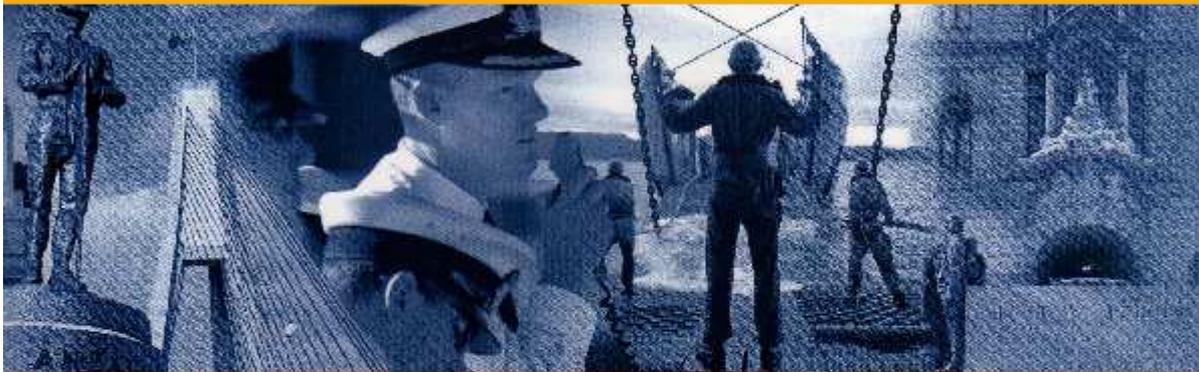




THE RETURNED AND SERVICES LEAGUE OF AUSTRALIA (NEW SOUTH WALES BRANCH)



PROPERTY & FINANCE REGULATIONS 2013

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RSL NSW

**PROPERTY AND FINANCE
REGULATION**

Prepared by:

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Foreword

General

1. This publication is designed to assist sub-Branch and subsidiaries with all aspects of the Property and Finance requirements of RSL NSW. The document brings together the required information in one reference.

Scope

2. This publication contains seven chapters, each of which describes the appropriate requirements in full, or directs the reader's attention to the appropriate publication or reference.

Gender

3. This publication has been prepared with gender-neutral language.

Associated Publications

4. This Regulation should be read in conjunction with the other publications, Acts or Regulations shown below. Sub-Branch Trustees, Executives and Committees have a statutory responsibility to comply with the following :

- a. The Constitution and By-Laws of the RSL (NSW Branch), hereinafter referred to as 'The Constitution'.
- b. The NSW Trustee Act 1925.
- c. The NSW Fair Trading Act 1987.
- d. The NSW Fair Trading (General) Regulation 2002.
- e. The NSW State Records Act 1998.
- f. The NSW Liquor Act 2007.
- g. The Australian Taxation Office Regulations.
- h. The Department of Gaming and Racing Charitable Fundraising Act 1991.
- i. The Privacy Act 1988.
- j. Australian Accounting Standards.
- k. International Financial Reporting Standards (IFRS).

- l. Common Law.
- m. N. E. Renton “Guide for Meetings and Organisations” Volume 2.
- n. N. E. Renton “ Clubs and Non-Profits - Keeping the Books”.
- o. RSL NSW Protocol and Procedures Regulation.
- p. RSL NSW Circulars, issued from time to time.

Amendment Certificate

1. Proposals for amendments or additions to the text of this publication should be made through District Councils, to the State Secretary. Authorised amendments to this publication will then be distributed to sub-Branches under cover of a RSL NSW Circular.
2. It is certified that the amendments promulgated in the undermentioned amendment lists have been made to this publication.

Amendment List		Amended By (Name)	Date Amended
Number	Date of Endorsement		
1	SC Min 4/12.3	JAB	24/08/12

Note: Sections amended are signified by a black bar in the right-hand margin and the amendment list number at the bottom left of the page.

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CHAPTER 1

SUB-BRANCH TRUSTEESHIP

DUTIES AND RESPONSIBILITIES

General

1.1 A sub-Branch Trustee's duties and responsibilities arise from several sources, including the Trust instrument itself (The Constitution and By-Laws) and The Common Law and Acts of Parliament (The Trustee Act).

1.2 A Trustee is an honoured and financial member in a sub-Branch. They are generally appointed by their fellow members because they see the person as a custodian of their interest in their sub-Branch and a responsible person. The executive and committee of the sub-Branch should keep their Trustees fully informed as to any transactions affecting their Trusteeship, so that they can perform their duties in an efficient manner.

Trusteeship

1.3 The formal definition of a Trustee is that they are a person entrusted with the property of another and who are capable and possessed of natural ability to execute a Trust and to carry out their duties in a prudent manner similar to how they would act if the property belonged to them personally. A Trust is an equitable obligation binding a person (who is called the Trustee) to deal with property over which they have control (which is called Trust Property) for the benefit of persons (who are called beneficiaries) of whom they may themselves be one and any one of whom may enforce the obligation.

1.4 Property includes real and personal property and any estate or interest in any property, real or personal, and any debt and anything in action, and any claim or demand and any other right or interest, whether in possession or not.

1.5 A Trustee shall be answerable and accountable only for their own acts, receipts, neglects or defaults and not for those of any other Trustee, nor for any Banker, Broker or other person with whom any Trust moneys or securities are secured, nor for any other loss, unless the loss happens through their own wilful neglect or default.

1.6 The Authority of a sub-Branch Trustee comes from the appointment of a Trustee, as a financial member of the sub-Branch, who shall hold office as a Trustee in accordance with the Constitution.

Appointment

1.7 Every unincorporated sub-Branch shall appoint three financial members as Trustees who shall hold office until their death, resignation, transfer to another

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unincorporated sub-Branch, lunacy, bankruptcy, removal from office or become incapable.

1.8 A Trustee may at any time be removed from his office by an unincorporated sub-Branch at a Special General Meeting summoned for that purpose. During each year of his term of office a Trustee, other than RSL Custodian Pty. Ltd., shall attend at least three General Meetings of the sub-Branch of which he is Trustee and if he fails to do so he shall cease to hold office immediately upon expiration of that year and for the purpose of this Constitution he shall be deemed to have been removed from his office.

1.9 Trustees shall keep proper detailed accounts of their transactions relating to funds and property under their control, submitting same together with deeds and securities to unincorporated sub-Branch President, Auditors or any other duly appointed persons for inspection when required.

1.10 No Trustee shall directly or indirectly receive any commission, remuneration or profit whatsoever by virtue of his office.

1.11 All unincorporated sub-Branch real and personal property shall vest in the Trustees and they shall accordingly be empowered to prosecute, sue or maintain any legal action necessary against any person or corporation in respect of such property.

1.12 On ceasing to hold office the Trustee/s shall hand over to the successor/s all unincorporated sub-Branch funds and property in his or their possession.

1.13 If at any time by reason of a vacancy resulting from death, resignation, transfer to another unincorporated sub-Branch, bankruptcy, incapacity, lunacy or removal from office of a Trustee, it shall be necessary that new Trustee/s shall be appointed, a General Meeting of unincorporated sub-Branch of which fourteen days' notice shall have been given, shall by ordinary resolution, nominate the persons to be appointed as new Trustee/s.

1.14 For purposes of giving effect to such nomination referred to in paragraph 1.13, the unincorporated sub-Branch President shall be empowered to appoint new or additional Trustees within the meaning of Section 6 and 7 of the Trustee Act 1925 (as amended), and he shall by deed appoint person/s so nominated as new Trustee/s or additional Trustee/s as case may be and provisions of the said Act shall apply to any such appointment.

1.15 Trustees shall, in respect of all property that is acquired in their names, on behalf of unincorporated sub-Branch, make a Declaration of Trust that such property has been acquired with sub-Branch money and is held in Trust for unincorporated sub-Branch in accordance with this Clause.

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1.16 Declarations referred to in paragraph 1.15 shall, when it relates to lands or interest in land under Torrens Title, to be filed with Registrar-General pursuant of Section 82 of Real Property Act of 1900 as amended. When it relates to other land or interests in other lands, it is to be registered in the General Registry of Deeds.

1.17 Trustees shall not re-declare trusts which have been so filed or registered but shall declare trusts in respect of property of nature referred to in paragraph 1.15 and 1.16 which is acquired by them on behalf of the unincorporated sub-Branch and such Declaration shall be filed or registered as aforesaid.

1.18 The Constitution also allows for the appointment of RSL Custodian Pty Ltd as sole Trustee or one of the Trustees of real and personal property, other than chattels.

1.19 The actual procedure of the registration of new Trustees should be undertaken by a solicitor.

Replacement

1.20 Where a Trustee is to be replaced it will be necessary that a new Trustee be appointed. This must be done at a General Meeting of which fourteen (14) days notice has been given, specifying that a new Trustee is to be appointed.

1.21 So that a solicitor may proceed to stamping the Deed of Appointment and registration thereof, in the case of Torrens Title land, the Stamp Duties Office requires to sight a stamped copy of the original Deed of Appointment to which the appointment relates.

Powers of a Trustee

1.22 A Trustee has, generally speaking, power to do all acts necessary for the protection and administration of the Trust property.

1.23 Some of these powers are:

- (a) A Trustee may invest in any of the securities authorised by the Constitution and By-Laws and Trustee Act.
- (b) A Trustee may insure against loss or damage, whether by fire or otherwise, any insurable property and against any risk or liability against which it would be prudent for a person to insure if they were acting for themselves

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- (c) A Trustee may, in their absolute discretion, from time to time cause the accounts of the Trust property to be examined or audited by a person who publicly carries on the business of an accountant and shall for that purpose produce such vouchers and give such information to them as they shall require. The costs of the examination or audit, including the fee of the person making the examination or audit, shall be paid out of the capital or income.
- (d) A Trustee may, for the purpose of giving effect to the Trust or any of the provisions of the instrument, if any, creating the Trust or of any statute, from time to time, by qualified agents, ascertain and fix the value of any Trust property in such manner as they think proper.
- (e) A Trustee may, instead of acting personally, employ and pay an agent, whether being a bank or a solicitor, stockbroker or any other person, to transact any business or do any act required to be transacted or done in the execution of the Trust or as the administration of the estate.
- (f) A Trustee may apply to the court for an opinion, advice or direction on any question respecting the management or administration of the Trust property or respecting the interpretation of the Trust instrument.

1.24 Apart from the powers contained in the Trust instrument, a Trustee has certain statutory and implied powers. Some of these powers are exercisable by the Trustee using their discretion (providing such is not negated by the Trust instrument) and other powers may only be exercised with approval of State Council e.g., in equity it would be a breach of Trust to sell Trust assets without State Council approval as provided for by the Constitution.

Trustees' Powers of Investment

1.25 Investments of trust funds by trustees are regulated by the trust instrument and the Trustee Act 1925 (the Act). Amendments to the Act by the *Trustee Amendment (Discretionary Investments) Act 1997* (the Amending Act) has removed the concept of “authorised trustee investments” contained in the Act. It has been replaced with a general investment power, subject to a “prudent investor” test.

This approach emphasises the duties of care, prudence and caution of the trustee but does not specify whether a particular investment is allowable.

1.26 The effect of the Amending Act is to delete Sections 14-14D, 15 and 16 of the Trustee Act 1925 and to make various amendments to other sections and insert new sections at the end of the Act relating to breach of trust.

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1.27 The central section of the amendments is the new Section 14. That section provides that:

“A trustee may, unless expressly forbidden by the instrument (if any) creating the trust:

- (i) invest trust funds in any form of investment; and*
- (ii) at any time vary any investment.”*

1.28 The Trustee Act no longer restricts the category of investments that a trustee may employ, nor does it “authorise” any investments.

1.29 Section 14A creates new trustee duties in respect of the power of investment. A trustee who has the professional background of acting as a trustee or investing monies on behalf of other persons must exercise the care, diligence and skill that a prudent person engaged in such a profession would exercise in managing the affairs of other persons. Trustees who are not engaged in such a profession need only exercise the care, diligence and skill that a prudent person would exercise in managing the affairs of other persons. As a result, professional trustees (such as RSL Custodian Pty Limited) or trustees who are also lawyers, accountants, bankers, etc have a higher duty than would a trustee who is (for example a mechanic). While a normal trustee need only satisfy the test of a “prudent” person the “professional” trustee must satisfy the higher test of a prudent professional.

1.30 A trustee must exercise his power of investment in accordance with the provisions of the instrument creating the trust [the Constitution of The Returned and Services League of Australia (New South Wales Branch)] that is binding on him and requires him to obtain consent or approval with respect to trust investments.

1.31 A trustee must also review the performance (individually and as a whole) of all trust investments, at least once a year.

1.32 If a trustee is under a duty to take advice, the reasonable costs of obtaining the advice are now payable out of the trust funds.

