

8.2 GOOD SAMARITAN INDUSTRIES trading as Good Sammy Enterprises

NAME

- 8.2.1 The name of the instrumentality is Good Samaritan Industries trading as Good Sammy Enterprises, an agency of the Uniting Church in Australia Synod of Western Australia, a body corporate incorporated under the provisions of the Uniting Church in Australia Act 1976 (WA).

DEFINITIONS

- 8.2.2 In these By-Laws unless the context or subject matter otherwise indicates or requires: **"Act"** means the *Uniting Church in Australia Act 1976* (WA).

"Agency" means a body, whether incorporated or unincorporated, established by or on behalf of the Church for a religious, educational, charitable, commercial or other purpose.

"The agency" means GSI is Good Samaritan Industries trading as Good Sammy Enterprises, an agency of the Church.

"Board" is the board referred to in clause 8.2.5 below.

"By-Law" or **"By-Laws"** refers to or means the By-Laws of the Synod of Western Australia.

"Church" means the Uniting Church in Australia.

"member of the Church" means a confirmed member or a member-in-association of the Uniting Church in Australia.

"Moderator" means the Moderator for the time being of the Synod of Western Australia of the Uniting Church in Australia.

"Regulation" or "Regulations" refers to or means the Regulations of the Uniting Church in Australia.

"Standing Committee" means the Standing Committee of the Synod of Western Australia of the Uniting Church in Australia.

"Synod" means the Synod of Western Australia of the Uniting Church in Australia.

"Synod meeting" means an ordinary meeting or a special meeting of the Synod.

"written" and "writing" include communication by post or electronically.

INTERPRETATION

- (a) Headings are for convenience only and do not affect interpretation.
- (b) Mentioning anything after *includes, including,* or similar expressions, does not limit what else might be included.
- (c) The following rules apply unless the context requires otherwise.
 - i. The singular includes the plural, and the converse also applies.
 - ii. If a word or phrase is defined, its other grammatical forms have a corresponding meaning.
 - iii. A reference to a person includes a corporation, trust, partnership, unincorporated body or other entity, whether or not it comprises a separate legal entity.
 - iv. A reference to a rule is a reference to a rule of these By-Laws.

- v. A reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.

OBJECTS AND PURPOSES

8.2.3 The principal object and purpose of the agency is:

- (a) to build and maintain businesses, services and facilities which assist people with disabilities to develop skills and find and retain satisfying and rewarding work opportunities.
- (b) to work with employers to be 'disability confident' and create employment opportunities for people with disabilities.
- (c) to enable people with disabilities to develop personal, social and vocational skills that enhance their ability to gain and maintain meaningful employment;
- (d) to establish social enterprises to provide employment opportunities or funding for employment or other services for people with disabilities (e) to adopt any additional object from time to time of a public benevolent nature and consistent with the principal objects and purposes.

8.2.4 In fulfilling this object and purpose, the agency will be and remain an agency of the Uniting Church in Australia.

GOVERNANCE BOARD

- 8.2.5
- (a) The Synod, in accordance with its powers under Regulation 3.7.4.7, has established Good Samaritan Industries and appointed the Board to provide strategic direction, risk management and appropriate monitoring of management's performance including overall governance of the agency.
 - (b) The Board, subject always to the oversight and the relevant policies and standards of the Synod, will have the governance of and responsibility for the business and affairs of the agency.
 - (c) All members of the Board must be persons who have expertise, qualifications or experience appropriate to the needs of the agency and the oversight of the business and affairs of the agency and have a general working knowledge of the compliance requirements to be met by the agency and the Board and must embrace and support the core values and ethos of the Church as expressed in the Statement to the Nation delivered at its inaugural assembly in June 1977, and the Reconciliation Covenanting Statement from the 1994 Assembly.
 - (d) The Board shall monitor the skills mix of its membership and make recommendations to the Synod for the appointment of new members, who have expertise, qualifications or experience in relevant disciplines such that in aggregate the Board shall have an appropriate mix of skills and abilities appropriate to the governance of the agency, taking into account of the provision of clause S8.2.6 below.

MEMBERSHIP OF THE BOARD

- 8.2.6
- (a) The Board is appointed by the Synod and shall consist of not more than twelve and not less than six persons.
 - (b) The Chief Executive Officer of the agency shall be a member of the Board.

