



# **Water Polo**

WESTERN AUSTRALIA

## **Constitution**

as lodged with  
Department of Commerce  
20 September 2016

ITEM/CLAUSE NUMBER	PAGE
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## Contents

<b>PART 1 - DEFINITIONS, OBJECTS AND POWERS</b>	
1. PRELIMINARY .....	2
2. INTERPRETATIONS .....	3
3. POWERS OF ASSOCIATION .....	5
4. NOT FOR PROFIT .....	5
<b>PART 2 - MEMBERSHIP</b>	
5. BECOMING A MEMBER.....	6
6. LIABILITY AND ENTITLEMENTS OF MEMBERS .....	7
7. CEASING TO BE A MEMBER.....	8
8. MEMBERSHIP REGISTER.....	10
9. MEMBERSHIP FEES.....	11
<b>PART 3 - THE BOARD</b>	
10. POWERS AND COMPOSITION OF THE COMMITTEE .....	12
11. ROLE AND RESPONSIBILITIES OF THE COMMITTEE MEMBERS.....	13
12. APPOINTING COMMITTEE MEMBERS .....	15
13. CEASING TO BE A MEMBER OF THE MANAGEMENT COMMITTEE.....	17
<b>PART 4 - GENERAL MEETINGS</b>	
14. COMMITTEE MEETINGS .....	18
15. REMUNERATION OF COMMITTEE MEMBERS .....	19
16. SUB-COMMITTEES AND DELEGATION.....	19
17. GENERAL MEETINGS.....	20
18. SPECIAL GENERAL MEETINGS.....	22
19. MAKING DECISIONS AT GENERAL MEETINGS .....	22
20. MINUTES OF MEETINGS .....	24
<b>PART 5 - OTHER</b>	
21. FUNDS AND ACCOUNTS .....	25
22. FINANCIAL YEAR OF THE ASSOCIATION .....	26
23. ANNUAL GENERAL MEETINGS .....	27
24. RULES OF THE ASSOCIATION.....	27
25. BY-LAWS OF THE ASSOCIATION .....	28
26. AUTHORITY REQUIRED TO BIND ASSOCIATION.....	28
27. THE ASSOCIATION'S BOOKS AND RECORDS.....	29
28. RESOLVING DISPUTES .....	30
29. CANCELLATION AND DISTRIBUTION OF SURPLUS PROPERTY .....	32
30. INDEMNITY .....	33
31. CHIEF EXECUTIVE OFFICER.....	33

## **PART 1 – DEFINITIONS, OBJECTS AND POWERS**

### **1. PRELIMINARY**

#### **1.1 Name of Association**

The name of the Association is Water Polo Western Australia Incorporated, herein after referred to as "the Association".

#### **1.2 Objects of Association**

**1.2.1** The Objects of the Association are:

- (a) The governance, development, management and representation of water polo within the State of Western Australia;
- (b) To affiliate with and be a member of WPAL;
- (c) The doing of all acts and deeds which may be considered conducive to its interests.

#### **1.3 Quorum for Board Meetings**

Any 50% of Board members constitute a quorum for the conduct of the business at a Board meeting.

#### **1.4 Quorum for General Meetings**

- (a) At a General Meeting at least sixty percent (60%) of the maximum number of possible votes, as calculated by rule 6.3, are available to be cast by either Delegates or proxies to constitute a quorum.

#### **1.5 Financial Year**

- (a) The Association's Financial Year will be the period of 12 months commencing on 1st July and ending on 30th June of each year.

## 2. INTERPRETATIONS

### 2.1 Definitions

In these rules, unless the contrary intention appears:

“**Act**” means the *Associations Incorporation Act 2015*;

“**Affiliated Club/Association**” means a member as defined in rule 5;

“**AGM**” means the annual general meeting convened under rule 23;

“**Association**” means the Association referred to in rule 1.1;

“**Board**” means the officers of the Association as referred to in rule 10;

“**Board meeting**” means a meeting referred to in rule 14;

“**Board member**” means person referred to in rule 10.2;

“**Books of the Association**” has the meaning given to it in section 3 of the Act and includes all registers; financial records, financial statements or financial reports, as each of those terms is defined in section 62 of the Act, however compiled, stored or recorded; minute books and documents and securities of the Association.

“**By-laws**” are additional arrangements or processes adopted by members by Ordinary Resolution of the Association to supplement these Rules. They do not form part of the rules and are not required to be lodged with the Commissioner.

“**Chief Executive Officer (CEO)**” means the person employed by the Association in that capacity;

“**Chairperson**” means, in relation to the proceedings at a Board meeting or General Meeting, the person presiding at the Board meeting or General Meeting in accordance with rule 11.3;

“**Commissioner**” means the person designated as the “Commissioner” from time to time under the Act.

“**Committee**” means the Management Committee required by the Act which is the body responsible for the management of the affairs of the Association;

“**Committee Meeting**” means a meeting referred to in rule 14.1

“**Delegate**” means an Affiliated Club/Association sanctioned representative;

“**Financial Records:**” has the meaning given to it in section 62 of the Act and includes:

- (a) Invoices, receipts, orders for the payment of money, bills of exchange, cheques, promissory notes and vouchers;
- (b) Documents of prime entry; and
- (c) Working papers and other documents needed to explain:
  - i. the methods by which financial statements are prepared; and
  - ii. adjustments to be made in preparing financial statements;

“**Financial Report**” has the meaning given to it in sections 62 and 63 of the Act;

“**Financial Statements**” has the meaning given to it in section 62 of the Act;

**“Financial Year”** “has the meaning given to it in rule 1.5.

**“Member”** means a person (including a body corporate) who becomes a Member of the Association under these rules;

**“Ordinary Resolution”** means a resolution to decide a question, matter of resolution at a General Meeting that is not a Special Resolution;

**“Poll”** means voting conducted in written form which may include, but is not limited to a secret ballot (as opposed to general agreement or a show of hands);

**“Rules”** mean these rules of the Association as amended from time to time under rule 24.2;

**“Special Resolution”** is a resolution of the Association passed in accordance with rule 19.1;

**“Surplus Property”** has the meaning given to it in the Act and means the property remaining when the association is wound up or cancelled after satisfying;

- (a) The debts and liabilities of the Association; and
- (b) The costs, charges and expenses of winding up the Association

but does not include books pertaining to the management of the Association;

**“Tier 1 Association”** has the meaning given to in section 62 of the Act;

**“Tier 2 Association”** has the meaning given to in section 62 of the Act;

**“Tier 3 Association”** has the meaning given to in section 62 of the Act;

**“WPAL”** means Water Polo Australia Limited.

## **2.2 Notices**

- (a) A notice or other communication connected with the these rules has no legal effect unless it is in writing and given as follows:
  - (i) delivered by hand to the nominated address of the addressee;
  - (ii) sent by post to the nominated postal address of the addressee; or
  - (iii) sent by email or any other method of electronic communication (including facsimile) to the nominated electronic address of the addressee.
- (b) Any notice given to a Member under these rules, must be sent to Member’s address as set out in the Register referred to in rule 8.1.