1.33 Section 14C provides that, without limiting any other factor that the trustee may take into account, all trustees must have regard to the following matters in managing trust property, so far as they are appropriate to the circumstances of their trust:

- (a) The purposes of the trust and the needs and circumstances of beneficiaries;
- (b) The desirability of diversifying trust investments;
- (c) The nature of the risk associated with existing trust investments and other property;

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- (d) The need to maintain the real value of the capital or the income of the trust;
- (e) The risk of capital or income loss or depreciation;
- (f) The potential for capital appreciation;
- (g) The likely income return and timing of income return;
- (h) The length of the term of the proposed investment;
- (i) The probable duration of the trust;
- (j) The liquidity and marketability of the proposed investment during, and on the termination of, the term of the proposed investment;
- (k) The aggregate value of the trust estate;
- (l) The effect of the proposed investments in relation to tax liabilities for the trust;
- (m) The likelihood of inflation affecting the value of the proposed investment or other trust property;
- (n) The costs of making the proposed investments; and
- (o) The results of every review of existing trust investments conducted under the new Section 14A.

1.34 Having regard to the size and nature of the trust, a trustee may obtain and consider independent and impartial advice reasonably required for the investment of trust funds or the management of the investments from a person whom the trustee reasonably believes to be competent to give the advice.

1.35 Every trustee must comply with these requirements (S14C) unless compliance is expressly forbidden by the instrument creating the trust.

1.36 Section 14DA allows a trustee to purchase a residence for a beneficiary or retain such a residence if it would not unfairly prejudice the interests of the other beneficiaries of the trust.

1.37 Section 14DB allows for regulations to be made with respect to further guidelines for the investment of trust funds by trustees, but these matters are guidelines only and not absolute requirements. A copy of the guidelines appear in 1.50.

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1.38 Under the new Section 19 if a trustee lends money and takes a mortgage that is smaller than would be proper in the circumstances of a commercial transaction, the trustee is liable to make up the difference between the sum advanced and the amount of the loan that would have been properly secured by the mortgage taken, plus interest.

1.39 The new Sections 90 and 90A widen the matters which the court can consider in determining whether a trustee has breached his trust in the way he has used his power of investment. The court is now able to take into consideration matters like:

- (a) the nature and purpose of the trust;
- (b) whether the trust had regard to the matters set out in Section 14C as far as they relate to the circumstances of the trust;
- (c) whether the trust investments have been made pursuant to an investment strategy formulated in accordance with the Trustee Act; and
- (d) the extent to which the trustee acted on the independent and impartial advice of a person competent to give that advice.

1.40 The court is also enabled to set off all or part of the loss resulting from an investment where a loss has been or is expected to be sustained, with all or part of the gain resulting from any other investment made by the trustee, whether in breach of the trust or not. As a result, the court has the power to consider whether a trustee's actions as a whole amount to a breach of trust and not just the context of one investment.

1.41 The transitional provisions of the Amending Act allow a trustee to maintain investments in forms of investment formerly authorised by the Act for up to two years, without being liable under the new Section 14A.

1.42 The overall effect of the amendments is to deregulate the forms of investment that a trustee may use, and to place the onus of choosing an investment squarely on the shoulders of the trustee, and to hold the trustee accountable to the standard of a reasonable person in the profession of dealing with the affairs of another person (if the trustee is a professional) or a reasonable person dealing with the affairs of another person (if the trustee is not a professional).

General duties of trustees and considerations required by the amending Act.

1.43 The new provisions reinforce traditional trustees' duties when dealing with trust funds. Specifically, trustees are under the following duties:

- (a) to exercise powers in the best interests of the beneficiaries
- (b) to invest trust funds in investments which are not hazardous or speculative

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- (c) to act impartially towards beneficiaries
- (d) to take advice

What is the investment strategy of the trust/what investment is proposed?

1.44 When a trustee is settling investment policies or a particular investment, there are certain factors which should be considered prior to a final decision, with specific considerations required by the Amending Act (s14C). Some of the considerations required under the Amending Act will require little attention from trustees, others a great deal, depending on the circumstances of each trust.

What is the basic purpose of the trust?

1.45 The objective of the trust should be considered prior to an investment decision; an investment decision for a small family trust may be wholly inappropriate for a large charitable trust. At this stage it is also necessary to consider the position of the beneficiaries under the trust. For example:

- (a) what have they been told about the trust and investments?
- (b) when are they entitled to income/capital?
- (c) does the trust require the balancing of the interest of different beneficiaries entitled to income and ultimate capital?

What is the risk and who bears it?

1.46 After considering the nature of the trust, the assessment of the potential risks of the investment is essential. The investment should be considered in terms of:

- (i) expected risk
- (ii) expected return
- (iii) term of investment

Furthermore, the investment should not be viewed in isolation but rather considered with the entire portfolio of trust fund investments and the trust property.

Performance Targets

1.47 It is advisable for trustees to decide upon appropriate targets for proposed investments in the context of trust investments and properties as a whole. The Amending Act imposes a duty upon trustees to review the performance of trust investments (both individually and as a whole) at least once a year. (s14A(4))

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Establishing compliance with the Amending Act

1.48 The considerations regarding investment decisions are mandatory under the Trustee Act. However, this is only the case in so far as they are appropriate to the circumstances of the trust. Hence, considerations which are relevant to the particular trust should be documented when being examined by the trustee, to illustrate compliance.

The discussion and final decision on the matter should also be noted. Such a procedure would also make the annual review of investments required by the Act somewhat easier.

1.49 Funding for advice sought in relation to compliance with the Amending Act is now specifically provided for; advice in relation to trustee investments can be funded from trust funds (s14C(2)). Obtaining independent investment advice may help trustees in formulating investment policies and making investment decisions. Furthermore, it may assist trustees in demonstrating that all of the relevant factors were considered in the investing process.

Guidelines for trustees: section 14 DB

1.50 The object of this clause is to provide guidance to trustees with respect to the investment of trust funds where the value of the funds subject to the trust does not exceed \$50,000.

The following investments are investments that a trustee might reasonably consider appropriate for the investment of trust funds:

- (a) any public funds or Government stock or Government securities of Commonwealth or any State of the Commonwealth,
- (b) any debenture or securities guaranteed by the Government of New South Wales,
- (c) any debentures or securities:
 - issued by a public or local authority or a statutory body representing the Crown, constituted by or under any law of the Commonwealth, of any State of the Commonwealth, of the Northern Territory or of the Australian Capital Territory, and
 - guaranteed by the Commonwealth, any State of the Commonwealth or the Northern Territory.
- (d) any debentures or securities issued by the Northern Territory and guaranteed by the Commonwealth,
- (e) interest bearing deposits in a bank,

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- (f) any deposit with, withdrawable shares in, or loan of money to, a building society or credit union.

Note. A trustee does not comply with the requirements of section 14A of the Act merely by investing trust funds in accordance with the guidelines set out in this clause. See, in particular, section 14DB(2) of the Act. The obligations of a trustee are set out in section 14A of the Act, in other sections of the Act and in other rules and principles of law and equity.

1.51 Shown below are the obligations of a Trustee.

A Trustee is:

- (a) bound to do what is expressly prescribed,
- (b) bound to act in accordance with the Trustee Act;
- (c) required to exercise judgement actively and honestly. This imposes on them a duty to make proper and diligent enquiry to enable them to be properly and fully informed as to their actions or decisions;
- (d) to act in good faith;
- (e) regulated by a real and binding obligation;
- (f) empowered to act discretionally;
- (g) to exercise powers according to circumstances as they exist at the time;
- (h) freely discuss with those whom the Trust benefits the reasons for and against them exercising their discretionary powers in a particular way; and
- (i) to act reasonably and prudently.

Trustees Relationship with the Management Committee

1.52 As a Trustee ex officio (by virtue of one's office), membership of the Management Committee entitles them to:

- (a) attend Management Committee meetings;
- (b) speak on matters affecting their Trusteeship;
- (c) continue to exercise their rights and powers as Trustee – This ex-officio membership of the Management Committee does not limit the proper exercise of the Trustees rights and powers;

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- (d) not be deprived of speaking at meetings and making such enquiries as are relevant to matters affecting their Trusteeship. The Chairman may not restrict the Trustees ability to comply with their duties;
- (e) to speak on matters affecting their Trusteeship such as to enable them to be properly and fully informed before they exercise their powers and discretions;
- (f) speak on matters properly on the agenda of sub-Branch meetings affecting their Trusteeship involving sub-Branch finance investments and certainly property dealings involving them as Trustees;
- (g) non-voting at such meetings; and
- (h) upon satisfying themselves that they are acting in accordance with the duties and obligations of their office a Trustee, must implement the proper decisions of the Management Committee in so far as those decisions affect their trusteeship.

Liability for the Acts of a co-Trustee

1.53 A Trustee is not answerable for any breach of their co-Trustees except in cases of loss suffered in respect of the Trust property in consequence of:

- (a) having allowed the co-Trustee to receive Trust property without making due enquiry as to the subsequent proper handling of it;
- (b) having handed the Trust property to the co-Trustees without seeing to its proper application; or
- (c) having failed to take steps to prevent or obtain redress for known contemplated or actual breach of Trust on part of the co-Trustee.

RSL Custodian Pty Ltd

1.54 RSL Custodian Pty Ltd is designed to relieve sub-Branches of what can be costly repetition of legal expenses in executing Memorandum or Transfer of land vested in one set of Trustees to another due to death, retirement or removal etc, of one or more Trustees. The legal position becomes even more complex and involved where a member of the Trust leaves the district leaving no forwarding address or goes abroad and fails to return.

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1.55 Where Trusteeship is accepted by RSL Custodian Pty Ltd, **it does not deprive** the sub-Branch of the control of its property in any way and the sub-Branch can at any time, should it desire, ask the RSL Custodian Pty Ltd to return such Trusteeship to the sub-Branch Trustees. It makes no difference whether Title is vested in sub-Branch Trustees or RSL Custodian Pty Ltd, should a sub-Branch wish to lease, mortgage or dispose of its land or buildings, it is still necessary in the first instance to obtain the prior consent of State Council or State Executive.

1.56 The administrative procedure for the Transfer of Trusteeship of sub-Branch real property from the sub-Branch Trustees to RSL Custodian Pty Ltd is clearly detailed below.

Procedure for the transfer of trusteeship of a sub-Branch Real property from the sub-Branch trustees to RSL Custodian Pty Limited

1.57 The transfer is a matter for Solicitor to process.

1.58 Sub-Branch may either use the services of a private Solicitor or on request to RSL Custodian Pty. Limited their Solicitor to act on sub-Branch behalf.

1.59 At a duly constituted meeting of the sub-Branch the following two resolutions are to be made:

- (a) The existing Trustees to be removed from office in order that RSL Custodian Pty. Limited assume Trusteeship of the sub-Branch Real Property.
(NOTE: This is normally agreed upon arrangement between the Trustees prior to the motion being put).
- (b) The sub-Branch President be authorised to approach RSL Custodian Pty. Limited to assume the Trusteeship of the sub-Branch Real Property.

1.60 Both resolutions in paragraph 1.59(a) and (b) are to be certified as true copies of the original and both signed by the President and Secretary. On receipt by RSL Custodian Pty. Limited they shall be placed before a meeting of the Directors for resolution and consent.

1.61 The following personal details of the sub-Branch President and former Trustees shall be forwarded to RSL Custodian Pty. Limited with resolutions referred to in paragraph 1.60:-

- (a) Names in full.
- (b) Full Addresses.
- (c) Occupations.

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1.62 In event of a Trustee being deceased, evidence of death (copy of certificate) shall be forwarded to RSL Custodian Pty. Limited.

1.63 All Certificates of Title are required for transfer, details to be noted thereon. Documents shall be forwarded under security post cover.

1.64 If the Certificates are not held by the sub-Branch, information as to their location shall be given, e.g. in respect of a loan or mortgage.

1.65 When all details and documents etc., have been received by RSL Custodian Pty. Limited, matter will be actioned by Solicitor.

1.66 When the existing Trustees are removed from their office as Trustees for all of the sub-Branch assets, three Trustees (it may be original three) are to be appointed to assume trusteeship of sub-Branch personal assets, chattels, monies etc.

Conclusion

1.67 The Trustee Act places obligations on the Trustee as does Common Law and the Constitution. To generalise, a Trustee in discharging their duties must observe all reasonable diligence in order to escape liability for any loss sustained by the Trust estate.

The degree of diligence is that which a prudent person of business would exercise in dealing with their own private affairs. It is their duty to satisfy themselves as to what is happening to Trust property.

1.68 It is not open to Trustees to say someone should have informed them. It is their legal obligation to inform themselves as to what is happening to the Trust estate in the same way as if they were dealing with their own property.

