

**Becoming a Member Director of ASAR Ltd.
Information for Voting Members of ASAR Ltd.
ACN 084 400 546**

Contents

Expectations of Directors.....	2
<i>Workload</i>	2
<i>Board Meetings</i>	2
<i>Expenses</i>	2
<i>Insurance</i>	2
ASAR’s Role	2
<i>Objects of ASAR</i>	2
<i>Medicare Benefits</i>	3
<i>Course Accreditation</i>	3
<i>Maintenance of Continuing Professional Development (CPD)</i>	4
Background to ASAR’s Governance Structure	4
Regulatory Environment	5
Defining Governance Roles.....	5
<i>Board Composition, Powers and Duties</i>	5
<i>Duties of Directors defined by the Corporations Act 2001</i>	6
Election of Directors – excerpt from ASAR Constitution Part V. 35.....	8

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Expectations of Directors

Workload

The workload varies each year, however the role is not insignificant and it is likely that Directors will be required to spend 5-7 hours per week on ASAR matters.

Directors are required to attend 4-5 ASAR Board meetings per year. These are generally held in Sydney or Melbourne and take between 1 and 2 days depending on the agenda.

Board Meetings

Directors will be expected to:

- Attend each meeting and to have read the papers, ask questions and make suggestions;
- Contribute to the agenda and participate in each meeting
- Keep confidential information learnt as a result of being a director. Disclosure of this information can only be made after consultation with the ASAR Board;
- Always act in a manner to promote the public profile and integrity of ASAR; and
- Carry out individual assignments set by the Chair.

Expenses

Directors are issued with a business credit card. Any costs incurred traveling on ASAR business can be paid for with the credit card.

Please refer to the ASAR travel and travel expenses policy.

Insurance

ASAR provides professional indemnity insurance for Directors. To obtain a copy of the current indemnity insurance policy, please contact the Secretariat.

ASAR's Role

Objects of ASAR

The objects of ASAR are the reason the Company exists.

The objects of ASAR are contained in **Section 7 of the ASAR Constitution:**

- a) The objects of ASAR are:
 - 1) to promote high standards of medical sonography in Australia, including:

**Becoming a Member Director of ASAR Ltd.
Information for Voting Members of ASAR Ltd.
ACN 084 400 546**

- i. to set uniform, minimum standards of sonographer training and education in Australia;
- ii. to assess and to accredit programs of sonographer training and education;
- iii. to accredit medical sonographers;
- iv. to maintain the Registry;
- v. to maintain a minimum standard of continuing professional development for sonographers;
- vi. to advance recognition of sonography as a profession; and
- vii. to advise education, government and statutory bodies and professional and scientific societies on any aspect of accreditation of medical sonography.

Medicare Benefits

Medicare benefits are only payable for ultrasound examinations if the sonographer's name appears on the register of accredited sonographers held by Medicare Australia. ASAR maintains the register of accredited sonographers on behalf of Medicare Australia and liaises with Medicare Australia to ensure the register held by Medicare Australia is up to date.

Category 5 - Diagnostic Imaging Services of the Medicare Benefits Schedule <http://www.mbsonline.gov.au/internet/mbsonline/publishing.nsf/Content/Medicare-Benefits-Schedule-MBS-1> contains an explanation of ASAR's role.

Course Accreditation

ASAR accredits sonography courses in Australia. Courses are accredited on the basis of meeting the requirements set out in the **Standards for the Accreditation of Sonographer Courses (SASC)** http://www.asar.com.au/resources/ASAR_Accreditation_Standards.pdf and the **ASAR Course Accreditation Pack:** http://www.asar.com.au/resources/ASAR_Course_Accreditation_Application_Pack.pdf

The ASAR website contains a list of current accredited courses:

<http://www.asar.com.au/program-accreditation/programs>

The ASAR website also contains the SASC Policies and Procedures:

<http://www.asar.com.au/program-accreditation>

Maintenance of Continuing Professional Development (CPD)

A further function of ASAR is monitoring the participation in CPD of accredited medical sonographers. It is a requirement of accreditation that each sonographer participates in a relevant CPD program.

Background to ASAR's Governance Structure

An independent review of ASAR's governance structure concluded in April 2011.

Based on the recommendations from the independent review ASAR adopted a new Constitution in May 2012.

To improve transparency and accountability, the new Governance structure has Accredited Medical Sonographers (AMSs) as the members of ASAR (the company).

Becoming a member of ASAR (the Company) is:

- Free
- Voluntary
- In addition to being on the ASAR register as an AMS (AMSs must be on the register as ASAR reports to Medicare).

Once admitted as a member of ASAR (the company) AMSs have the right to

- Attend and speak at general meetings
- Nominate and be nominated to be appointed as a director
- Vote at general meetings and on resolutions put to the membership.

The ASAR Constitution

(http://www.asar.com.au/resources/ASAR_Constitution_2012.pdf) provides a Governance structure that facilitates various ways to contribute to the work of and be involved with ASAR.

