



**PONY CLUB**  
WESTERN AUSTRALIA

# **CONSTITUTION**

**Approved 29 March 2023**

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## PONY CLUB WESTERN AUSTRALIA INC.

### 1. NAME OF ASSOCIATION

The name of the Association is Pony Club Western Australia Incorporated.

### 2. DEFINITIONS AND INTERPRETATION

#### 2.1 Definitions

The following definitions apply in this Constitution unless the context requires otherwise.

**Act** means the *Associations Incorporation Act 2015* (WA).

**Appointed Director** means any person appointed to the Board in accordance with clause 17.

**Association** means Pony Club Western Australia Incorporated.

**Board** means the board of Directors for the time being of the Association.

**Chairperson** has the meaning given in clause 14.4(a).

**Club** means a properly constituted voluntary youth organisation for those interested in horses and riding.

**Commissioner** means the person for the time being designated as the Commissioner under section 153 of the Act.

**Constitution** means this constitution of the Association, as in force for the time being.

**Delegate** means the person(s) appointed by a Member Club, from time to time, to act for and on behalf of a Member Club at a General Meeting.

**Director** means a director for the time being of the Association (including an Elected Director, an Appointed Director and any person acting in that capacity from time to time) and **Directors** means some or all the directors acting as a Board.

**Discipline Committee** means the committee formed to deal with Disciplinary matters in accordance with Clause 12.1 (h)

**Dispute Committee** has the meaning given in clause 13.2(a).

**Elected Director** means any person elected to the Board in accordance with clause 15.

**Financial Year** means the year beginning 1 January.

**General Meeting** means a meeting of the Association that all Members are entitled to receive notice of and attend and includes the annual general meeting and any Special General Meeting.

**Individual Member** means a registered financial member of a Member Club or a person who is otherwise recognised by the Association as an Individual Member including in accordance with clauses 6.1(b) and (c).

**Member** means a member of the Association entered in the Register and includes each category of membership set out in clause 6.1.

**Member Club** means a Club which is affiliated with the Association in accordance with clause 7.2 and includes a Delegate where the context requires.

**PCA** means Pony Club Australia Limited.

**Special General Meeting** means any General Meeting other than the annual general meeting.

**Special Resolution** means a resolution passed:

- (a) at a General Meeting;
- (b) by the votes of not less than three-fourths of the Members who are present and entitled to vote on such resolution; and
- (c) otherwise in accordance with section 51 of the Act.

**State Coaching Panel** means the panel of registered coaches responsible for the policy and direction of coaching throughout the Association.

**State Life Member** means a person appointed as a State Life Member of the Association in accordance with clause 6.2.

**Zone** means a group of Member Clubs as designated by the State Coaching Panel in accordance with their geographical location.

## **2.2 Interpretation**

In this Constitution:

- (a) a reference to a function includes a reference to a power, authority, and duty;
- (b) a reference to the exercise of a function includes, where the function is a power, authority or duty, a reference to the exercise of the power or authority of the performance of the duty;
- (c) words importing the singular include the plural and vice versa;
- (d) words importing any gender include the other genders;
- (e) if a word is defined, other grammatical forms of that word have a corresponding meaning;
- (f) general words must not be given a restrictive meaning by reason of the fact that they are followed by examples intended to be embraced by the general words;
- (g) the headings do not affect interpretation;
- (h) references to persons or entities include natural persons, bodies corporate, partnerships, trusts and unincorporated associations of persons;

- (i) references to any individuals or natural persons include the legal personal representatives, successors and permitted assigns of that person;
- (j) a reference, whether express or implied, to any legislation in any jurisdiction includes:
  - (i) that legislation as amended, extended, or applied by or under any other legislation made before or after the date of adoption of this constitution;
  - (ii) any legislation which that legislation re-enacts with or without modification; and
  - (iii) any subordinate legislation made before or after the date of adoption of this constitution under that legislation; and
- (k) a reference to writing includes any method of reproducing words in a visible form.

### **2.3 Severance**

If any clause of this Constitution or any phrase contained therein is held to be invalid or unenforceable, the phrase or provision is to be read down if possible, so as to be valid and enforceable, and otherwise shall be severed to the extent of the invalidity or unenforceability without affecting the remaining provisions of this Constitution.

### **2.4 Compliance with the Act**

This Constitution is subject to the Act and the Act shall prevail over any clause in this Constitution to the extent of any inconsistency.

### **2.5 Relationship with Previous Constitutions**

This Constitution supersedes the constitution of the Association in force immediately before the adoption of this Constitution. Unless the contrary intention appears, all things done properly under any previous constitution of the Association shall continue to have effect after the adoption of this Constitution.

## **3. OBJECTS OF THE ASSOCIATION**

The Objects of the Association are to:

- (a) encourage young people to ride and to learn to enjoy all approved kinds of sport connected with horses and riding;
- (b) conduct and promote equestrian sporting competitions
- (c) provide instruction in riding and horsemanship and to instil in Individual Members the proper care of their animals;
- (d) promote the highest ideals of fellowship, citizenship, and loyalty, and to cultivate strength of character and self-discipline;

- (e) conduct, encourage, promote, advance, control and manage Pony Club throughout Western Australia;
- (f) affiliate with Pony Club Australia or any other body whose objects are similar to those of the Association;
- (g) adopt, formulate, issue, interpret and amend policies, rules and regulations for the control and conduct of Pony Club in Western Australia;
- (h) at all times act on behalf of, and in the best interests of, the Members and Pony Club in Western Australia; and
- (i) undertake and do all such things or activities which are necessary, incidental, or conducive to the advancement of the Objects.

#### **4. POWERS OF THE ASSOCIATION**

Subject to the Act and this Constitution, 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 real or personal property;
- (b) open and operate bank accounts;
- (c) invest its money in any manner authorised by the Constitution;
- (d) borrow money upon such terms and conditions as the Association thinks fit;
- (e) give 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; and
- (h) act as trustee and accept and hold real or personal property upon trust but does not have the power to do any act or thing as a trustee that, if done otherwise than as a trustee, would contravene the Act or the Constitution.

#### **5. NOT FOR PROFIT**

- (a) The property and income of the Association must be applied solely towards the promotion of the Objects or purposes of the Association and no part of that property or income may be paid or otherwise distributed, directly or indirectly, to any Member, except in good faith in the promotion of those Objects or purposes and in accordance with clause 5(b).
- (b) A payment may only be made to a Member out of the funds of the Association if the payment is made:
  - (i) as reasonable remuneration for any services provided or goods supplied to the Association by the Member in the ordinary course of business;



- (ii) in respect of interest, on money borrowed by the Association from the Member, at a rate not greater than the cash rate published from time to time by the Reserve Bank of Australia;
- (iii) in respect of reasonable rent payable to the Member for premises leased by the Member to the Association; or
- (iv) as a reimbursement of reasonable expenses properly incurred by the Member on behalf of the Association.