1.69 Trustees of sub-Branch property must be fully aware of their fiduciary responsibilities as Trustees and in particular that if Trustees are in breach of their duties, they are personally liable to the members of the sub-Branch out of their own pockets for any loss to the sub-Branch members or its property sustained as a result of their breach.

1.70 Trustees under the provisions of the Constitution are obliged to ensure no property vested in their names (including Women's Auxiliary, Youth Clubs or any other body formed under the Constitution) is sold, transferred, conveyed, alienated, mortgaged, leased or given to any person or corporation without the prior written consent of State Council being first obtained.

1.71 It is essential that sub-Branch members receive from their Trustees the standard of care and respect for their interests they are entitled to under the law.

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CHAPTER 2

SUB-BRANCH AND SUBSIDIARY ADMINISTRATION

Introduction

2.1 This Chapter is designed to highlight the major areas of administration that affect a sub-Branch or other subsidiary. It should be read in conjunction with the documents listed at paragraph 4 of the Foreword of this publication.

Insurances

Recommended Insurances

2.2 RSL NSW has established Scott and Broad Pty Ltd as its Insurance Broker. Scott and Broad provide a full range of insurance policies that may be required by sub-Branches or other subsidiaries. Sub-Branches however, are able to seek insurance from any reputable insurance company. **As a minimum sub-Branches and other subsidiaries should be insured for the following:**

- (a) **Liability, Accident and Professional Risk Insurances.** These insurances cover:
 - (i) **Public Liability** insurance indemnifies the sub-Branch executive, Chapter, Women's Auxiliary, Youth Club etc and Members from claims brought against them by third parties (being members of the public).
 - (ii) **Personal Accident** insurance covers all members of the sub-Branch, Chapter, Women's Auxiliary, and Youth Club etc against accidental death and/or disablement whilst attending meetings, activities or representing at official activities including direct travel to and from.
 - (iii) **Professional Risk** insurance indemnifies the Trustees and/or the sub-Branch or other Subsidiary executive and committee from damages and/or legal expenses arising out of legal action being brought against them for the alleged miss-management of affairs. This policy also covers against loss of money or belongings (assets) as a result of a dishonest or fraudulent act or omission of any officer of the sub-Branch or other Subsidiary.
- (b) **Workers' Compensation Insurance.** This insurance is essential if the sub-Branch, Chapter, Women's Auxiliary and Youth Club etc engages an employee.
- (c) **Property Insurance.** This insurance is essential if the sub-Branch or other Subsidiary owns property. Property insurance must be based on a **sound, up-to-date** valuation of the property to ensure that it is insured for the correct amount.

Asset Management

Assets

2.3 Assets are defined as those items that are purchased by the sub-Branch or other Subsidiary for use by its members. Assets also include items that are loaned or donated by individuals. An example of an asset is a public address system purchased by the sub-Branch for use during commemorative services or a picture donated by the local Mayor.

2.4 Sub-Branch or other Subsidiary Secretaries (or other designated person) is to maintain a register of all assets as defined at paragraph 2.3 above. This register is to contain one folio per item, an example of which is shown at Annex A. Each folio is to be consecutively numbered and is to contain details of the items purchased, dates, location, minute number and appreciation and/or depreciation details.

2.5 The Secretary is to ensure that a 10% check of sub-Branch, Chapter, Women's Auxiliary, Youth Club etc assets is conducted prior to each monthly meeting and any discrepancies are brought immediately to the notice of the executive and the meeting.

2.6 The Secretary is to ensure that a 100% stocktake of all assets is conducted in November of each calendar year and any discrepancies are brought to the attention of the executive immediately.

2.7 Assets that are no longer functional or which the organisation wishes to dispose of are to have their folio marked as 'disposed of on (date) and the minute number (from the meeting minutes) referring to the disposal' entered on the folio. Items are disposed of according to the direction given at the meeting which at disposal is agreed. Disposal may be by auction or tender if the item is still functional. Other items that are no longer functional are 'written off'. Items that are written off or disposed of by auction or tender are to be removed from buildings, office space, grounds or property as soon as possible.

2.8 Folios of assets that are written off or otherwise disposed of are to remain in the asset register until after the yearly 100% stocktake in November of each calendar year. Following this the folios are to be managed in accordance with the requirements of records management in this Chapter.

2.9 The appreciation and/or depreciation of assets is to occur as at 30 November each calendar year. The amount of appreciation or depreciation of assets is to be set by the October monthly meeting each calendar year. See Chapter 6 of this Regulation. The final asset valuation is to be presented to the December monthly meeting each calendar year and is to be included in the annual returns as the value of assets held.

2-3

Records Management

2.10 Records management covers the management of records from their creation to either ultimate destruction or retention as an archive. Records are born out of business forms, correspondence, notes and reports. Increasingly, they are the product of electronic communications. The NSW State Records Act 1998 covers NSW government agencies, state owned corporations etc. It is however a good guide for sub-Branches and other subsidiaries and provides clear management responsibilities in regard to record management.

2.11 Records are a valuable corporate asset that, by their retention and re-use as evidence of decision-making and business activity, can improve both the efficiency and effectiveness of an organisation. In addition, the organisation benefits from reduced risks from legal or regulatory challenges by finding and producing the relevant evidence contained in the records.

2.12 A key obligation under the State Records Act is for all NSW public offices to:

'Establish and maintain a records management program' (s.12(2)).

2.13 A records management program encompasses the management framework, the people and the systems required within an organisation to manage full and accurate records over time. This includes the identification and protection of records with longer-term value that may be required as archives. The program includes:

- (a) records management policies, plans and procedures;
- (b) skilled staff;
- (c) recordkeeping systems and tools;
- (d) advice and training in recordkeeping rules and practices; and
- (e) recordkeeping performance monitoring and review.

2.14 People and organisations need to make records that document the decisions they have made and actions that have been taken. Many business processes automatically result in the making of a record and systems should be designed to automate this as far as possible. In other situations, e.g. telephone conversations, instant messaging, people have to deliberately make a record.

Control of Records

2.15 It is important to establish the physical and intellectual control over the records so that the organisation knows which records it has, where they are and what has happened to them. Using control processes, records can be found and used in support of business objectives.

2.16 Control processes include:

- (a) registration – giving a record a unique identifier (e.g. number or title) to provide evidence that it has been made. This is the foundation of other control processes;
- (b) classification – categorising records in systematic and consistent ways so that related records are grouped together to facilitate capture, retrieval, maintenance and disposal;
- (c) language control – using language control tools to title and index records and files, e.g. a thesaurus or lists of standard headings;
- (d) indexing – attaching searchable terms (from the controlled language tool) to records to help with retrieval; and
- (e) tracking – tracking the physical movement of records to know who has used them and where they are at any one time.

Duration Records to be Held

2.17 The State Records Act requires records to be held if they are to be of continuing use or historical significance to the organisation. Records more than 25 years old are assumed to be no longer in use for official purposes. Sub-Branches or other subsidiaries are to set a limit on the duration that records should be held at an Annual General Meeting. It is considered that this limit should not be less than 7 years.

Records Manager

2.18 In a sub-Branch, Chapter, Women's Auxiliary, Youth Club etc the Secretary is directly responsible for the efficient records management of the organisation.

Other Aspects of Administration

Sub-Branch Annual Returns

2.19 The sub-Branch Secretary is responsible for compiling and submitting the sub-Branch annual returns, capitation and affiliation fees by the due date each year.

2.20 Sub-Branches are in default if by 31 March each year annual returns, capitation and affiliation fees have not been forwarded. The State Secretary is to notify the Secretaries of defaulting sub-Branches in writing and if default continues after twenty-eight days the sub-Branch will be denied franchise, will be debarred representation at State Congress and all privileges afforded by RSL NSW until complying.

2.21 If a sub-Branch continues to default after the above steps have been taken State Council may deem all executive officers of the sub-Branch to have vacated their positions and appoint another financial member to take charge of the affairs of the sub-Branch or withdraw the sub-Branch's right to trade. In extreme cases State Council may in accordance with the Constitution revoke the charter of the sub-Branch.

Sub-Branch By-Laws

2.22 Sub-Branches have the power to make, alter or amend their own By-Laws providing they are in accordance with the State Branch Constitution, By-Laws, Regulations and Standing Policy. Proposed sub-Branch By-Laws and amendments must be approved, prior to adoption, by State Council and/or State Executive.

Out-Of-Pocket Expenses

2.23 This Regulation details the guidelines laid down for sub-Branches and as approved under the Charitable Fundraising Act.

2.24 The practice of paying "Out-of-Pocket Expenses" is not out of order provided it is not misused and no objection is raised by the Minister of the Crown administering the Charitable Collections Act.

2.25 In event of "Out-of-pocket expenses" being granted, Members should be aware that sub-Branch funds are raised in the name of charity and are basically for welfare purposes.

2.26 Out-of-pocket expenses shall be kept to a reasonable amount in keeping with the services rendered and having regard to 2.25.

2.27 Honorary Officers not in a financial position to absorb costs and expenses of their duties may receive payment for any legitimate expenses incurred by them in their honorary services to the League.

2.28 Payment of out-of-pocket expenses shall be through Petty Cash or if amount exceeds that stated in Constitution from time to time, then a cheque should be drawn.

2.29 Reimbursement of expenses shall be confirmed for payment at next Monthly General Meeting and detailed in the minutes.

2.30 The receiver of out-of-pocket expenses is not subject to declaring the amount involved in his / her Tax Return.

2.31 All out-of-pocket expenses reimbursed shall, on being recouped, be properly documented and signed for by the recipient.

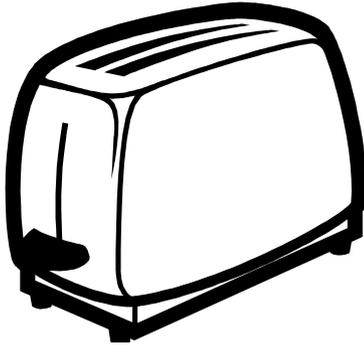
Annexes:

- A. Example Assets Register Folio

**ANNEX A TO
CHAPTER 2**

EXAMPLE ASSETS REGISTER FOLIO

LOWER WEST GALLAHGANBONE SUB-BRANCH
ASSETS REGISTER



(Digital Photograph of Item)

Folio No: 033
Item Name: Toaster Electric
Make: GE
Model No: XXYZ004476
Serial No: 339806771
Item Location: Kitchen Cupboard No 6

Date of Purchase	Receipt No	Minute No	Total Purchase Value	Amount of annual appreciation/depreciation	Current Value
25 Aug 2010	A00675533	36/10	\$50.00	Depreciated 10% as at 30 Nov 2010	\$45.00

Remarks:

Loaned to the East Gallahganbone SES on 2 Oct 10. Returned on 4 Oct 10. No damage.

Note:

1. Record items by what they **are** not brand names to avoid confusion if more than one such item is held.
2. Like items e.g. cutlery or plates etc can be included in the one Folio.

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CHAPTER 3

SUB-BRANCH FINANCES

Introduction

3.1 The aim of this Chapter is to assist Trustees, Executives and Committee with the reporting, recording and the maintenance of sub-Branch and other Subsidiary financial records.

3.2 RSL NSW guide to keeping financial records is N. E Renton ‘Clubs & Non-Profits: Keeping the Books’, hereinafter called ‘Renton’s for Books’

3.3 Sub-Branches, Chapters and other subsidiaries are encouraged to purchase a copy of ‘Renton’s for Books’, for use as the **only** reference to the keeping of financial records. ‘Renton’s for Books’ should be read in conjunction with the Constitution and By-Laws and should conflict arise the latter prevails.

3.4 This Chapter does not attempt to recreate the content of ‘Renton’s for Books’, but is designed to highlight the major areas sub-Branch members should be aware of.

Duties of the Treasurer

3.5 The duties of the Treasurer are shown at Annex D to Chapter 3 of the RSL NSW Governance Regulation.

Australian Accounting Standards

3.6 Sub-Branch executives should be aware that the Australian Accounting Standards change from time to time. The information in this Chapter is based on the changes to the Accounting Standards which came into effect on 1st January 2009.

Cheque Signatories

3.7 Renton’s for Books advises that the normal signatories for cheques are to be **any two** of the President, Secretary or Treasurer. This is also in accordance with the Constitution.

Bookkeeping During the Financial Year

3.8 Appropriate accounting records need to be maintained during the course of each financial year. Properly kept books will facilitate the preparation of:

- (a) periodical financial reports,
- (b) annual financial reports, and
- (c) returns relating to GST.

Cash versus Accruals Accounting

3.9 Accounts can be drawn up on a *cash basis* that is without any allowance for outstanding debits and credits at the balance date. A more accurate method and one which produces a more meaningful picture and which is recommended is the use of an *accrual basis* of accounting. Details of the two methods are described in Chapter 2 of Renton's for Books.

