

Christian Conventions Of Western Australia Incorporated

Rules of Association

Tuesday, 24 September 2002

PART 1: PRELIMINARY

Name of the Association

1. The name of the Association shall be “Christian Conventions Of Western Australia Incorporated” otherwise referred to by the short name “CCOWA Inc.”

Definitions

2. In these Rules, unless contrary intention appears:
 - 2.1. “the Act” means the *Associations Incorporation Act 1987* of Western Australia;
 - 2.2. “the Regulation” means the *Associations Incorporation Regulations 1988* of Western Australia;
 - 2.3. “the Association” means the Association referred to in rule 1;
 - 2.4. “the objects” means the objects of the Association referred to in rule 3;
 - 2.5. “Doctrinal Basis” means the particular doctrines referred to in rule 6 which are upheld by the Association;
 - 2.6. “member” means member of the Association referred to in rule 7;
 - 2.7. “original member” means person holding membership in the Association at the time of the incorporation of the Association under these Rules;
 - 2.8. “general meeting” means general meetings of members convened under rule 24;
 - 2.9. “ordinary resolution” means resolution other than a special resolution;
 - 2.10. “special resolution” has the meaning given by Section 24 of the Act;
 - 2.11. “the Committee” means the Committee of the Association referred to in rule 15;
 - 2.12. “Committee member” means member of the Committee referred to in rule 16;
 - 2.13. “Committee meeting” means meeting of the Committee convened under rule 21;
 - 2.14. “the Chairperson” means the member appointed to perform the duties of the Chairperson of the Association referred to in rule 18;
 - 2.15. “the Secretary” means the member appointed to perform the duties of the Secretary of the Association referred to in rule 19;
 - 2.16. “the Treasurer” means the member appointed to perform the duties of the Treasurer of the Association referred to in rule 20;
 - 2.17. “financial year” has the meaning given by Section 3(1) of the Act, a reference in that Section to —
 - 2.17.1. “an incorporated Association” or “the Association” being construed as a reference to the Association, and
 - 2.17.2. “the Committee” being construed as a reference to the Committee.

PART 2: THE NATURE OF THE ASSOCIATION

Objects of the Association

3. Subject to the Doctrinal Basis referred to in rule 6, the objects of the Association are:
 - 3.1. the glory of God in the building of His church through the preaching of the gospel of the Lord Jesus Christ and the teaching of the Bible;
 - 3.2. the evangelisation of all people through the proclamation of the gospel and the teaching of the Bible that seek to make Jesus Christ known as both Lord and Saviour, so that by God’s grace, non-believers might be saved through faith in Him and believers might be encouraged to persevere in that same faith;

- 3.3. the edification of God's people through Biblically determined activities, particularly, but not limited to, Bible-teaching, that seek to promote in God's people unity in the love, knowledge and faith of Jesus Christ as both Lord and Saviour, and that seek to instil Godly attitudes in believers and equip them for works of service that glorify God and build His church;
- 3.4. the promotion of, provision for and development of evangelism (referred to in sub-rule 3.2) and Bible-teaching ministry (referred to in sub-rule 3.3), especially in, but not limited to, Perth and its surrounds and especially by, but not limited to, public conferences and conventions;

Property & Income of the Association

4. The property and income of the Association shall be applied solely towards the promotion of the objects of the Association, and no part of that property or income may be paid or otherwise distributed, directly or indirectly, to members, except in good faith in the promotion of those objects.