- (c) The Chairperson shall be appointed by the Board but may not be the Chief Executive Officer of the agency.
- (d) No other staff member of the agency, other than the Chief Executive Officer of the agency, is eligible to be appointed to the Board.
- (e) The Board may co-opt up to two persons, who have particular skills or expertise, to the membership of the Board for terms not exceeding twelve months and such co-opted members shall be eligible for re-appointment.
- (f) Synod-appointed members of the Board shall:
 - i. Hold office for up to three years from the date of appointment and will be eligible for reappointment except that such members of the Board may not serve for consecutive terms exceeding ten years.
 - ii. be selected and appointed primarily on their capacity and willingness to fulfil the role and shall:
 - A. where practicable, comprise two members who are confirmed members of the Uniting Church and are eligible to represent the Agency at meetings of the Synod; and
 - B. shall be appointed for such terms so that, as far as practicable, approximately one third of the members' positions fall vacant each year.
- (g) Where practicable, at least half the members of the Board will be members of the Church or another Christian denomination and, as far as possible, the Board membership should represent the diverse mix of the communities in which it operates.

VACANCIES

- 8.2.7
- (a) A casual vacancy occurs in the membership of the Board if a Board member:
 - i. dies;
 - ii. resigns by notice delivered to the Chairperson of the Board;
 - iii. is convicted of an indictable offence or becomes bankrupt;
 - iv. suffers any mental or physical incapacity which inhibits or prevents the member from continuing to act as a member of the Board;
 - v. fails to attend three consecutive meetings of the Board without leave or fails to attend at least 50% of the meetings in any calendar year without leave; or
 - vi. is removed from office by resolution of the Synod, it being expressly declared that the Synod is not required to state any reason for such resolution.
 - (b) In the event of a casual vacancy occurring in the membership of the Board, the Board may appoint a replacement member for the remainder of the term of the member replaced.
 - (c) If a casual vacancy occurs because the Synod failed to appoint any or all of the members of the Board, then where the casual vacancy arises due to the operation of S8.2.6(f)(i), subject to the relevant retiring member(s) agreeing to continue in office, the retiring member(s) may continue in office until such time as the Standing Committee removes and replaces those persons.

- (d) The Standing Committee may appoint persons to fill any or all of the ordinary vacancies.

OFFICERS AND COMMITTEES OF THE BOARD

- 8.2.8 (a) The Board will appoint a Deputy Chairperson, who will act as Chairperson in the Chairperson's absence and assume the powers and responsibilities of the Chairperson.
- (b) The Chief Executive Officer will act as Secretary of the Board.
- (c) The Board may appoint any other officers of the Board it deems necessary.
- 8.2.9 (a) The Board may appoint any committees it deems necessary and they may include staff and persons other than Board members.
- (b) The chairperson of any such committee will be a member of the Board.
- (c) Members of committees of the Board will be appointed annually.
- (d) The Chairperson and Chief Executive Officer are members of all committees of the Board and have the right to attend and participate in any committee meeting.
- (e) The Board will determine the mandate for any committee of the Board and may delegate any of its powers and authorities to such a committee (except for this power of delegation). The Board may determine the procedures of any committee and may, without stating any reason, revoke the powers and duties or terminate the appointment of any committee at any time or may remove from office any member of any committee. Committees will report to the Board periodically or when requested to do so by the Board.

RESPONSIBILITIES AND FUNCTIONS OF THE BOARD

- 8.2.10 The Board will be responsible for the governance of the agency including the appointment of the Chief Executive Officer, policy development, strategic planning, compliance and management oversight.
- 8.2.11 In relation to policy development, the Board will:
 - (a) determine and interpret policy consistent with the objects and purposes stated above; and
 - (b) oversee the implementation of policy approved by the Board
- 8.2.12 In relation to strategic planning, the Board will determine, oversee the implementation of and monitor a long-term strategic plan having regard to the objects and purposes of the agency.
- 8.2.13 In relation to compliance, the Board will:
 - (a) adhere to the standards prescribed by the Church from time to time;
 - (b) approve budgets for and oversee the management of the funds of the agency subject to the requirements of the Regulations, the Synod and any relevant funding authority;
 - (c) oversee all financial operations and accounting procedures and ensure that proper records and books of account are kept;
 - (d) determine compliance policies and monitor performance in relation to governmental, taxation and other legal obligations;

- (e) forward the annual report, auditor's report and audited financial statements of the agency to the Synod within four months following the end of the financial year; and
- (f) prepare and publish an annual report on the activities of the agency.