Double Entry Bookkeeping

3.10 Sub-Branches are to use a *double entry accounting system*. Under this system each transaction gives rise to a pair of entries – a positive entry to one account and a negative entry of equal size to another account. An example cash book pages is shown at Annex A to this Chapter.

Periodical Financial Reports

3.11 Periodical financial reports, such as those prepared by the Treasurer for consideration at a monthly meeting, can be much less elaborate than the formal annual accounts. An example periodical financial report is shown at Annex B to this Chapter.

Annual Financial Reports

3.12 Consideration of annual financial reports would normally be a major item of business at the Annual General Meeting of a sub-Branch, Chapter, Women's Auxiliary and RSL Youth Club etc. The Constitution requires that a motion to adopt the audited financial reports of the sub-Branch and all its subsidiary organisations must be resolved at the AGM. If the financial reports are not adopted at the AGM then the sub-Branch elections do not come into effect i.e. the old office bearers remain in office until the audited financial reports are adopted.

Format of Annual Financial Reports

3.13 Sub-Branches, Women's Auxiliaries, Youth Clubs etc are required to produce annual financial reports that comply with the Australian Accounting Standards. A *Statement of Financial Position* and *Statement of Comprehensive Income* should be prepared in the formats shown at Annexes C and D to this Chapter. These follow the principles set out in the formal standards but are in a simplified format.

Audit

3.14 In accordance with Clause 36 of the Constitution sub-Branches are to elect two honorary auditors or appoint a qualified auditor who shall inspect the books, vouchers and securities of the sub-Branch and certify their correctness as reported in the *Statement of Financial Position*.

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3.15 Where membership of the sub-Branch exceeds 200 members and/or the sub-Branch discloses in its annual returns assets or liabilities exceeding \$100,000 or greater, the auditor appointed **must be** registered and qualified.

3.16 In accordance with the Fundraising Act 1991, the financial reports of an authority holder, in so far as they relate to receipts and expenditure in connection with fundraising, must be audited annually by a registered and qualified auditor or other person having qualifications or experience approved by the Office of Charities.

3.17 Auditors must be given unfettered access to the books of account and any other documents required by the auditor to complete the task. The responsibility for sub-Branch, Women's Auxiliary, Youth Club etc audit rests with the sub-Branch Trustees.

Investments

3.18 The responsibility for investment of sub-Branch funds is vested in the sub-Branch Trustees. Trustees have a duty to ensure that funds are invested in accordance with the Constitution and the Trustee Act. Recommendations from the membership for investment of sub-Branch funds should be made, in writing, to the Trustees who then act in the best interest of the sub-Branch.

Insurance

3.19 The Trustees of a sub-Branch have a statutory requirement to ensure that all property and assets of the sub-Branch, Chapters, Women's Auxiliary, and RSL Youth Club etc are insured in accordance with Chapter 2 of this Regulation. Trustees must ensure that insurance of property and assets is based on a **sound and up-to-date valuation**.

Disposal of Assets

3.20 Assets (those items that are purchased by or donated to a sub-Branch, Women's Auxiliary, Youth Club etc) are only to be disposed of in accordance with Chapter 2 of this Regulation. Assets (which are still functional) may be auctioned or disposed of by tender. Assets should not be disposed of for less than the written-down value in the assets register. All assets disposed of must be removed from sub-Branch buildings, office space, grounds etc as soon as possible.

Fundraising and Inwards Donations

3.21 Care must be taken to ensure that sub-Branches wishing to fundraise, in any way, have been issued an Authority to Fundraise in accordance with Chapter 4 of this Regulation. This includes the conduct of any raffles and/or soliciting donations from the public. Authority Holders are required to authorise any persons or organisations that fundraise for them, in writing. Sub-Branch fundraising **must further the Objects of the League**.

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3.22 Sub-Branches are to ensure that any donations received for a specific purpose are applied **only** to that purpose. If this is not feasible (for example, because a project has been abandoned) then all donations concerned **must be** returned to the respective donors, unless they individually consent to its use for another purpose.

Functions

3.23 Sub-Branches advertising functions i.e. lectures, seminars, health promotions etc to the general public, must provide sufficient information for the public to act upon. The fact that there is no charge or that admission is by donation should be clearly spelt out. Similarly, the need to respond by a certain date or that people can just turn up should be set out.

3.24 The failure to provide such vital information could well prove counterproductive. Apart from that, such advertisements can often be made to serve more than one purpose. In particular, they can also act as a means of attracting new members.

3.25 Sub-Branches conducting functions (except in registered clubs/hotels) at which alcohol is sold as part of the activity are to comply with the NSW Liquor Act 1982.

Outward Donations

3.26 Outward donations are to be made in accordance with Chapter 5 of the Property & Finance Regulations. Prospective recipients of sub-Branch donations **must further the Objects of the League.**

ABN and Income Tax Exemption

3.27 All sub-Branches are required to have an Australian Business Number (ABN) and to be endorsed as Income Tax Exempt. The appropriate forms can be obtained by either telephoning the Australian Taxation Office (1300 130 248) or down loading the forms from the website (www.ato.gov.au)

GST Compliance

3.28 Sub-Branches are required to be registered for GST with the ATO. The GST is levied on a self-assessment basis. Sub-Branches are to compile (usually each quarter) a Business Activity Statement and forward it, along with any cheque required, to the Australian Taxation Office. Further concise details of the requirements regarding sub-Branches for GST compliance are shown at Chapter 8 of Renton's for Books. The ATO also has a booklet available to assist charities with their GST obligations.

Membership Fees

3.29 Membership fees are exempt from GST.

Sub-Branch Budgets

3.30 It is compulsory for a sub-Branch that has a total amount of all expenditure on items, donations, events or activities exceeding \$50,000.00 in aggregate in any one financial year to submit a budget for approval to State Council / Executive.

3.31 Budgeting is simply the process of planning the sub-Branch's finances for a 12 month period. The budget is made up of all the activities you plan to undertake in the next 12 months expressed in terms of money. Budgets should be drawn up for the calendar year.

3.32 Best practice guidelines require all sub-Branches to prepare a budget and present it to the AGM for acceptance. The Treasurer is responsible for drafting the budget with input from other executive and committee members, as required. Once accepted, the Treasurer is responsible for keeping track of income and expenditure and how the figures match budget expectations.

3.33 A common way of determining the budget is to refer to the past period as a baseline - then adjust the revenues and costs by applying a percentage increase for inflation or making alterations for expected changes in prices and volume. Budgets prepared this way are called incremental budgets. This method has its disadvantages as it does not consider whether activities and costs are still appropriate and if a mistake is made one year, it is likely to be repeated the following year.

3.34 With zero-based budgeting, you start from scratch each year and justify spending on a cost-benefit basis. It is not usually practical to use zero-based budgeting for all your activities as it would be too time-consuming but you should review your activities regularly to see if the costs are still relevant. A practical approach is to use the incremental approach for fixed costs and a zero-based approach for special projects.

3.35 Shown below are the eight steps required to prepare a sub-Branch budget:

- (a) Look at last year's income
- (b) Look at the timing of last year's income
- (c) Ask, 'What will happen this year?'
- (d) Work out this year's overall figures
- (e) Draw up the income side of the budget month by month

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- (f) Follow the same steps for expenditure
- (g) Discuss the options
- (h) Present the budget to AGM for acceptance.

3.36 An example sub-Branch budget is shown at Annex E to this Chapter.

Annexes:

- A. Example Cash Book Pages
- B. Example Periodical Financial Report
- C. Example Statement of Financial Position
- D. Example Statement of Comprehensive Income
- E. Example Sub-Branch Budget

**ANNEX A TO
CHAPTER 3**

EXAMPLE: CASH BOOK PAGES

CASH RECEIPTS

Date	Receipt or Cheque no.	Received from	Membership fees	Donations	Interest	Rent	Raffles	Functions	URSF	Other
03.4.20	xxxxxxx	J. Smith	29.00							
03.4.20	xxxxxxx	R. Brown	29.00							
07.4.20	xxxxxxx	A. Jones	29.00							
15.4.20	xxxxxxx	Chess Club				100.00				
18.4.20	xxxxxxx	B. Short	29.00							
21.4.20	xxxxxxx	M. North	29.00							
27.4.20	Cash	ANZAC badges							600.00	
30.04.20		Bank-Dir Deposit			390.00					
			145.00	-	390.00	100.00	-	-	600.00	-

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CASH PAYMENTS

Date	Cheque no.	Payable to	Capitation fees	Affiliation fees	Audit Fees	Donations	Functions	Insurance	Postage Out of pocket	Printing & Stationery	Rates & taxes	Telephone	Travelling	Welfare	URSF	Other
08.4.20	xxxxxx	Scott & Broad						300.00								
15.4.20	xxxxxx	Telstra										80.00				
15.4.20	xxxxxx	Smith Plumbing														720.00
29.4.20	xxxxxx	State Branch	120.00													
29.4.20	xxxxxx	URSF													300.00	
			<hr/>													
			120.00	-	-	-	-	300.00	-	-	-	80.00	-	-	300.00	720.00
			<hr/>													

**ANNEX B TO
CHAPTER 3**

EXAMPLE: PERIODICAL FINANCIAL REPORT

Receipts and Payments for April 2020

	\$	\$
Bank Balance as at 31 March 2020		16,100.00
Receipts:		
Subscriptions	145.00	
Interest	390.00	
Rent	100.00	
ANZAC Day Appeal	<u>600.00</u>	1,235.00
Payments		
Capitation fees to State Branch	120.00	
Insurance	300.00	
Telephone	80.00	
Building Maintenance	720.00	
URSF - ANZAC Day Appeal	<u>300.00</u>	1,520.00
Bank Balance as at 30 April 2020		<u><u>15,815.00</u></u>

Signature:

Date:

**ANNEX C TO
CHAPTER 3**

EXAMPLE: STATEMENT OF FINANCIAL POSITION

**STATEMENT OF FINANCIAL POSITION AS AT 31
DECEMBER 2020**

	2020		2019
	\$		\$
CURRENT ASSETS			
Cash	19,591		15,000
Receivables(debtors)	300		500
Prepayments	150		150
Other			
Total current assets	<u>20,041</u>		<u>15,650</u>
NON-CURRENT ASSETS			
Investments (as per attached list	85,000		85,000
Land and buildings - at valuation	950,000		900,000
Furniture, plant and equipment	3,000	3,000	
Less: Depreciation	<u>900</u>	<u>2,100</u>	<u>600</u>
Other			
Total non-current assets	<u>1,037,100</u>		<u>987,400</u>
TOTAL ASSETS	<u>1,057,141</u>		<u>1,003,050</u>
CURRENT LIABILITIES			
Subscriptions in Advance	145		174
Payables(creditors)	200		150
Other			
Total current liabilities	<u>345</u>		<u>324</u>
Non-current liabilities			
First mortgage			
Bank loan			
Other			
Total non-current liabilities			
TOTAL LIABILITIES	345		324
NET ASSETS	1,056,796		1,002,726

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Represented by:-

Accumulated funds	806,796	802,726
Reserves	<u>250,000</u>	<u>200,000</u>
	<u>1,056,796</u>	<u>1,002,726</u>

ANNEX D TO

CHAPTER 3**EXAMPLE: STATEMENT OF COMPREHENSIVE INCOME****STATEMENT OF COMPREHENSIVE INCOME FOR YEAR ENDED
31 DECEMBER 2020**

	2020	2019
	\$	\$
INCOME		
Membership subscriptions-current year	1,015	957
Membership subscriptions-prior years	-	29
Associate membership fees	25	25
Donations	500	500
Interest and investment income	4,675	4,250
Rent Received	5,200	5,200
Raffles/Competitions	350	700
Functions	800	1,200
ANZAC Day Appeal	600	700
Less: payment to URSF	<u>300</u>	<u>350</u>
Poppy Day Appeal	450	400
Less: payment to URSF	<u>225</u>	<u>200</u>
Other Income:		
sale of ties	200	-
Total income	<u>13,290</u>	<u>13,411</u>
EXPENDITURE		
Capitation fees to State Branch	840	816
Affiliation fees to District Council	80	72
Audit fees	300	300
Donations made (as per attached list)	550	400
Depreciation	300	300
Cost of functions	650	975
Interest paid	-	-
Insurance	1,300	1,300

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Out of pocket expenses	250	180
Postage	100	120
Printing and Stationery	300	380
Rates and taxes	850	820
Rent paid	-	-
Telephone	300	320
Travelling expenses	400	380
Mortality payments	-	-
Welfare payments	1,000	850
Other expenditure - Building maintenance	2,000	1,000
Total expenditure	<u>9,220</u>	<u>8,213</u>
Surplus/(Deficit) for the year	4,070	5,198
ADD:-Accumulated funds - 1 January	802,726	797,528
Accumulated funds - 31 December	<u><u>806,796</u></u>	<u><u>802,726</u></u>

**ANNEX E TO
CHAPTER 3**

EXAMPLE: SUB-BRANCH BUDGET

XXXXXXXXXXXX sub-Branch Draft Budget for 20??