### **3. POWERS OF ASSOCIATION**

The powers conferred on the Association are the same as those conferred by section 13 of the Act, so that subject to the Act and any additions, exclusions or modifications inserted below, the Association may do all things necessary or convenient for carrying out its Objects, and in particular, may:

- (a) Acquire, hold, deal with, and dispose of any real or personal property;
- (b) Open and operate bank accounts;
- (c) Invest its money:
  - (i) in any security in which trust monies may lawfully be invested; or
  - (ii) in any other manner authorised by the rules of the Association;
- (d) Borrow money upon such terms and conditions as the Association thinks fit;
- (e) Give such security for the discharge of liabilities incurred by the Association as the Association thinks fit;
- (f) Appoint agents to transact any business of the Association on its behalf;
- (g) Enter into any other contract it considers necessary or desirable;
- (h) May act as trustee and accept and hold real and personal property upon trust, but does not have power to do any act of thing as a trustee that, if done otherwise as a trustee, would contravene this Act or the rules of the Association.

### **4. NOT FOR PROFIT**

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.

## **PART 2 - MEMBERSHIP**

### **5. BECOMING A MEMBER**

#### **5.1 Minimum Number of Members**

The Association must have at least six (6) members with full voting rights.

#### **5.2 Qualifications for Membership**

Application for Membership of the Association is open to any individual, metropolitan club or regional association who is interested in furthering the aims of water polo in Western Australia.

#### **5.3 Applications for Membership of Association**

- (a) A metropolitan club or regional association that wishes to become a Member must apply in writing on the prescribed form to the Board and include a copy of the Club's/Association's current constitution and by payment of the appropriate fee, if any.

#### **5.4 Deciding Membership Applications**

- (a) The Board must consider each application made under rule 5.3(a) at a Board meeting and at that Board meeting or the next Board meeting must accept or reject that application.
- (b) An applicant whose application for membership of the Association is rejected under rule 5.4(a) must, if they wish to appeal against that decision, give notice to the CEO of their intention to do so within a period of 14 days from the date they are advised of the rejection.
- (c) When notice is given under rule 5.4(b), the Association in a General Meeting no later than the next Annual General Meeting, must either confirm or set aside the decision of the Board to reject the application, after having afforded the applicant who gave that notice a reasonable opportunity to be heard by, or to make representations in writing to, the Association in the General Meeting.

#### **5.5 Becoming a member**

- (a) All clubs and associations when accepted as Members of the Association and all their members and officials will be bound by and conform to these Rules.
- (b) Each Affiliated Club/Association will advise the Association of a Club/Association Delegate name and contact details and that Delegate will represent the Member at any General Meeting and be entitled to vote.
- (c) Each Affiliated Club/Association must provide the Association with a copy of its annual report and financial statements within three months of conducting their own Annual General Meetings.

#### **5.6 Recording Membership in the Register**

The Secretary must enter a person's name in the Register within 28 days after the person becomes a member.

## **6. LIABILITY AND ENTITLEMENTS OF MEMBERS**

### **6.1 Classes of Members**

- (a) Affiliated Metropolitan Clubs which, subject to this constitution, shall be represented by a Club Delegate, and have the right to debate at General Meetings;
- (b) Affiliated Regional Associations which, subject to this constitution, shall be represented by an Association Delegate, and have the right to debate at General Meetings;
- (c) Life Members, who subject to the WPWAI Life Member Policy, shall have the right to be present and to debate at General Meetings;
- (d) Individual Members of Affiliated Clubs who shall have the right to be present at General Meetings, but shall have no debating rights;
- (e) Associate Members, who shall have the right to be present at General Meetings but shall have no debating rights. Associate Members are those persons who administrate, coach or officiate in competitions conducted by or approved by the Association and any official of the Association, who are not registered as a member or any affiliated club or association, can be accepted as an Associate Member under such conditions as may be determined by the Board from time to time;
- (f) Such new categories of Members, created in accordance with rule 6.2 below.

### **6.2 Creation of New Categories**

The Board has the right and power from time to time to create new categories of Members with such rights, privileges and obligations as are determined applicable.

### **6.3 Membership Voting Rights**

- (a) Each Affiliated Club/Association shall be represented by at least one Delegate and be entitled to at least one vote.
- (b) Those clubs that have both men's and women's Premier League teams shall be entitled to three votes.
- (c) In the case where a previously advised Delegate is not able to attend a General Meeting, then a replacement Delegate or proxy may be appointed by the Affiliated Club/Association to attend and vote on behalf of the Affiliated Club/Association provided that written notification is given to the Association before the meeting (see rule 19.4).
- (d) No Delegate shall be entitled to accept acting as a Proxy Delegate for more than one other Affiliated Club/Association at any meeting.



#### **6.4 Liability of Members**

- (a) The annual membership subscription (if any) and fees payable by Members to the Association, the time for and manner of payment shall be determined by the Board from time to time.
- (b) A person exercises all the rights and obligations of a Member for the purposes of these rules if their subscription is paid on or before the relevant date fixed under rule 6.4(a) or within 3 months thereafter, or such other time as the Board allows.

#### **6.5 Payment to Members**

- (a) Subject to rule 6.5(b), no portion of the income or property of the Association may be paid directly or indirectly, by way of dividend, bonus or otherwise to the Members.
- (b) Rule 6.5(a) does not prevent:
  - (i) the payment in good faith of remuneration to any officer, employee or Member in return for any services actually rendered to the Association or for goods supplied in the ordinary and usual course of business;
  - (ii) the payment of interest at a rate not exceeding the prevailing market rate published by the Reserve Bank of Australia as the “Cash Rate Target” from time to time on money borrowed from any Member;
  - (iii) the payment of reasonable and proper rent by the Association to a Member for premises leased by the Member to the Association; or
  - (iv) the reimbursement of expenses incurred by any Member or any committee Member on behalf of the Association.

#### **6.6 Membership Entitlements not Transferable**

A right, privilege or obligation that a person has because he or she is a Member of the Association:

- (a) Is not capable of being transferred to any other person; and
- (b) Ends when the person’s membership ceases.

### **7. CEASING TO BE A MEMBER**

#### **7.1 Ending Membership**

- (a) A person’s membership ends, if the person:
  - (i) dies;
  - (ii) cease to be a member under rule 7.1
  - (iii) resigns as a Member under rule 7.2
  - (iv) is expelled from the Association under rule 7.3
- (b) Non-payment by a Member of their subscription within two months of the date fixed by the Board for subscriptions to be paid, unless the Board decides otherwise in accordance with rule 9.2; or
- (c) Expulsion of a Member in accordance with rule 7.3.

- (d) For a period of one year after a person's membership ends, the Secretary must keep a record of:
  - (i) the date on which a person ceases to be a member under rule 7.1(a);
  - (ii) the reason why the person ceases to be a member

## **7.2 Resigning as a member**

Receipt by the CEO of a notice in writing from a Member of their resignation from the Association. Such person remains liable to pay to the Association the amount of any subscription due and payable by that person to the Association but unpaid at the date of termination.

## **7.3 Suspension or Expulsion of Members of Association**

**7.3.1** If the Board considers that a Member should be suspended or expelled from membership of the Association because their conduct is detrimental to the Objects of the Association, the Board must communicate, either orally or in writing, to the Member:

- (a) Notice of the proposed suspension or expulsion and of the time, date and place of the Board meeting at which the question of that suspension or expulsion will be decided; and
- (b) Particulars of that conduct,

not less than 30 days before the date of the Board meeting referred to in sub-rule 7.3.1.(a).