8.2.14 In relation to management oversight, the Board will:

- (a) approve and monitor an annual plan for the achievement of strategic goals;
- (b) obtain and consider reports on the management and programs of the agency ensure ongoing good governance;
- (c) approve policies for good governance and compliance;
- (d) ensure the agency meets or exceeds the expectations and standards required by Church and by funding bodies;
- (e) provide oversight of risk management for the agency's operations.

MEETINGS OF THE BOARD

- 8.2.15
- (a) The Board will meet at least six times each year.
 - (b) The procedures in the Church's *Manual for Meetings* apply as far as practicable to all meetings of the Board.
 - (c) The Chairperson of the Board will preside at all meetings of the Board. In the Chairperson's absence, the Deputy Chairperson will preside. In the absence of both the Chairperson and Deputy Chairperson, the Board will appoint one of its members to act as chairperson of the meeting.
 - (d) Minutes will be kept of all meetings of the Board and the minutes will be confirmed by the next succeeding meeting of the Board and signed by the chairperson of that meeting.
 - (e) The Chairperson may at any time, when considered necessary and will if requested to do so in writing by the Synod or by the Standing Committee or by three members of the Board (which writing will specify the purpose for which the meeting is convened), call a special meeting of the Board.
 - (f) At least seven days written notice of every Board meeting will be given to all members of the Board but if the Chairperson considers an emergency exists a special Board meeting may be convened on shorter notice.
 - (g) The quorum for meetings of the Board will be the next whole number above half the current membership of the Board.
 - (h) The Chairperson of a meeting has a casting vote in the event of an equality of votes.
 - (i) The Board has the power to invite any person to attend and speak at a Board meeting.
 - (j) The Board may make decisions by a circular or electronic poll of all the members, provided that no decision of such a poll is binding unless a number equal to or greater than the quorum for a Board meeting votes and there are no dissenting votes.
 - (k) each Board member consents to the use of each of the following technologies for holding a Board meeting:
 - i. video;
 - ii. telephone;

- iii. electronic mail;
 - iv. any other technology which permits each Board member to communicate with every other Board member; or
 - v. any combination of these technologies.
- (l) the participating Board members are, for the purpose of every provision of these By-Laws concerning meetings of the Board, taken to be assembled together at a meeting and to be present at that meeting; and
- all proceedings of the Board conducted in that manner are as valid and effective as if conducted at a meeting at which all of the participating Board members were physically present in the one location.

FEES AND EXPENSES

- 8.2.16 (a) Board members (excluding any person that is a board member by virtue of their holding a paid employment position with the agency or the Uniting Church in Australia) are entitled to be paid a fee:
- i. in a fixed amount per annum that is determined by a special resolution of the Board and approved by the Synod Standing Committee;
 - ii. in the form of non-cash benefits that are determined by special resolution of the Board; or
 - iii. comprising a combination of (a) and (b).
- (b) Any permitted remuneration of a Board Member must be in line with and not exceed the then current remuneration guidelines and policies applicable to an organisation of the type and kind of the agency or in the absence of any such guidelines and policies, those nearest to the type and kind of the agency.
- (c) Following each annual review by the agency Board, should the adjustment be beyond the Australian Consumer Price Index, the Board will recommend the proposed Board Member Fees for endorsement by the Standing Committee.
- (d) A Board member may elect not to receive any Fees he/she is entitled to under clause 8.2.16(a).
- (e) The agency may pay a Board member (in addition to any payment pursuant to 8.2.16(a) any extraordinary expenses (including travelling and accommodation expenses) incurred by the Board member:
- i. in attending meetings of the Synod, the Board, or a committee of the Board;
 - ii. on the business of the agency; or
 - iii. in carrying out duties as a Board member.