Income	200? Budget	200? Actual	200? Budget	
Subscription Income	\$0.00	\$0.00	\$0.00	
Interest - Bank & Investment	\$0.00	\$0.00	\$0.00	Note 1A
Rent	\$0.00	\$0.00	\$0.00	Note 1B
Miscellaneous	\$0.00	\$0.00	\$0.00	Note 2
Bus Donations	\$0.00	\$0.00	\$0.00	Note 3
GST Rebate	\$0.00	\$0.00	\$0.00	
Remembrance Day Badges	\$0.00	\$0.00	\$0.00	
Donations	\$0.00	\$0.00	\$0.00	
	<hr/>	<hr/>	<hr/>	
Total Income	\$0.00	0.00	\$0.00	

Payments	200? Budget	200? Actual	200? Budget	
Administration Costs	\$0.00	\$0.00	\$0.00	
Bank Charges	\$0.00	\$0.00	\$0.00	
Bus Expenses	\$0.00	\$0.00	\$0.00	Note 3
Capital Expenditure	\$0.00	\$0.00	\$0.00	Note 4
Committee Uniforms	\$0.00	\$0.00	\$0.00	
Congress Expenditure	\$0.00	\$0.00	\$0.00	
Donations	\$0.00	\$0.00	\$0.00	Note 5
Functions	\$0.00	\$0.00	\$0.00	Note 6
XXDC Affiliation Fee	\$0.00	\$0.00	\$0.00	
Insurance	\$0.00	\$0.00	\$0.00	
Legal Fees	\$0.00	\$0.00	\$0.00	
Members Amenities	\$0.00	\$0.00	\$0.00	Note 7
Members Subscription Subsidy	\$0.00	\$0.00	\$0.00	Note 8
Memorabilia	\$0.00	\$0.00	\$0.00	
Merchandise	\$0.00	\$0.00	\$0.00	
Miscellaneous Expenses	\$0.00	\$0.00	\$0.00	
Officers Out of Pocket Expenses	\$0.00	\$0.00	\$0.00	
Property Administration	\$0.00	\$0.00	\$0.00	
Sponsorship of Other Sub-Branches	\$0.00	\$0.00	\$0.00	Note 9
Welfare Recipients	\$0.00	\$0.00	\$0.00	
Floral Tributes & Wreaths	\$0.00	\$0.00	\$0.00	
Welfare Support	\$0.00	\$0.00	\$0.00	
Welfare Admin	\$0.00	\$0.00	\$0.00	
Wall of Remembrance	\$0.00	\$0.00	\$0.00	
	<hr/>	<hr/>	<hr/>	
Total Payments	\$0.00	\$0.00	\$0.00	
	<hr/>	<hr/>	<hr/>	
Surplus/ (Deficit) of receipts over payments	\$0.00	\$0.00	\$0.00	

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NOTE 1

A. This is calculated on a conservative return after reinvestment of XX%.

B. This is included simply for comparison & reference purposes to 200? Income and should be deleted for 200?

Note 2**NOTE 3**

Voluntary donations to support the operating costs of the Welfare Bus.

All costs associated with the running of the bus are including registration, insurance and servicing.

NOTE 4

Replacement and additional computers for Secretary and Welfare/Pensions Officers & office furniture

NOTE 5

<u>DONATIONS</u>	200? Actual	200? Budget	200? Budget
RSL WELFARE & BENEVOLENT INSTITUTION	\$0.00	\$0.00	\$0.00
RSL AUSTRALIAN FORCES OVERSEAS FUND (Annual)	\$0.00	\$0.00	\$0.00
RSL AUSTRALIAN FORCES OVERSEAS FUND (Naval Beer Issue)	\$0.00	\$0.00	\$0.00
RSL PRESIDENT'S FUND	\$0.00	\$0.00	\$0.00
RESERVE FORCES DAY COUNCIL	\$0.00	\$0.00	\$0.00
VIETNAM VETERAN'S FEDERATION	\$0.00	\$0.00	\$0.00
NAVAL ASSOCIATION - XXXXXX SUB-SECTION	\$0.00	\$0.00	\$0.00
INGLEBURN MILITARY PRECINCT	\$0.00	\$0.00	\$0.00
XXXXXXXX RSL DAY CLUB	\$0.00	\$0.00	\$0.00
XXXXXXXX RSL YOUTH CLUB	\$0.00	\$0.00	\$0.00
XXXX REGIONAL CADET UNIT	\$0.00	\$0.00	\$0.00
AIR LEAGUE - XXXXXXXX SQUADRON	\$0.00	\$0.00	\$0.00
WOMEN'S AUXILIARY	\$0.00	\$0.00	\$0.00
SCHOOL ANZAC DAY SERVICES	\$0.00	\$0.00	\$0.00
XXXXXXXXXX BAND	\$0.00	\$0.00	\$0.00
ST JOHNS AMBULANCE SERVICE	\$0.00	\$0.00	\$0.00
	\$0.00	\$0.00	\$0.00

NOTE 6

<u>FUNCTIONS</u>	200? Actual	200? Budget	200? Budget
ANZAC & REMEMBRANCE DAYS	\$0.00	\$0.00	\$0.00
VICTORY IN PACIFIC BOWLS	\$0.00	\$0.00	\$0.00
CHRISTMAS TREE	\$0.00	\$0.00	\$0.00
XXX DC LIFE MEMBERS DINNER	\$0.00	\$0.00	\$0.00
XXX DC MONTHLY & AGM	\$0.00	\$0.00	\$0.00
VP DAY MARCH	\$0.00	\$0.00	\$0.00
WOMEN'S AUXILLIARY APPRECIATION DINNER	\$0.00	\$0.00	\$0.00
LONG TAN DAY	\$0.00	\$0.00	\$0.00
MEMBERS LUNCHEON	\$0.00	\$0.00	\$0.00
	\$0.00	\$0.00	\$0.00

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NOTE 7

This represents the costs of Member's amenities at the conclusion of each monthly and Annual General Meeting by way of catering and beverages. Provision is also made for the supply of one (1) RSL diary for each Member attending the December Monthly General Meeting.

NOTE 8

State Council has previously approved the full subsidy of Capitation Fees for all members.

NOTE 9

\$XXXXX. Sponsorship of two (2) sub-Branches to the Annual State Congress at \$XXXXX maximum each sub-Branch.

CHAPTER 4

CHARITABLE FUNDRAISING

Introduction

4.1 Sub-Branches wishing to fundraise are to register with the Charities Branch, NSW Office of Liquor, Gaming and Racing (OLGR) and are to be issued with an Authority to Fundraise by that organisation.

4.2 An Authority to Fundraise only permits a sub-Branch to fundraise for persons or organisations that meet the Objects of the League, shown at Clause 1 of the Constitution. **Fundraising for any other purpose is prohibited.**

4.3 For GST compliance, sub-Branches are to be registered with the Australian Taxation Office as an income tax exempt charity. See Chapter 6.

Reference

4.4 The reference for fundraising is the ‘Best Practice Guidelines for Charitable Organisations’ produced by the Charities Branch, NSW Office of Liquor, Gaming and Racing. It can be viewed on the OLGR website (www.olgr.nsw.gov.au).

Charitable Fundraising Act 1991

4.5 The objects of the Charitable Fundraising Act 1991 are:

- a. to promote proper and efficient management and administration of fundraising appeals for charitable purposes,
- b. to ensure proper keeping and auditing of accounts in connection with such appeals, and
- c. to prevent deception of members of the public who desire to support worthy causes.

4.6 By possessing an Authority to Fundraise, a person or organisation is entitled to appeal to the public for funds. In return, that person or organisation incurs a number of obligations which are set out in the Act, the regulations and in greater detail in the authority conditions.

Authority Conditions

4.7 Authority conditions are imposed on the issue of all fundraising authorities. Standard conditions apply to all authority holders. These standard conditions are shown at Part 5 of the Reference (see above).

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4.8 Authority holders may wish to apply for modification or replacement of an authority condition where it is inappropriate to their particular circumstances. A list of the circumstances where authority conditions may be varied is shown at Chapter 2 of the Reference. Certain authority conditions were amended when the new regulations were introduced on 1 September 2008.

Constitution

4.9 The governing instrument of an authority holder is its Constitution, By-Laws, Regulations and Standing Orders/Policy. In this case, the RSL NSW Constitution, By-Laws and Standing Policy apply. The Constitution is essential to the orderly function and administration of the authority holder.

Subsidiaries

4.10 Sub-Branches are to ensure that **all Subsidiaries** i.e. Chapters, Women's Auxiliary, Youth Clubs; Day Clubs etc are listed on the sub-Branch Authority to Fundraise.

Ceasing to Conduct Fundraising and Winding Up

4.11 The Act requires an authority holder to advise the Charities Branch, OLGR within 28 days of any decision to cease the conduct of fundraising appeals. Should the sub-Branch decide to wind-up, authority holders are to comply with the requirements of By-Law No 19. Further details are shown at Chapter 2 of the Reference.

Duties and Responsibilities of sub-Branch Executives

4.12 The duties and responsibilities of sub-Branch executives with regard to fundraising are shown at Annex A.

Participation of Children

4.13 For the purposes of the Act, a child is a person under the age of 15 years. The minimum age for a child participating in an appeal as a volunteer is 8 years. The code of practice for the participation of children in fundraising activities is shown at Schedule 2 of Part 5 of the Reference. **'Working with Children Checks'** for all adults involved in the fundraising may also be required in these circumstances. See the reference to the NSW Commission for Young People at Chapter 7 of this Regulation.

Fundraising Functions

4.14 Sub-Branches conducting fundraising functions (except in registered clubs/hotels) at which liquor is sold as part of the activity are to comply with the NSW Liquor Act 2007. An essential item of the Act is that a limited function licence must be obtained from the Casino Control Authority. Chapter 4 of the Reference contains more detail.

Audit

4.15 The financial reports of an authority holder, in so far as they relate to receipts and expenditure in connection with fundraising appeals, must be audited annually by a registered auditor or other person having qualifications or experience approved by the Office of Liquor, Gaming and Racing. The results of the audit are to be reported to State Branch by way of the SBA 1, which is to be submitted by the due date each year. From 1 September 2008 the audited accounts of an unincorporated body such as a sub-Branch are to be submitted to the Office of Liquor, Gaming and Racing in any year that fundraising income exceeds \$100,000 (previously \$20,000). A copy of the most recent audited accounts must be submitted with every application to renew a Fundraising Authority.

Banking Procedures

4.16 The Act does not require a separate bank account for each fundraising appeal. From 1 September 2008, it is no longer required that monies raised from fundraising appeals must be paid into a fundraising account, which consist of no other income. However, the money must be paid into a general account of the authorised fundraiser at an authorised deposit-taking institution with accounting procedures in place to ensure that money received in the course of a particular fundraising appeal can be clearly distinguished. Banking procedures are shown at Chapter 7 of the Reference.

Keeping of Records

4.17 The Act requires that authority holders keep financial and other records that correctly record and explain transactions with regard to fundraising appeals. Chapter 15 of the Reference refers.

Authorisation of Appeals

4.18 A person or organisation conducting or participating in an appeal on behalf of an Authority Holder must be authorised in writing by the Authority Holder. Chapter 23 of the Reference refers. An example letter from a sub-Branch authorising another organisation to fundraise on its behalf is shown at Annex B. Note: Where the Women's Auxiliary etc is shown on the Authority to Fundraise a letter is not required. If they are not a letter is required.

Badges

4.19 A prominent ID badge is required to be worn by face-to-face collectors at all times, except where the fundraising appeal is part of a fundraising event or function and it is clear to people organisation is conducting the appeal. Issue of badges is to be strictly controlled by the sub-Branch and badges are to be collected and destroyed at the end of an individual's participation in the appeal. An example ID badge is shown in Annex B to this Chapter.

Return from Fundraising

4.20 Authority condition 8 (see the Reference Part 5) requires that an authority holder conducting a fundraising appeal for donations only (without any associated supply of goods or services) must take all reasonable care to ensure that the expenses payable do not exceed 50% of the gross proceeds obtained i.e. a minimum profit of 50% is to be made.

Inspection

4.21 The books of an authority holder are subject to inspection by officers of the Office of Liquor, Gaming and Racing, the Police and the Auditor-General. An inspection program is conducted State-wide and is intended to ensure that the requirements of the Act are being met. The inspection program assists members of governing bodies and other persons involved in fundraising activities.