**7.3.2** At the Board meeting referred to in a notice communicated under sub-rule 7.3.1.(a), the Board may, having afforded the Member concerned a reasonable opportunity to be heard by, or to make representations in writing to, the Board, suspend or expel or decline to suspend or expel that Member from membership of the Association.

**7.3.3** A Member has their membership suspended or ceases to be a member 14 days after the day on which the decision to suspend or expel a member is communicated to them under sub-rule 7.3.2.

**7.3.4** The Secretary must inform the Member in writing of the decision of the Committee and the reasons for the decision, within 7 days of the committee Meeting referred to in sub-rule 7.3.1(a).

## **7.4 Right of Appeal against Suspension or Expulsion**

- (a) A Member who is suspended or expelled under rule 7.3 must, if they wish to appeal against that suspension or expulsion, follow the procedure for such appeals as outlined in the Constitution of WPAL.

### **7.5 Reinstatement of a Member**

If the Committee's Decision to suspend or expel a Member is revoked under these Rules, any act performed by the Committee or Members in General Meeting during the period that the Member was suspended or expelled from Membership under rule 7.3, is deemed to be valid, notwithstanding the Member's inability to exercise their rights or privileges of Membership, including voting rights, during the period.

### **7.6 When a Member is Suspended**

- (a) If a member's membership is suspended under sub-rule 7.3.2. the Secretary must record in the Register:
  - (i) the name of the Member that has been suspended from membership;
  - (ii) the date on which the suspension takes effect; and
  - (iii) the length of the suspension as determined by the Committee under sub- rule 7.3.2.
- (b) A Member that has been suspended under rule 7.3 cannot exercise any rights or privileges of membership, including voting rights, during the period they are suspended from membership.
- (c) Upon the expiry of the period of a Member's suspension, the Secretary must record in the Register that the Member is no longer suspended.

## **8. MEMBERSHIP REGISTER**

### **8.1 Register of Members of Association**

- (a) The Secretary or a person authorised by the Committee from time to time must maintain a register of Members and make sure that the Register is up to date.
- (b) The register must contain:
  - (i) the full name of each Member
  - (ii) a contact postal, residential addresses or email address of each Member
  - (iii) the class of membership held by the Member; and
  - (iv) the date on which the person became a Member;
- (c) Any change in membership of the Association must be recorded in the Register within 28 days after the change occurs.
- (d) The register must be so kept and maintained at the CEO's place of residence or at such other place as the members at a general meeting decide.

### **8.2 Inspecting the Register**

- (a) Any Member is able to inspect the Register free of charge, at such time and place as is mutually convenient to the Association and the member.
- (b) A member must contact the Secretary to request to inspect the Register

- (c) The Member may make a copy of or take an extract from the Register but shall have no right to remove the Register for that purpose.

### **8.3 Copy of the Register**

- (a) A member may make a request in writing for a copy of the Register
- (b) The Committee may require a Member who requests a copy of the Register to provide a statutory declaration setting out the purpose of the request and declaring that the purpose is connected with the affairs of the Association.
- (c) The Association may charge a reasonable fee to the Member for providing a copy of the Register, the amount to be determined by the Committee from time to time.

### **8.4 When Using the Information in the Register is Prohibited**

A Member must not use or disclose the information on the Register:

- (a) To gain access to information that a Member has deliberately denied them (that is, in the case of social, family or legal differences or disputes);
- (b) To contact, send material to the Association or a Member for the purpose of advertising for political, religious, charitable or commercial purposes, or
- (c) For any other purpose unless the use of the information is approved by the Committee and for a purpose:
  - (i) that is directly connected with the affairs of the Association; or
  - (ii) related to the provision of the information to the Commissioner in accordance with a requirement of the Act.

## **9. MEMBERSHIP FEES**

### **9.1 Entrance Fees**

- (a) The Committee may from time to time determine the amount of the entrance fee, if any, to be paid by each Member or each class of Members upon becoming a Member.

### **9.2 Annual Membership Fee**

- (a) The Committee may from time to time determine the amount of the annual membership fee, if any, to be paid by each Member or each class of Members.
- (b) Each Member must pay the Member's annual membership fee determined under rule 9.2(a) to the Treasurer, or a person authorised by the Committee to receive payments, as and when decided by the Committee.
- (c) If a Member pays the annual membership fee within 2 months after the due date, the Member retains all the rights and privileges of a Member

for the purposes of these Rules during that time, including the right to vote.

- (d) Subject to rule 9.2(e), if a person fails to pay the annual Membership fee within 2 months after the due date, the person ceases to be a Member.
- (e) If a person ceases to be a Member under rule 9.2(d), and subsequently pays to the Association all the Member's outstanding fees, the Committee may, if it thinks fit, reinstate the Member's rights and privileges from the date on which the outstanding fees are paid, including the right to vote.

## **PART 3 - THE BOARD**

### **10. POWERS AND COMPOSITION OF THE COMMITTEE**

#### **10.1 Powers of the Committee**

- (a) The affairs of the Association will be managed exclusively by a Board consisting of at least six and not more than eight elected persons, all of whom must be Members of the Association.
- (b) Half of the Board Members shall be elected at each Annual General Meeting for a term of two years.

#### **10.2 Committee Members**

- (a) The Committee is to consist of:
  - (i) the office holders of the Association; and
  - (ii) not less than one other member
- (b) The maximum number of other Members of the Committee is to be determined by the Committee.
- (c) The office holders of the Association are:
  - (i) the Chairperson
  - (ii) the Deputy – Chairperson
  - (iii) the Secretary
- (d) A Committee Member must be:
  - (i) a natural person;
  - (ii) over 18 years in age; and
  - (iii) a Member.
- (e) No person shall be entitled to hold more than one of the positions set out in rule 10.2 (c) at any time.
- (f) No person shall be entitled to hold a position on the Committee if the person has been convicted of, or imprisoned in the previous five years for:

- (i) An indictable offence in relation to the promotion, formation or management of a body corporate;
- (ii) An offence involving fraud or dishonesty punishable by imprisonment for a period of not less than three months
- (iii) An offence under Part 4 Division 3 or section 127 of the Act

Unless the person has obtained the consent of the Commissioner.

- (g) No person shall be entitled to hold a position on the Committee if the person is, according to the Interpretation Act section 13D, a bankrupt or a person whose affairs are under insolvency laws unless the person has obtained the consent of the Commissioner.

## **11. ROLE AND RESPONSIBILITIES OF THE COMMITTEE MEMBERS**

### **11.1 Obligations of the Committee**

- (a) The Committee must take all reasonable steps to ensure the Association complies with its obligations under the Act and these Rules.

