

**Masters Swimming Victoria Incorporated**

**Registration No: A0012378J**

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# **RULES AND CONSTITUTION**

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**Accepted: 14<sup>th</sup> December 2022**

# Associations Incorporation Reform Act 2012

## CONSTITUTION OF MASTERS SWIMMING VICTORIA INCORPORATED

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## PART 1—PRELIMINARY

### 1 Name

The name of the incorporated Association is "Masters Swimming Victoria Incorporated".

### 2 Purposes

The purposes of Masters Swimming Victoria Incorporated (MSV) are to:

- (1) provide at club and state level an environment to encourage all adults, regardless of ability, to swim regularly and compete, in order to promote fitness and improve their general wellbeing
- (2) coordinate the activities of Club Members, through clubs, so that they may meet for competition as well as social interaction at local, club, branch, national and international levels
- (3) provide stimulus to others to take part in MSV activities and to measure their performance against those of a similar age
- (4) develop accredited coaches and safe coaching practices
- (5) develop accredited officials to provide fair competition
- (6) engage in activities for the promotion of adult swimming generally.

### 3 Financial year

The financial year of MSV is each period of 12 months ending on 31 December.

### 4 Definitions

In these Rules and for ease of interpretation, all definitions and associated words are applied in upper case —

**Absolute majority**, of the board, means a majority of the Board Members currently holding office and entitled to vote at the time (as distinct from a majority of Board Members present at a board meeting);

**Administrator** means the party employed and/or contracted to carry out the administrative tasks of MSV;

**MSV** means Masters Swimming Victoria Incorporated (MSV);

**Board** means the body known as the board having management of the business of MSV;

**Board Meeting** means a meeting of the board held in accordance with these rules;

**Board Member** means a member of the board elected or appointed under Division 3 of Part 5;

**By-law** means the procedural and administrative rules established by the board;

**Chairperson**, of a General Meeting or Board Meeting, means the person chairing the meeting as required under Parts 4 and 5;

**Club** means those clubs affiliated with MSV and established in accordance with this Constitution and have been accepted by the board in accordance with Rule 13. Clubs are the members of MSV within the meaning of The Act;

***Club-Member*** means an individual who is a member of a Club;

***Club Representative*** means a Club-Member who has been nominated by a Club to be their representative in accordance with rule 15 and is entitled to vote at a General Meeting under rule 39;

***Disciplinary appeal meeting*** means a meeting of the Club or Club-Members of MSV convened under rule 25;

***Disciplinary meeting*** means a meeting of the Board convened for the purposes of rule 22;

***Disciplinary Subcommittee*** means the subcommittee appointed under rule 22;

***Financial year*** means the 12 month period specified in rule 3;

***General Meeting*** means a General Meeting of the Clubs (as members of MSV) convened in accordance with Part 4 and includes an annual General Meeting, a special General Meeting and a disciplinary appeal meeting;

***In writing*** means either hand written, printed copy or, where practicable, by electronic means that can be reproduced;

***Masters Swimming Australia or MSA*** means Masters Swimming Australia Inc., the peak body for adult swimmers;

***MSV*** means Masters Swimming Victoria Incorporated;

***Register*** means a record of the details required to be kept about each Club and Club Representative under Rule 19;

***Special resolution*** means a resolution that requires not less than three-quarters of the Club Representatives voting at a General Meeting, whether in person or by proxy, to vote in favour of the resolution;

***The Act*** means **Associations Incorporation Reform Act 2012** and includes any regulations made under that Act.

## PART 2—POWERS OF MSV

### 5 Powers of MSV

- (1) Subject to the Act, MSV has power to do all things incidental or conducive to achieve its purposes.
- (2) Without limiting sub rule (1), MSV may—
  - (a) acquire, hold and dispose of real or personal property;
  - (b) open and operate accounts with financial institutions;
  - (c) invest its money in any security in which trust monies may lawfully be invested;
  - (d) raise and borrow money on any terms and in any manner as it thinks fit;
  - (e) secure the repayment of money raised or borrowed, or the payment of a debt or liability;
  - (f) appoint agents to transact business on its behalf;
  - (g) enter into any other contract it considers necessary or desirable;
- (3) MSV may only exercise its powers and use its income and assets (including any surplus) for its purposes.

### 6 Not for profit organisation

- (1) MSV must not distribute any surplus, income or assets directly or indirectly to its Club and Club-Members.
- (2) Sub rule (1) does not prevent MSV from paying a Club or a Club-Member—
  - (a) reimbursement for expenses properly incurred; or
  - (b) for goods or services provided—

if this is done in good faith on terms no more favourable than if the Club or Club-Member were not a Club or Club-Member.

### 7 By-laws

The Board shall have the power to make, alter and rescind any By-laws that it considers necessary for the effective administration of MSV, provided that no By-law may be inconsistent with these Rules.

## **PART 3—MEMBERS, DISCIPLINARY PROCEDURES AND GRIEVANCES**

### **Division 1—Membership**

#### **8 Conditions of membership**

- (1) Registration of Club-Members is limited to adults eighteen years of age or older, who are full members of Clubs and have paid the appropriate membership fee.
- (2) An intending Club-Member must provide proof of age by birth certificate, passport, or similar original or certified document when requested.
- (3) The registration year of Club-Members shall be from 1st January to 31st December of the same year subject to Clause 8(6), the Club will become a member of MSV by paying the club affiliation fee.
- (4) The club affiliation fee, as noted in the By-laws, shall be reviewed and set each year by the Board, on the recommendation of the Finance Director.
- (5) Clubs shall pay a stipulated club affiliation fee (as noted in the By-laws) prior to the commencement of the registration year.
- (6) Clubs shall have their membership rights suspended where club affiliation fees have not been paid within a period of three (3) months from the start of the registration year until receipt of all outstanding fees, such suspension and any appeals to be in accordance with Division 2 of Part 3.

