

Procedure for Updating Club Constitutional Documents Rotary District 9650 – July 2016

Introduction

The Rotary International (RI) Council on Legislation is held every 3 years. The most recent was in April 2016. The Council considers a multitude of suggestions for changes to RI's core documents and, after several days of deliberations, amendments to these documents are finalised. This most recent Council has produced a number of changes to the standard Rotary club constitution, which now need to be incorporated into each club's Constitution. Also, the Council on Legislation has permitted clubs to adopt provisions in their constitutions which depart from the "standard" on matters relating to regularity of meetings, membership and attendance. While D9650 has provided a recommended set of Bylaws, clubs should understand that they have the capacity to set their own rules in these areas.

From time to time there are also amendments to the laws of NSW and Australia which require Rotary clubs to amend their Constitutions. This year there have been amendments to the *Associations Incorporation Act 2009 (NSW)* ("the Associations Act") – some of which have already come into force, others of which will likely come into force on 1 September 2016 – and new regulations (the *Associations Incorporation Regulation 2016 (NSW)*) are scheduled to commence on 1 September 2016. While the regulations are still to be finalised, the matters with which they will deal and the general nature of the provisions are already known. Therefore, this document and the other documents to which you are referred in this guide incorporate the changes likely to be brought about by the new legislation.

The process

The updating/amending of a Rotary club's constitutional documents should incorporate several elements:

- First, encourage members of the club to understand the relationship between the core documents mandated by RI and the D9650 recommended documents which have been drafted to comply with NSW and Australian law;
- Secondly, engage the members of the club in consultation about the options available to them to structure their club, including its office holders and committees, meeting procedures, membership categories and attendance requirements, in their desired way, while still being compliant with the mandatory RI documents;
- Thirdly, prepare revised club bylaws which reflect the decisions made by members during the consultation process;
- Fourthly, present the RI mandatory constitution and revised club bylaws as a consolidated Club Constitution at a general meeting of the club for adoption by special resolution;
- Fifthly, once the club's updated Constitution is passed, register it with the Commissioner for Fair Trading.

It would ordinarily fall to the club secretary to undertake the tasks involved in this process, however, it is suggested that all Board members should facilitate the process by assisting the secretary wherever possible.

Starting the process – gathering the information

The first step is to download **from the D9650** website the following documents which are held in the Administration section of D9650's Documents Library:

<http://www.rotary9650.org.au/documents-library>

1. Club Constitution 2016 annexure cover & front page 31072016.

2. Club Constitution 2016 (RI & NSW law compliant) 31072016.
3. D9650 2016 Recommended Bylaws 31072016.
4. [2016 Essential Changes](#) from the Council on Legislation for Clubs & Districts – this provides a very brief summary of the major changes brought about by the Council on Legislation.
5. A Rotary club as an Incorporated Association 31072016 – this provides information regarding the management of a Rotary club to ensure compliance with the Associations Act.

You may also refer to the documents on the RI website, however, please note that there are some provisions of the RI recommended bylaws which are not consistent with those required by NSW law – the latter must prevail and the documents referred to above are adapted for that purpose.

Adapting the information

The Word documents you download need to be completed by inserting certain basic information: your club's name, meeting time, location etc. These details are required in documents 1 & 3. Document 2 is locked because clubs are not allowed to make any alterations. Insert the required details in the Word documents and then save them. Then save them again as pdf documents. The page numbering in documents 1, 2 and 3 is set up so they are consecutive. Once you have done this, all five documents are ready for distribution to your members, the first three as the draft constitutional documents and documents 4 & 5 as explanatory documents.

Distributing the information

The next step is to distribute to the members (the method of distribution is up to you, but you must ensure it is received by all members) these five documents. Use the pdf documents or, if your club still uses paper, print out and distribute.

You cannot just say: "Please see the attached." This will not engage your members in the task to be completed.

You need to say something along the lines of:

As a result of the 2016 RI Council on Legislation and amendments to the laws of NSW, our club Constitution must be updated. The RI Standard Constitution (which cannot be altered) and the D9650 Recommended Bylaws, incorporating the basic details of our club name, meeting times etc have been prepared and are attached for the consideration of members as our draft constitutional documents.

However, there is a great deal of flexibility allowed to our club to determine how it wishes to operate, including matters concerning its office holders and committees, meeting procedures, categories of membership and attendance requirements. Attached also are two other documents which explain the major changes brought about by the 2016 Council on Legislation and the role of the club as an incorporated association under the law of NSW.

It is intended to hold a club assembly at our meeting on [insert a date a couple of weeks away] for members to discuss the form of the club Constitution and, in particular, whether extra or different provisions should be inserted in the bylaws in those areas where the club has the capacity to depart from the standard Rotary position. Please consider the attached documents in preparation for that meeting.

If necessary, that discussion can continue at the club meeting following.

After those discussions are completed, revised Bylaws will be prepared for consideration at a General Meeting of the club at which a special resolution for the adoption of the new Constitution will be considered.

All members are encouraged to consider the attached documents and to participate in discussion leading to the formulation of this club's new Constitution.