### **11.2 Responsibilities of Committee Members**

- (a) A Committee Member must exercise his or her powers and discharge his or her duties with a degree of care and diligence that a reasonable person would exercise in the circumstances
- (b) A Committee Member must exercise his or her powers and discharge his or her duties in good faith in the best interests of the Association and for a proper purpose
- (c) A Committee Member or former Committee Member must not improperly use information obtained because he or she is a Committee member to:
  - (i) gain an advantage for himself or herself or another person; or
  - (ii) cause detriment to the Association
- (d) A Committee Member or former Committee Member must not improperly use his or her position to:
  - (i) gain an advantage for himself or herself or another person; or
  - (ii) cause detriment to the Association
- (e) A Committee Member having any material personal interest in a matter being considered at a Committee Meeting must:
  - (i) as soon as he or she becomes aware of that interest, disclose the nature and extent of his or her interest to the Committee;
  - (ii) disclose the nature and extent of the interest at the next General Meeting of the Association; and
  - (iii) must not be present while the matter is being considered at the Committee Meeting or vote on the matter.
- (f) Rule 11.2(e) does not apply in respect of a material personal interest that:
  - (i) exists only because the Committee Member belongs to a class of persons for whose benefit the Association is established; or

- (ii) that the Committee Member has in common with all, or a substantial proportion of, the members of the Association.
- (g) The Secretary must record every disclosure made by a Committee Member under rule 11.2(e) in the minutes of the Committee Meeting at which the disclosure is made.
- (h) No committee Member shall make any public statement or comment or cause to be published any words or article concerning the conduct of the Association unless the person is authorised by the Committee to do so and such authority is recorded in the minutes of the Committee Meeting.

### **11.3 Chairperson**

The Chairperson will be elected by the Committee at the earliest possible convenience, normally, the first Board meeting following the Annual General Meeting.

#### **The Chairperson:**

- (a) Must consult with the Secretary regarding the business to be conducted at each Committee Meeting and each General Meeting;
- (b) May convene special meetings of the Committee under rule 18.1;
- (c) May preside over Committee Meetings under rule 14.3;
- (d) May preside over General Meetings under rule 17.4; and
- (e) Must ensure that the minutes of a General Meeting or Committee Meeting are reviewed and signed as correct under rule 20.1(b).

### **11.4 Deputy Chairperson**

The Deputy Chairperson will be elected by the Committee at the earliest possible convenience, normally, the first Board meeting following the Annual General Meeting.

The Deputy Chairperson will fill the role of the Chairperson in the absence of the Chairperson.

### **11.5 Secretary**

Refer to Rule 31.2

### **11.6 Record of Office Holders**

- (a) The Secretary or a person authorised by the Committee from time to time must maintain a record of office holders.

- (b) The record of office holders must include:
  - (i) the full name of each office holder;
  - (ii) the office held and the dates of appointment and (if applicable) cessation of the appointment; and
  - (iii) a current contact postal, residential or email address of each office holder.
- (c) The record of office holders must be kept and maintained at the Secretary's place of residence, or at such other place as the Committee decides.

### **11.7 Inspecting the Record of Office Holders**

- (a) Any Member is able to inspect the record of office holders free of charge, at such time and place as is mutually convenient to the Association and the Member.
- (b) The Member may make a copy of details from the record of office holders but has no right to remove the record for that purpose.

## **12. APPOINTING COMMITTEE MEMBERS**

### **12.1 Appointment to the Committee**

Committee members are appointed to the Committee by

- (a) Election at an AGM; or
- (b) Appointed under rule 12.3.

### **12.2 Nominating for Membership of the Committee**

Except for nominees under sub-rule 12.3, a person is not eligible for election to the Board unless a Member has nominated them for election by delivering notice in writing of that nomination on the prescribed form, signed by:

- (a) The nominator; and
- (b) The nominee to signify their willingness to stand for election,

to the CEO not less than 14 days before the day on which the Annual General Meeting concerned is to be held, and must be listed on the agenda.

### **12.3 Electing Committee Members**

If the number of nominations received are equal to or less than the number of vacancies to be filled, the persons nominated shall be deemed elected. The Chairperson shall declare this at the Annual General Meeting concerned.

If vacancies remain on the Board after the declaration under rule 12.4, additional nominations of Board members may be accepted from the floor of the Annual General Meeting.



If such nominations from the floor do not exceed the number of vacancies the Chairperson must declare those persons to be duly elected as members of the Board.

Where the number of nominations from the floor exceeds the remaining number of vacancies on the Board, elections for those positions must be conducted. Refer rule 12.4.

If a vacancy remains on the Board after the application of rule 12.4, or when a casual vacancy within the meaning of rule 13 occurs in the membership of the Board:

- (a) The Board may appoint a Member to fill that vacancy; and
- (b) A Member appointed under this sub-rule will hold office until the conclusion of the Annual General Meeting at which the term of the previous Board member would have expired.
- (c) The Board may at its discretion, in addition to the elected Board members, appoint up to two additional members to the Board where it is deemed essential to seek additional skill sets for the Board.
  - (i) the term of any such person will expire at the next Annual General Meeting or for a limited term as determined by the Board. Such appointed Board members shall have a deliberative vote.

#### **12.4 Voting in Elections for Membership of the Committee**

- (a) Subject to rule 6.3(b), each Member present and eligible to vote at the AGM may vote for one candidate for each vacant position on the Committee.
- (b) A Member who nominates for election or re-election may vote for himself or herself.
- (c) Voting for Board member positions shall be on the preferential method, as defined by the West Australian Electoral Commission, with the first choice given one vote, the second two votes and so on until all nominees have been collected. Those nominees required to fill the vacancies, with the lowest totals shall be elected. In the case of an equality of votes, a second vote is to take place for the tied positions only, not including the newly elected members.

#### **12.5 Term of Office of Committee Members**

- (a) Subject to rule 12.5(a), a Committee Member's term will commence on the date of his or her:
  - (i) election at an AGM; or
  - (ii) appointment to fill a casual vacancy that arises under rule 13.
- (b) All retiring Committee Members are eligible, on nomination under rule 12.2, and subject to rule 12.5(c) for re-election at the conclusion of their elected term;
- (c) Board members reaching 6 consecutive years, under rule 12.5, shall not be permitted to nominate for an elected Board position or be in an

appointed Board position for a two (2) year period from the end of the six (6) year consecutive Board role.

- (d) The Committee Members appointed to the Association will hold office until the next AGM of the Association and will be eligible for election.

### **13. CEASING TO BE A MEMBER OF THE MANAGEMENT COMMITTEE**

#### **13.1 Vacant Positions on the Committee**

A casual vacancy occurs in the office of a Board member and that office becomes vacant if the Board member:

- (a) Dies;
- (b) Is convicted of an offence under the Act;
- (c) Holds any office of employment with the Association;
- (d) Is absent from more than:
  - (i) three consecutive Board meetings; or
  - (ii) three Board meetings in the same financial year without tendering an apology to the person presiding at each of those Board meetings;

of which meetings the member received notice, and the Board has resolved to declare the office vacant;

- (e) Is directly or indirectly interested in any contract or proposed contract with the Association and fails to declare the nature of his interest; Refer rule 14.7.
- (f) Ceases to be a member of the Association; or
- (g) Is the subject of a resolution passed by a General Meeting of Members terminating their appointment as a Board member.

#### **13.2 Resigning from the Committee**

- (a) Resigns by notice in writing delivered to the Chairperson or, if the Board member is the Chairperson, to the CEO and that resignation is accepted by resolution of the Board;

#### **13.3 Removal from Committee**

The Association may by Special Resolution remove any Board member before the expiration of their period of office, and may by Ordinary Resolution appoint another eligible person, provided that the person so appointed shall hold office until the conclusion of the Annual General Meeting at which the term of the previous Board member would have expired.