## **6. MEMBERS**

### **6.1 Categories of Members**

The members of the Association shall consist of:

- (a) Member Clubs which, subject to this Constitution, shall have the right to receive notice of General Meetings and to be present, debate and vote at General Meetings via their Delegates;
- (b) State Life Members who, subject to this Constitution, shall have the right to receive notice of, be present and to debate, but shall have no right to vote, at General Meetings;
- (c) Individual Members and Directors who, subject to this Constitution, shall have the right to receive notice of and be present, but shall have no right to debate or to vote, at General Meetings. For the avoidance of doubt, the Directors may address the Members at a General Meeting where it is appropriate and reasonable to do so; and
- (d) such new or other categories of membership as may be established by the Board. Any new category of membership established by the Board may only be granted voting rights by way of Special Resolution.

### **6.2 State Life Members**

- (a) The Board may recommend to the Members at any annual general meeting that a person who has rendered distinguished service to the Association where such service is deemed to have assisted the advancement of the Association in Western Australia, be appointed as a State Life Member.
- (b) The appointment of any person as a State Life Member, following a recommendation by the Board in accordance with clause 6.2(a), is subject to a Special Resolution to be passed at the annual general meeting.
- (c) A person appointed as a State Life Member in accordance with clause 6.2(b) must accept or reject the appointment in writing. Upon receipt of written acceptance, the Association shall enter that person's details into the Register and, from the time of entry on the Register, the person shall be a State Life Member.

## **7. AFFILIATION – MEMBER CLUBS**

### **7.1 Eligibility for Affiliation**

- (a) To be eligible for affiliation with the Association, a Club must be incorporated.

### **7.2 Becoming a Member Club**

- (a) An application for affiliation by any Club must be:
  - (i) made in accordance with the procedures set down by the Association from time to time; and
  - (ii) accompanied by a copy of the Club's constitution which must be acceptable to the Association and substantially conform to this Constitution and the Act.
- (b) The Association may accept or reject an application regardless of whether the Club has complied with the requirements in clause 7.2(a). The Association shall not be required or compelled to provide reasons for such acceptance or rejection. In the event that the application is rejected, the Association shall refund any fees forwarded with the application.
- (c) 7.7 Probationary Member Club shall become a Member club with all the rights of a Member Club.

### **7.3 Renewing Affiliation**

- (a) Member Clubs must renew their affiliation with the Association annually in accordance with the procedures set down by the Association from time to time.
- (b) Upon renewal, a Member Club must lodge an updated copy of its constitution with the Association, where applicable, and must provide any other information reasonably required by the Association.

### **7.4 When Affiliation Ceases**

- (a) A Member Club shall cease to be a Member and cease to be affiliated with the Association in circumstances where:
  - (i) the Member Club is wound up in accordance with the Act;
  - (ii) the Member Club is no longer incorporated and the Member Club's affiliation with the Association is terminated in accordance with clause 7.1(a);
  - (iii) the Member Club resigns from the Association in accordance with clause 7.5;
  - (iv) subject to clause 7.7(d), the Member Club fails to pay its annual affiliation fee in accordance with clause 7.7(c); or

- (v) the Member Club is expelled from the Association in accordance with clause 12.1.
- (b) When a Member Club ceases to be a Member and ceases to be affiliated with the Association, the Association must keep a record of:
  - (i) the date on which the Member Club ceased to be a Member; and
  - (ii) the reason why the Member Club ceased to be a Member,
 for a period of at least one year from the date on which the Member Club ceased to be a Member.

## 7.5 Resignation

- (a) A Member Club may resign from the Association by giving written notice to the Association in accordance with the procedures set down by the Association from time to time.
- (b) The resignation shall take effect on the later of:
  - (i) the date the Association receives the notice provided in accordance with clause 7.5(a); and
  - (ii) the date stated in the notice (if any).
- (c) A Member Club which has resigned from the Association remains liable for any outstanding fees that are owed to the Association at the time of resignation.
- (d) The Association may recover any outstanding fees in a court of competent jurisdiction as a debt due to the Association.

## 7.6 Rights not Transferable

The rights of a Member Club are not transferable and end when the Member Club's affiliation ceases.

## 7.7 Affiliation Fees

- (a) The Board must determine the annual affiliation fee (if any) to be paid for affiliation with the Association.
- (b) A Member Club must pay the annual affiliation fee to the Association by the date determined by the Board (the **Affiliation Fee Due Date**).
- (c) Subject to clause 7.7(d), if a Member Club has not paid the annual affiliation fee within 28 days of the Affiliation Fee Due Date, the Member Club shall cease to be affiliated with, and cease to be a Member of, the Association.
- (d) The Board may, in its sole discretion:
  - (i) decide to accept payment of the annual affiliation fee notwithstanding that it is paid after the Affiliation Fee Due Date; and

- (ii) reinstate the relevant Member Club's affiliation with the Association from the date the payment is accepted.
- (e) A Member Club which ceases to be a Member shall not be entitled to any refund of any membership fees paid to the Association (including its annual affiliation fee).

## **7.8 Member Club List of Members**

Member Clubs must supply to the Association a list of all their members for inclusion on the Register within 28 days of a person becoming a member of the Member Club. Electronic registration through the Association online database fulfils this requirement.

## **8. MEMBERSHIP – INDIVIDUAL MEMBERS**

### **8.1 Eligibility for Individual Membership**

Any person who supports the Objects or purposes of the Association is eligible to apply to the Association, or to a Member Club to become an Individual Member of the Association.

### **8.2 Becoming an Individual Membership**

- (a) Any person who wishes to become an Individual Member must apply to the Association or a Member Club, as appropriate to the member category, in accordance with the procedures set down by that Member Club.
- (b) A person becomes an Individual Member when:
  - (i) the person's details are submitted to the Association; and
  - (ii) the person's membership fees payable to the Association in accordance with clause 8.6 are received.

### **8.3 When Individual Membership Ceases**

- (a) A person shall cease to be an Individual Member in circumstances where:
  - (i) the person dies;
  - (ii) the person resigns from their Member Club or from the Association;
  - (iii) the person is expelled from their Member Club or the Association; or
  - (iv) the person ceases to be a member of their Member Club or Association for any other reason.
- (b) When an Individual Member ceases to be a Member, the Association must keep a record of:
  - (i) the date on which the Individual Member ceased to be a Member; and
  - (ii) the reason why the Individual Member ceased to be a Member,

for a period of one year from the date on which the person ceased to be a Member.

