



Australian Food Sovereignty Alliance

Date of Approval:
Authorised by:

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AFSA Committee

AUSTRALIAN FOOD SOVEREIGNTY ALLIANCE **LEGAL DEFENCE FUND**

TERMS OF REFERENCE

1. Objects

The Australian Food Sovereignty Alliance (**AFSA**) Legal Defence Fund (**LDF**)'s objects will be to:

- 1.1 Protect the democratic right of Australia's small-scale farms and food producers to provide processed and unprocessed farm foods directly to consumers through any legal means, and in accordance with these Terms of Reference.
- 1.2 Protect the rights of eaters to obtain unprocessed and processed foods directly from small-scale farms and food producers.
- 1.3 Protect Australia's small-scale farms and food producers from inappropriate or out of jurisdiction harassment or interference from federal, state, and local government with regards to food production and/or food processing or usual business operations.
- 1.4 Defend the rights of small-scale farms and food producers to make their products, including but not limited to:
 - meat and meat products,
 - poultry,
 - eggs,
 - raw and processed milk and milk products,
 - fruits and vegetables,
 - lacto-fermented foods and beverages,
 - prepared foods, and
 - bread and other baked goods,
available to eaters in a manner that:
 - protects, preserves and enhances the environment and its natural resources,
 - is direct to eaters, and
 - is within scale-appropriate food safety standards.
- 1.5 Distribute the funds held by the LDF in a manner which upholds the objectives of the LDF as set out above.

2. Operations

The LDF Advisory Committee:

- 2.1 Will provide advice on the administration of funds held by the LDF in accordance with the policies, procedures and guidelines published by the AFSA Executive Committee setting out the administration of funds held by the LDF.
- 2.2 Will develop a knowledge and information repository consisting of legal research and legal advice obtained for AFSA members, funded by the LDF, which will benefit AFSA members and provide guidance in relation to, including but not limited to, relevant food safety standards and legal requirements for supply of small-scale farm produce and artisan food.

The AFSA National Committee:

- 2.2 will undertake the following activities using LDF funds, including but not limited to:
 - appoint legal counsel to provide legal advice to AFSA members, on a case by case basis;
 - retain legal counsel on an ongoing basis, for a term of up to one (1) year on an annual salary;
 - employ ongoing administrative support such as a paralegal or legal secretary to support the day-to-day operations of the LDF; and
 - where appropriate, distribute funds from the LDF to AFSA members who meet certain criteria for assistance by the LDF, such criteria to be set out in policy and procedure as determined by the AFSA National Committee from time to time.
- 2.4 Lead the development and implementation of marketing, social media and fundraising campaigns to continually raise funds for the LDF to ensure its long-term financial viability.
- 2.5 Develop financial and business plans, strategies and budgets to ensure the accountable and efficient provision of LDF services and long-term financial viability.
- 2.6 Establish and maintain effective systems to ensure that the LDF services provided meet the needs of the AFSA membership and that the views of members of AFSA are taken into account.
- 2.7 Quarterly monitor the performance of the LDF to ensure that:
 - (a) it operates within its budget;
 - (b) its audit and financial systems accurately reflect the financial position and viability of the Legal Defence Fund;
 - (c) it adheres to its financial and business plans and strategic plans;
 - (d) effective and accountable risk management systems are in place;
 - (e) effective and accountable systems are in place to monitor the quality and effectiveness of the legal services provided;
 - (f) any problems identified with the quality and effectiveness of the legal services provided are addressed in a timely manner;
 - (g) sub-committees established or appointed by the Legal Defence Fund to assist it to carry out its functions operate effectively;
- 2.8 Provide reports on LDF performance, including but not limited to financial performance, to the AFSA AGM.
- 2.10 Develop arrangements, where appropriate, with other relevant agencies and service providers to enable effective and efficient service delivery.

3. Composition of the LDF Advisory Committee

- 3.1 The LDF Advisory Committee is appointed by the AFSA National Committee and will comprise:
- a) not fewer than three (3) and not more than seven (7) members, with a preference for an odd number of Committee members;
 - b) at least two (2) members of the AFSA National Committee, as determined by the AFSA National Committee.
- 3.2 The President of AFSA will serve as the Chair of the LDF Advisory Committee.
- 3.3 Up to two (2) additional delegates from the AFSA National Committee may attend any meeting of the Legal Defence Fund Advisory Committee to:
- a) observe its decision-making processes; and
 - b) provide advice or information to the LDF Advisory Committee to assist it in understanding its obligations.