## **PART 4 - GENERAL MEETINGS**

### **14. COMMITTEE MEETINGS**

#### **14.1 Meetings of the Committee**

The Board must meet together at least eight times per year.

#### **14.2 Notice of Committee Meetings**

Subject to these rules, the agenda to be followed at a Board meeting must be distributed to the Board members prior to the Board meeting.

#### **14.3 Chairing at Committee Meetings**

- (a) Subject to this rule, the Chairperson must preside at all General Meetings and Board meetings.
- (b) In the event of the absence from a General Meeting of the Chairperson, the Deputy Chairperson shall preside at that General Meeting.
- (c) In the event that both the Chairperson and the Deputy Chairperson are absent or unwilling to act, the remaining Board members must choose one of their number to preside as chairperson at the Board Meeting.

#### **14.4 Procedure of the Committee Meetings**

- (a) The quorum for a Committee Meeting is specified at clause 1.3. The committee cannot conduct business unless a quorum is present.
- (b) In the event of a casual vacancy or vacancies in the office of a Board member or Board members, the remaining Board members may act. If the number of remaining Board members is not sufficient to constitute a quorum at a meeting of the Board, they may act only for the purpose of increasing the number of Board members to a number sufficient to constitute a quorum.

#### **14.5 Voting at Committee Meetings**

- (a) Each Board member has a deliberative vote, including appointed Board members.
- (b) A question arising at a Board meeting must be decided by a majority of votes, but, if there is no majority, the Chairperson at the Board meeting will have a casting vote in addition to their deliberative vote.

**14.6** Subject to these rules, the agenda to be followed at a Board meeting must be distributed to the Board members prior to the Board meeting.

**14.7** As required under sections 21 and 22 of the Act, a Board member having any direct or indirect pecuniary interest in a contract, or proposed contract, made by, or in the contemplation of, the Board (except if that pecuniary interest exists only by virtue of the fact that the member of the Board is a member of a class of persons for whose benefit the Association is established), must:

- (a) As soon as he becomes aware of that interest, disclose the nature and extent of their interest to the Board; and
- (b) Not take part in any deliberations or decision of the Board with respect to that contract.

**14.8** The CEO must cause every disclosure made under rule 14.7(a) by a member of the Board to be recorded in the minutes of the meeting of the Board at which it is made.

## **15. REMUNERATION OF COMMITTEE MEMBERS**

- (a) The Association may pay a Committee Member's travelling and other expenses as properly incurred:
  - (i) in attending Committee Meetings or sub-committee meetings;
  - (ii) in attending any General Meetings of the Association; and
  - (iii) in connection with the Association's business.
- (b) Committee Members must not receive any remuneration for their services as Committee Members other than as described at rule 15(a).

## **16. SUB-COMMITTEES AND DELEGATION**

### **16.1 Appointment of Sub-Committees**

The Board may delegate, in writing, to any sub-committees, the duties and functions, and with such powers, as the Board determines, other than:

- (a) This power of delegation; and
- (b) A function imposed on the Board by the Act, any other law or this Constitution.

### **16.2 Delegation by Committee to Sub-Committee**

Any delegation under rule 16.1 will be subject to those conditions and limitations within the delegation. The Board may continue to exercise any function delegated.

The Board may, in writing, revoke wholly or in part any delegation under sub-rule 16.1

### **16.3 WPAL Delegate**

The Board shall elect from amongst its members at the first Board Meeting after the Annual General Meeting a delegate to WPAL. In the event that the Delegate so elected is unable to attend a conference of the WPAL, the Board shall elect a proxy delegate for that conference, also from amongst its own members.

The delegate to the WPAL shall represent the Association at the conferences of the WPAL and shall convey the views of the Association as determined by the Board at such conferences and on other WPAL matters which arise from time to time.

## **17. GENERAL MEETINGS**

### **17.1 Procedure for General Meetings**

- (a) General Meetings may take place:
  - (i) where the Members are physically present together; or
  - (ii) where the Members are able to communicate by using any technology that reasonably allows the Member to participate fully in discussions as they happen in the General Meeting and in making any decisions, provided that the participation of the Member in the General Meeting must be made known to all other Members.
  
- (b) A Member who participates in a meeting as set out in rule 17.1(a)(ii):
  - (i) is deemed to be present at the General Meeting; and
  - (ii) continues to be present at the meeting for the purposes of establishing a quorum,until the Member notifies the other Members that he or she is no longer taking part in the General Meeting.

### **17.2 Quorum for General Meetings**

- (a) The quorum for a General Meeting is specified at clause 1.4.
  
- (b) Subject to rules 17.2(c) and (d), no business is to be conducted at a General Meeting unless a quorum of Members entitled to vote under these rules is present at the time when the meeting is considering that item.
  
- (c) If within 30 minutes after the time specified for the holding of a General Meeting in a notice given under rule 18.1 or 18.2
  - (i) as a result of a request or notice referred to in sub-rule 18.1 (d) or as a result of action taken under rule 17.3 a quorum is not present, the General Meeting lapses; or
  - (ii) otherwise than as a result of a request, notice or action referred to in paragraph (i), the General Meeting stands adjourned to the following week.
  
- (d) If within 30 minutes of the time appointed by sub-rule 17.2 (c) (ii) for the resumption of an adjourned General Meeting a quorum is not present, the Members who are present in person or by proxy may proceed with the business of that General Meeting as if a quorum were present.
  
- (e) The Chairperson may, with the consent of Members at a General Meeting at which a quorum is present, and must, if so directed by such a General Meeting, adjourn that General Meeting from time to time and from place to place.
  
- (f) There must not be transacted at an adjourned General Meeting any business other than business left unfinished or on the agenda at the time when the General Meeting was adjourned.

- (g) When a General Meeting is adjourned for a period of 30 days or more, the CEO must give notice under rule 17 of the adjourned General Meeting as if that General Meeting were a fresh General Meeting.

### **17.3 Notice of General Meetings and Motions**

- (a) Subject to Rule 18.3, the CEO must give to all Members not less than 14 days notice of a General Meeting and that notice must specify:
- (b) When and where the General Meeting concerned is to be held; and
- (c) Particulars of the business to be transacted at the General Meeting concerned and of the order in which that business is to be transacted.
- (d) Must, after receiving a notice under rule 5.4 (b) convene a General Meeting, no later than the next Annual General Meeting, at which the appeal referred to in the notice will be dealt with. Failing that, the applicant is entitled to address the Association at that next Annual General Meeting in relation to the Board's rejection of their application and the Association at that meeting must confirm or set aside the decision of the Board.

### **17.4 Presiding Member**

- (a) The Chairperson or, in the Chairperson's absence, the Deputy-Chairperson is to preside as chairperson of each General Meeting.
- (b) If the Chairperson and the Deputy-Chairperson are absent or unwilling to act, the remaining Committee Members must choose one of their number to preside as chairperson at the General Meeting.