#### **8.4 Resignation**

An Individual Member may resign from membership of the Association by resigning from his or her Member Club in accordance with the procedures set down by that Member Club.

#### **8.5 Rights not Transferable**

The rights of an Individual Member are not transferable and end when the Individual Member's membership ceases.

#### **8.6 Individual Membership Fees**

- (a) The Board must determine the annual membership fee (if any) to be paid by Individual Members for membership of the Association.
- (b) The fees determined in accordance with clause 8.6(a) may vary as between different categories of membership.
- (c) Where an Individual Member ceases to be a Member, such Individual Member, or their Member Club (as applicable) shall not be entitled to any refund of any membership fees paid to the Association.

### **9. REGISTER OF MEMBERS**

#### **9.1 Maintaining the Register of Members**

- (a) The Association shall keep and maintain a Register in accordance with the Act, containing:
  - (i) the name and residential, postal or email address of each Member; and
  - (ii) the categories of membership of each Member (if applicable).
- (b) Any changes to the information contained in the Register must be recorded in the Register by the Association within 28 days of the change occurring.

#### **9.2 Inspection of Register**

- (a) The Register is available for inspection by any Member upon written request to the Board.
- (b) A Member may make a copy of entries in the Register.
- (c) A Member may apply, in writing, to the CEO for a copy of the Register. The CEO may, in their sole discretion, require the Member 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.
- (d) The CEO may charge a reasonable fee for providing a copy of the Register.

- (e) A person must not use or disclose any information in the Register other than for a purpose that:
  - (i) is directly connected with the affairs of the Association; or
  - (ii) relates to the administration of the Act.

## **10. GENERAL MEETINGS**

### **10.1 Annual General Meeting**

- (a) The Association must hold an annual general meeting once in each calendar year and no later than six months after the end of the Financial Year, except where the Commissioner has allowed a longer period under the Act.
- (b) The Board must determine the date, time, and place of the annual general meeting.
- (c) The ordinary business of the annual general meeting shall be:
  - (i) to confirm the minutes of the previous annual general meeting and of any Special General Meeting held in the time since the last annual general meeting;
  - (ii) to receive and consider the Board's annual report on the Association's activities during the preceding Financial Year;
  - (iii) to receive and consider the financial statements for the preceding Financial Year in accordance with the Act.
  - (iv) to elect Directors in accordance with this Constitution;
  - (v) if applicable, to approve an auditor of the Association in accordance with the Act; and
  - (vi) to transact any other business which under this Constitution or the Act may properly be brought before the annual general meeting.
- (d) No business other than that stated on the notice of an annual general meeting shall be transacted at that meeting.

### **10.2 Special General Meetings**

- (a) The Board may at any time convene a Special General Meeting.
- (b) Subject to clause 10.2(c), the Board must convene a Special General Meeting if a written request for a Special General Meeting is made by at least 20% of the Member Clubs which are entitled to vote at a General Meeting, and it is lodged with the Board.
- (c) The request must be signed by the requisite number of the Member Clubs and state the business to be conducted at the Special General Meeting.

- (d) The Special General Meeting must be convened by the Board within 28 days of receipt of a request in accordance with this Constitution.
- (e) Where the Board refuses or fails to comply with clause 10.2(d), the Member Clubs that have made the request (or any of them) may convene the Special General Meeting.
- (f) A Special General Meeting convened by Member Club(s) in accordance with clause 10.2(e):
  - (i) must be held within three months of the date of the request for a special general meeting; and
  - (ii) may only consider the business stated in the Special General Meeting Request.
- (g) The Association must reimburse any reasonable expenses incurred by the Member Clubs as a result of convening a Special General Meeting in accordance with clause 10.2(e).

### **10.3 Notices of Motion**

- (a) Member Clubs may submit a notice of motion for inclusion as special business at a General Meeting, other than at a General Meeting convened in accordance with clause 10.2(e).
- (b) Notices of motion shall be called for 60 days prior to the date of any General Meeting.
- (c) All notices of motion must be submitted in writing to the Association not less than 30 days prior to the date of the General Meeting at which the notice of motion is to be included as an item of special business.

### **10.4 Notice of General Meeting**

- (a) All Members and any auditor or reviewer of the Association must be given notice of a General Meeting.
- (b) No other person is entitled to receive notice of a General Meeting other than any person so authorised by the Board.
- (c) Each Member must receive:
  - (i) at least 21 days' notice of a General Meeting if a Special Resolution is to be proposed at that General Meeting; and
  - (ii) at least 14 days' notice of a General Meeting in any other case.

In calculating the number of days' notice required to be given for any General Meeting, both the day on which the notice is given or taken to be given and the day of the General Meeting convened by it are to be disregarded.

- (d) The notice of a General Meeting must:

- (i) specify the date, time, and place of the meeting;
- (ii) indicate the general nature of each item of business to be considered at the meeting;
- (iii) include any notice of motion received from Member Clubs to be considered at the meeting;
- (iv) state that the Member Club may appoint:
  - (A) a Delegate to represent and act on behalf of the Member Club at the meeting; or
  - (B) another Member Club to act as a proxy for the Member Club at the meeting;
- (v) include a copy of the Appointment of Proxy Form;
- (vi) if the meeting is the annual general meeting, include the names of the Members who have been nominated for election to the Board; and
- (vii) if a Special Resolution is proposed:
  - (A) set out the wording of the proposed resolution as required by the Act; and
  - (B) state that the resolution is intended to be proposed as a Special Resolution.
- (e) The non-receipt of a notice of a General Meeting by, or the accidental omission to give notice to, any person entitled to receive the notice does not invalidate the proceedings or any resolution passed at that General Meeting.

## **10.5 Delegates**

- (a) Each Member Club may appoint one Delegate to represent, act and vote on its behalf at a General Meeting.
- (b) A Delegate must:
  - (i) be a registered and financial member of the Member Club;
  - (ii) be appropriately empowered by the Member Club to consider, make decisions, and vote at General Meetings on the Member Club's behalf;
  - (iii) not be a Director; and
  - (iv) not be a Delegate for more than one Member Club at a General Meeting.
- (c) Each Member Club must advise the CEO of the identity of its Delegate before the close of business on the last working day prior to the commencement of any General Meeting.



## **10.6 Proxies**

- (a) Proxies are not permitted at Pony Club WA General Meetings.

## **10.7 Chairperson to Preside**

Subject to clause 14.4(c), the Chairperson must preside as chair of each General Meeting.