Powers of the Association

5. In carrying out its objects, the Association has all the powers set out in Section 13 of the Act, as well as the power to:
 - 5.1. cooperate with any company, Association, denomination, church, group or person if in the opinion of the Association such cooperation is calculated to promote the objects of the Association;
 - 5.2. accept or refuse any subscription, payment, gift or donation to the Association;
 - 5.3. impose and collect from any member of the Association subscriptions, funds, levies, fines or other moneys for the purpose of carrying on or promoting the objects of the Association;
 - 5.4. impose and collect from any non-member payments for the purpose of carrying on or furthering the objects of the Association;
 - 5.5. draw, accept and negotiate cheques, bills of exchange, promissory notes and other negotiable instruments;
 - 5.6. open and maintain bank accounts through which all funds of the Association will pass and to give appropriate authorities to suitable members for signature and endorsement of cheques and other negotiable instruments;
 - 5.7. purchase, take on lease or in exchange, hire and otherwise acquire any real and personal property, in particular any land, buildings, easements, machinery and plant, and any rights or privileges which the Association may think necessary or convenient for the purpose of promoting its objects;
 - 5.8. sell, improve, lease, mortgage, dispose of or otherwise deal with all or any part of the property rights, privileges, assets or funds of the Association;
 - 5.9. invest the funds of the Association, not immediately required, in any such investment or security as the Association may from time to time seem fit;
 - 5.10. recruit, appoint or employ and terminate the appointment or employment of employees and other people, as may be thought desirable;
 - 5.11. carry on or engage in any business, undertaking or project which may seem to the Association capable of being conveniently carried on in connection with or calculated directly or indirectly to further the objects of the Association;
 - 5.12. take any other measures, perform any other tasks and be engaged in any other activities of whatever nature as thought desirable for the promotion of the objects of the Association.

Doctrinal Basis

6. The Association undertakes to uphold the whole counsel of God as contained in the Bible alone, and in particular the following Biblically determined doctrines as significant and fundamental to evangelism and ministry:
 - 6.1. The divine inspiration and infallibility of Holy Scripture, as originally given, and its supreme and final authority in all matters of faith and conduct;
 - 6.2. The unity of the Father, the Son and the Holy Spirit in the Godhead;
 - 6.3. The universal sinfulness and guilt of human nature since the fall, rendering Mankind subject to God's wrath and condemnation;
 - 6.4. The conception of Jesus Christ, the incarnate Son of God, by the Holy Spirit and his birth of the virgin Mary;
 - 6.5. Redemption from the guilt, penalty and power of sin, only through the sacrificial death of Jesus Christ as our representative and substitute;
 - 6.6. The Lordship and victory of Jesus Christ over Satan, sin, death and the world in his resurrection, with flesh bones and all things pertaining to a human body, from the dead;
 - 6.7. Salvation from judgment received by grace alone, through faith alone, in Christ alone, according to Scripture alone, and to the glory of God alone;
 - 6.8. The necessity of the work of the Holy Spirit to make the death of Christ effective in the individual sinner, granting them repentance toward God and true faith in Jesus Christ;
 - 6.9. The continuing indwelling work of the Holy Spirit in the believer;

- 6.10. The expectation of the personal return of the Lord Jesus Christ;
- 6.11. The one holy universal and apostolic Church, which is the body of Christ and to which all believers belong.

PART 3: MEMBERSHIP OF THE ASSOCIATION

Qualifications for Membership of the Association

- 7. The members of the Association shall be —
 - 7.1. the original members of the Association, and
 - 7.2. other persons that the Committee, subject to these Rules, admits to membership from time to time.

Application for Membership of the Association

- 8. Every applicant for membership of the Association:
 - 8.1. shall be proposed by one member and seconded by another member of the Association;
 - 8.2. must be personally known for more than one year to both the member who proposed and member who seconded the applicant for membership;
 - 8.3. shall lodge their application in a form prescribed by the Committee or Association from time to time;
 - 8.4. shall, in the application referred to in subrule 8.3, declare:
 - 8.4.1. their agreement with the Doctrinal Basis referred to in rule 6;
 - 8.4.2. their agreement to be bound by these Rules for the time they are in force;
 - 8.4.3. their agreement to be bound by any other requirements adopted from time to time by resolution of the Committee or the Association.

Admission to Membership of the Association

- 9. The Committee shall consider each application for membership made under rule 8 —
 - 9.1. at the Committee meeting immediately following lodgement of the application with the Secretary, and
 - 9.2. the Committee shall determine by resolution to accept or reject the application, and
 - 9.3. as soon as practicable, the Secretary shall inform the applicant, in a form prescribed by the Committee from time to time, of the Committee's determination, and
 - 9.4. in no case shall the Committee be required to give any reason for rejecting an application.

Cessation of Membership of the Association

- 10. A person ceases to be a member if that member —
 - 10.1. dies, or
 - 10.2. resigns subject to rule 11, or
 - 10.3. is expelled under rule 12, or
 - 10.4. fails to pay their subscription under rule 13.