4. Meetings

- 4.1 The LDF Advisory Committee will meet at least two times a year.
- 4.2 Members may participate in meetings in person or by telephone, the Internet or any other electronic means of audio or audio-visual communication.
- 4.3 Where the LDF Advisory Committee consists of more than five members, a majority of members will constitute a quorum.
- 4.4 Voting will be by a majority of votes and the determination by a majority of members will be deemed a determination of the LDF Advisory Committee. In the case of an equality of votes the Chair will have a second or casting vote.

4. Term of Office

- 4.1 A member holds office for the term, not exceeding one year, and is eligible for reappointment.

5. Removal and Resignation

- 5.1 A member may resign in writing signed by that person and delivered to the Chair of the Legal Defence Fund Advisory Committee.
- 5.2 The AFSA National Committee may remove from office a member, or all members, of the LDF Advisory Committee by the same process for removing AFSA Officers from office, as set out in the AFSA Constitution at Part 6b.
- 5.3 The AFSA National Committee must recommend the removal of a member if the AFSA National Committee is satisfied that:

- a) the member is physically or mentally unable to fulfil the role of a member of the LDF Steering Committee; or
- b) the member has been convicted or found guilty of an offence, the commission of which, in the opinion of the AFSA National Committee, makes the member unsuitable to continue on as part of the LDF Advisory Committee; or
- c) the member has been absent, without leave from the LDF Advisory Committee, from more than two consecutive meetings of the LDF Advisory Committee.

6. Disclosure of Interest

- 6.1 If a member has a direct or indirect pecuniary interest in a matter being considered, or about to be considered, by the LDF Advisory Committee, the member, as soon as practicable after the relevant facts come to the member's knowledge, must disclose the nature of the interest at a meeting of the LDF Advisory Committee.
- 6.2 The person presiding at the meeting must cause the declaration to be recorded in the minutes of the meeting.
- 6.3 A member who has a conflict of interest in a matter:
 - a) must not be present during any deliberations on the matter;
 - b) is not entitled to vote on the matter.
- 6.4 If a member votes on a matter in contravention of this provision, his or her vote must be disallowed.
- 6.5 This section does not apply in relation to a matter relating to the supply of goods or services to the member if the goods or services are, or are to be, available to members of the public on the same terms and conditions.

7. Immunity

- 7.1 A member is not personally liable for anything done or omitted to be done in good faith:
 - a) in the exercise of a power or the discharge of a duty; or
 - b) in the reasonable belief that the act or omission was in the exercise of a power or the discharge of a duty.
- 7.2 Any liability resulting from an act or omission that would attach to a member but for this provision, attaches instead to the AFSA National Committee.

8. Validity of Acts or Decisions

- 8.1 An act or decision of the LDF Advisory Committee is not invalid by reason only of:
 - a) a defect or irregularity in or in connection with the appointment of a member; or
 - b) a vacancy in the membership of the LDF Advisory Committee.

10. Delegation

- 10.1 The LDF Advisory Committee may delegate any of its powers or functions, other than its power to delegate, to:
- a) an employee or a class of employees of the LDF Advisory Committee; or
 - b) any person that the LDF Advisory Committee thinks fit.
- 10.2 A delegation is revocable at any time by the LDF Advisory Committee or the AFSA National Committee, and does not prevent the exercise of the power or function by the LDF National Committee.

Matters for the legal staff:

Ensure that the AFSA National Committee are advised about significant LDF decisions and are informed in a timely manner of any issues of public concern or reputational risk that affect or may affect AFSA and/or the LDF. In particular, the AFSA Committee must be informed by the LDF legal staff of all instances where a regulatory agency advises deficiencies in respect of the LDF operations. For example:

- occupational health and safety requirements;
- industrial relations requirements;
- environmental and public health requirements;
- Trade Practices Act;
- tax (including FBT, GST compliance);
- privacy requirements; and
- any instance where a course of action that the LDF has undertaken or approved would leave the Legal Defence Fund and/or AFSA exposed to significant legal, financial or other risks that had not already been advised to the AFSA Committee.