VOTING RIGHTS

- 8.2.17 (a) A meeting of the Board of which notice has been given to all Board members and at which a quorum is present is competent to exercise any of the authorities, powers and discretions for the time being vested in or exercisable by the Board.
- (b) Subject to these By-Laws, questions arising at a meeting of the Board are decided (where there is more than one Board member) by a majority of votes of Board members present and voting.

CONFLICT OF INTEREST

8.2.18 A member of the Board or of any committee of the Board who has any direct or indirect pecuniary or beneficial interest, or whose unfettered or independent judgment could be perceived as impaired by any contractual, business or other relationship, in a matter being dealt with by the agency or the Board must, as soon as the member becomes aware of that interest or relationship, disclose to the Board the nature and extent of that interest or relationship. The Board or any committee of the Board will then determine whether the extent of the interest or relationship disclosed is such that the member should not participate in, vote on, or be present during any debate on that matter. The Board or any committee of the Board shall minute its decision and record the conflict of interest on a register kept for that purpose.

THE CHIEF EXECUTIVE OFFICER

- 8.2.19 (a) The Chief Executive Officer is appointed or re-appointed by the Board, with the prior approval of the Synod or the Standing Committee.
- (b) The Chief Executive Officer will preferably be a member of the Church or a confirmed member of some other Christian denomination and be willing to participate in the life of the Church.
- (c) The Chief Executive Officer is appointed, or re-appointed, for such period as the Board may determine, by way of an employment contract which will detail all conditions and terms of the appointment which the Board deems necessary. [If the Chief Executive Officer is a minister of the Church, the Board may request the Synod to recognise the position as a placement.]
- (d) The Chief Executive Officer's appointment is terminable at any time in accordance with the employment contract:
- i. in the event of the serious illness or incapacity of the Chief Executive Officer;
 - ii. with or without cause; or
 - iii. in accordance with any employment contract between the agency and the Chief Executive Officer

save that no termination will be effective unless notice of the proposal for termination is given in the notice convening the meeting at which it is intended to consider and resolve the proposal for termination. If the Chief Executive Officer is a minister in placement, then the appropriate procedures of the Church will apply to the termination of the Chief Executive Officer's appointment.

8.2.20 The Chief Executive Officer:

- (a) is accountable to the Board for leading the activities and programs of the agency.
- (b) has the power, subject to the oversight of the Board, to appoint and dismiss all staff, direct the day-by-day operations of the agency, and to take any reasonable action, consistent with established Board guidelines and the objects and purposes of the agency, to ensure the agency achieves satisfactory outcomes in all areas of management and operation.
- (c) shall attend all meetings of the Board unless excused by the Board.
- (d) will submit to each meeting of the Board a report on the implementation of the Board's policies and strategies and the activities of the agency.

- (e) will retire from any Board meeting for such time as matters concerning their own interests are under discussion.
- 8.2.21 (a) The Board establishes performance criteria for the Chief Executive Officer and ensures appropriate support and review processes are implemented.
- (b) The Board determines the limits of delegation of responsibility to the Chief Executive Officer, to be signed off by both the Chairperson of the Board and the Chief Executive Officer.

VISITOR

- 8.2.22 The Moderator is the Visitor to the agency. Without limiting the rights and authority of the Moderator under Reg 3.4.7 (e), the Visitor has the right and authority to:
- (a) visit any centre or activity of the agency;
 - (b) attend any meeting of the Board, call a meeting of the Board, and chair any meeting of the Board whether or not called by the Visitor;
 - (c) examine the affairs of the Board and the manner in which the agency is being conducted;
 - (d) see that the laws, rules, regulations and by-laws of the Commonwealth of Australia, the State of Western Australia, the Church and the Synod are being duly observed and executed;
 - (e) interpret the meaning of these By-Laws and any other matter relating to the agency on which these By-Laws are silent; and
 - (f) suspend the Board if, in the opinion of the Visitor, the interests of the Church and the agency so require and to appoint persons to carry out the functions of the Board until the Synod reinstates or replaces it.