#### **9 Minimum number of Clubs**

- (1) MSV must have at least five swimming related Clubs.

#### **10 Who is eligible to be a member**

- (1) Any Club which supports the purposes of MSV is eligible for membership.
- (2) All Clubs must be incorporated.

#### **11 Application for membership**

- (1) To apply to become a member of MSV, a Club must submit a written application to the Administrator stating that the club —
  - (a) wishes to become a member of MSV; and
  - (b) supports the purposes of MSV; and
  - (c) agrees to comply with these Rules.
- (2) The application—
  - (a) must be made in writing in the form contained in the By-laws and signed by the applicant; or
  - (b) subject to any process approved by the Board, may be made electronically; and
  - (c) may be accompanied by the joining fee.

#### **12 Consideration of application**

- (1) As soon as practicable after an application for membership is received, the Board must decide by resolution whether to accept or reject the application.

- (2) The Board must notify the applicant in writing of its decision as soon as practicable after the decision is made.
- (3) If the Board rejects the application, it must return any money accompanying the application to the applicant.
- (4) No reason need be given for the rejection of an application.

### **13 New Club membership application to MSV**

- (1) If an application for membership is approved by the Board—
  - (a) the resolution to accept the membership must be recorded in the minutes of the Board Meeting; and
  - (b) the Secretary must, as soon as practicable, enter the name and address of the new club, and the date of becoming a member, in the Register.
- (2) A Club becomes a member of MSV and, subject to rule 8(6), is entitled to exercise its rights of membership from the date, whichever is the later, on which—
  - (a) the Board approves the Club's membership; or
  - (b) the Club pays the joining fee.

### **14 Annual subscription and fees that are specific to the MSV component**

- (1) The Board shall determine from year to year—
  - (a) the annual subscriptions to be paid by Club-Members;
  - (b) the annual affiliation fee to be paid by Clubs; and
  - (c) the dates for payment of the annual subscription and affiliation fees.
- (2) MSV may determine that any new Club-Member who joins after the start of a financial year must, for that financial year, pay a fee equal to
  - (a) the full annual subscription; or
  - (b) a pro rata annual subscription based on the remaining part of the financial year; or
  - (c) a fixed amount determined from time to time by MSV.
- (3) In the event of any Club-Member failing or being unable to meet their financial obligations to MSV, the Board shall have the power to—
  - (a) grant an exemption or reduction of the fees payable upon such conditions as it deems fit;
  - (b) suspend the Club-Member's rights until the subscription or other fees are paid; or
  - (c) to terminate their membership.

### **15 Club Representatives**

- (1) Nomination
  - (a) A Club must appoint a natural person as its representative (referred to as the Club Representative).
- (2) Powers of Club Representative
  - (a) Unless otherwise specified, the Club Representative may exercise on the Club's behalf,



all the powers that the Club could exercise at a General Meeting or in voting on a resolution including a resolution to be passed without a General Meeting.

- (b) A Club Representative appointed with all the powers referred to in rule 15(3)(a) does not require separate appointment as a proxy under Rule 35 (Proxies).
- (3) Replacement of Club Representative
- (4) A Club may remove and replace a Club Representative by giving written notice to MSV in a form approved by the Board.

## **16 General rights and obligations of Club Representatives**

- (1) Club Representatives have the right—
  - (a) to receive notice of General Meetings and of proposed special resolutions in the manner and time prescribed by these Rules; and
  - (b) to submit items of business for consideration at a General Meeting; and
  - (c) to attend and be heard at General Meetings; and
  - (d) to have access to the minutes of General Meetings and other documents of MSV as provided under rule 76; and
  - (e) to inspect the Register.
- (2) A Club Representative has the right to vote at a General Meeting and is entitled to vote if—
  - (a) more than 10 business days have passed since the Club became a member of MSV; and
  - (b) the Club's membership rights are not suspended for any reason.

## **17 Rights not transferable**

The rights of a Club or a Club Representative are not transferable and end when membership ceases.

## **18 Ceasing membership**

- (1) MSV membership ceases on resignation or expulsion (in accordance with rule 23(4)).
- (2) If a Club ceases to be a member of MSV, the Secretary must, as soon as practicable, enter the date the Club ceased in the Register.

## **19 Register**

- (1) The Secretary must keep and maintain a Register that includes—
  - (a) for each current Club and Club-Representatives —
    - (i) the Clubs and Club-Representative's name;
    - (ii) the email address for notice last given by the Clubs and Club-Representatives;
    - (iii) the date of becoming a Club and Club-Representative;
    - (iv) any other information determined by the Board; and
  - (b) for each former Club and Club-Representative, the date of ceasing to be a Club and/or Club-Representative
- (2) Any Club and Club-Representative may, at a reasonable time, on seven days' notice, subject to

MSV's Privacy Policy and free of charge, inspect the Register.

- (3) All correspondence and notices from MSV will be served on the Club Representative in line with Clause19.

## Division 2—Disciplinary action

### 20 Grounds for taking disciplinary action

MSV may take disciplinary action against a Club or a Club-Member in accordance with this Division if it is determined that the Club or Club-Member—

- (a) has failed to comply with these Rules [and any By-Laws]; or
- (b) does not support the purposes of MSV; or
- (c) has engaged in conduct prejudicial to MSV.