Resignation of Membership of the Association

- 11. A member may at any time resign their membership of the Association —
 - 11.1. by lodging notice, in a form prescribed by the Committee from time to time, of their resignation with the Secretary, and
 - 11.2. ceases to be a member upon lodgement of that notice of resignation referred to in subrule 11.1 or at a later time specified in that notice, but
 - 11.3. that person remains liable to pay to the Association the amount of any subscription, fine, payment or other monies due and payable by that person to the Association but unpaid at the time of their resignation.

Expulsion of Members of the Association

- 12. The Committee shall have the power to expel any member from the Association:
 - 12.1. if the Committee believes that member to be guilty of —

- 12.1.1. wilfully refusing or neglecting to comply with the provisions of these Rules, or
- 12.1.2. any conduct which in the opinion of the Committee is unbecoming of a member or prejudicial to the interests of the Association;
- 12.2. by resolution of Committee members present at its meeting, excluding the member concerned, should that member be a Committee member —
 - 12.2.1. provided that not less than 30 days before the meeting of the Committee at which such a resolution is to be considered the member concerned shall have had written notice of such a meeting and of what is alleged against them and of the intended resolution, and
 - 12.2.2. provided that at the meeting of the Committee at which such a resolution is to be considered, the member concerned shall be given a reasonable opportunity to give orally or in writing any explanation or defence they may think fit;
- 12.3. and shall forthwith after deciding whether or not to expel that member, communicate that decision in writing to that member;
- 12.4. and that member ceases to be a member 14 days after the day on which the decision so to expel them is communicated to them under subrule 12.3;
- 12.5. and within that 14 day period referred to in subrule 12.4, the expelled member may appeal against that expulsion by lodging notice in writing with the Secretary of their intention to appeal;
- 12.6. and should the member concerned lodge notice of their intention to appeal under subrule 12.5, the Association in a general meeting shall uphold or set aside the resolution of the Committee to expel the member concerned —
 - 12.6.1. by resolution of members present excluding the member concerned,
 - 12.6.2. provided that at the general meeting at which such a resolution is to be considered, the member concerned shall be given a reasonable opportunity to give orally or in writing any explanation or defence they may think fit, and
 - 12.6.3. the member concerned does not cease to be a member unless and until the general meeting at which such a resolution is to be considered hears that member's appeal and nevertheless upholds the resolution of the Committee to expel the member concerned, and
 - 12.6.4. should the resolution to expel the member concerned be upheld, their membership ceases immediately.

Subscriptions of Members of the Association

13. Each member may be required to pay to the Treasurer a subscription to maintain their membership, and —
 - 13.1. the members may from time to time at a general meeting determine —
 - 13.1.1. the amount of the subscription to be paid by each member annually, and
 - 13.1.2. the date that such a subscription is due to be paid by each member each year, and
 - 13.2. a member whose subscription lapses for 3 months after the due date so determined under subrule 13.1 ceases on the expiry of that period to be a member, unless the Committee decides otherwise.

Register of Members of the Association

14. The Secretary shall on behalf of the Association keep and maintain the register of members in accordance with Section 27 of the Act and that register shall be so kept and maintained at their place of residence.

PART 4: THE COMMITTEE

Powers of the Committee

15. The Committee, subject to the Act, the Regulation, these Rules and any resolution passed by the Association in a general meeting, shall:
 - 15.1. exclusively control and manage the affairs of the Association;
 - 15.2. exercise all such functions as may be exercised by the Association other than those functions that are required by these Rules to be exercised by a general meeting of members of the Association;
 - 15.3. have the power to perform all such acts and do all such things as appear to the Committee to be necessary or desirable for the proper management of the affairs of the Association.

Membership of the Committee

16. Concerning membership of the Committee:

- 16.1. The number of Committee members shall be determined by members at an annual general meeting provided this number not be less than four;
- 16.2. The Committee shall include:
 - 16.2.1. the Chairperson;
 - 16.2.2. the Secretary;
 - 16.2.3. the Treasurer;
- 16.3. A member of the Association may become a Committee member —
 - 16.3.1. By election at an annual general meeting, provided that the person concerned:
 - 16.3.1.1. firstly, is a member of the Association;
 - 16.3.1.2. secondly, is nominated for election to membership of the Committee by another member of the Association and the nominated member is agreeable to be so nominated;
 - 16.3.1.3. thirdly, is elected by resolution of the most recent annual general meeting of the Association; or
 - 16.3.2. By appointment of the Committee from time to time in order to fill a casual vacancy on the Committee and provided that the maximum number of Committee members prescribed in sub-rule 16.1 not be exceeded.
- 16.4. Subject to these Rules, Committee members shall hold office until the conclusion of the annual general meeting following the date of their election or appointment and may at that annual general meeting be eligible for re-election or re-appointment to membership of the Committee.