## **10.8 Attendance at General Meetings**

The Board may determine that a General Meeting may be held using any electronic medium (including telephone, video conferencing and any other means of instant communication) which:

- (a) gives the general body of Members who are participating electronically a reasonable opportunity to participate in the General Meeting;
- (b) enables the Members who are participating electronically to vote on a show of hands or on a poll,

and in that case:

- (c) the Members who are participating electronically are taken to be present at the General Meeting for the purposes of clause 10.10 and are entitled to exercise all rights as if they were physically present at the General Meeting;
- (d) the General Meeting is taken to be held at the location where the Chairperson is physically present;
- (e) if, before or during the General Meeting, any technical difficulty occurs where one or both of the matters set out in clauses 10.8(a) or (b) are no longer satisfied, the Chairperson may:
  - (i) adjourn the General Meeting until the technical difficulty is remedied; or
  - (ii) where a quorum of Members remains present, continue to hold the General Meeting, and transact business, and no Member may object to the General Meeting being held or continuing;
- (f) all Members seeking to attend or participate in a General Meeting electronically shall be responsible for maintaining adequate facilities to enable them to do so. Any inability of a person or persons to attend or participate in a General Meeting electronically shall not invalidate the proceedings of that meeting; and
- (g) all proceedings of the Association conducted in accordance with this clause 10.8 are as valid and effective as if conducted at a General Meeting at which all the Members were present in person.

## **10.9 Direct Voting**

- (a) The Board may determine that a Member who is entitled to attend and vote at a General Meeting may vote at that meeting without being present by communicating the Member's voting intentions to the Association directly by

post, email or other electronic means approved by the Board prior to a General Meeting.

- (b) Where the Board makes a determination in accordance with clause 10.9(a), the Board may also make rules about the manner in which a direct vote may be cast at that General Meeting, the circumstances in which a direct vote is taken to be valid, the counting of direct votes and any other matter relating to the exercise of direct votes as the Directors think fit.
- (c) Any direct vote cast in accordance with the rules determined by the Board pursuant to this clause 10.9 by a Member entitled to vote at that General Meeting is taken to have been cast by that Member at that General Meeting. For the avoidance of doubt, a Member who is entitled to vote and casts a direct vote at a General Meeting in accordance with this clause 10.9 will be deemed to be present for the purpose of constituting a quorum at that General Meeting.

#### **10.10 Quorum**

- (a) No business may be transacted at a General Meeting unless a quorum is present.
- (b) Subject to clause 10.10(c), the quorum for a General Meeting shall be at least 25% of the total number of Member Clubs present and entitled to vote. In determining whether a quorum is present, each Member Club in attendance, via a Delegate, is to be counted.
- (c) If a quorum is not present within 30 minutes of the notified commencement time of a General Meeting:
  - (i) in the case of a Special General Meeting, the meeting shall be automatically dissolved; or
  - (ii) in the case of an annual general meeting:
    - (A) the meeting stands adjourned to a day, time and place as determined by the Board or, if no decision is made by the Board, to the same time, day, and place in the following week (an **Adjourned Annual General Meeting**); and
    - (B) if no quorum is present at the Adjourned Annual General Meeting within 30 minutes of the notified commencement time for the meeting, and at least 15% of the total number of Member Clubs are present and entitled to vote at the meeting, those Member Clubs present are taken to constitute a quorum for the purposes of that Adjourned Annual General Meeting.

#### **10.11 Adjournments**

- (a) The Chairperson at which a quorum is present may, with the consent of a majority of the Member Clubs present at the meeting, adjourn the meeting to such day, time and place as reasonably determined by the Chairperson.
- (b) Without limiting clause 10.11(a), a General Meeting may be adjourned:

- (i) if there is insufficient time to deal with the business at hand; or
- (ii) to give Member Clubs more time to consider an item of business.
- (c) No business may be conducted on the resumption of an adjourned meeting other than the business that remained unfinished when the meeting was adjourned.
- (d) A resolution passed at a General Meeting resumed after an adjournment is passed on the day it was in fact passed and not on the date of the original General Meeting.
- (e) When a General Meeting is adjourned for 30 days or more, notice of the adjourned General Meeting must be given as in the case of the original meeting. In all other cases, it is not necessary to give notice of the adjourned General Meeting.

## **11. VOTING AT GENERAL MEETINGS**

### **11.1 Voting Rights**

- (a) Each Member Club has one vote on each resolution to be considered at a General Meeting.
- (b) A Member Club is not entitled to vote at a General Meeting if its annual affiliation fee is not paid prior to the commencement of the General Meeting unless the Board resolves otherwise.

### **11.2 Resolutions**

- (a) Except in the case where a resolution is required by this Constitution or otherwise by law to be a Special Resolution, a resolution put to the vote at a General Meeting is carried if a simple majority of the Member Clubs present and entitled to vote at a General Meeting vote in favour of the resolution.
- (b) At any General Meeting, all resolutions shall be decided on a show of voting cards unless a poll is demanded in accordance with clause 11.4.
- (c) If votes are divided equally on any resolution (other than a Special Resolution), the Chairperson does not have a casting vote.
- (d) Unless a poll is demanded in accordance with clause 11.4(a), the Chairperson may, on a show of hands or voting cards, declare that a resolution has been carried or lost. If the resolution is a Special Resolution, the declaration must identify the resolution as a Special Resolution.
- (e) A declaration by the Chairperson in accordance with clause 11.2(d) must be entered in the minutes of the meeting. Such declaration and entry to that effect in the minutes is, without proof of the number or proportion of votes recorded in favour or against that resolution, conclusive evidence of how the resolution was determined. For the avoidance of doubt, neither the Chairperson nor the minutes of the meeting need to state the number or proportion of the votes recorded in favour or against the resolution.

### **11.3 Special Resolutions**

- (a) A Special Resolution is required if it is proposed at a General Meeting:
  - (i) to affiliate the Association with another body; or
  - (ii) to request the Commissioner to apply to the State Administrative Tribunal under section 109 of the Act for the appointment of a statutory manager.
- (b) Clause 11.3(a) does not limit the matters in relation to which a Special Resolution may be proposed.
- (c) Under the Act, a Special Resolution is required if the Association proposes to:
  - (i) alter the Constitution, including the name of the Association;
  - (ii) apply for registration or incorporation as a prescribed body corporate;
  - (iii) approve the terms of an amalgamation with one or more other incorporated associations;
  - (iv) be wound up voluntarily or by the Supreme Court; or
  - (v) cancel its incorporation.