### 21 Disciplinary Subcommittee

- (1) If the Board is satisfied that there are sufficient grounds for taking disciplinary action against a Club or Club-Member, the Board may appoint a Disciplinary Subcommittee to hear the matter and determine what action, if any, to take against the Club or Club-Member.
- (2) The members of the disciplinary subcommittee—
  - (a) will be MSV Board Members but
  - (b) must not have a perceived or actual bias against, or in favour of the Club or Club-Member concerned.

### 22 Notice to Club or Club-Member

- (1) Before disciplinary action is taken, the Secretary must give written notice to the Club or Club-Member —
  - (a) stating that MSV proposes to take disciplinary action against the Club or Club-Member; and
  - (b) stating the grounds for the proposed disciplinary action; and
  - (c) specifying the date, place and time of the meeting at which the Disciplinary Subcommittee intends to consider the disciplinary action (the *Disciplinary meeting*); and
  - (d) advising the Club or Club-Member that it, they may do one or both of the following—
    - (i) attend the Disciplinary meeting and address the Disciplinary Subcommittee at that meeting;
    - (ii) give a written statement to the Disciplinary Subcommittee at any time before the Disciplinary meeting; and
  - (e) setting out the Club or Club-Member’s appeal rights under rule 24.
- (2) The notice must be given no earlier than 28 days, and no later than 14 days, before the disciplinary meeting is held.

### 23 Decision of Disciplinary Subcommittee

- (1) At the Disciplinary meeting, the Disciplinary Subcommittee must—
  - (a) give the Club or Club-Member an opportunity to be heard; and
  - (b) consider any written statement submitted by the Club or Club-Member.
- (2) After complying with sub rule (1), the Disciplinary Subcommittee may—

- (a) take no further action against the Club or Club-Member; or
- (b) subject to sub rule (3)—
  - (i) reprimand the Club or Club-Member; or
  - (ii) suspend the membership of the Club or Club-Member benefits for a specified period; or
  - (iii) expel the Club or Club-Member from MSV.
- (3) The Disciplinary Subcommittee may not fine the Club or Club-Member.
- (4) The suspension of membership or the expulsion of a Club or Club-Member by the Disciplinary Subcommittee under this rule takes effect immediately after the vote is passed.

## **24 Appeal rights**

- (1) A person with MSV benefits or Club whose membership has been suspended or who has been expelled from MSV under rule 23 may give notice to the effect that they wish to appeal against the suspension or expulsion.
- (2) The notice must be in writing and given—
  - (a) to the Disciplinary Subcommittee immediately after the vote to suspend or expel the person or Club-Member is taken; or
  - (b) to the Secretary not later than 48 hours after the vote.
- (3) If a person or Club has given notice under sub rule (2), a disciplinary appeal meeting must be convened by the Board as soon as practicable, but in any event not later than 21 days, after the notice is received.
- (4) Notice of the Disciplinary appeal meeting must be given to each Club Representative as soon as practicable and must—
  - (a) specify the date, time and place of the meeting; and
  - (b) state—
    - (i) the name of the person or Club against whom the disciplinary action has been taken; and
    - (ii) the grounds for taking that action; and
    - (iii) that at the Disciplinary appeal meeting the Clubs present must vote on whether the decision to suspend or expel the person or Club should be upheld or revoked.

## **25 Conduct of Disciplinary appeal meeting**

- (1) At a Disciplinary appeal meeting—
  - (a) no business other than the question of the appeal may be conducted; and
  - (b) the Board must state the grounds for suspending or expelling the Member or Club-Member and the reasons for taking that action; and
  - (c) the person whose membership, or Board position has been suspended or who has been expelled must be given an opportunity to be heard.
- (2) After complying with sub rule (1), the Club Representatives at the meeting must vote by secret ballot on the question of whether the decision to suspend or expel the person should be upheld or revoked.
- (3) A Club Representative may not vote by proxy at the meeting.

- (4) The decision is upheld if not less than three quarters of the Club Representatives voting at the meeting vote in favour of the decision.

## **Division 3—Grievance procedure**

### **26 Application**

- (1) The grievance procedure set out in this Division applies to disputes under these Rules between—
  - (a) a Club or Club-Member and another Club or Club-Member;
  - (b) a Club or Club-Member and the Board;
  - (c) a Club or a Club-Member and MSV;
  - (d) Club-Members and MSV, officials and/or volunteers;
  - (e) officials and either the Club(s) and/or MSV;
  - (f) volunteers and any Club, MSV and/or Club-Members;
- (2) A Club or Club-Member must not initiate a grievance procedure in relation to a matter that is the subject of a disciplinary procedure until the disciplinary procedure has been completed.

### **27 Parties must attempt to resolve the dispute**

The parties to a dispute must attempt to resolve the dispute between themselves within 14 days of the dispute coming to the attention of each party.

### **28 Appointment of mediator**

- (1) If the parties to a dispute are unable to resolve the dispute between themselves within the time required by rule 27, the parties must within 10 days—
  - (a) notify the Board of the dispute; and
  - (b) agree to or request the appointment of a mediator; and
  - (c) attempt in good faith to settle the dispute by mediation.
- (2) The mediator must be—
  - (a) a person chosen by agreement between the parties; or
  - (b) in the absence of agreement—
    - (i) if the dispute is between a Club or Club-Member and another Club or Club-Member—a person appointed by the Board; or
    - (ii) if the dispute is between a Club or Club-Member and the Board or MSV—a person appointed or employed by the Dispute Settlement Centre of Victoria.
- (3) A mediator appointed by the Board may be a Club-Representative or Club-Member or former Club-Representative or former Club-Member (excluding any former Club-Representative or Club-Member who was expelled by MSV) of MSV but, in any case, must not be a person who—
  - (a) has a personal interest in the dispute; or
  - (b) has a perceived or actual bias in favour of or against any party.