Casual Vacancy of the Committee

17. A casual vacancy may occur in the office of a Committee member if —
 - 17.1. The number of members elected to membership of the Committee is less than the number of members allowed under subrule 16.1, or
 - 17.2. a Committee member —
 - 17.2.1. ceases to be a member of the Association according to rule 10, or
 - 17.2.2. resigns their membership of the Committee, in a form prescribed by the Committee from time to time and lodged with the Secretary or, if the person concerned is the Secretary, with the Chairperson, or
 - 17.2.3. is convicted of an offence under the Act, or
 - 17.2.4. is removed from membership of the Committee by special resolution of members of the Association at a general meeting, or
 - 17.2.5. is permanently incapacitated by mental or physical ill-health, or
 - 17.2.6. is absent from more than —
 - 17.2.6.1. three consecutive Committee meetings, or some other number of consecutive Committee meetings as determined by the Committee from time to time, or
 - 17.2.6.2. three Committee meetings, or some other number of consecutive Committee meetings as determined by the Committee from time to time, in the same financial year, of which the Committee member has received notice, without tendering an apology to the person presiding at each of those Committee meetings.

The Chairperson

18. The Chairperson shall:
 - 18.1. Be elected by members of the Association at its annual general meeting, or failing that, be elected by the Committee from the membership of the Committee;
 - 18.2. Be the public officer of the Association;
 - 18.3. Preside at all general meetings and, in the event of the absence of the Chairperson at a general meeting, a member elected by the other members present at the general meeting shall preside;
 - 18.4. Preside at all Committee meetings and, in the event of the absence of the Chairperson at a Committee meeting, a Committee member elected by the other Committee members present at the Committee meeting shall preside.

The Secretary

19. The Secretary shall:
 - 19.1. Be elected by members of the Association at its annual general meeting, or failing that, be elected by the Committee from the membership of the Committee;
 - 19.2. Co-ordinate and manage the correspondence of the Association;
 - 19.3. Keep full and correct minutes of the proceedings of Committee meetings and general meetings;

- 19.4. Comply on behalf of the Association with:
 - 19.4.1. Section 27 of the Act in respect of the register of members of the Association;
 - 19.4.2. Section 28 of the Act in respect of the Rules of the Association;
 - 19.4.3. Section 29 of the Act in respect of the record of the office-holders and any trustees of the Association;
- 19.5. Have custody of all books, documents, records and registers of the Association, including those referred to in subrule 20.3, other than those required by rule 21 to be kept and maintained by, or in the custody of, the Treasurer;
- 19.6. Perform such other duties as are imposed by these Rules on the Secretary.

The Treasurer

20. The Treasurer shall:
 - 20.1. Be elected by members of the Association at its annual general meeting, or failing that, be elected by the Committee from the membership of the Committee;
 - 20.2. Be responsible for the receipt of all moneys paid to or received by, or by them on behalf of, the Association and shall issue receipts for those moneys in the name of the Association;
 - 20.3. Pay all moneys referred to in subrule 21.1 into such accounts of the Association and the Committee may from time to time direct;
 - 20.4. Make payments from the funds of the Association with the authority of a general meeting or of the Committee and in so doing ensure that all cheques are signed by two Committee members;
 - 20.5. Comply on behalf of the Association with Sections 25 and 26 of the Act in respect of the accounting of the Association;
 - 20.6. Whenever directed to do so by the Chairperson, submit to the Committee a report, balance sheet or financial statement in accordance with that direction;
 - 20.7. Have custody of all securities, books and documents of a financial nature and accounting records of the Association, including those referred to in subrules 21.4 and 21.5; and
 - 20.8. Perform such other duties as are imposed by these Rules on the Treasurer.

Convening of Committee Meetings

21. The Committee shall meet together for the dispatch of business and adjourn and otherwise regulate their meetings:
 - 21.1. at any time and in any manner as they see fit, provided that reasonable notice be given of the Committee meeting to Committee members;
 - 21.2. at the request of any two members of the Committee;
 - 21.3. at the request of the Chairperson.

