# Part Six: Additional Process Provisions

**This section will cover**

* Finance
* Record keeping
* Liquidation and removal from the register
* Indemnity
* Alterations to the Constitution
* Bylaws

## Financial Year and Financial Statements

1. **What our Constitution says right now**

The current constitution outlines in Part 6, Rules 18 and 19, the financial year for the Assembly and the requirements for financial statements.

1. **Why this is important and our proposed approach**

The act requires the Constitution to set out how the Assembly will control and manage its finances.

1. **What the proposed Constitution will say**
   1. **Managing Assembly Funds:** how funds are controlled and managed
   2. **Authority to borrow funds:** that the Society may borrow money only in accordance with a resolution of the members in General Meeting (as per the current constitution)
   3. **Balance date:** the balance date of the Assembly is 30th June.
   4. financial statement requirements
   5. **No personal financial gain:** that no personal financial gain is allowed – this clause will include details of exceptions to this (e.g. payment to employees or contractors, payments for goods or services, meeting fees for NEC members, and reimbursement of any reasonable out of pocket expenses).

## Record keeping

1. **What our Constitution says right now**

Although there are many governance and operation practices in the Constitution, there is no provision in the current constitution on record keeping for the Assembly.

1. **Why this is important and our proposed approach**

The Act requires the Assembly to hold information about particular matters, and it requires the Assembly to have that information available to members in certain circumstances.

The Assembly keeps minutes of meetings, holds a database on members details, and keeps a record of the interests of NEC members. This section will outline those details and confirm when that information will be made available to members on request.

Sections 80, 81, and 82 of the Act require the Assembly to have processes for responding to requests for information from members. These requests relate to requests for information that is not found in minutes, reports, and financials. Any member can request information from the Assembly, and the Assembly must consider and respond to that request. However, the Assembly can refuse the request, withhold the information from the member, and/or charge for the requested information.

1. **What the proposed Constitution will say**
   1. **Requesting information:** members can request information from the Assembly in writing
   2. **Responding to members’ requests for information:** If the information requested relates to any meeting of the members’ or an NEC meeting, then the NEC must provide this information in a reasonable timeframe with no charge. If the information requested is not related to a meeting of the members or an NEC meeting, then the NEC can decide to:
      1. provide the information; or
      2. agree to provide the information within a specified period; or
      3. agree to provide the information within a specified period if the Member pays a reasonable charge to the Assembly (which must be specified and explained) to meet the cost of providing the information; or
      4. refuse to provide the information, specifying the reasons for the refusal.
   3. **Withholding or refusing the request:** The NEC may withhold or refuse to provide the requested information in certain circumstances. These are outlined in the Act as follows:
      1. withholding the information is necessary to protect the privacy of natural persons, including that of deceased natural persons;
      2. the disclosure of the information would, or would be likely to, prejudice the commercial position of the society or of any of its members;
      3. the disclosure of the information would, or would be likely to, prejudice the commercial position of any other person, whether or not that person supplied the information to the society;
      4. the information is not relevant to the operation or affairs of the society; or
      5. the request for the information is frivolous or vexatious.
   4. **Withdrawing a request for information:** A member may at any time withdraw their request for information.

## Liquidation and removal from the Register

1. **What our Constitution says right now**

The constitution states the Assembly may be wound up in a manner that is consistent with the Act and how the surplus assets will be applied after dissolution.

1. **Why this is important and our proposed approach**

The proposed approach is to strengthen this clause by requiring that dissolution or winding up must be passed by a Special Resolution. The Act refers only to passing resolutions by the members to put the Assembly into liquidation or to remove it from the Register.

1. **What the proposed Constitution will say**
   1. **Resolution of the members to liquidate or remove from the Register**: a resolution of members to liquidate or remove the Assembly from the Register should be passed by special resolution of a quorate meeting of the members.
   2. **Consultation with members:** Members will be consulted on any proposed resolution to liquidate or removal from the Register of the Assembly. This consultation should be done prior to a notice of meeting to consider the resolution.
   3. **Compliance with the Act:** in all other regards to the liquidation or removal of the Assembly from the Register, the Assembly will work in a manner prescribed by the Act.

## Insurance and Indemnity

1. **What our Constitution says right now**

There is nothing in the Constitution about indemnity or insurance.

1. **Why this is important and our proposed approach**

The Assembly may indemnify or insure its Officers (NEC and CEO) for any breach of officers’ duties. If the Assembly wish to provide insurance and indemnify the Assembly’s officers, then this must be clearly stated in the constitution.

It is important for the Assembly to insure and indemnity its Officers, because the Act introduces clear expectations of the Officers of the Assembly and each Officer must declare that they are eligible to be in Office. In order to protect the Assembly and its officers, it is proposed that the Constitution include a rule about insurance and indemnity, which provides clarity about who is responsible for any breach of officers’ duties. Indemnity will also apply to employees who meet the requirements of being an Officer.

1. **What the proposed Constitution will say**
   1. **Indemnity:** that the Assembly indemnifies its employees, the NEC and each of the NEC’s Officers except in the case of wilful default or fraudulent acts or omissions.
   2. **Insurance:** The Assembly may take insurance that covers the indemnity for employees, the NEC, or any Officers.

## Alteration to the Rules

1. **What our Constitution says right now**

The current constitution states the Constitution may be amended by special resolution at any meeting of the Assembly, that the changes cannot be in conflict with the charitable nature of the organisation, and that any changes must be registered in accordance with the Act. A special resolution is one approved by 75% of the members at a general meeting.

1. **Why this is important and our proposed approach**

It is important that any changes to Rules are considered and approved by a majority of members, because these changes impact on their membership of the Assembly. In the past, any updates to the rules have been made by remit to Annual General meetings. These rules will confirm what rules can be changed. Requiring that these amendments are supported by a Special Resolution ensures that members given proper consideration before any changes are made to the rules of the Assembly.

The proposed approach is to maintain the special resolution threshold, and set out how a remit for rule changes should be made.

1. **What the proposed Constitution will say**
   1. **Changes to the rules:** changes to the rules of the Assembly can be made by special resolution of any general meeting of the members.
   2. **Proposed changes:** to bring a special resolution, the member can bring these in accordance with the rules of bringing a resolution under General Meetings. The Member must provide the resolution in a proper form and any evidence or supporting information to support the resolution.
   3. **The NEC may require additional information**: if the member/s do not provide the resolution in the proper manner, the NEC may request clarification on the resolution or require more information from the member before the motion is presented to the membership. The NEC must give clear reasons for the rejection and a clear request for more information.

## Bylaws

1. **What our Constitution says right now**

Schedule B, rule 7 outlines that the Committee may regulate its own procedure. Schedule B also generally outlines some of the roles and responsibilities of the NEC.

1. **Why this is important and our proposed approach**

Bylaws are primarily used by the NEC to confirm procedures that may not be covered by the Rules, policies that apply to the NEC, and any delegations the NEC might grant to its CEO or management team. The Assembly’s constitution does have any provisions for the NEC to pass by-laws or set policies. It is recommended the Constitution allows for the Assembly to develops bylaws to strengthen its governance practices.

The Bylaws will cover some items that are currently covered in the Constitution, meaning these parts of the constitution will be removed. The Bylaws will be developed by the NEC and will apply to the Committee and members.

1. What the proposed Constitution will say
   1. **Bylaws of the Committee:** The NEC is empowered to outline its role and responsibilities and any policies and procedures that govern how the NEC works. These bylaws apply to the NEC and members of the Assembly.