### **29 Mediation process**

- (1) The mediator to the dispute, in conducting the mediation, must—
  - (a) give each party every opportunity to be heard; and

- (b) allow due consideration by all parties of any written statement submitted by any party;  
and
  - (c) ensure that natural justice is accorded to the parties throughout the mediation process.
- (2) The mediator must not determine the dispute.

### **30 Failure to resolve dispute by mediation**

If the mediation process does not resolve the dispute, the parties may seek to resolve the dispute in accordance with the Act or otherwise at law.

## PART 4—GENERAL MEETINGS OF MSV

### 31 General Meetings

- (1) The Board must convene a minimum of two General Meeting per calendar year one of which will be the Annual General Meeting of MSV to be held within 5 months after the end of each financial year.
- (2) The Board may determine the date, time and place of the General Meetings.
- (3) The ordinary business of the Annual General Meeting is as follows—
  - (a) to confirm the minutes of the previous Annual General Meeting and of any General Meetings held since then;
  - (b) to receive and consider—
    - (i) the annual report of the Board on the activities of MSV during the preceding financial year; and
    - (ii) the financial statements of MSV for the preceding financial year submitted by the Board in accordance with Part 7 of the Act;
    - (iii) any other reports required from subcommittees, Board Members or Clubs;
  - (c) to elect the members of the Board;
- (4) The annual General Meeting may also conduct any other business of which notice has been given in accordance with these Rules.

### 32 Special General Meetings

- (1) The Board may convene a Special General Meeting whenever it thinks fit.
- (2) No business other than that set out in the notice under Rule 35 may be conducted at the meeting.

### 33 Special General Meeting held at request of Members

- (1) The Board must convene a special General Meeting if a request to do so is made in accordance with sub rule (2) by at least 10% of the total number of Clubs.
- (2) A request for a special General Meeting must—
  - (a) be in writing; and
  - (b) state the business to be considered at the meeting and any resolutions to be proposed; and
  - (c) include the names and signatures of the Club-Representatives on behalf the Clubs requesting the meeting; and
  - (d) be given to the Secretary.
- (3) If the Board does not convene a special General Meeting within one month after the date on which the request is made, the Clubs making the request (or any of them) may convene the Special General Meeting.
- (4) A Special General Meeting convened by Clubs under sub rule (3)—
  - (a) must be held within 3 months after the date on which the original request was made; and
  - (b) may only consider the business stated in that request.



- (5) MSV must reimburse all reasonable expenses incurred by the Clubs convening a Special General Meeting under sub rule (3).

### **34 Notice of General Meetings**

- (1) The Secretary (or, in the case of a special General Meeting convened under rule 34, the Clubs convening the meeting) must give to each Club of MSV—
  - (a) at least 21 days' notice of a General Meeting if a special resolution is to be proposed at the meeting; or
  - (b) at least 14 days' notice of a General Meeting in any other case.
- (2) The notice must—
  - (a) specify the date, time and place of the meeting; and
  - (b) indicate the general nature of each item of business to be considered at the meeting; and
  - (c) if a special resolution is to be proposed—
    - (i) state in full the proposed resolution; and
    - (ii) state the intention to propose the resolution as a special resolution; and
  - (d) comply with rule 35(5).
- (3) This rule does not apply to a disciplinary appeal meeting.

### **35 Proxies**

- (1) A Club Representative may appoint another Club-Member of its Club as its proxy to vote and (through its representative) speak on its behalf at a General Meeting other than at a disciplinary appeal meeting.
- (2) The appointment of a proxy must be in writing and signed by the Club Representative making the appointment, using the form contained in the By-laws.
- (3) The Club Representative appointing the proxy may give specific directions as to how the proxy is to vote on its behalf, otherwise the proxy may vote on behalf of the Club Representative in any matter as they see fit.
- (4) If the Board has approved a form for the appointment of a proxy, the Club Representative may use any other form that clearly identifies the Club-Member appointed as the Club Representative's proxy and that has been signed by the Club Representative.
- (5) Notice of a General Meeting given to a Club Representative under rule 35 must—
  - (a) state that the Club Representative may appoint another Club-Member as a proxy for the meeting; and
  - (b) include a copy of any form that the Board has approved for the appointment of a proxy.
- (6) A form appointing a proxy must either be given to the Chairperson of the meeting before or at the commencement of the meeting or sent by post or electronically and received by MSV no later than 24 hours before the commencement of the meeting.

### **36 Use of technology**

- (1) A Club-Representative not physically present at a General Meeting may be permitted to participate in the meeting using technology that allows that Club-Representative and those present at the meeting to communicate with each other clearly and simultaneously.
- (2) For the purposes of this Part, a Club-Representative participating in a General Meeting as

permitted under sub rule (1) is taken to be present at the meeting and, if a Club Representative votes at the meeting, is taken to have voted in person.

### **37 Quorum at General Meetings**

- (1) No business may be conducted at a General Meeting unless a quorum of the Club Representatives is present.
- (2) The quorum for a General Meeting is the presence (physically, by proxy or as allowed under rule 37) of 10% of the Club Representatives.
- (3) If a quorum is not present within 30 minutes after the notified commencement time of a General Meeting—
  - (a) in the case of a meeting convened by, or at the request of, Club-Representative under rule 33— the meeting must be dissolved;
  - (b) in any other case—
    - (i) the meeting must be adjourned to a date not more than 21 days after the adjournment; and
    - (ii) notice of the date, time and place to which the meeting is adjourned must be given at the meeting and confirmed by written notice given to all Clubs as soon as practicable after the meeting.
- (4) If a quorum is not present within 30 minutes after the time to which a General Meeting has been adjourned under sub rule (3)(b), the Club Representatives present at the meeting (if not fewer than one) may proceed with the business of the meeting as if a quorum were present.

