other committees established by NUS, but not members of staff;
- (j) “postal ballot” includes a ballot conducted by electronic means;
- (k) “the Registrar-General” means the Registrar-General of the ACT
- (l) “the regulations” means the regulations of NUS made under C17
- (m) “the Regulations” means the Associations Incorporation Regulations of the ACT;
- (n) “rules of NUS” means this constitution, the regulations, the by-laws, and all other rules declared by the regulations and the by-laws to be rules of NUS; and
- (o) “special resolution” has the meaning given in section 70 of the Act.

38.2 A reference to “C” followed by a number or a number and letters is a reference to the correspondingly numbered provision of this constitution.

38.3 Where the constitution requires or permits a matter to be prescribed in the regulations, that matter may instead or in addition be prescribed in the by-laws and other rules of NUS.

- 38.4 For the purposes of the Act, C3 is the statement of the objects of NUS, and the other provisions are its rules
- 38.5 This constitution is intended to include all matters in relation to which the model rules prescribed under section 127(1)(a) of the Act make provision, with the intention that none of the model rules apply to NUS.
- 38.6 This constitution is to be interpreted in accordance with the Interpretation Act 1967 of the ACT as if this constitution were an Act of the ACT, unless the contrary intention appears.

**C39. Commencement**

This constitution is deemed to have come into operation at the time the special resolution adopting this constitution was passed, subject to sections 30(3) and 33(5) of the Act.