### **11.4 Voting by Poll**

- (a) A poll may be demanded:
  - (i) by the Chairperson; or
  - (ii) by a simple majority of Member Clubs taken to be present and entitled to vote on the resolution;either:
  - (iii) before a vote is taken; or
  - (iv) before or immediately after the voting results on a show of hands or voting cards are declared.
- (b) The demand for a poll may be withdrawn.
- (c) Subject to clause 11.4(d), if a poll is demanded on any resolution in accordance with clause 11.4(a):
  - (i) the poll must be taken in the manner and at the time determined by the Chairperson; and
  - (ii) the Chairperson must declare the determination of the resolution, as either carried or lost, on the basis of the poll.
- (d) If a poll is demanded on:

- (i) a question of an adjournment, the poll must be taken immediately; or
  - (ii) any other resolution, the poll must be taken before the close of the General Meeting at a time determined by the Chairperson.
- (e) A declaration by the Chairperson in accordance with clause 11.4(c)(ii) must be entered in the minutes of the meeting. Such declaration and entry to that effect in the minutes is, without proof of the number or proportion of votes recorded in favour or against that resolution, conclusive evidence of how the resolution was determined. For the avoidance of doubt, neither the Chairperson nor the minutes of the meeting need to state the number or proportion of the votes recorded in favour or against the resolution.
- (f) The demand for a poll does not prevent a General Meeting from proceeding with any other business.

#### **11.5 Minutes of General Meetings**

- (a) The Board must cause minutes to be made and kept in respect of each General Meeting.
- (b) The minutes must record the proceedings, business considered and any resolutions on which a vote is taken and the result of any vote at each General Meeting.
- (c) In addition, the minutes of each annual general meeting must record:
  - (i) the names of the Members and Directors attending the meeting;
  - (ii) the Financial Statements or Financial Report presented at the meeting, as referred to in clause 10.1(c)(iii); and
  - (iii) any report or review or auditor's report on the Financial Statements or Financial Report presented at the meeting, as referred to in clause 10.1(c)(iii).
- (d) The minutes of a General Meeting must be entered in the Association's minute book within 30 days of the meeting being held.
- (e) The Chairperson must ensure that the minutes of a General Meeting over which she or he presides are reviewed and signed as correct as soon as practicable after that General Meeting.
- (f) When the minutes of a General Meeting have been signed as correct, they are, in the absence of evidence to the contrary, taken to be evidence that:
  - (i) the meeting to which the minutes relate was duly convened and held; and
  - (ii) the matters recorded as having taken place at the meeting took place as recorded; and

- (iii) any election or appointment purportedly made at the meeting was validly made.

## **12. DISCIPLINARY ACTION**

### **12.1 Suspension or Expulsion**

- (a) The Board may decide to suspend a Member Club's affiliation or an Individual Member's membership or to expel a Member from the Association if the Member:
  - (i) contravenes this Constitution; or
  - (ii) acts in a manner that is detrimental to the interests of the Association.
- (b) The Association must give the Member written notice of the proposed suspension or expulsion at least 28 days, subject to Rule, before the Board Meeting at which the proposal is to be considered by the Board.
- (c) The notice given to the Member must state:
  - (i) the time, date, and place of the Board Meeting;
  - (ii) the grounds on which the proposed suspension or expulsion is based; and
  - (iii) that the Member, or the Member's representative, may attend the Board Meeting and will be given a reasonable opportunity to make oral or written submissions (or both) to the Board in respect of the proposed suspension or expulsion.
- (d) At the Board Meeting, the Board must:
  - (i) give the Member, or the Member's representative, a reasonable opportunity to make oral or written submissions (or both) to the Board in respect of the proposed suspension or expulsion;
  - (ii) give due consideration to any submissions; and
  - (iii) decide whether the Member shall be suspended (and, if so, the period of suspension) or expelled from the Association.
- (e) A decision of the Board to suspend the Member Club's affiliation or Individual Member's membership or to expel the member from the Association shall take immediate effect.
- (f) The Board must give the Member written notice of the Board's decision, and the reasons for the decision, within seven days of the Board Meeting at which the decision is made.
- (g) A Member Club whose affiliation is suspended, an Individual Member whose membership is suspended or any Member who is expelled from the Association may, within 14 days of receiving notice of the Board's decision in accordance with clause 12.1(f), initiate the dispute resolution procedure in accordance with clause

13.3 by giving a written notice to the Chairperson in accordance with clause 13.3(b). For the avoidance of doubt, the parties to the dispute do not need to comply with the requirement in clause 13.3(a) when acting in accordance with this clause 12.1(g).

- (h) With regard to discipline including Suspension or Expulsion of an Individual Member, the Board may delegate this task to a disciplinary subcommittee in accordance with Board policy.
  - (i) If the Board delegates the discipline of Individual Members responsibility to a Discipline Subcommittee The Board shall establish a committee responsible for the administration of the discipline procedure in accordance with this Constitution and any other applicable policies of the Association from time to time (the **Discipline Committee**).
  - (ii) The composition of the Discipline Committee shall be determined by the Board, in its sole discretion, provided always that the Discipline Committee shall consist of at least three people who may be Members or appropriately qualified or experienced persons who are not Members.
  - (iii) Notice of a Discipline Committee hearing must be given to the Individual Member at least 14 days prior to the hearing at which the matter is to be heard.

## **12.2 Consequences of Suspension**

- (a) During the period in which a Member Club's affiliation or an Individual Member's membership is suspended, the Member:
  - (i) loses any rights (including voting rights) arising as a result of such membership or affiliation (as applicable); and
  - (ii) is not entitled to a refund, rebate, relief or credit for membership fees or affiliation fees paid or payable to the Association.
- (b) When a Member Club's affiliation or an Individual Member's membership is suspended, the Association must record in the Register:
  - (i) that the Member Club's affiliation or the Individual Member's membership is suspended;
  - (ii) the date on which the suspension takes effect; and
  - (iii) the period of the suspension.
- (c) When the period of the suspension ends, the Register must be updated to reflect that the Member is no longer suspended.

## **13. RESOLVING DISPUTES**

### **13.1 Application of Disputes Resolution Procedure**

The disputes resolution procedure set out in this clause 13 applies to disputes under, or relating to, this Constitution between:

- (a) a Member and another Member; or
- (b) a Member and the Association.

### **13.2 Dispute Committee**

- (a) The Board shall establish a committee responsible for the administration of the disputes resolution procedure in accordance with this Constitution and any other applicable policies of the Association from time to time (the **Dispute Committee**).
- (b) The composition of the Dispute Committee shall be determined by the Board, in its sole discretion, provided always that the Dispute Committee shall consist of at least three people who may be Members or appropriately qualified or experienced persons who are not Members.