### **38 Adjournment of General Meeting**

- (1) The Chairperson of a General Meeting [Refer Rule 47] at which a quorum is present may, with the consent of a majority of Club Representatives present at the meeting, adjourn the meeting to another time at the same place or at another place.
- (2) Without limiting sub rule (1), a meeting may be adjourned—
  - (a) if there is insufficient time to deal with the business at hand; or
  - (b) to give the Club Representatives more time to consider an item of business.
- (3) No business may be conducted on the resumption of an adjourned meeting other than the business that remained unfinished when the meeting was adjourned.
- (4) Notice of the adjournment of a meeting under this rule is not required unless the meeting is adjourned for 14 days or more, in which case notice of the meeting must be given in accordance with rule 34.

### **39 Voting at General Meetings**

- (1) On any question arising at a General Meeting—
  - (a) subject to sub rule (3), each Club Representative has one vote; and
  - (b) Club Representatives may vote personally or by proxy; and
  - (c) except in the case of a special resolution, the question must be decided on a majority of votes.
- (2) If votes are divided equally on a question, the Chairperson of the meeting has a second or casting vote.

- (3) If the question is whether to confirm the minutes of a previous meeting, only Club Representatives who were present at that meeting may vote.
- (4) This rule does not apply to a vote at a Disciplinary appeal meeting conducted under rule 25.

#### **40 Special resolutions**

A special resolution is passed if not less than three quarters of the Club Representatives voting at a General Meeting (whether in person or by proxy) vote in favour of the resolution.

#### **41 Determining whether resolution carried**

- (1) Subject to subsection (2), the Chairperson of a General Meeting may, based on a show of hands, declare that a resolution has been—
  - (a) carried; or
  - (b) carried unanimously; or
  - (c) carried by a particular majority; or
  - (d) lost—and an entry to that effect in the minutes of the meeting is conclusive proof of that fact.
- (2) If a poll (where votes are cast in writing) is demanded by three or more Club-Representatives on any question—
  - (a) the poll must be taken at the meeting in the manner determined by the Chairperson of the meeting; and
  - (b) the Chairperson must declare the result of the resolution on the basis of the poll.
- (3) A poll demanded on the election of the Chairperson or on a question of an adjournment must be taken immediately.
- (4) A poll demanded on any other question must be taken before the close of the meeting at a time determined by the Chairperson.

#### **42 Minutes of General Meetings**

- (1) The Board must ensure that minutes are taken and maintained of each General Meeting.
- (2) The minutes must record the business considered at the meeting, any resolution on which a vote is taken and the result of the vote.
- (3) Minutes are to be distributed to all Club-Representatives within 15 business days of the meeting held.
- (4) In addition, the minutes of each Annual General Meeting must include—
  - (a) the names of the Club-Representative attending the meeting; and
  - (b) proxy forms given to the Chairperson of the meeting under rule 35; and
  - (c) the financial statements submitted to the Clubs in accordance with rule 31; and
  - (d) the certificate signed by two Board Members certifying that the financial statements give a true and fair view of the financial position and performance of MSV; and
  - (e) any audited accounts and auditor's report or report of a review accompanying the financial statements that are required under the Act.

## **PART 5—BOARD**

### **Division 1—Powers of the Board**

#### **43 Role and powers**

- (1) The business of MSV must be managed by or under the direction of a Board.
- (2) The Board may exercise all the powers of MSV except those powers that these Rules or the Act require to be exercised by General Meetings of the Clubs of MSV.
- (3) The Board may—
  - (a) appoint and remove staff;
  - (b) establish subcommittees consisting of members with terms of reference it considers appropriate.

#### **44 Delegation**

- (1) The Board may delegate to Board Member, a subcommittee or staff, any of its powers and functions other than—
  - (a) this power of delegation; or
  - (b) a duty imposed on the Board by the Act or any other law.
- (2) The delegation must be in writing and may be subject to the conditions and limitations the Committee considers appropriate.
- (3) The Board may, in writing, revoke a delegation wholly or in part.

## Division 2—Composition of Board and duties of its members

### 45 Composition of Board

- (1) The Board must comprise a minimum of six (6) directors. The following positions must be filled to incorporate:
  - (a) a President;
  - (b) a Vice-President (who may also hold one of the positions d, e or f below);
  - (c) a Finance Director; andThe Board may also include:
  - (d) a Coaching Director; and
  - (e) a Technical Director; and
  - (f) a Recording Director; and
  - (g) three (3) Club-Members (referred to as Club Board Members) selected in accordance with Clause 50.
- (2) The position of Secretary is to be completed by the appointed Administrator.
- (3) The Board must be represented by at least five (5) different Clubs.
- (4) No Club may have more than two (2) Board Members.