### **17.5 Adjournment of General Meetings**

- (a) The person presiding over a General Meeting, at which a quorum is present, may adjourn the meetings from time to time and place to place with the consent of a majority of Members present at the meeting.
- (b) No business is to be conducted at an adjourned meeting other than the unfinished business from the meeting that was adjourned.
- (c) When a General Meeting is adjourned for 14 days or more, the Secretary must give notice of the adjourned meeting in accordance with rules 2.2 and 17.1 as if that General Meeting was a new General Meeting.

## **18. SPECIAL GENERAL MEETINGS**

### **18.1 Special General Meeting**

- (a) The committee may at any time convene a Special General Meeting of the Association.
- (b) Receiving a request in writing to do so from not less than two Affiliated Clubs/Associations, convene a Special General Meeting for the purpose specified in that request within 28 days of receiving the written request.

### **18.2 Request for a Special General Meeting**

A request by the Members for a Special General Meeting must:

- (a) State the purpose for which the Special General Meeting concerned is required; and
- (b) Sign that request.
- (c) Be lodged with the Secretary

### **18.3 Failure to Convene a Special General Meeting**

If a Special General Meeting is not convened within the relevant period of 28 days referred to in rule 18.1(b) the Members who made the request concerned may themselves convene a Special General Meeting within 3 months after the original request was lodged as if the Members were the Committee.

When a Special General Meeting is convened under rule 18.1(a) the Association must pay the reasonable expenses of convening and holding the Special General Meeting.

## **19. MAKING DECISIONS AT GENERAL MEETINGS**

### **19.1 Special Resolutions**

- (a) A Special Resolution may be moved either at a Special General Meeting or at an Annual General Meeting where notice of the Special Resolution has been given under rule 19.1 (c).
- (b) A Special Resolution of the Association is required to:
  - (i) amend the name of the Association;
  - (ii) amend the Rules, under rule 24.2;
  - (iii) affiliate the Association with another body;
  - (iv) transfer the incorporation of the Association;
  - (v) amalgamate the Association with one or more other incorporated associations;
  - (vi) voluntarily wind up the association;
  - (vii) cancel incorporation; or
  - (viii) request that a statutory manager be appointed.
- (c) Notice of a Special Resolution must:
  - (i) be in writing;
  - (ii) include the place, date and time of the meeting;
  - (iii) give to all Members not less than 21 days notice of the meeting at

- which a Special Resolution is to be proposed;
  - (iv) include the intention to propose a Special Resolution;
  - (v) set out the wording of the proposed Special Resolution; and
  - (vi) be given in accordance with rule 2.2.
- (d) The CEO must give a notice under sub-rule 19.1 (c) by:
- (i) serving it on a Member personally; or
  - (ii) sending it by post to a Member at the address of the Member appearing in the register of Members kept and maintained under rule 8; or
  - (iii) electronic methods, which may include, but not limited to email and facsimile.
- (e) When a notice is sent by post under sub-rule 19 (d) (ii) the sending of the notice will be deemed to be properly effected if the notice is sufficiently addressed and posted to the Member concerned by ordinary prepaid mail. Service of the notice is deemed to have been effected three days after posting.
- (f) When a notice is sent by electronic methods under sub-rule 19 (d) (iii), the sending of the notice will be deemed to be properly effected upon receipt of a confirmation report confirming the electronic mail message was received at the electronic mail address to which it was sent.
- (g) If notice is not given in accordance with rule 19.1(c), the Special Resolution will have no effect.
- (h) A Special Resolution must be passed at a General Meeting at which there is a quorum and be supported by the votes of not less than three-fourths of the Members present, in person or by proxy, and eligible to cast a vote at the meeting.

## **19.2 Ordinary Resolutions**

Subject to these rules, a majority of votes will determine an Ordinary Resolution.

## **19.3 Voting at meetings**

- (a) Subject to these rules, each Delegate present in person or by proxy, at a General Meeting, is entitled to a deliberative vote on behalf of the Affiliated Club/Association. Refer rule 6.3.
- (b) Life Members, Individual members of Affiliated Clubs/Associations and Associate Members shall have no voting rights.

## **19.4 Proxies**

An Affiliated Club/Association (in this rule called "the appointing member") may appoint in writing another Delegate who is a natural person to be the proxy of the appointing member and to attend, and vote on behalf of the appointing member at, any General Meeting.

## **19.5 Manner of Determining Whether Resolution Carried**



- (a) A Special Resolution put to the vote will be decided in accordance with section 24 of the Act, and, if a Poll is demanded, in accordance with sub-rules 19.5 (c) and 19.5(e).
- (b) A declaration by the Chairperson of a General Meeting that a resolution has been passed as an Ordinary Resolution at the meeting will be evidence of that fact unless, during the General Meeting at which the resolution is submitted, a Poll is demanded in accordance with sub-rule 19.5 (c).
- (c) At a General Meeting, a Poll may be demanded by the Chairperson or by at least three Members present in person or by proxy and, if so demanded, must be taken in such manner as the Chairperson directs.
- (d) If a Poll is demanded and taken under sub-rule 19.5 (c) in respect of an Ordinary Resolution, a declaration by the Chairperson of the result of the Poll is evidence of the matter so declared.
- (e) A Poll demanded under sub-rule 19.5 (c) must be taken immediately on that demand being made.

## **20. MINUTES OF MEETINGS**

### **20.1 Minutes of Meetings of the Association**

- (a) The CEO must record proper minutes of all proceedings of all General Meetings and Board meetings within 30 days after the holding of each General Meeting or Board meeting.
- (b) The Chairperson must ensure that the minutes taken of a General Meeting or Board meeting under sub-rule 20.1 (a) are checked and signed as correct by the Chairperson of the General Meeting or Board meeting to which those minutes relate or by the Chairperson of the next succeeding General Meeting or Board meeting, as the case requires.
- (c) When minutes have been recorded and signed as correct under this rule, they are, until the contrary is proved, evidence that:
  - (i) the General Meeting or Board meeting to which they relate (in this sub-rule called "the meeting") was duly convened and held;
  - (ii) all proceedings recorded as having taken place at the meeting did in fact take place at the meeting; and
  - (iii) all appointments or elections purporting to have been made at the meeting have been validly made.

## **PART 5 - OTHER**

### **21. FUNDS AND ACCOUNTS**

#### **21.1 Control of Funds**

- (a) The funds of the Association must be kept in an account in the name of the Association in a financial institution determined by the Committee.
- (b) The funds of the Association are to be used in pursuance of the objects of the Association.
- (c) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments of the Association must be signed by:
  - (i) any two persons authorised by the Board
- (d) All expenditure above the maximum amount set by the Committee from time to time must be approved or ratified at a Committee Meeting.

#### **21.2 Source of Association Funds**

- (a) The funds of the Association may be derived from entrance fees and annual membership fees of Members, donations, fund raising activities, grants, interest, and any other sources approved by the Committee.
- (b) The Association must, as soon as practicable:
  - (i) deposit all money received by the Association, to the credit of the Association's bank account, without deduction; and
  - (ii) after receiving any money, issue an appropriate receipt.

#### **21.3 Financial Records**

- (a) The Association must keep Financial Records that:
  - (i) correctly record and explain its transactions, financial position and performance; and
  - (ii) enable true and fair financial statements to be prepared in accordance with Part 5 of the Act.
- (b) The Association must retain its Financial Records for at least 7 years after the transactions covered by the records are completed.