### **13.3 Disputes Procedure**

- (a) The parties to the dispute must attempt to resolve the dispute within 28 days of the dispute coming to the attention of all parties. In the event of a dispute involving the Association, the Chairperson or another Director nominated by the Chairperson will represent the Association.
- (b) If the parties to a dispute are unable to resolve the dispute between themselves within the 28-day period specified in clause 13.3(a), either party to the dispute may initiate the dispute resolution procedure by giving a written notice to the Chairperson identifying the parties to the dispute and the subject of the dispute.
- (c) Within 28 days of receipt of the notice provided in accordance with clause 13.3(b), the Chairperson must refer the dispute to the Dispute Committee.
- (d) Following a referral in accordance with clause 13.3(c), the Dispute Committee must:
  - (i) convene a meeting to determine the dispute using any medium by which each of the participants can simultaneously hear all the other participants (including telephone, video conferencing or any other means of instant communication);
  - (ii) give all parties at least 14 days' written notice of the date, time, and place of the meeting, informing them that they may attend the meeting (in person or via telephone, video conferencing or any other available means) and that they will be given a reasonable opportunity to make oral or written submissions (or both) to the Dispute Committee in relation to the dispute;
  - (iii) at the meeting:



- (A) give each party to the dispute, or the party's representative, a reasonable opportunity to make oral or written submissions (or both) to the Dispute Committee in relation to the dispute; and
- (B) give due consideration to any submissions so made; and
- (iv) determine the dispute, or if it deems appropriate, refer the dispute to an alternative dispute resolution process.
- (e) Written notice of the Dispute Committee's decision must be given to all parties to the dispute within 14 days of the meeting referred to in clause 13.3(d)(i).
- (f) Following the Dispute Committee's decision, any party to the dispute may apply to the State Administrative Tribunal (or any other appropriate body) to determine the dispute in accordance with the Act or applicable law.

## **14. BOARD**

### **14.1 Powers of the Board**

- (a) The Directors shall have the power to manage the affairs of the Association and may exercise all powers of the Association which are not required by the Act or this Constitution to be exercised by the Association in a General Meeting.
- (b) Subject to the Act, this Constitution and any resolution passed at a General Meeting, the Board has power to do all things necessary or convenient to be done for the proper management of the affairs of the Association.
- (c) The Board must take all reasonable steps to ensure that the Association complies with the Act and this Constitution.

### **14.2 Composition of the Board**

The Board shall comprise:

- (a) six Elected Directors who must all be Individual Members and who shall be elected in accordance with clause 15;
- (b) one Appointed Director who must be an Individual Member who is also a member of the State Coaching Panel and shall represent the interests of the State Coaching Panel; and
- (c) up to two Appointed Directors, who need not be Members and who may be appointed by the Board in accordance with clause 17.

### **14.3 Responsibilities of Directors**

- (a) A Director 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 if that person:
  - (i) were an officer of the Association in the Association's circumstances; and

- (ii) occupied the office held by, and had the same responsibilities within the Association as, the officer.
- (b) A Director must exercise his or her powers and discharge his or her duties:
  - (i) in good faith and in the best interests of the Association; and
  - (ii) for a proper purpose.
- (c) A Director must not improperly use his or her position to:
  - (i) gain an advantage for either that Director or another person; or
  - (ii) cause detriment to the Association.
- (d) A person who obtains information because the person is, or has been, a Director must not use the information to:
  - (i) gain an advantage for the person or another person; or
  - (ii) cause detriment to the Association.
- (e) A Director who has a material personal interest in a matter which is or will be considered at a Board Meeting must:
  - (i) as soon as the Director becomes aware of the interest, disclose, at the relevant Board Meeting, the nature and extent of the interest and how the interest relates to the activity of the Association;
  - (ii) subject to clause 14.3(f), not be present while the matter is being considered at the Board Meeting or vote on the matter; and
  - (iii) ensure that the nature and extent of the interest and how the interest relates to the activity of the Association is disclosed at the next General Meeting.
- (f) In the event that the number of Directors excluded in accordance with clause 14.3(e)(ii) at any Board Meeting is such that a quorum is no longer present, each Director, who has disclosed a material personal interest in accordance with clause 14.3(e)(i), may be present while the matter is being considered and vote on the matter notwithstanding that material personal interest.
- (g) Clause 14.3(e) does not apply to any material personal interest that exists only because:
  - (i) the Director is a member of a class of persons for whose benefit the Association is established; or
  - (ii) the Director has such interest in common with all, or a substantial proportion of, the Members.

- (h) Subject to compliance with this clause 14.3 and the Act, a Director who is interested in any contract or arrangement is not prevented from signing the document evidencing the contract or arrangement by virtue of that interest.

#### **14.4 Chairperson**

- (a) The Directors shall, by simple majority, elect one of their number to chair Board Meetings and General Meetings (the **Chairperson**) and may decide the period for which the Chairperson is to hold that office.
- (b) The Chairperson shall be the nominal head of the Association.
- (c) If the Chairperson is absent from, or unwilling to act as chair of, a Board Meeting or a General Meeting, the Directors present shall appoint another Director to act as chair of that meeting.
- (d) Where a person chairs a Board Meeting or General Meeting, in relation to that meeting, references to the 'Chairperson' in this Constitution include a reference to that person.

#### **14.5 Board Register**

- (a) The Board must ensure that a register is kept and maintained in accordance with the Act, including:
  - (i) the name; and
  - (ii) the residential address, business address, post office box address or email address,of:
  - (iii) each Director;
  - (iv) any other person who holds any office in the Association; and
  - (v) any person who is appointed or who acts as trustee on behalf of the Association,(the **Board Register**).
- (b) The Board Register is available for inspection by any current Member upon written request to the Board.
- (c) A Member may make a copy of entries in the Board Register or take an extract, but a Member does not have the right to remove the Board Register for that purpose.
- (d) A Member must not use or disclose any information in the Board Register for any purpose other than a purpose that:
  - (i) is directly connected with the affairs of the Association; or
  - (ii) relates to the administration of the Act.

#### **14.6 Payments to Directors**

- (a) Subject to clause 14.6(b), any payments to Directors out of the funds of the Association must be authorised by a resolution of the Members at a General Meeting.
- (b) A Director is entitled to be paid out of the funds of the Association for any out-of-pocket travel and accommodation expenses incurred in connection with the performance of the Director's duties, powers, and functions.

#### **15. ELECTION OR APPOINTMENT AS A DIRECTOR**

A person may become a Director either:

- (a) by election at the annual general meeting in accordance with clause 16; or
- (b) by appointment to the Board in accordance with clause 17 or 18.

#### **16. ELECTED DIRECTORS**

##### **16.1 Eligibility**

A person shall be eligible for election to the position of Elected Director if he or she:

- (a) is an Individual Member;
- (b) is 18 years of age or over;
- (c) is not disqualified from being a member of the Board under sections 39 and 40 of the Act; and

##### **16.2 Nominations**

- (a) Nominations for the position of Elected Director shall be called for 60 days prior to the date of the annual general meeting.
- (b) Nominations must be:
  - (i) in writing;
  - (ii) in the form prescribed and approved by the Board from time to time;
  - (iii) Signed by a financial Member of the Association; certified by the nominee expressing his or her willingness to accept the position for which he or she is nominated; and
  - (iv) delivered to the Association not less than 30 days before the date of the annual general meeting.