### 46 General Duties

- (1) As soon as practicable after being elected or appointed to the Board, each Board Member must become familiar with these Rules and the Act.
- (2) The By-laws shall contain a description of responsibilities and key tasks for each Board Member (“Role Descriptions”). The Board will review the Role Descriptions at least annually and make any changes as required.
- (3) The Board is collectively responsible for ensuring that MSV complies with the Act and that individual Board Members comply with these Rules.
- (4) Board Members must exercise their powers and discharge their duties with reasonable care and diligence.
- (5) Board Members must exercise their powers and discharge their duties—
  - (a) in good faith in the best interests of MSV; and
  - (b) for a proper purpose.
- (6) Board Members (both current and former) shall not make improper use of—
  - (a) their position; or
  - (b) information acquired via their position—whereby they gain advantage for themselves or any other person so as to cause detriment to MSV.
- (7) A Club-Member appointed as a Club Board Member represents the interests of all Clubs within MSV rather than just the interests of their own club.
- (8) In addition to any duties imposed by these Rules, a Board Member must perform any other duties imposed from time to time by resolution at a General Meeting.

#### **47 President and Vice-President**

- (1) Subject to subrule (2), the President or, in the President's absence, the Vice-President is the Chairperson for any General Meetings and for any Board Meetings.
- (2) If the President and the Vice-President are both absent, or are unable to preside, the Chairperson of the meeting must be -
  - (a) in the case of a General Meeting - a Club Representative elected by the other Club Representatives present; or
  - (b) in the case of a Board Meeting - a Board Member elected by the other Board Members present.

#### **48 Secretary**

- (1) The Secretary must perform any duty or function required under the Act to be performed by the Secretary of an incorporated Association
- (2) The Secretary must -
  - (a) maintain the Register in accordance with rule 19; and
  - (b) keep custody of the common seal (if any) of MSV and, except for the financial records referred to in rule 71, all books, documents and securities of MSV in accordance with rules 73 and 76; and
  - (c) subject to the Act and these Rules, provide Clubs and/or Club Representative with access to the Register, the minutes of General Meetings and other books and documents; and
  - (d) perform any other duty or function imposed on the Secretary by these Rules.
- (3) The Secretary must give to Consumer Affairs Victoria, notice of his or her appointment within 14 days after the appointment.
- (4) The Secretary must distribute all MSV Board Meeting agendas to Board Members, at least five (5) business days prior to the Board Meeting date
- (5) The Secretary must distribute all MSV Board Meeting Minutes to Board Members and Club Representatives within 15 business days of a Board meeting is held.

#### **49 Finance Director**

- (1) The Finance Director must, or ensure that the Administrator and/or bookkeeper under the supervision of the Finance Director must –
  - (a) receive all moneys paid to or received by MSV and issue receipts for those moneys in the name of MSV; and
  - (b) ensure that all moneys received are paid into the account of MSV within five (5) working days after receipt; and
  - (c) make any payments authorised by the Board or by a General Meeting of MSV from MSV's funds; and
  - (d) ensure cheques or authorization of payment via electronic banking are signed by at least two (2) Board Members.
- (2) The Finance Director must—
  - (a) ensure that the financial records of MSV are kept in accordance with the Act; and
  - (b) coordinate the preparation of the financial statements of MSV and their certification by

the Board prior to their submission to the annual General Meeting of MSV.

- (3) The Finance Director must ensure that at least one other Board Member has access to the accounts and financial records of MSV.

### **Division 3—Election of Board Members and tenure of office**

#### **50 Who is eligible to be a Board Member**

- (1) The Annual General Members Meeting will elect the Board Members through a Ballot in accordance with Rule 55.
- (2) The Clubs will select three (3) representatives who will be appointed as Club Board Members for a term of one year.
- (3) The Board Members may fill Board positions should they become vacant in accordance with Rule 58
- (4) In the event of a Club Board Member being unable to attend a Board meeting, the Club Board Member may appoint a substitute Club-Member who will be ratified at that meeting.
- (5) The duties of the Club Board Members will be listed in the By-laws as amended from time to time by the Board. Board Members will make all reasonable endeavors to attend Board meetings.
- (6) Any Club-Member is eligible to stand for election to a position set out in rule 45.

#### **51 Positions to be declared vacant**

- (1) At the Annual General Meetings of MSV, after the annual report and financial statements of MSV have been received, the Chairperson of the meeting must declare all elected positions on the Board vacant and hold elections for those positions in accordance with rules 52 to 55.

#### **52 Nominations**

- (1) Prior to the election of each position, the Chairperson of the meeting must call for nominations to fill that position.
- (2) An eligible Club-Member may—
  - (a) nominate himself or herself; or
  - (b) with the Club-Member's consent, be nominated by another Club or Club-Member using the nomination form contained in the By-laws.
- (3) A Club-Member who is nominated for a position and fails to be elected to that position may be nominated for any other position for which an election is yet to be held.

#### **53 Election of President etc.**

- (1) At the annual General Meeting, separate elections must be held for each of the positions set out in rule 45.
- (2) If only one Club-Member is nominated for the position, the Chairperson of the meeting must declare that Club-Member elected to the position.
- (3) If more than one Club-Member is nominated, a ballot must be held in accordance with rule 55.
- (4) On their election, the new President may take over as Chairperson of the meeting.

#### **54 Ordinary members**

- (1) There are no ordinary members of the Board.



## **55 Ballot**

- (1) If a ballot is required for the election for a position, the Chairperson of the meeting must appoint a Club-Member who is not nominated for the position to act as returning officer to conduct the ballot.
- (2) For the purposes of any ballot under this rule, the Club Board Members are deemed to continue in their positions for the purposes of the ballot only.
- (3) Before the ballot is taken, each candidate may make a short speech in support of their election.
- (4) The election must be by secret ballot and conducted by the returning officer.
- (5) Each ballot paper on which the name of a candidate has been written counts as one vote for that candidate.
- (6) The returning officer must declare elected the candidate or, in the case of an election for more than one position, the candidates who received the most votes.
- (7) If the returning officer is unable to declare the result of an election because two or more candidates received the same number of votes, the returning officer must—
  - (a) conduct a further election for the position to decide which of those candidates is to be elected; or
  - (b) with the agreement of those candidates, decide by lot which of them is to be elected.