Penalties

4.22 Penalties may be imposed for any breach of the law, and the Office of Liquor, Gaming and Racing may, in extreme cases, revoke the fundraising authority.

Definitions

4.23 Part 3 of the Reference clearly defines the definitions used in the Act. A fundraising appeal, essentially involves the soliciting or receiving of any money, property, or other benefit from the public. Sub-Branch, Women's Auxiliary, Youth Club, Day Club etc Trustees, Executives and Committee must ensure that all those involved in fundraising understand their responsibilities under the Act.

Annexes:

- A. Duties and Responsibilities of sub-Branch Trustees and Executives with regard to Fundraising.
- B. An Example Letter from a sub-Branch Authorising another organisation to Fundraise on its Behalf.

**ANNEX A TO
CHAPTER 4**

**DUTIES AND RESPONSIBILITIES OF SUB-BRANCH TRUSTEES AND
EXECUTIVES
WITH REGARD TO FUNDRAISING**

The sub-Branch, Chapter, Women's Auxiliary, Youth Club, Day Club etc Trustees and Executive have responsibilities for fundraising imposed upon them by legislation and common law. These laws have not been formulated to make things difficult but have been put in place for the benefit of the authority holder and the public at large. To be effective, the Trustees and Executive must understand the financial, operating and regulatory framework in which they are required to operate. Trustees and Executives must be aware of the following:

- (a) that they are bound by strict rules of common law relating to conflicts of interest, and must exercise care when making decisions to ensure that no conflict of interest occurs;
- (b) that they must act reasonably and prudently in all matters relating to the sub-Branch and must always consider the interests of the sub-Branch as paramount;
- (c) that they should not let personal views or prejudices affect the conduct of their duties;
- (d) that they should exercise the same degree of care in dealing with the administration of the sub-Branch as a prudent person would exercise in carrying out a business;
- (e) that they must ensure that the property of the sub-Branch is applied for the purposes set out in the Constitution;
- (f) that they are duty bound to protect the property of the sub-Branch; and
- (g) that they have a responsibility to ensure the continuing effectiveness of the sub-Branch by:
 - (i) exercising control over the sub-Branch's financial affairs,
 - (ii) ensuring the organisation is not open to abuse;
 - (iii) ensuring that rigorous systems of internal control are constantly maintained; and
 - (iv) ensuring the sub-Branch complies with State Branch policies and procedures regarding fundraising.

**EXAMPLE LETTER FROM A SUB-BRANCH AUTHORISING
ANOTHER ORGANISATION TO FUNDRAISE ON ITS BEHALF**

Secretary

Upper Kabuccna West Rotary Club
Po Box 13
UPPER KABUCCNA WEST NSW 2666

AUTHORISATION TO FUNDRAISE

- References:**
1. Charitable Fundraising Act 1991.
 2. Upper Kabuccna West RSL sub-Branch Authority to Fundraise CFN 12388.
 3. Best Practice Guidelines for Charitable Organisations issued by The Charities Branch, Office of Liquor, Gaming and Racing 5th Edition January, 2009.
 4. Constitution and By-Laws of the RSL (NSW Branch)

Authorisation

In accordance with references I hereby authorise the Upper Kabuccna West Rotary Club to fundraise under the authority of the Upper Kabuccna West RSL sub-Branch Fundraising Authority CFN 12388, issued 12 January, 2020.

Duration

This authorisation is issued for the period 14-15 April, 2021 to enable you to fundraise on our behalf at the Upper Kabuccna West Agricultural Show.

Requirements

In accordance with reference 3 above, I direct your attention to the following requirements:

- Any person participating in a face-to-face fundraising appeal must wear an identification badge.
- These badges are to be of a design, an example of which is shown in the enclosure.
- Badges are to be controlled by the Secretary of your Club and are

to be recovered from a person when their involvement in fundraising ceases.

- Returns from fundraising must meet the requirements of Chapter 34 of reference 3.
- Proceeds from the appeal are to be acquitted with the Upper Kubuccna West RSL Hon Treasurer by 17 April, 2021.

Responsibility and Liability

Responsibility and liability for efficient conduct of fundraising appeals, conducted by you, rests with the executive of your Club. All efforts must be maintained to ensure that appeals are conducted within the rules and regulations specified in the references.

Assistance

The sub-Branch executive is available to provide any assistance with these requirements that you may require.

Yours truly,

(Signed by President as Authority Holder)

Date

Enclosure: Example Identification Badge for Persons Participating In Fundraising Appeals.

Example Identification Badge for Persons Participating in Fundraising Appeals



Upper Kabuccna West Rotary Club

The bearer.....

**Whose signature appears below, is authorised to solicit and receive money
on behalf of the Upper Kabuccna West RSL sub-Branch.**

Fundraising Authority CFN 12388

Collector Number.....

Authorised by..... (signature) Bearers Signature.....

Name and position of authorising officer

Issued date..... Expires.....

CHAPTER 5

DONATIONS & SUB-BRANCH PROPERTY

Donations

5.1 Sub-Branches or other subsidiaries considering making a donation to an individual or organisation are to do so in accordance the policy contained within. In essence, this policy requires that the test of eligibility for an individual or organisation to receive a donation, **is that it must further the Objects of the League.**

5.2 Bona fide donations up to \$5,000.00 may be made without the consent of State Council. State Council consent is required for amounts exceeding \$5,000.00 and where individual donations exceed \$50,000 in total in any one financial year.

‘Bona fide Donation’

5.3 The words “bona fide” means “in good faith”. When referring to distributions or donations and interpreted in accordance with the Constitution, a reference to “bona fide” means that any distributions and donations in respect of Trust funds made pursuant to the Constitution need to be made in good faith.

‘Bona fide’ dependent recipient

5.4 The Constitution provides that one of the objects of the League is to provide for the sick and wounded and needy among those who have served and their dependants, namely children or spouses of those who have served who, in good faith, are maintained by or are the responsibility of an individual who has served and is entitled to assistance.

Application of Trust funds

5.5 The effect of the Constitution on the application of Trust funds pursuant to Objects of the League relating to donations can be summarised as follows:

- (i) The Constitution provides that property vested in unincorporated sub-Branch Trustees or in any other persons on behalf of unincorporated sub-Branch Trustees or in any other unincorporated Subsidiary, must not be sold, transferred, conveyed, alienated, mortgaged, leased or given to any person or Corporation without first obtaining the consent of State Council or State Executive.
- (ii) As referred to in the Objects of the League with regard to providing for the sick, wounded and needy among those who have served and their dependants and read together with the above paragraph 5.5 (i) would require the consent of State Council or State Executive. Such consent will not be given in retrospect.

5-2

- (iii) A failure to make a donation in accordance with the above provisions may give rise to an invalid gift from the Trust assets.
- (iv) Paragraph 5.5(i) provides that the terms of paragraph 5.2 with regard to obtaining State Council or State Executive consent will not affect ‘bona fide’ donations being made for amounts less than \$5,000.00 by an unincorporated sub-Branch or by any other unincorporated subsidiary to any individual or organisation furthering the League’s objects.
- (v) The effect of paragraph 5.5(iv) would then be that if, in providing for the sick, wounded and needy among those who have served and their dependants, the gift is of an amount no greater than \$5,000.00, the consent of State Council or State Executive is not required.
- (vi) All donations to individuals or organisations less than \$5,000.00 are to be accompanied by a letter from the unincorporated sub-Branch stating “The donation is made in the knowledge that your organisation carries on work in support of those who have served (in the Defence Forces of the Nation) and their dependants”.
- (vii) Paragraph 5.2 provides that the total amount of donations made by an unincorporated sub-Branch or any other unincorporated Subsidiary (made in donations of less than \$5,000.00 each) are not to exceed \$50,000.00 in total in any one financial year.
- (viii) The effect of the above would be that an unincorporated sub-Branch would not be entitled to make multiple small donations (that is donations less than \$5,000.00) which in total would amount to more that \$50,000.00 in total in any one financial year.
- (ix) The prior consent of State Council or State Executive is required for a donation exceeding \$5,000.00 to any individual or organisation furthering the League objects and for donations in units of less than \$5,000.00 each, the total of which exceeds \$50,000.00 in any one financial year to any individual or organisation.

5.6 It is to be noted that in the context of the above provisions that even if State Council or State Executive grants consent, the donation must still be for a “bona fide” purpose.

5.7 Notwithstanding the above, a donation to any community project or organisation must provide for “those who have served and their dependants”.

Sub-Branches or attached subsidiary groups cannot provide monies for the welfare of the community at large.

5-3

5.8 Trustees undertake, in agreeing to act as Trustees, to act in good faith and in the best interests of the beneficiaries which in this instance, are the members of the League. The Trustees must therefore in making donations and distributions, act in accordance with the provisions of the Constitution and the Trust in furthering the objects of the League.

Administrative requirements to obtain State Council or State Executive approval

5.9 Where the donation exceeds the maximum amount under paragraph 5.2 the sub-Branch must make an application, before the donation is made, to RSL NSW which includes:

- (i) The donation amount and any other financial details as requested by either the State Council or the State Executive from time to time; and
- (ii) Minutes of the sub-Branch general meeting evidencing the members' wish to donate to the individual or organisation; and
- (iii) Details of the individuals or organisations 'bona fides' to receive a donation pursuant to the objects of the League, together with supporting literature as requested by either the State Council or the State Executive from time to time.

5.10 Upon receipt of the sub-Branch application, with all the information referred to above, the proposal will then be placed before the State Council or State Executive for consideration pursuant to paragraph 5.5 (ix).

5.11 The decision of the State Council or State Executive will be final and binding and will be notified to the sub-Branch in writing.

Donations and Recognised RSL Charities

5.12 Donations to be eligible for recognition by the RSL Welfare and Benevolent Institution - Sir William Yeo Shield and Certificate shall be for the sole benefit of the RSL Welfare and Benevolent Institution and its recognised charities. Eligible donations shall be those directed through RSL NSW.

5.13 Donations to Branch shall be endorsed and made payable to the RSL Welfare and Benevolent Institution. (See Annex C for list of RSL Recognised Charities)

Sub-Branch Property

Leasing or Hiring of sub-Branch Property

5.14 Trustees may in respect of any real or personal property vested in them hereof sell, lease, mortgage, borrow on the security of such property or otherwise dispose of same provided that the consent of the unincorporated sub-Branch has been given by a resolution passed by a majority of members present at the meeting of the sub-Branch as, being entitled to do so, vote in person at the meeting duly convened by the giving of fourteen (14) days written notice of such meeting to all members.

5.15 Leasing arrangements are subject to State Council/Executive consent.

5.16 The procedures to be followed before placing the lease before the members are as follows:

- (a) The sub-Branch must obtain a current market rental value of the sub-Branch property to be leased to the Club by appointing a valuer. State Branch can provide a list of valuers to the sub-Branch if required.
- (b) When appointing a valuer, the sub-Branch must ensure that they:
 - (i) provide a copy of the existing registered lease to the valuer (if available);
 - (ii) provide the valuer with a copy of any plans for the premises (if there are any);
 - (iii) provide copies of the title documents for the property to be leased, to the valuer;
 - (iv) provide the valuer with the guidelines for valuer in determining rental value for sub-Branch property.
- (c) The sub-Branch must instruct the valuer in writing and:
 - (i) provide a copy of the existing registered lease to the valuer (if available);
 - (ii) provide the valuer with a copy of any plans for the premises (if there are any);
 - (iii) provide copies of the title documents for the property to be leased, to the valuer;
 - (iv) provide the valuer with the guidelines for valuer in determining rental value for sub-Branch property.
- (d) Once a current market rental value (“Market Rent”) is obtained, the sub-Branch should offer to lease the Premises to the Club at that Market Rent.