##### **16.3 Elections**

- (a) Subject to the Act, the Association may by resolution in accordance with this Constitution appoint or remove a Director from the Board.

- (b) The Directors (if any) standing for election at each annual general meeting are any one or more of the following (as applicable):
  - (i) any Director whose term is ending under clause 16.4(a)(ii) and who wishes to stand for re-election (provided that he or she is eligible for re-election);
  - (ii) any Director whose term is ending under clause 18.2(b) and who wishes to stand for election (provided that he or she is eligible for election); or
  - (iii) a person standing for election as a new Director who is eligible in accordance with clause 16.1 and has completed a nomination in accordance with clause 16.2.
- (c) If the number of persons (as identified in clause 16.3(b)) standing for election to the position of Elected Director are:
  - (i) equal to, or less than, the number of vacancies on the Board, then those nominees shall be declared elected only if approved by a simple majority of Members present and entitled to vote at the annual general meeting; or
  - (ii) greater than the number of vacancies on the Board, voting papers shall be prepared, containing the names of the candidates in alphabetical order, for each vacant position of Elected Director.
- (d) Voting in respect of the election of Directors shall be conducted in such manner and by such method as may be determined by the Board from time to time.
- (e) If the number of persons standing for election to the position of Elected Director is insufficient to fill the number of vacancies on the Board, or if a person is not approved by the simple majority of Members in accordance with this clause 16.3, the positions will be deemed to be casual vacancies for the purposes of clause 18.2.

#### **16.4 Term of Office**

- (a) Subject to provisions in this Constitution, the term of office of an Elected Director:
  - (i) commences at the conclusion of the annual general meeting when the Director is elected in accordance with clause 16.3 or is appointed in accordance with clause 18.2; and
  - (ii) ends at the conclusion of the third annual general meeting following the Director's appointment or otherwise in accordance with clause 18.
- (b) An Elected Director may not hold office for more than two consecutive full terms and shall retire at the completion of his or her second consecutive full term. Such person shall be eligible for election as an Elected Director at the first annual general meeting following the date of conclusion of his or her previous term as an Elected Director.

- (c) Any adjustment to the term of any Elected Directors necessary to ensure rotational terms under this Constitution shall be determined by the Board.

## **17. APPOINTMENT OF DIRECTORS**

### **17.1 Eligibility**

A person is eligible for appointment to the position of Appointed Director only if he or she:

- (a) is a natural person;
- (b) is not disqualified from being a member of the Board under sections 39 and 40 of the Act;
- (c) has specific skills in commerce, finance, marketing, law, or business generally or such other skills which complement the current composition of the Board, or in the case of the representative of the State Coaching Panel, is a member of the State Coaching Panel; and
- (d) satisfies any other eligibility requirements determined by the Board from time to time.

### **17.2 Appointment of Directors**

The Board may appoint up to three Appointed Directors, one of whom must be the representative of the State Coaching Panel.

### **17.3 Term of Appointment**

- (a) Subject to the provisions of this Constitution, an Appointed Director must not hold office (without reappointment) for more than three years from the date of his or her appointment.
- (b) Any adjustment to the term of any Appointed Directors necessary to ensure rotational terms under this Constitution shall be determined by the Board.
- (c) Following the adoption of this Constitution, an Appointed Director may not hold office as an Appointed Director for more than two consecutive full terms and shall retire at the completion of his or her second consecutive full term. Such person shall be eligible for election as an Elected Director, or appointed as an Appointed Director, at the first annual general meeting following the date of conclusion of his or her previous term as an Appointed Director.

## **18. BOARD VACANCIES**

### **18.1 Vacancy on the Board**

A Director's term ends, and that Director's position becomes vacant if the Director:

- (a) resigns by notice in writing delivered to the Chairperson (or in the case of a Chairperson resigning, delivered to the other Directors);
- (b) dies;

- (c) is or becomes ineligible to act as a Director in accordance with clause 16.1 or 17.1;
- (d) becomes physically or mentally incapable of performing the Director's duties and the Board resolves that his or her office be vacated for that reason;
- (e) is absent, without the consent of the Board, from three Board Meetings within a period of six months;
- (f) retires in accordance with clause 16.4(b) or 17.3(c); or
- (g) is the subject of a resolution passed by the Board or the Members at a General Meeting in accordance with clause 18.3 removing him or her as a Director.

## **18.2 Casual Vacancies**

- (a) The Board may appoint a person (who is eligible in accordance with clause 16.1 or 17.1 (as applicable)) at any time to fill any position on the Board:
  - (i) that has become vacant under clause 18.1; or
  - (ii) that was not filled at the annual general meeting.
- (b) An Elected Director appointed under clause 18.2(a) shall hold office until the expiry of the term of the Director being replaced pursuant to this clause 18.2 and, provided that he or she is eligible, may stand for election to the Board at the conclusion of that term. .
- (c) An Appointed Director appointed under this clause 18.2(c) shall hold office in accordance with clause 17.3.

## **18.3 Removal of a Director**

- (a) The Board may remove a Director from the Board if, in the reasonable opinion of the Board, the Director:
  - (i) has acted in a manner that is inconsistent with the Objects and interests of the Association;
  - (ii) has acted in a manner that has brought, or is likely to bring, the Association into disrepute; or
  - (iii) breaches, or is suspected of breaching, the terms of this Constitution or the Act.
- (b) The Board shall notify the Director of the Board's intention to terminate his or her position as a Director and shall set out the grounds for doing so in writing not less than 14 days prior to the Board Meeting at which termination is to be considered.
- (c) The Members at a General Meeting may also resolve to remove a Director from the Board on the grounds set out in clause 18.3(a).

- (d) The Director that is the subject of a resolution in accordance with clause 18.3(a) or (c) may make representations to the Board or the Members at a General Meeting (as the case may be) in relation to the proposed termination, either in person or in writing, before the Board or the Members (as applicable) determine the matter.

## **19. BOARD PROCEEDINGS**

### **19.1 Meetings of the Board**

- (a) The Board or a Director may call a Board Meeting by giving reasonable notice to each Director.
- (b) The Board shall meet as often as is necessary to discharge its duties to the Association and in any event at least nine times in each calendar year as determined by the Board.
- (c) The Board may adjourn and otherwise regulate its meetings as it thinks fit.