## **56 Term of office**

- (1) Subject to sub rule (3) and rule 57, a Board Member holds office until the positions of the Board are declared vacant at the next annual General Meeting.
- (2) A Board Member may be re-elected.
- (3) A General Meeting of MSV may—
  - (a) by special resolution remove a Board Member from office; and
  - (b) elect an eligible Club-Member to fill the vacant position in accordance with this Division.
- (4) A Board Member who is the subject of a proposed special resolution under sub rule (3)(a) may make representations in writing to the Secretary or President of MSV and may request that the representations be provided to the Clubs of MSV.
- (5) The Secretary or the President may give a copy of the representations to each Club of MSV or, if they are not so given, the Board Member may require that they be read out at the meeting at which the special resolution is to be proposed.

## **57 Vacation of office**

- (1) A Board Member may resign from the Board by written notice addressed to the Board.
- (2) A person ceases to be a Board member if they —
  - (a) Cease to be a Club-Member; or
  - (b) fails to attend three consecutive Board Meetings (other than special or urgent Board Meetings) without leave of absence under rule 68; or
  - (c) otherwise ceases to be a Board Member by operation of section 78 of the Act.

## **58 Filling casual vacancies**

- (1) The Board may appoint a Club-Member to fill a position on the Board that—
  - (a) has become vacant under rule 57; or
  - (b) was not filled by election at the last Annual General Meeting.
- (2) If the position of Secretary becomes vacant, the Board must appoint a Club-Member to the position within 14 days after the vacancy arises.
- (3) Rule 57 applies to any Board Member appointed by the Board under sub rule (1) or (2).
- (4) The Board may continue to act despite any vacancy in its membership.

## **Division 4—Meetings of Board**

### **59 Meetings of Board**

- (1) The Board must meet at least six (6) times in each year at the dates, times and places determined by the Board.
- (2) The date, time and place of the first Board Meeting must be determined by the the Board Members as soon as practicable after the Annual General Meeting of MSV at which the Board Members were elected.
- (3) Special Board Meetings may be convened by the President, by any four (4) Board Members, or by a simple majority of the Board Members.

### **60 Notice of meetings**

- (1) Notice of each Board Meeting must be given to each Board Member no later than seven days before the date of the meeting.
- (2) Notice may be given of more than one Board Meeting at the same time.
- (3) The notice must state the date, time and place of the meeting.
- (4) If a special Board Meeting is convened, the notice must include the general nature of the business to be conducted.
- (5) The only business that may be conducted at the meeting is the business for which the meeting is convened.

### **61 Urgent meetings**

- (1) In cases of urgency, a meeting can be held without notice being given in accordance with rule 61 provided that as much notice as practicable is given to each Board Member by the quickest means practicable.
- (2) Any resolution made at the meeting must be passed by an absolute majority of the Board.
- (3) The only business that may be conducted at an urgent meeting is the business for which the meeting is convened and of which due notice has not been given provided subject to approval of 75% of the Board Members present at the meeting (excluding any changes to these Rules which can only be considered on due notice).

### **62 Procedure and order of business**

- (1) The procedure to be followed at a meeting of a Board must be determined from time to time by the Board.
- (2) The order of business may be determined by the Board Members present at the meeting.

Any Club-Member who is not a Board Member shall have the right to request attendance at any meeting of the Board upon reasonable notice to the Secretary. That Club-Member shall have the right to raise a specific matter for discussion and may speak on it but shall have no voting rights at the meeting. At the chairperson's discretion, the Club-Member may be excluded whilst any vote is taken.

### **63 Use of technology**

- (1) A Board Member who is not physically present at a Board meeting may participate in the

meeting by the use of technology that allows that Board Member and the Board Members present at the meeting to clearly and simultaneously communicate with each other.

- (2) For the purposes of this Part, a Board Member participating in a Board meeting as permitted under sub rule (1) is taken to be present at the meeting and, if the Board Member votes at the meeting, is taken to have voted in person.

#### **64 Quorum**

- (1) No business may be conducted at a Board meeting unless a quorum is present.
- (2) The quorum for a Board Meeting is the presence (in person or as allowed under rule 63) of at least five of the Board Members, and a minimum of five Clubs must be represented.
- (3) If a quorum is not present within 30 minutes after the notified commencement time of a Board Meeting—
  - (a) in the case of a special meeting—the meeting lapses;
  - (b) in any other case—the meeting must be adjourned to a date no later than 14 days after the adjournment and notice of the time, date and place to which the meeting is adjourned must be given in accordance with rule 60.

#### **65 Voting**

- (1) On any question arising at a Board meeting, each Board Member present at the meeting has one vote.
- (2) A motion is carried if a majority of Board Members present at the meeting vote in favour of the motion.
- (3) Sub rule (2) does not apply to any motion or question which is required by these Rules to be passed by an Absolute majority of the Board.
- (4) If votes are divided equally on a question, the Chairperson of the meeting has a second or casting vote.
- (5) Voting by proxy is permitted

#### **66 Conflict of interest**

- (1) A Board Member who has a material personal interest in a matter being considered at a Board Meeting must disclose the nature and extent of that interest to the Board.
- (2) The Board Member—
  - (a) must not be present while the matter is being considered at the meeting; and
  - (b) must not vote on the matter.
- (3) This rule does not apply to a material personal interest—
  - (a) that exists only because the Board Member belongs to a class of persons for whose benefit MSV is established; or
  - (b) that the Board Member has in common with all, or a substantial proportion of, the members of MSV.