HOLDING OF REAL AND PERSONAL PROPERTY

- 8.2.23 (a) All real and personal property of the agency is held in the name of the agency.
- (b) The Board itself, for the purposes of the Regulations and By-laws of the Church, carries out the responsibilities of management and administration of the real and personal property of the agency.
- (c) Without in any way prejudicing, limiting or affecting the provisions of sub-clause (b) above or any power contained in the Act, any moneys of the agency requiring investment may be invested in the name of the agency in any real or personal property or in a form of investment the Board from time to time considers to be in the interests of the agency, with power to the Board, from time to time, to vary by resolution any such investment.

FINANCIAL AFFAIRS

- 8.2.24 (a) The assets and income of the agency will be applied solely in furtherance of its objects and purposes. No portion of the assets and income will be distributed directly or indirectly to any person except as reimbursement of out-of-pocket expenses incurred or as bona fide remuneration for services actually rendered or as payment for goods supplied to the agency in the ordinary and usual course of business.
- (b) Full and proper accounts will be kept of all moneys received and expended by the agency and the manner in respect of which such receipts and expenditure took place, and of all assets and liabilities of the agency, in accordance with Regulations 3.8.7.

- (c) The financial year of the agency will end on the 30th day of June in each year.
- (d) All receipts and expenditure will take place from bank accounts in the name of the agency and operated on the signature of the authorised signatories appointed by the Board from time to time.

GIFT FUND

- 8.2.25 (a) The Board will establish and oversee a separate gift fund solely for the receipt of gifts or donations, or moneys received because of any gift or donation. The Board will ensure that moneys in the gift fund are only used for the principal objects and purposes of the agency.
- (b) If the gift fund is wound up, or the endorsement of the agency as a deductible gift fund recipient is revoked, any surplus assets of the gift fund remaining after the payment of liabilities attributable to it will be transferred to a fund, authority or institution to which tax deductible gifts can be made.

AUDITOR

- 8.2.26 The Board will appoint each year an Auditor or Auditors, qualified or eligible in accordance with Regulation 3.8.7 (e) and (f).

INDEMNITY AND ACCESS

- 8.2.27 Any person acting under the express or implied authority of the agency (including, without limitation, Board Members, the Chief Executive Officer and any employee of the agency) (indemnified person) shall be indemnified against all expenses and liability for any matter or thing done or liability incurred except if the liability arises out of or is incurred as a result of the indemnified person's fraud, criminal act, gross negligence or wilful misconduct.
- 8.2.28 The Board, in addition to the general powers conferred upon it by this Constitution and the provisions of the Act, may effect policies of insurance to ensure that the indemnity given by this clause is effective.
- 8.2.29 Where the Board considers it appropriate, the agency may:
- i. give a former member of the Board access to certain papers, including documents provided or available to the members of the Board and other papers referred to in those documents; and
 - ii. bind itself in any contract with a member of the Board or former member of the Board to give the access.

EXECUTION OF BINDING DOCUMENTS

- 8.2.30 The Board will execute binding documents by ensuring they are signed by:
- i. two Board Members, or
 - ii. a Board Member and the CEO, as Secretary of the Board.

DISSOLUTION OF THE AGENCY

- 8.2.31 The agency may be dissolved on the decision of the Synod, either at the request of the Board or after consultation with the Board. If, on the closure of the agency, any assets remain after the satisfaction of all debts and liabilities and the costs, charges and expenses of the closure, those assets shall be paid to another instrumentality of the Church or to such trusts as the Synod directs that has been recognised by the Deputy Commissioner of Taxation as a Public Benevolent Institution under Section 78(i) or (ii) of the Income Tax Assessment Act 1936 as amended.

TERMINATION OF INCORPORATION

- 8.2.32 (a) The incorporation of the agency may be terminated by the Synod and will be terminated following the closure of the agency, in accordance with section 35 of the Act.
- (b) Upon the incorporation of the agency being terminated as provided for above, the agency thereupon ceases to be a body corporate and all land and other property held by or belonging to or vested in it will be dealt with in accordance with section 36 of the Act.

AMENDMENTS TO THESE BY-LAWS

- 8.2.33 (a) These By-Laws may only be amended in accordance with By-Law 1.2.1.
- (b) These By-Laws may only be repealed in accordance with By-Law 1.2.8.
- (c) The Board may submit a request to the Synod for the amendment of these By-Laws.
- (d) Any amendment to these By-Laws will be advised to the Commissioner of Taxation and the Australian Charities and Not-for-Profits Commission.