These include the formation of Committees by the ASAR Board as required and the option for the Board to appoint up to 3 independent Directors. Independent Directors may be Members of ASAR or other individuals with skills, experience or capabilities that the ASAR Board determines as important to further the objects of ASAR.

ASAR Committees

**Becoming a Member Director of ASAR Ltd.
Information for Voting Members of ASAR Ltd.
ACN 084 400 546**

The current ASAR Committees are the Stakeholder Advisory Committee, the Course Assessment Committee and the Continuing Professional Development Committee. The Terms of Reference for these committees are available from the following link:
<http://www.asar.com.au/about/asar-council/asar-committees>

Regulatory Environment

ASAR is a Company Limited by guarantee and is regulated by the [Corporations ACT 2001](http://www.austlii.edu.au/au/legis/cth/consol_act/ca2001172/): http://www.austlii.edu.au/au/legis/cth/consol_act/ca2001172/ , which is administered by the [Australian Securities and Investments Commission \(ASIC\)](http://www.asic.gov.au/) : <http://www.asic.gov.au/>

[The ASAR Constitution](#) defines the rules of Governance for the Company within the parameters set out in the Corporations Act 2001. **The ASAR Constitution is a Contract**

Directors-must comply with all the requirements and conditions stipulated in the ASAR Constitution, with all statutory and regulatory requirements and internal policies applicable to ASAR. Directors will be required to sign agreements attesting to this.

Section 140 of the Corporations ACT 2001 states the following in relation to constitutions:

140 Effect of constitution and replaceable rules

- (1) A company's constitution (if any) and any replaceable rules that apply to the company have effect as a contract:
 - (a) between the company and each member; and
 - (b) between the company and each director and company secretary; and
 - (c) between a member and each other member;under which each person agrees to observe and perform the constitution and rules so far as they apply to that person.

Defining Governance Roles

Board Composition, Powers and Duties

The Boards composition, power and duties are defined by:

- **Section V. of the ASAR Constitution and the Corporations ACT 2001**

There must be not less than 3 (or such other minimum number as determined by the Act) and not more than 10 Directors.

Of the Directors at any time, **up to 7 may be Member Directors** and up to 3 may be Appointed Directors.

Duties of Directors defined by the Corporations Act 2001

Division 1—General duties

180 Care and diligence—civil obligation only

Care and diligence—directors and other officers

- (1) A director or other officer of a corporation must exercise their powers and discharge their duties with the degree of care and diligence that a reasonable person would exercise if they:
- (a) were a director or officer of a corporation in the corporation’s circumstances; and
 - (b) occupied the office held by, and had the same responsibilities within the corporation as, the director or officer.

Note: This subsection is a civil penalty provision (see section 1317E).

Business judgment rule

- (2) A director or other officer of a corporation who makes a business judgment is taken to meet the requirements of subsection (1), and their equivalent duties at common law and in equity, in respect of the judgment if they:
- (a) make the judgment in good faith for a proper purpose; and
 - (b) do not have a material personal interest in the subject matter of the judgment; and
 - (c) inform themselves about the subject matter of the judgment to the extent they reasonably believe to be appropriate; and
 - (d) rationally believe that the judgment is in the best interests of the corporation.

The director’s or officer’s belief that the judgment is in the best interests of the corporation is a rational one unless the belief is one that no reasonable person in their position would hold.

Note: This subsection only operates in relation to duties under this section and their equivalent duties at common law or in equity (including the duty of care that arises under the common law principles governing liability for negligence)—it does not operate in relation to duties under any other provision of this Act or under any other laws.

- (3) In this section:

business judgment means any decision to take or not take action in respect of a matter relevant to the business operations of the corporation.

181 Good faith—civil obligations

Good faith—directors and other officers

- (1) A director or other officer of a corporation must exercise their powers and discharge their duties:
- (a) in good faith in the best interests of the corporation; and
 - (b) for a proper purpose.

Note 1: This subsection is a civil penalty provision (see section 1317E).

Note 2: Section 187 deals with the situation of directors of wholly-owned subsidiaries.

**Becoming a Member Director of ASAR Ltd.
Information for Voting Members of ASAR Ltd.
ACN 084 400 546**

- (2) A person who is involved in a contravention of subsection (1) contravenes this subsection.

Note 1: Section 79 defines *involved*.

Note 2: This subsection is a civil penalty provision (see section 1317E).

182 Use of position—civil obligations

Use of position—directors, other officers and employees

- (1) A director, secretary, other officer or employee of a corporation must not improperly use their position to:
- (a) gain an advantage for themselves or someone else; or
 - (b) cause detriment to the corporation.

Note: This subsection is a civil penalty provision (see section 1317E).

- (2) A person who is involved in a contravention of subsection (1) contravenes this subsection.

Note 1: Section 79 defines *involved*.

Note 2: This subsection is a civil penalty provision (see section 1317E).

183 Use of information—civil obligations

Use of information—directors, other officers and employees

- (1) A person who obtains information because they are, or have been, a director or other officer or employee of a corporation must not improperly use the information to:
- (a) gain an advantage for themselves or someone else; or
 - (b) cause detriment to the corporation.