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- (e) If the Club agrees with the Market Rent determined, then the sub-Branch should instruct its solicitors to prepare a Lease in accordance with the terms of the model lease based on Market Rent. The provisions in the model lease relating to “turnover rent” will not apply where the Club is paying the Market Rent.
- (f) Special circumstances – (financial capacity of the Club)
 - (i) For some years, due to the special relationship between the sub-Branches and the Clubs, some Clubs are currently paying well below current market rental.
 - (ii) The policy of State Council/Executive on advice from the League Honorary Solicitor is that Trustees of sub-Branch property must ensure that the Club tenants pay a fair and reasonable rental which unless approved by State Council, should reflect the current market rental.
 - (iii) Recent valuations obtained have indicated that many Clubs should be paying rentals far in excess of their current rent.
 - (iv) Clearly, some Clubs may not be in a financial position to afford such an increase and advice from the League’s Senior Counsel has recommended that because of the unique and special relationship between the Clubs and the sub-Branches there may be a justification for a discounted rental being agreed to by the Trustees.
 - (v) To justify other than a current market rental of sub-Branch property, special considerations must exist in order to absolve the Trustees from an action for breach of Trust and personal liability to make up the loss. Such considerations would require careful analysis and it would be appropriate for an independent accountant to examine the Club records to determine how much the Club can afford to pay. Unless such investigations are carried out, any rental figure agreed upon would be purely arbitrary.
 - (vi) Senior Counsel has also advised that where a Club is permitted to pay less than a current market rental, that Club should pay a portion of its turnover to the sub-Branch if the Club becomes more profitable during the term of the Lease.
 - (vii) Where the Club indicated that it cannot afford to pay the current market rental determined by the valuer, then the sub-Branch should obtain a copy of the most recently audited Club accounts.
 - (viii) An independent accountant mutually acceptable to both parties should be instructed to determine the amount of rent that the Club can realistically afford and to calculate the Club’s gross turnover for the previous twelve months.
 - (ix) The rent that the Club can afford becomes a base rent payable by the Club for the purpose of the model lease. That base rent is used to determine the percentage turnover rent that the Club must pay and that percentage should equal the base rent for the first year.

5-6

- (x) In this way, the fortunes of the Club and the sub-Branch are linked so that if the Club becomes more profitable, the sub-Branch property generates more rent.
- (xi) The base rent will be determined on a case by case basis and shall be the amount which the independent accountant determines that the Lessee Club can afford by negotiation between the Club, the sub-Branch and State Council/Executive.
- (xii) The sub-Branch should then instruct its solicitors to prepare a Lease in accordance with the model lease issued by RSL NSW which would include the turnover rent provisions.

5.17 When considering any transaction relating to sub-Branch, real estate the Constitution provides that a majority of members of the sub-Branch must pass a resolution giving consent at a meeting of which Fourteen (14) days written notice to each and every Member is given. It is not sufficient to pass such a resolution at a normal monthly meeting unless special notice of the meeting is given to Members setting out the item of business proposed to be dealt with and giving Members all necessary information to enable them to make an informed judgement.

5.18 Listed below are simple procedures to be followed when calling an Extraordinary General Meeting:-

- (a) Prepare notice for Extraordinary General Meeting. The example notice provided is considered to contain the minimum requirements in notifying Members pursuant to paragraph 4.33. An example notice is provided in Annex B.
- (b) In drafting the letter to your sub-Branch Members, accompanying the above notice we would suggest that you provide in brief as much information as possible to enable Members to make an informed judgement. The Trustees must make known details of the rental assessment valuation and put all facts before the meeting. Annex C provides an example letter and is considered to contain the minimum requirements
- (c) Mail out the Letters to all sub-Branch Members so as to give all members 14 day's notice of the date of the meeting.
- (d) Once called, the only business to be discussed at the Extraordinary General Meeting is as per agenda described in the notice calling the meeting , i.e. no General Business or business not pertaining to the reason why the meeting was called. Any other business may be discussed at a further General Meeting.

5.19 A copy of the lease and the valuation together with a copy of the notice of motion and minutes of the Extraordinary General Meeting conducted in accordance with the Constitution should then be submitted to State Council/Executive for its consent in accordance with the Constitution.

5-7

5.20 Trustees wishing to hire out sub-Branch land or halls to the public, must ensure that the hall is subject to local council planning approval, a current OH&S Risk Assessment, conducted by a qualified assessor and that all hirers produce proof of their own Public Liability Insurance to cover the hiring agreement.

Annexes:

- A. Example Notice of Special General Meeting
- B. Example letter to Members
- C. Recognised RSL Charities

Notice of Special General Meeting

Notice is hereby given that a special meeting of no name RSL sub-Branch will be held on 16 September, 20** at 7pm in the “no name” RSL Hall, 1007 The Long Road, no name.

Business

To consider and if thought fit to pass the following ordinary resolution:

“That in accordance with the provisions of the Constitution of The Returned and Services League of Australia (New South Wales Branch) that consent be given for Messrs John Smythe, Brian Bloggs and Anthony Smith as Trustees for the no name RSL sub-Branch to draw and execute a lease agreement, in accordance with the RSL NSW Model lease, between the sub-Branch and tenant no name RSL Club limited for a period of five (5) years with an option for a further term of five (5) years at a commencing annual rent as negotiated by the Trustees cognizant of current market rental assessment.”

Members are referred to the letter accompanying this notice for information in relation to the above resolution.

***Honorary Secretary _____ Signed
RSL sub-Branch***

DatedAugust 20**

You are reminded that only financial and eligible members of the sub-Branch are allowed to vote at this meeting.

**ANNEX B TO
CHAPTER 5**

Dear Member,

Proposed lease to No Name RSL Club limited

The purpose of this letter is to provide information to assist you in your understanding and consideration of the resolution which is to be submitted to the meeting of members of no name RSL sub-Branch to be held at the no name RSL Hall, 1007 The Long Road, no name at 7pm on 16 September, 200.*

The notice of the meeting is enclosed. You will notice the terms of the proposed resolution as set out in the notice.

At the outset it is to be understood that the resolution is only a preliminary step in the procedure which must be followed under the Constitution of The Returned and Services League of Australia (New South Wales Branch). If the resolution is passed by a majority of members present in person at the meeting, application is then made for the consent of State Council or State Executive in accordance with Constitution. If consent is granted, the sub-Branch will then instruct our solicitors to prepare the lease in registrable form for execution by the parties concerned and subsequent registration.

The proposal is that approval be given for the Trustees to enter into a lease agreement with the tenant Club for a period of five (5) years with an option of a further five (5) years at a commencing annual rental cognizant of the current market rental value.

*The rental assessment has been carried out by K.G. One Valuation, Registered Valuer No. 000. The rental assessment as at ** August 200* is \$**,000.00. An extract of the valuation is attached.*

The no name RSL Club limited have agreed to pay the assessed rent and a copy of their correspondence is attached.

There may be questions you wish to raise and you are of course entitled to do so at the meeting. Should you require information prior to the meeting, please make arrangements with the Honorary Secretary.

The Trustees are mindful of their obligations to discharge their duties by observing the standards of care and good faith, which the Members are entitled to receive and accordingly recommend you vote in favour of the proposal.

*Honorary Secretary
No Name sub-Branch
** August 200**

**ANNEX C TO
CHAPTER 5**

Recognised RSL Charities shall be:-

- (i) RSL Welfare and Benevolent Institution
- (ii) State President's Christmas Appeal
- (iii) State President's Disaster Appeal
- (iv) RSL LifeCare, ANZAC Village – Narrabeen
- (v) RSL LifeCare, Linton Village – Yass
- (vi) RSL LifeCare, Rowland Village – Galston
- (vii) RSL LifeCare, The Lakes of Cherrybrook/Cherrybrook Gardens –
Cherrybrook
- (viii) RSL LifeCare, Governor Phillip Gardens – Penrith
- (ix) RSL LifeCare, Tobruk – Austral (including John Edmondson VC House)
- (x) RSL LifeCare, Queen Victoria Gardens – Picton
- (xi) RSL LifeCare Dumaresq Village – Nowra (including Jonathon Rogers GC
House)
- (xii) RSL LifeCare, Remembrance Village & The Grange Lifestyle Village –
Wagga Wagga
- (xiii) RSL LifeCare, Myall Lodge – Hawkes Nest
- (xiv) RSL LifeCare, Ex-Services Village – Ballina
- (xv) RSL LifeCare, Bayside @ Byron – Byron Bay
- (xvi) RSL LifeCare, Tea Gardens Grange – Tea Gardens

Other RSL Bona fide Charities:

- (i) State President Shield
- (ii) State President's Drought Relief Appeal
- (iii) RSL Support and Assistance Fund
- (iv) RSL Australian Forces Overseas Fund
- (v) RSL Operation Care
- (vi) United Returned Soldiers' Fund
- (vii) Cadet of the Year
- (viii) RSL Scholarships Fund
- (ix) RSL Corps of Guards

Personal Donations of \$2.00 or over made to RSL Welfare and Benevolent Institution, RSL Australian Forces Overseas Fund & United Returned Soldiers' Fund are allowable deductions for Income Tax.

CHAPTER 6

WIDOWS, WIDOWERS AND DEPENDANTS BENEVOLENT FUND

6.1 State Council has resolved that sub-Branches seeking to provide financial assistance to dependants of recently deceased service or life Members other than associates may upon application in accordance with this regulation be authorised to establish and maintain such a fund.

6.2 The Constitution provides that one of the objects of the League and RSL NSW is “to provide for the sick and wounded and needy among those who have served, and their dependants, including pensions, welfare & Benevolent fund, medical attention, homes and suitable employment”.

‘Bona fide’ donation

6.3 The words ‘bona fide’ means ‘in good faith’. When referring to distributions or donations and interpreted in accordance with the Constitution, a reference to ‘bona fide’ means that any distributions and donations in respect of Trust funds made pursuant to the Constitution need to be made in good faith.

‘Bona fide’ dependent recipient

6.4 The Constitution provides that one of the objects of the League is to provide for the sick and wounded and needy among those who have served and their dependants, namely children or spouses of those who have served who, in good faith are maintained by or are the responsibility of an individual who has served and is entitled to assistance.

Application of a Fund

6.5 The effect of Clause 34 of the Constitution on the application of funds pursuant to Clause 6.2 of the Regulation relating to the provision of financial assistance to dependants of recently deceased service or life Members other than associates is summarised as follows:

- (i) Clause 34.4 (g) provides that property vested in unincorporated sub-Branch Trustees or in any other person on behalf of unincorporated sub-Branch Trustees, or in any other unincorporated Subsidiary, must not be sold, transferred, conveyed, alienated, mortgaged, leased, or given to any person or corporation without first obtaining the consent of State Council or State Executive.
- (ii) As referred to in paragraph 6.2 and when read together with Clause 34.4 (j) would require that a donation or gift made in pursuit of the object referred to in Clause 34, if involving the sale, transfer,

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conveyance, alienation, mortgage, leasing of property, or given to any person will require the consent of State Council or State Executive.

- (iii) A failure to make a donation in accordance with the above provisions may give rise to an invalid gift from the Trust assets.
- (iv) Clause 34.4 (j) of the Constitution provides that the terms with regard to obtaining State Council or State Executive consent will not affect donations being made for amounts of \$5,000.00 or less by an unincorporated sub-Branch or by any other unincorporated subsidiary furthering the League's objects.
- (v) The effect of paragraph 6.5(iv) would then be that if, in providing for the sick, wounded and needy among those who have served and their dependants, the gift of an amount no greater than \$5,000.00 or less, the consent of the State Council or State Executive is not required.
- (vi) Clause 34.4 (i) provides that the total amount of donations made by an unincorporated sub-Branch or any other unincorporated Subsidiary, (made in donations of \$5,000.00 or less) are not to exceed \$50,000.00 in total in any one financial year.
- (vii) The effect of paragraph 6.5(vi) would be that an unincorporated sub-Branch would not be entitled to make multiple small donations (that is separate donations of \$5,000.00 or less) which in total would amount to more than \$35,000.00 in total in any one financial year.
- (viii) It is to be noted that in the context of the above provisions, which even if State Council or State Executive grants consent, the donation must still be for a "bona fide" purpose.
- (ix) Trustees of a fund undertake, in agreeing to act as Trustees, to act in good faith in accordance with the Constitution and in the best interests of the beneficiaries, which in this instance, are the members of the League.

Administrative requirements to obtain State Council or State Executive approval under Clause 34.4

6.6 Where the donation being an amount greater than \$5,000.00 or the total amount of all donations exceeding \$50,000.00 the sub-Branch must make an application, before the donation is made to State Branch, which includes:

- (i) The donation amount and any other financial details are requested by either the State Council or the State Executive from time to time; and

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- (ii) Minutes of the sub-Branch general meeting evidencing the members' wish to donate to the individual or organisation; and
- (iii) Details of the individuals or organisation 'bona fides' to receive a donation pursuant to the objects of the League, together with supporting literature as requested by either the State Council or the State Executive from time to time.

6.7 Upon receipt of the sub-Branch application, with all the information referred to above, the proposal will then be placed before State Council or State Executive for consideration pursuant to Constitution.

6.8 The decision of the State Council or State Executive will be final and binding, and will be notified to the sub-Branch in writing.

Administrative Requirements for a sub-Branch to obtain Approval to Establish and Operate a Fund

6.9 Approval to establish and operate a Fund will be in accordance with the following provisions.

- (i) The wishes of the sub-Branch Members to be established by way of a clear and precise resolution passed at a general meeting on which fourteen (14) day's written notice has been given to all members.
- (ii) The sub-Branch to make a written submission to RSL NSW for Constitutional consent. The submission will include the following:
 - (a) Copy of the notice pursuant to which the meeting was called.
 - (b) Complete copy of minutes evidencing the resolution to set up a Fund.
 - (c) Draft copy of a completed Trust Deed. (Attached as Appendix A).