Quorum at Committee Meetings

22. For the purpose of any Committee meeting:
 - 22.1. a quorum at Committee meetings —
 - 22.1.1. shall be determined by the Committee, provided that quorum not be less than two, and
 - 22.1.2. unless so determined, is two.
 - 22.2. a member of the Committee shall be considered present at a meeting of the Committee if they are present
 - 22.2.1. in person, or
 - 22.2.2. by proxy, or
 - 22.2.3. by means of a telephone or other communications equipment.

Proceedings of the Committee

23. At a Committee meeting:
 - 23.1. A question arising —
 - 23.1.1. shall be resolved by a majority of votes of Committee members present, and
 - 23.1.2. each member of the Committee shall have one deliberative vote, but
 - 23.1.3. if there is an equality of votes, the member presiding at the Committee meeting shall have the casting vote in addition to their deliberative vote, and
 - 23.1.4. any such decision shall for all purposes be deemed a decision of the Committee.

- 23.2. Subject to these Rules, the procedure and order of business to be followed at a Committee meeting shall be determined by the Committee members present at the Committee meeting;
- 23.3. A Committee member having any direct or indirect pecuniary interest referred to in Section 21 or 22 of the Act shall comply with that Section.

PART 5: GENERAL MEETINGS

Convening of General Meetings

- 24. The Committee shall convene general meetings as —
 - 24.1. annual general meetings of the Association within the time limits provided for the holding of annual general meetings by Section 23 of the Act, or as
 - 24.2. special general meetings of the Association:
 - 24.2.1. whenever the Committee so decides;
 - 24.2.2. within 30 days of the lodgement with the Secretary of a request in writing to do so from not less than 5 members for the purpose specified in that request, provided that the members making the request —
 - 24.2.2.1. states in that request the purpose for which the special general meeting concerned is required, and
 - 24.2.2.2. sign that request;
 - 24.2.3. within 30 days of a notice being lodged under rule 12 for the purpose of dealing with the appeal to which that notice relates.

Notice of General Meetings

- 25. The Secretary shall give notice in a form and of a duration prescribed by the Committee from time to time, and failing that at least fourteen days notice in writing, of a general meeting, and —
 - 25.1. in that notice state —
 - 25.1.1. the place, the day and the hour of the meeting, and
 - 25.1.2. particulars of the business to be transacted at the general meeting concerned, and
 - 25.1.3. any motions to be moved at the general meeting concerned, and
 - 25.1.4. the order in which that business is to be transacted and
 - 25.1.5. in the case of an annual general meeting, the following order in which the business is to be transacted:
 - 25.1.5.1. first, the confirmation of minutes of the previous annual general meeting and the consideration of matters arising from those;
 - 25.1.5.2. second, the consideration of accounts, reports and correspondence;
 - 25.1.5.3. third, the election of office bearers of the Association to replace outgoing office bearers;
 - 25.1.5.4. fourth, any other business requiring consideration by the Association; and
 - 25.2. the Secretary may serve such notice by —
 - 25.2.1. serving it on a member personally, or
 - 25.2.2. posting it to that member at the address of the member appearing in the register of members referred to in rule 14, or
 - 25.2.3. posting by electronic mail to the e-mail address of the member appearing in the register of members referred to in rule 14, or
 - 25.2.4. sending it by facsimile to the facsimile telephone number of the member appearing in the register of members referred to in rule 14, and
 - 25.2.5. posting or sending of such notice shall be deemed to be properly effective if the notice is sufficiently addressed and posted to the member concerned by ordinary prepaid mail, electronic mail or facsimile.

Quorum at General Meetings

- 26. For the purpose of any general meeting:
 - 26.1. A quorum shall be half the total number of members on the register of members, disregarding fractions, plus one;
 - 26.2. A member shall be deemed present at a general meeting by their attendance of the meeting or by proxy;
 - 26.3. No business shall be transacted unless a quorum of members is present at the time when the meeting proceeds to business;

- 26.4. If a quorum is not present within 30 minutes from the time appointed for a special general meeting convened under subrule 24.2.2, then the general meeting lapses;
- 26.5. If a quorum is not present within 30 minutes from the time appointed for a general meeting convened other than under subrule 24.2.2, then the general meeting stands adjourned to the same time on the same day in the following week and at the same venue unless otherwise determined by the Committee when the general meeting was convened;
- 26.6. If a quorum is not present within 30 minutes from the time appointed for resumption of an adjourned general meeting under subrule 26.5, the members who are present may nevertheless proceed to the business of that general meeting as if a quorum were present.