Engaging in discussion

Before the club assembly at which discussions are to take place, someone on the Board should prepare a short presentation to explain what is required in the Constitution and to identify the areas where clubs may choose to depart from the Standard Rotary position. There are many subjects which might be covered in such a presentation. D9650 does not suggest that the presentation should take a particular form, however, a selection of those subjects is provided in Appendix 1 to this document.

At the club assembly, get all the other meeting requirements out of the way quickly so that sufficient time is allowed for the short presentation and discussion. Someone needs to take minutes of the discussion. This should not be the person who is leading the discussion. If at the conclusion of the meeting there are still matters which members wish to discuss, then put the matter over to the next meeting for further discussion.

While this club assembly is NOT the meeting at which the club's Constitution is finalised, the intention is that the members' views should be developed to a point whereby the secretary or other club officer who is assembling the final document can go away from this meeting and make any necessary changes to the previously distributed draft documents to encapsulate the members' views.

Revising the club's constitutional document

Once the discussions are complete, the provisional document distributed to the club will need to be revised to incorporate the consensus arising from those discussions. If no consensus was expressed on a particular subject, it is suggested that you do not amend the draft provision. You must ensure that any amendments are within the permitted flexibility allowed by RI and NSW and Australian law. If in any doubt, please contact the D9650 legal officer whose details are available on the D9650 website.

The revised document (comprising the RI mandatory Constitution and your now revised Bylaws) must be tabled at the next Board meeting for consideration, revision (if necessary) and approval. Of course, it is preferable if the final document meets with unanimous approval, but a simple majority is sufficient.

The document approved by the Board should be prepared for distribution to members with the title "Proposed Constitution of the Rotary Club of ** Inc" (obviously inserting your club's name in that title) in the form of a pdf format document or in hard copy, if still using paper.

Adoption of the new club Constitution

Following preparation of the Board-approved document, it needs to be adopted at a general meeting of the club. This can occur at the annual general meeting or at a specially convened general meeting (often referred to as an extraordinary general meeting).

Notice of the meeting needs to be given to members by publication in the club bulletin, by mail or by email. **The notice must be given to members (that means, received by them) not less than 21 days before the date of the meeting.** The notice must state that the meeting is to consider a special resolution for the adoption of a new Constitution, provide the text of that resolution, advise that the resolution requires the concurrence of 75% of the members attending and entitled to vote and provide a copy of, or a link to, the proposed Constitution. **(It is NOT sufficient to simply refer to the documents available on the D9650 website, as these are incomplete as to a club's name, meeting times, etc. The documents must be those developed by your club.)**

A suggested wording is as follows:

*Notice is hereby given of a general meeting of the Rotary Club of *** Inc. The meeting is to be held:*

- *on [insert date]*
- *starting at [insert time]*

- at [insert location]

to consider the adoption of an updated Constitution for the club.

The following special resolution will be put to the meeting:

*“That the Rotary Club of ** Inc adopts as its Constitution the document entitled “Proposed Constitution of the Rotary Club of ** Inc” attached to this notice/which may be found at [insert link to the document].”*

In order for the Constitution of the club to be updated, a special resolution of the club is required, that is, the resolution must be passed by not less than 75% of the members present and entitled to vote. Please note that no proxy, postal or electronic votes are permitted.

Registration of the constitution

Assuming the resolution is passed as required, the Associations Act requires registration with the Commissioner for Fair Trading for the new Constitution to come into effect. Take the following steps:

1. Update the front page of the document “Club Constitution 2016 annexure cover & front page 31072016” by inserting the date of adoption of the Constitution and the number of pages in the document;
2. Print the document;
3. Have the Public Officer sign (twice) and date (once) on the front page;
4. Copy this completed document;
5. Place the original document with the club’s records for safe keeping – consider scanning it and saving it digitally if your club stores its documents this way and also distributing a copy to each of the members.
6. Download the NSW Fair Trading form (Form A6):
<https://ablis.business.gov.au/nsw/Resource/AP4550h.pdf>.

Complete the form and submit the form, a copy of the complete new Constitution with cover sheet and the prescribed fee to NSW Fair Trading Registry Services or Service NSW as indicated on the form. The person completing the form must be the public officer or another member of the Board of the club.

You have now successfully updated your club’s Constitution.

Be prepared to do so again in 3 years time.

Appendix 1 – Suggested matters to include in presentation to club members

There has always been some flexibility for a club to adopt as part of its Constitution provisions which are tailored to the club's circumstances. As a result of the Council on Legislation in 2016, further matters previously strictly regulated by the RI Standard Constitution can now be varied by each club. It is therefore suggested that a presentation regarding the preparation of a new club Constitution following the 2016 Council on Legislation should identify these matters (at least):

1. the required "core" members of the Board – which now include the treasurer – and the capacity to include others – refer to the RI Constitution, Article 13 Section 7 and the D9650 recommended Bylaw 2;
2. attendance requirements for members may be varied by each club so that members with other commitments are not potentially excluded from membership because of those commitments;
3. the frequency of meetings may be reduced to occur twice each month;
4. categories of membership may be expanded beyond "active" and "honorary";
5. the method of holding meetings may be varied by a club, meaning that a club may choose to hold meetings in person, meetings via interactive online technology or a combination of both.