#### **21.4 Financial Statements and Financial Reports**

- (a) For each financial year, the Association must ensure that the requirements under Part 5 of the Act are met.
- (b) Without limiting sub-rule (a), those requirements include:
  - (i) as a Tier 2 Association, the preparation of the Financial Report;
  - (ii) if required, the review or auditing of the Financial Statements or Financial Report (whichever is applicable);
  - (iii) if the Association is a Tier 2 Association or a Tier 3 Association, the presentation of the Financial Report to the annual general meeting of the Association (and a copy of the report of the review or auditor's report, whichever is applicable); and
  - (iv) if required by the regulations made under the Act, the lodgement of the annual return with the Commissioner.

#### **21.5 Review or Audit of Financial Statements or Financial Report**

The Association must ensure that a review or audit is undertaken of the Financial Statements or Financial Report of the Association if:

- (a) The Association is a Tier 2 or Tier 3 Association;
- (b) The by-laws of the Association require a review or audit;
- (c) The Members require a review or audit by resolution at a General Meeting;
- (d) An audit or review is directed by the Commissioner; or
- (e) An audit or review is required as a condition of a funding arrangement; or holding of a charitable collections licence.

#### **21.6 Audit**

- (a) A properly qualified Auditor/Auditors shall be appointed by the Board and shall receive such remuneration as the Board determines from time to time.
- (b) The Auditor shall examine the books, accounts, receipts and the financial records of the Association in accordance with accepted standard accounting practices for the Financial Year in which they are appointed, and shall compare the same with the annual accounts submitted by the Association.

### **22. FINANCIAL YEAR OF THE ASSOCIATION**

The financial year of the Association is at rule 1.5.

## **23. ANNUAL GENERAL MEETINGS**

Subject to rule 17.3, the CEO must give to all Members not less than 21 days notice of an Annual General Meeting and that notice must specify:

- (a) When and where the Annual General Meeting is to be held;
- (b) The particulars and order in which business is to be transacted, as follows:
  - (i) the consideration of the accounts and reports of the Board;
  - (ii) the election of Board members to replace outgoing Board members; and
  - (iii) any other business requiring consideration by the Association at the Annual General Meeting.
- (c) Must convene the Annual General Meetings on a date and place to be determined by the Board, but shall be within four months of the conclusion of the Association's Financial Year.

## **24. RULES OF THE ASSOCIATION**

### **24.1 Rules of the Association**

These rules bind every Member and the Association to the same extent as if every Member and the Association had signed and sealed these rules and agreed to be bound by all their provisions.

### **24.2 Amendment of Rules, Name and Objects**

The Association may alter or rescind these rules, or make rules additional to these rules, in accordance with the procedure set out in sections 17, 18 and 19 of the Act, which is as follows:

- (a) Subject to rule 24.1(d) and 24.1(e), the Association may alter its rules by Special Resolution but not otherwise;
- (b) Within one month of the passing of a Special Resolution altering its rules, or such further time as the Commissioner may in a particular case allow (on written application by the Association), the Association must lodge with the Commissioner notice of the Special Resolution setting out particulars of the alteration together with a certificate given by a member of the Board certifying that the resolution was duly passed as a Special Resolution and that the rules of the Association as so altered conform to the requirements of this Act;
- (c) An alteration of the rules of the Association does not take effect until rule 24.2(b) is complied with;
- (d) An alteration of the rules of the Association having effect to change the name of the association does not take effect until rules 24.1(a) to 24.1(c) are complied with and the approval of the Commissioner is given to the change of name;
- (e) An alteration of the rules of the Association having effect to alter the Objects of the Association does not take effect until rules 24.1(a) to 24.1(c) are complied with and the approval of the Commissioner is given to the alteration of the Objects or purposes.

At least 28 days notice of any proposal to alter, repeal and add to these rules shall be given in notice to the CEO and such notice shall be accompanied by a copy of the proposal.

The CEO shall notify in writing all Members of the proposed rule changes at least 21 days prior to the relevant meeting.

**24.3** The Board will appoint a committee to review this Constitution not more than five years after the endorsement of this Constitution. The terms of reference shall be set by the Board to ensure the rules of the Association remain contemporary and compliant with the Act.

## **25. BY-LAWS OF THE ASSOCIATION**

**25.1** The Members of the Association may make, amend and repeal by-laws for the management of the Association by Ordinary Resolution at a General Meeting provided that the by-laws are not inconsistent with the Rules or the Act.

**25.2** The by-laws made under rule 25.1:

- (a) Do not form part of the Rules;
- (b) May make provision for:
  - (i) classes of Membership and the rights and obligations that apply to each class of Membership;
  - (ii) requirements for financial reporting, financial accountability or audit of accounts in addition to those prescribed by the Act and the Rules;
  - (iii) restrictions on the powers of the Committee including the power to dispose of assets;
  - (iv) a requirement for members to hold specified educational, trade or professional qualification; and
  - (v) any other matter that the Association considers necessary or appropriate; and
- (c) Must be available for inspection by Members.

## **26. AUTHORITY REQUIRED TO BIND ASSOCIATION**

### **26.1 Executing Documents**

- (a) The Association may execute a document without using a common seal if the document is signed by:
  - (i) any two Committee Members; or
  - (ii) one Committee Member and a person authorised by the Committee.

### **26.2 Use of the Common Seal**

- (a) The Association must have a common seal on which its corporate name appears in legible characters.

- (b) The common seal of the Association must not be used without the express authority of the Board and every use of that common seal must be recorded in the minute book referred to in rule 20.1.
- (c) The affixing of the common seal of the Association must be witnessed by any two of the Chairperson, one other Board Member or CEO.
- (d) The common seal of the Association must be kept in the custody of the CEO or of such other person as the Board from time to time decides.

## **27. THE ASSOCIATION'S BOOKS AND RECORDS**

### **27.1 The Association shall:**

- (a) Be responsible for the receipt of all moneys paid to or received by the Association and must issue receipts for those moneys in the name of the Association;
- (b) Pay all moneys referred to in paragraph (a) into such account or accounts of the Association as the Board may from time to time direct;
- (c) Make payments from the funds of the Association with the authority of the Board and in so doing ensure that all cheques are signed by any two persons authorised by the Board;
- (d) Comply with sections 25 and 26 of the Act on behalf of the Association with respect to the accounting records of the Association by:
  - (i) keeping such accounting records as correct records and explain the financial transactions and financial position of the Association;
  - (ii) keeping its accounting records in such manner as will enable true and fair accounts of the Association to be prepared from time to time;
  - (iii) keeping its accounting records in such manner as will enable true and fair accounts of the Association to be conveniently and properly audited; and
  - (iv) submitting to members as required, accounts of the Association showing the financial position of the Association at the end of the immediately preceding financial year.
- (e) Whenever directed to do so by the Chairperson, submit to the Board a report, balance sheet or financial statement in accordance with that direction;
- (f) The Board shall submit to the Annual General Meeting the audited accounts of the Association in accordance with the Act;
- (g) Retain custody of all such records, books, documents and securities for at least seven years after the completion of the financial year to which the transactions or operations relate, or any such length of time as might be required by law.