6.10 Sub-Branches authorised to establish and operate a "Fund" will utilise and maintain the following documents which are attached to this By-Law and identified as Appendices A to D:

- (i) Appendix A Trust Deed
- (ii) Appendix B Members details record
- (iii) Appendix C Application for Benefit
- (iv) Appendix D Welfare/Investigating Officer Report.

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6.11 For the purpose of administering the Fund, the Trustees and sub-Branch members may decide to elect by ordinary resolution passed at a general meeting three sub-Branch members to act solely as Fund Trustees, in accordance with the terms and conditions of the Trust Deed.

Annexes:

- | | |
|---|---------------------------------------|
| A | Trust Deed |
| B | Members details record |
| C | Application for Benefit |
| D | Welfare/Investigating Officer Report. |

TRUST DEED

RSL SUB-BRANCH WIDOWS AND DEPENDANTS' BENEVOLENT FUND

THIS TRUST DEED made theday of

BETWEEN:..... [Names and Addresses of sub-Branch Trustees] in the State of New South Wales as Trustees of the [name of sub-Branch] sub-Branch of The Returned and Services League of Australia (New South Wales Branch) ["The Settlers"]

AND [name and addresses of intended benevolent fund trustees] in the State of New South Wales ("the Trustees").

WHEREAS

The Settlers have resolved to establish a trust fund to be known as the "-----
----- **RSL Sub-Branch Widows & Dependants' Benevolent Fund**" for the purpose of providing financial assistance to the widows or other dependants of recently deceased Service or Life Members of the sub-Branch of The Returned and Services League of Australia [New South Wales Branch].

The Trustees have agreed to act as Trustees of the Trust upon the terms contained in this Trust Deed.

The Settlers have resolved to settle the initial sum of (*amount to be inserted*) upon the Trustees for the purpose of the Trust. The Trustees to resolve the amount of monies payable to the widow of dependants upon the death of an entitled member.

NOW THIS DEED WITNESSES as follows :

- (1) In the interpretation of this Trust Deed the following words and expressions shall have the following meanings :-

"The Trust Fund" means the initial sum of (*amount to be inserted*) and the accruing interest and income thereof and shall include any additional monies, which shall from time to time be received by the Trustees upon the Trust of this Deed.

"The Trustees" mean the Trustee named in this Trust Deed and include the survivor or survivors of them or such other person or persons as may be appointed as Trustee or Trustees of the trust fund.

- (2) The Trustees acknowledge and agree that they hold the trust fund UPON TRUST to pay such of the income as they in their absolute discretion from time to time think proper and in accordance with the Constitution for the relief of poverty, advancement of education or for any other charitable use to or for such of the widows or other dependents of recently deceased Service or Life Members other than associates of the..... sub-Branch of The Returned and Services League of Australia [New South Wales Branch] in such

shares or proportions or in such manner as the Trustees in their absolute discretion think proper, providing that the deceased member had been a financial Service or Life Member other than associates of the said sub-Branch for a continuous period of one year prior to the date of the Trust or a fully paid up financial Service or Life Member other than associates for a continuous period of five [5] years prior to the date of their death.

- (3) The Trustees shall forthwith invest the trust fund in any investments in which trustees are authorised by the Trustee Act 1925 and by the Constitution and By-Laws of The Returned and Services League of Australia [New South Wales Branch] to invest trust funds and may from time to time vary such investments for others of the like nature as often as they consider fit.
- (4) The Trustees may accumulate such income not paid or applied in accordance with Clause '2' hereof by way of compound interest by investing the same and the resultant income thereof in any manner authorised by this trust deed in augmentation of and so as to follow the distinction of the capital of the trust fund but with power to the Trustees in their discretion at any time or from time to time to resort to and apply such accumulations or parts thereof as if the same had not been accumulated but were income of the then current year.
- (5) At the expiration of 10 years [For example] [**Note term of trust cannot exceed 80 years from the date of creation**] computed from 200 , the trust constituted by this trust deed shall determine, and the trust fund shall thereupon be paid and transferred to the..... RSL sub-Branch of The Returned and Services League of Australia [New South Wales Branch] in the event of theRSL sub-Branch of the Returned and Services League of Australia [New South Wales Branch] no longer being in existence the trust fund shall thereupon be paid and transferred to the New South Wales RSL Welfare and Benevolent Institution or to whichever fund or organisation that may replace the said New South Wales RSL Welfare and Benevolent Institution, for such purposes as are charitable, unless the Settlers or their successors as Trustees of the RSL sub-Branch of The Returned and Services League of Australia [New South Wales Branch] shall determine by resolution before the expiration of the said term or resettle the trust fund upon the same terms and conditions as are contained in this trust deed.
- (6) The members of the [insert name] RSL sub-Branch of The Returned and Services League of Australia (New South Wales Branch) may at any time or times by ordinary resolution passed at a General Meeting of members remove any Trustee or Trustees, whereupon the Office of Trustee(s), so removed shall become vacant and, may by ordinary resolution, nominate any other person or persons to be a Trustee or Trustees, either jointly with any other continuing Trustee or Trustees or as additional Trustee or solely if, after any such removal, there shall not be any continuing Trustee. In addition to the power of the members of the [insert names] RSL sub-Branch to remove any Trustee or Trustees, State Branch of The Returned and Services League of Australia (New South Wales Branch) may, by resolution, remove the Trustee or Trustees, whereupon the office of Trustee(s) so removed shall become vacant and State Branch may by ordinary resolution of State Council or State Executive, appoint a new Trustee or Trustees, either jointly or with any other

continuing Trustee or Trustees as additional Trustee or solely if, after such removal, there shall not be any continuing Trustee.

- (7) For the purpose of giving effect to nomination pursuant to Clause 6, the President for the time being of the [insert name] RSL sub-Branch is empowered to appoint new or additional Trustees within the meanings of Section 6 and 7 of the Trustee Act 1925 (as amended), and he shall by deed appoint the person or persons so nominated as new Trustee or Trustees or additional Trustee or Trustees, as the case may be, and the provisions of that Act shall apply to any such appointment.

IN WITNESS whereof the parties hereto have executed this deed on the day and year hereinbefore written.

SIGNED SEALED AND DELIVERED by the)
said [sub-Branch Trustee] in the presence of)

SIGNED SEALED AND DELIVERED by the)
said [sub-Branch Trustee] in the presence of)

SIGNED SEALED AND DELIVERED by the)
said [sub-Branch Trustee] in the presence of)

SIGNED SEALED AND DELIVERED by the)
said [sub-Branch Fund Trustee] in the presence of)

SIGNED SEALED AND DELIVERED by the)
said [sub-Branch Fund Trustee] in the presence of)

SIGNED SEALED AND DELIVERED by the)
said [sub-Branch Fund Trustee] in the presence of)

SUB-BRANCH

WIDOWS' AND DEPENDANTS' BENEVOLENT FUND
**(Member Details for the purpose of providing financial assistance
to Bone fide recipients. (Widows and Dependants))**

SURNAME: _____

GIVEN NAMES: _____

ADDRESS: _____

_____ **POST CODE** _____

PHONE NO. () _____

DATE OF BIRTH _____

SERVICE NO: _____

DATE OF JOINING SUB-BRANCH _____

DVA CLIENT NO. (IF APPLICABLE) _____

CENTRELINK CLIENT NO. (IF APPLICABLE) _____

NOMINATED DEPENDANT: _____

ADDRESS: _____

POST CODE: _____ **PHONE NO. ()** _____

RELATIONSHIP TO MEMBER: _____

MEMBER'S SIGNATURE: _____

DATE: _____

USE AND DISCLOSURE OF PERSONAL INFORMATION

To enable the sub-Branch to deliver the best service possible we need to collect and hold personal information about you. This consent ensures that we have your permission to use and disclose your personal information when carrying out our functions. If you do not sign this consent we will not be able to process your application.

Please read this document and the privacy statement of the League carefully, a copy of the privacy statement is available from the sub-Branch Secretary. If you have any questions about the privacy statement, please contact our privacy officer before signing this consent.

1. I have read and understood the privacy statement.
2. I consent to my personal information being used and disclosed by the RSL in accordance with the privacy statement.

Member's Signature: Date / /

SUB-BRANCH

WIDOWS' AND DEPENDANT'S BENEVOLENT FUND

APPLICATION FOR BENEFIT

NAME OF DECEASED _____

ADDRESS _____

_____ **POST CODE** _____

DATE DECEASED _____

APPLICANT'S DETAILS

SURNAME _____

GIVEN NAMES _____

ADDRESS _____

_____ **POST CODE** _____

PHONE NO. () _____

RELATIONSHIP TO DECEASED _____

I certify that(deceased) was a financial ordinary or Life Member other than an associate of the sub-Branch at the date of his/her demise and that the above details have been obtained from sub-Branch records.

SIGNED _____

DATE _____

(NOTE: This form to be completed by the sub-Branch Honorary Secretary)

SUB-BRANCH

WIDOWS' AND DEPENDANTS' BENEVOLENT FUND

WELFARE/INVESTIGATING OFFICER'S REPORT

NAME OF DECEASED _____

ADDRESS _____

_____ **POST CODE** _____

DATE OF DEATH _____

FOR COMPLETION BY WELFARE/INVESTIGATING OFFICER

Authentication of service particulars by

Authentication of government benefits by

REPORT

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CHAPTER 7

OTHER USEFUL INFORMATION

Introduction

7.1 This Chapter is designed to provide useful information and contacts for sub-Branch and Subsidiary Trustees, Executives and Committee. It contains contact details for all of the publications and organisations mentioned in this Regulation and other useful information.

Websites

7.2 Websites that relate to organisations or publications mentioned in this Regulation and of common interest are:

- a. **RSL National** – www.rsl.org.au
- b. **RSL NSW** - <http://www.rslnsw.org.au/>; contains information for sub-Branches, including an electronic copy of the Constitution and By-Laws, sub-Branch Governance Regulation and Protocol and Procedures Regulation.
- c. **Connecting NSW (Government Directory)**–
<http://www.nsw.gov.au/index.asp>;
- d. **NSW Trustee Act 1925**
http://www.austlii.edu.au/au/legis/nsw/consol_act/ta1925122/;
- e. **NSW Office of Fair Trading** –
<http://www.fairtrading.nsw.gov.au/corporate/legislation/fairtradinglegislation.html>;
- f. **NSW Office of Liquor, Gaming and Racing** –
http://www.olgr.nsw.gov.au/olgr_default.asp;
- g. **NSW Charitable Fundraising Act 1991** -
http://www.olgr.nsw.gov.au/charitable_act.asp;
- h. **NSW State Records Act 1998** –
http://www.records.nsw.gov.au/recordkeeping/recordkeepinginthenswpublic_sector_2072.asp;
- i. **NSW Commission for Children and Young People** –
<http://www.kids.nsw.gov.au/>;
- j. **NSW Members of Parliament** – <http://www.parliament.nsw.gov.au>;

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- k. **Register of NSW War Memorials** - <http://www.warmemorialsnsw.asn.au/>;
- l. **Australian Taxation Office** – <http://www.ato.gov.au/>;
- m. **National Archives** – <http://www.naa.gov.au>
- n. **Common Law** - <http://www.commonlii.org/resources/1.html>;
- o. **Australian Defence Department** - <http://www.defence.gov.au/index.htm>;
- p. **Office of Australian War Graves** – <http://www.dva.gov.au/contacts/oawg.htm>;
- q. **Australian Defence Association** - <http://www.ada.asn.au/links.htm>;
- r. **Australian National Flag Association** – <http://www.australianflag.org.au>;
- s. **Australian War Memorial** - <http://www.awm.gov.au/>;
- t. **Its an Honour** - <http://www.itsanhonour.gov.au/>;
- u. **Department of Veterans Affairs** - <http://www.dva.gov.au/>;
- v. **Australian Accounting Standards** - http://www.aasb.com.au/pronouncements/aasb_standards_2005.htm;
- w. **Australian Government Online Directory**- <http://directory.gov.au>
- x. **The Privacy Act 1988** - <http://www.privacy.gov.au/act/privacyact/>;
- y. **World War 2 Nominal Roll** – <http://www.ww2roll.gov.au>;
- z. **Korea Nominal Roll** – <http://www.koreanroll.gov.au>.
- aa. **Your Guide** - <http://www.yourguide.com.au/yourguide.asp>
- bb. **Our Community** - <http://www.ourcommunity.com.au/>; and
- cc. **Volunteering NSW** - <http://www.volunteering.com.au/>