Proceedings at general meetings

27. At a general meeting
 - 27.1. An ordinary resolution put to the vote shall be decided by a majority of votes cast and if there is an equality of votes, the member presiding at the general meeting shall have the casting vote in addition to their deliberative vote;
 - 27.2. A special resolution put to the vote shall be decided in accordance with Section 24 of the Act;
 - 27.3. A poll may be demanded by the Chairperson at the general meeting or by three or more members present at the meeting and if so demanded shall be taken such a manner as the chairperson directs;
 - 27.4. Subject to these Rules, each member present at a general meeting is entitled to one deliberative vote;
 - 27.5. A declaration by the Chairperson at a general meeting that an ordinary resolution has been passed under subrule 27.1 or a special resolution has been passed under subrule 27.2 shall be evidence of that fact unless during the general meeting at which the resolution is submitted, a poll is demanded under subrule 27.3, in which case a declaration by the Chairperson of the result of the poll shall be evidence of the matter so decided.

PART 6: MISCELLANEOUS

Minutes of meetings of the Association

28. For any meeting of the Association:
 - 28.1. The Secretary shall cause proper minutes of the meeting to be taken and then to be entered within 30 days after the holding of such meetings, as the case requires, in a minute book kept for that purpose.
 - 28.2. The Chairperson shall ensure that the minutes of a general meeting or a Committee meeting under subrule 28.1 are checked and signed as correct by the Chairperson of the general meeting or Committee meeting to which those minutes refer or of the next succeeding general meeting or Committee meeting, as the case requires.
 - 28.3. When minutes have been entered and signed as correct under this rule, they shall, until the contrary is proved, be evidence that —
 - 28.3.1. The general meeting or Committee meeting to which they relate was duly convened and held;
 - 28.3.2. All proceedings recorded as having taken place at the meeting did in fact take place; and
 - 28.3.3. All appointments or elections purporting to have been made at the meeting have been validly made.

Alteration of the Rules of Association

29. Subject to Sections 17, 18 and 19 of the Act, the Association may alter, rescind or otherwise amended these Rules or make rules in addition to these Rules.

Common Seal of the Association

30. The Association shall have a common seal:
 - 30.1. on which its corporate name shall appear in legible characters;
 - 30.2. which shall not be used without the express authority of the Committee;
 - 30.3. and every use of that common seal shall be recorded in the minute book referred to in rule 28;
 - 30.4. and the affixing of that common seal shall be witnessed by the Chairperson and one other member of the Committee;
 - 30.5. which shall be kept in the custody of the Secretary or another member as the Committee from time to time decides.

Inspection of Records

31. Subject to Sections 27, 28 and 29 of the Act and the authorisation of the Association in general meetings:

- 31.1. the Committee shall determine whether and to what extent and at what time and places and under what conditions the books, records, securities and other documents of the Association shall be open to the inspection of members of the Association, and
- 31.2. a member does not have the right to inspect any document of the Association.

Winding up the Association

32. The Association shall voluntarily wind up in accordance with Section 30 of the Act, and shall —
 - 32.1. upon a decision to wind up, reasonably and properly discharge all its debts and liabilities;
 - 32.2. after the satisfaction of all debts and liabilities referred to in subrule 31.1, give or transfer any and all remaining assets, funds and property —
 - 32.2.1. to another Association incorporated under the Act and which, where possible, has similar objects and doctrinal basis to the Association, or
 - 32.2.2. for charitable purposes;
 - 32.3. determine which incorporated Associations or purposes referred to in subrule 31.2, as the case requires, by resolution of the members when authorising and directing the Committee under Section 33(3) of the Act to prepare a distribution plan for the remaining assets, funds and property of the Association;
 - 32.4. advise the Commissioner of Taxation of the date of dissolution within 30 days of the dissolution.

Indemnity

33. The Committee members will be indemnified by the Association for all losses and expenses incurred by them in or about the discharge of their respective duties, except such as happens through their own wilful act or default.