### **27.2 Inspection of Records of the Association**

- (a) Subject to these rules, and in particular rule 27.1(f), a Member is able to inspect the Books of the Association free of charge at such time and place as is mutually convenient to the Association and the Member.
- (b) A Member must contact the Secretary to request to inspect the Books of the Association.
- (c) The Member may copy details from the Books of the Association but has no right to remove the Books of the Association for that purpose.

### **27.3 Prohibition on Use of Information in the Books of the Association**

- (a) A Member must not use or disclose information in the Books of the Association except for a purpose:
  - (i) that is directly connected with the affairs of the Association; or
  - (ii) related to the provision of the information to the Commissioner in accordance with a requirement of the Act.

### **27.4 Returning the Books of the Association**

- (a) Outgoing Committee Members are responsible for transferring all relevant assets and Books of the Association to the new Committee within 14 days of ceasing to be a Committee Member.

## **28. RESOLVING DISPUTES**

### **28.1 Disputes Arising under the Rules**

The grievance procedure set out in this rule applies to disputes under these rules between:

- (a) A Member and another Member; or
  - (i) in this rule “Member” includes any former Member whose membership ceased not more than six months before the dispute occurred.
- (b) A Member and the Association; or
- (c) If the Association provides services to non-members, those non-members who receive services from the Association, and the Association.
- (d) The parties to the dispute must meet and discuss the matter in dispute, and, if possible, resolve the dispute within 14 days after the dispute comes to the attention of all of the parties.
- (e) If the parties are unable to resolve the dispute, any party to the dispute may initiate a procedure under this rule by giving written notice to the Secretary of the parties to, and details of, the dispute.
- (f) The Secretary must convene a Committee Meeting within 28 days after the Secretary receives notice of the dispute under rule 28.1(d) for the Committee to determine the dispute.

- (g) At the Committee Meeting to determine the dispute, all parties to the dispute must be given a full and fair opportunity to state their respective cases orally, in writing or both.
- (h) The Secretary must inform the parties to the dispute of the Committee's decision and the reasons for the decision within 7 days after the Committee Meeting referred to in rule 28.1(g).
- (i) If any party to the dispute is dissatisfied with the decision of the Committee they may elect to initiate further dispute resolution procedures as set out in the Rules.

## **28.2 Mediation**

- (a) This rule applies:
  - (i) where a person is dissatisfied with a decision made by the Committee under rule 28.1; or
  - (ii) where a dispute arises between a Member or more than one Member and the Association and any party to the dispute elects not to have the matter determined by the Committee.
- (b) Where the dispute relates to a proposal for the suspension or expulsion of a Member this rule does not apply until the procedure under rule 7.3 in respect of the proposed suspension or expulsion has been completed.
- (c) If the parties to a dispute are unable to resolve the dispute between themselves within the time required by rule 28.1(d), or a party to the dispute is dissatisfied with a decision made by the Committee under rule 28.1(g) a party to a dispute may:
  - (i) provide written notice to the Secretary of the parties to, and the details of, the dispute;
  - (ii) agree to, or request the appointment of, a mediator.
- (d) The party, or parties requesting the mediation must pay the costs of the mediation.
- (e) The mediator must be:
  - (i) a person chosen by agreement between the parties; or
  - (ii) in the absence of agreement:
    - A. if the dispute is between a Member and another Member – a person appointed by the Committee; or
    - B. if the dispute is between a Member or more than one Member and the Association, the Committee or a Committee Member then an independent person who is a mediator appointed to, or employed with, a not for profit organisation.



- (f) A Member can be a mediator, but the mediator cannot be a Member who is a party to the dispute.
- (g) The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.
- (h) The parties are to exchange written statements of the issues that are in dispute between them and supply copies to the mediator at least 5 days before the mediation session.
- (i) The mediator, in conducting the mediation, must:
  - (i) give the parties to the mediation process every opportunity to be heard;
  - (ii) allow all parties to consider any written statement submitted by any party; and
  - (iii) ensure that natural justice is accorded to the parties to the dispute throughout the mediation process.
- (j) The mediator must not determine the dispute and the mediation must be confidential. Information provided by the parties in the course of the mediation cannot be used in any other legal proceedings that may take place in relation to the dispute.

### **28.3 Inability to Resolve Disputes**

If a dispute cannot be resolved under the procedures set out in the Rules, any party to the dispute may apply to the State Administrative Tribunal to determine the dispute in accordance with the Act or otherwise at law.

## **29. CANCELLATION AND DISTRIBUTION OF SURPLUS PROPERTY**

- (a) The Association may cease its activities and have its incorporation cancelled in accordance with the Act if the Members resolve by Special Resolution that the association will:
  - (i) apply to the Commissioner for cancellation of its incorporation; or
  - (ii) appoint a liquidator to wind up its affairs.
- (b) If upon the winding up or dissolution of the Association there remains after satisfaction of all its debts and liabilities any property whatsoever, the same must not be paid to or distributed among the Members, or former Members.
- (c) The association must be wound up under rule 29(a)(ii) and Part 9 of the Act before cancellation can take place if it has outstanding debts or any other outstanding legal obligations, or is a party to any current legal proceedings.
- (d) Upon cancellation of the Association, the Surplus Property must only be distributed to one or more of the following:
  - (i) an incorporated association under the Act;
  - (ii) a body corporate that at the time of the distribution is the holder of a

- licence under the charitable collections legislation in Western Australia;
- (iii) a company limited by guarantee that is registered as mentioned in section 150 of the *Corporations Act 2001 (Cwth)*;
  - (iv) a company holding a licence that continues in force under section 151 of the *Corporations Act 2001(Cwth)*;
  - (v) a body corporate that:
    - A. is a Member or former member of the Association; and
    - B. at the time of the Surplus Property is distributed, has rules that prevent the property being distributed to its members;
  - (vi) a trustee for a body corporate referred to in rule 29(c)(v); or
  - (vii) a co-operative registered under the *Co-operatives Act 2009* that, at the time of the distribution, is a non-distributing co-operative as defined in that Act.

The surplus property must be given or transferred to another association/s incorporated under the Act which has similar Objects and which is not carried out for the purposes of profit or gain to its individual members, and which association shall be determined by resolution of the members.

### **30. INDEMNITY**

Every Board member, Auditor, Officer and Official of the Association shall be indemnified out of the assets of the Association against liability arising out of the execution of the duties of his/her office which is incurred by him/her in defending any proceedings, whether civil or criminal, in which judgement is given in his/her favour, or in which he/she has acquitted or in connection with any application under the Act in which relief is granted to him/her by a court in respect of any negligence, default, breach of duty or trust.

### **31. CHIEF EXECUTIVE OFFICER**

- 31.1** The CEO shall be appointed by the Board for such term and on such conditions as it thinks fit. The Board shall provide the CEO with a full Duty Statement.
- 31.2** The CEO shall act as and carry out the duties of Secretary and Public Officer of the Association, as required in the Act, and shall administer and manage the Association in accordance with these rules.
- 31.3** The CEO may, in consultation with the Board, as appropriate, employ such personnel as are deemed necessary or appropriate from time to time and such appointments shall be for such period and such conditions as the Board determines.