Note 1: This duty continues after the person stops being an officer or employee of the corporation.

Note 2: This subsection is a civil penalty provision (see section 1317E).

- (2) A person who is involved in a contravention of subsection (1) contravenes this subsection.

Note 1: Section 79 defines *involved*.

Note 2: This subsection is a civil penalty provision (see section 1317E).

184 Good faith, use of position and use of information—criminal offences

Good faith—directors and other officers

- (1) A director or other officer of a corporation commits an offence if they:
- (a) are reckless; or
 - (b) are intentionally dishonest;
- and fail to exercise their powers and discharge their duties:
- (c) in good faith in the best interests of the corporation; or
 - (d) for a proper purpose.

Note: Section 187 deals with the situation of directors of wholly-owned subsidiaries.

**Becoming a Member Director of ASAR Ltd.
Information for Voting Members of ASAR Ltd.
ACN 084 400 546**

Use of position—directors, other officers and employees

- (2) A director, other officer or employee of a corporation commits an offence if they use their position dishonestly:
- (a) with the intention of directly or indirectly gaining an advantage for themselves, or someone else, or causing detriment to the corporation; or
 - (b) recklessly as to whether the use may result in themselves or someone else directly or indirectly gaining an advantage, or in causing detriment to the corporation.

Use of information—directors, other officers and employees

- (3) A person who obtains information because they are, or have been, a director or other officer or employee of a corporation commits an offence if they use the information dishonestly:
- (a) with the intention of directly or indirectly gaining an advantage for themselves, or someone else, or causing detriment to the corporation; or
 - (b) recklessly as to whether the use may result in themselves or someone else directly or indirectly gaining an advantage, or in causing detriment to the corporation.

185 Interaction of sections 180 to 184 with other laws etc.

Sections 180 to 184:

- (a) have effect in addition to, and not in derogation of, any rule of law relating to the duty or liability of a person because of their office or employment in relation to a corporation; and
- (b) do not prevent the commencement of civil proceedings for a breach of a duty or in respect of a liability referred to in paragraph (a).

This section does not apply to subsections 180(2) and (3) to the extent to which they operate on the duties at common law and in equity that are equivalent to the requirements of subsection 180(1).

Election of Directors – excerpt from ASAR Constitution Part V. 35.

- a) ASAR may, prior to an annual general meeting at which a Director retires, by direct vote determine a Member to fill the vacated position by electing an individual to that office in accordance with procedures determined by the Board for the conduct of direct voting by post and/or by electronic or other direct means of voting.
- b) Subject to **rule 32**, any eligible Member who wishes to stand for election as a Director must be nominated by 2 Members.
- c) The nomination form shall be in writing, contain the consent of the Member to be a Director of ASAR and be signed by the nominated Member and the nominating Members.

Becoming a Member Director of ASAR Ltd.
Information for Voting Members of ASAR Ltd.
ACN 084 400 546

- d) Nominations for the position of Director shall be lodged with the Secretary not more than 12 weeks and not less than 8 weeks before the date of the annual general meeting.
- e) A Member may submit with their nomination form a resume of not more than 250 words. A resume:
 - 1) may only include details in relation to:
 - i. the candidate's qualifications and relevant experience;
 - ii. the candidate's contribution to ASAR and sonography to date; and
 - iii. key issues the candidate sees as facing ASAR;
 - 2) must not endorse, disparage or otherwise refer to any other candidate or any other Director;
 - 3) must not contain anything that is defamatory; and
 - 4) must comply with any applicable by-laws or regulations set by the Board.
- f) The Secretary may in good faith edit any resume in such manner as they see fit to ensure compliance with **rule 35.e)**.
- g) The information provided in the resume will be included as the only information from the candidate in ballot material made available by ASAR to Members not less than 6 weeks before the date of the annual general meeting.
- h) The Board shall determine the voting instructions and processes and, by lot, determine the order in which names of candidates appear on the election material.
- i) The ballot will close at the close of business on the Business Day nominated in the election material. Such date will be not more than 4 weeks and not less than 3 weeks before the annual general meeting.
- j) Only valid ballots received at the Registered Office, or any other address including a web address indicated on the election material, by the close of the ballot as determined under rule 35.i) shall be counted.
- k) The Secretary shall be returning officer for the ballot and ASAR's auditor shall scrutineer the ballot.
- l) The successful candidates shall be determined by the number of valid votes cast in favour of the candidates. The candidate with the highest number of votes will fill the first available position. The candidate with the next highest number of votes will fill the next available position until all positions are filled.
- m) If at the close of nominations there are fewer candidates for election than there are vacant Member Director positions to be filled then all nominations shall be deemed to have been elected and no ballot shall be held. Any resulting

**Becoming a Member Director of ASAR Ltd.
Information for Voting Members of ASAR Ltd.
ACN 084 400 546**

vacancies in the position of Member Directors shall be casual vacancies to which rule 33.a) applies.

- n) All candidates will be notified of the results of the election process by not less than 2 weeks before the annual general meeting.
- o) The result of the election process shall be declared at the annual general meeting.