#### **67 Minutes of meeting**

- (1) The Board must ensure that minutes are taken and maintained of each Board Meeting.

- (2) The minutes must record the following—
  - (a) the names of the Board Members in attendance at the meeting;
  - (b) the business considered at the meeting;
  - (c) any resolution on which a vote is taken and the result of the vote;
  - (d) any material personal interest disclosed under rule 66.

## **68 Leave of absence**

- (1) The Board may grant a Board Member leave of absence from Board meetings for a period not exceeding three months.
- (2) The Board must not grant leave of absence retrospectively unless it is satisfied that it was not feasible for the Board Member to seek the leave in advance.

## PART 6—FINANCIAL MATTERS

### 69 Source of funds

The funds of MSV may be derived from joining fees, annual subscriptions, Club affiliation fees, donations, fund-raising activities, grants, interest and any other sources approved by the Board.

### 70 Management of funds

- (1) MSV must open an account with a financial institution from which all expenditure of MSV is made and into which all of MSV's revenue is deposited.
- (2) Subject to any restrictions imposed by a General Meeting of MSV, the Board may approve expenditure on behalf of MSV.
- (3) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed or electronically authorized via internet banking services by two Board Members.
- (4) All funds of MSV must be deposited into the financial account of MSV no later than five (5) working days after receipt.
- (5) With the approval of the Board, the Finance Director may maintain a cash float provided that all money paid from or paid into the float is accurately recorded at the time of the transaction.

### 71 Financial records

- (1) MSV must keep financial records that—
  - (a) correctly record and explain its transactions, financial position and performance; and
  - (b) enable financial statements to be prepared as required by the Act.
- (2) MSV must retain the financial records for seven (7) years after the transactions covered by the records are completed.
- (3) The Finance Director must keep in their custody, or under their control—
  - (a) the financial records for the current financial year; and
  - (b) any other financial records as authorised by the Board.

### 72 Financial statements

- (1) For each financial year, the Board must ensure that the requirements under the Act relating to the financial statements of MSV are met.
- (2) Without limiting sub rule (1), those requirements include—
  - (a) the preparation of the financial statements;
  - (b) if required, the review or auditing of the financial statements;
  - (c) the certification of the financial statements by the Board;
  - (d) the submission of the financial statements to the annual General Meeting of MSV;
  - (e) Lodge annual report including financial statements to Consumer Affairs Victoria with any other accompanying reports, certificates, statements and fee.

## PART 7—GENERAL MATTERS

### 73 Common seal

- (1) MSV may have a common seal.
- (2) If MSV has a common seal—
  - (a) the name of MSV must appear in legible characters on the common seal;
  - (b) a document may only be sealed with the common seal by the authority of the Board and the sealing must be witnessed by the signatures of two Board Members;
  - (c) the common seal must be kept in the custody of the Secretary.

### 74 Registered address

The registered address of MSV is—

- (a) the address determined from time to time by resolution of the Board; or
- (b) if the Board has not determined an address to be the registered address—the postal address of the Secretary.

### 75 Notice requirements

- (1) Any notice required to be given to a Club, Club-Member or a Board Member under these Rules may be given—
  - (a) by handing the notice to the Club or Club-Member personally; or
  - (b) by sending it by post at the address recorded for the Club-Member on the Register; or
  - (c) by email or facsimile transmission.
- (2) Sub rule (1) does not apply to notice given under rule 61.
- (3) Any notice required to be given to MSV or the Board may be given—
  - (a) by handing the notice to a Board Member; or
  - (b) by sending the notice by post to the registered address; or
  - (c) by leaving the notice at the registered address; or
  - (d) if the Board determines that it is appropriate in the circumstances—
    - (i) by email to the email address of MSV or the Secretary; or
    - (ii) by facsimile transmission to the facsimile number of MSV.

### 76 Custody and inspection of books and records

- (1) Club-Representatives may on request inspect free of charge—
  - (a) the Register;
  - (b) the minutes of General Meetings;
  - (c) subject to sub rule (2), the financial records, books, securities and any other relevant document of MSV, including minutes of Board meetings.
- (2) The Board may refuse to permit a Club-Representative to inspect records of MSV that relate to confidential, personal, employment, commercial or legal matters or where to do so may

be prejudicial to the interests of MSV.

- (3) The Board must on request make copies of these rules available to Club-Representatives and applicants for membership free of charge.
- (4) Subject to sub rule (2), a Club-Representative may make a copy of any of the other records of MSV referred to in this rule and MSV may charge a reasonable fee for provision of a copy of such a record.
- (5) For purposes of this rule—

*relevant documents* means the records and other documents, however compiled, recorded or stored, that relate to the incorporation and management of MSV and includes the following—

- (a) its Register;
- (b) its financial statements;
- (c) its financial records;
- (d) records and documents relating to transactions, dealings, business or property of MSV.

## **77 Winding up and cancellation**

- (1) MSV may be wound up voluntarily by special resolution.
- (2) In the event of the winding up or the cancellation of the incorporation of MSV, the surplus assets of MSV must not be distributed to any Clubs or Club-Members or former Clubs or Club-Members of MSV.
- (3) Subject to the Act and any court order made under section 133 of the Act, the surplus assets must be given to a body that has similar purposes to MSV and which is not carried on for the profit or gain of its Members or Club-Members.
- (4) The body to which the surplus assets are to be given must be decided by special resolution.

## **78 Alteration of Rules**

These Rules may only be altered by special resolution of a General Meeting of MSV.