### **19.2 Meetings by Telecommunications**

Without limiting the Board's power to regulate its meetings as it thinks fit, the Board may hold a valid Board Meeting using any electronic medium (including telephone, video conferencing or any other means of instant communication) which enables each of the Directors:

- (a) to hear (or otherwise receive real time communications made by) each of the other Directors participating in the meeting; and
- (b) to address (or otherwise communicate in real time with) all the other Directors participating in the meeting simultaneously,

even if all the Directors are not physically present in the same place and in that case:

- (c) the Directors who are participating electronically are taken to be present at the meeting for the purposes of clause 19.3;
- (d) if, before or during the Board Meeting, any technical difficulty occurs which prevents any Director present at the Board Meeting from participating in the meeting, the Chairperson may:
  - (i) adjourn the Board Meeting until the technical difficulty is remedied; or
  - (ii) where a quorum of Directors remains present, continue with the Board Meeting;
- (e) all Directors seeking to attend or participate in a Board Meeting electronically shall be responsible for maintaining adequate facilities to enable them to do so. Any inability of a person or persons to attend or participate in a Board Meeting electronically shall not invalidate the proceedings of that meeting; and
- (f) all proceedings of the Board conducted in accordance with this clause 19.2 are as valid and effective as if conducted at a meeting at which all the Directors were present in person.



### **19.3 Quorum**

- (a) No business may be transacted at a Board Meeting unless a quorum is present.
- (b) The quorum for a Board Meeting shall be five Directors.
- (c) If a quorum is not present within 30 minutes of the notified commencement time of a Board Meeting:
  - (i) the meeting stands adjourned to a day, time and place as determined by the Board or, if no decision is made by the Board, to the same time, day, and place in the following week and
  - (ii) notwithstanding anything to the contrary in this Constitution, if no quorum is present at the adjourned meeting within 30 minutes of the notified commencement time for the meeting, and at least three Directors are present at the meeting, those Directors present are taken to constitute the quorum.
- (d) In the event of a casual vacancy or vacancies in the office of a Director or Directors, the remaining Directors may act but, if the number of remaining Directors is not sufficient to constitute a quorum at a Board Meeting, they may act only for the purpose of increasing the number of Directors to a number sufficient to constitute such a quorum.

### **19.4 Guests at Board Meetings**

- (a) The Board may invite a Member or any other person who is not a Director to attend a Board Meeting.
- (b) A person invited to attend a Board Meeting in accordance with clause 19.4(a) has no right to:
  - (i) receive any agendas, notices or papers relating to the Board Meeting;
  - (ii) vote; or
  - (iii) comment on any matters discussed at the Board Meeting without the Board's consent.

### **19.5 Decisions of Board**

- (a) Subject to this Constitution, a resolution of the Board must be passed by a majority of the votes of Directors present and entitled to vote on the resolution.
- (b) In case of an equality of votes, the Chairperson does not have a casting vote in addition to his or her deliberative vote.

### **19.6 Resolutions not in Meeting**

- (a) The Board may pass a resolution without a Board Meeting being held if:

- (i) notice in writing of the proposed resolution is given to each Director in accordance with this Constitution;
  - (ii) at least two-thirds of the Directors, who are entitled to vote on the resolution, assent to the resolution by either:
    - (A) signing a document (or separate identical copies of the document) containing a statement that they are in favour of the written resolution set out in the document and giving it to the Association; or
    - (B) confirming by email, text message or any other method of communication approved by the Board to the Association that they are in favour of the written resolution, in accordance with any policies adopted by the Board for this purpose; and
  - (iii) the Directors who assent to the resolution would have constituted a quorum at a Board Meeting held to consider that resolution.
- (b) The resolution is passed when the last of the Directors constituting the requisite majority:
- (i) in the case of a written resolution in accordance with clause 19.6(a)(ii)(A), signs the document; or
  - (ii) in the case of a resolution referred to in clause 19.6(a)(ii)(B), communicates his or her approval of the resolution by the relevant communication method.

## **19.7 Minutes of Board Meetings**

- (a) The Board must ensure that minutes are taken and kept of each Board Meeting.
- (b) The Board may appoint a person to record the minutes which must include:
  - (i) the names of persons present at each Board Meeting (including each Director and any person attending the Board Meeting in accordance with clause 19.4);
  - (ii) the business considered at the Board Meeting; and
  - (iii) any motion on which a vote is taken and the result of the vote.
- (c) The minutes of a Board Meeting must be entered in the Association's minute book within 30 days after the meeting is held.
- (d) The Chairperson must ensure that the minutes of a Board Meeting over which she or he presides are reviewed and signed as correct as soon as practicable after that Board Meeting.
- (e) When the minutes of a Board Meeting have been signed as correct, they are, in the absence of evidence to the contrary, taken to be evidence that:

- (i) the Board Meeting to which the minutes relate was duly convened and held;
- (ii) the matters recorded as having taken place at the Board Meeting took place as recorded; and
- (iii) any appointment purportedly made at the Board Meeting was validly made.

## **19.8 Acts Valid Despite Defective Appointment**

Any act done at any Board Meeting by any person acting as a Director, even if it is later discovered that there was some defect in the appointment of any such Director or that the Director was not eligible for election in accordance with clause 16.1 or 17.1, is valid as if the Director had been duly appointed and was qualified to be a Director.

## **19.9 Delegations**

- (a) The Board may create or establish or appoint committees, individual officers, and consultants to carry out such duties and functions, and with such powers, as the Board determines from time to time.
- (b) The Board may delegate such duties and functions of the Board other than:
  - (i) the power of delegation; and
  - (ii) a function which is duly imposed on the Board by the Act or any other law.
- (c) Any delegation by the Board must be made in writing.

## **20. STATUS AND COMPLIANCE**

### **20.1 National Sporting Organisation**

- (a) The Association is a member of PCA and is recognised by PCA as the controlling authority for Pony Club in Western Australia.
- (b) The Association shall abide by the constitution of PCA and any other rules, regulations, or by-laws of PCA (as applicable from time to time).
- (c) The Association may adopt any, or all, of the national policies, rules, and procedures of PCA.
- (d) The Association will not resign, disaffiliate, or otherwise seek to withdraw from PCA without approval by Special Resolution.

### **20.2 Operation of Constitution**

The Association and the Members acknowledge and agree:

- (a) that they are bound by this Constitution and that this Constitution operates to create uniformity in the way in which the Objects and Pony Club are to be

conducted, promoted, encouraged, advanced, and administered throughout Western Australia;

- (b) to ensure the maintenance and enhancement of Pony Club, its standards, quality, and reputation for the benefit of the Members and Pony Club;
- (c) not to do or permit to be done any act or thing which might adversely affect or derogate from the standards, quality and reputation of Pony Club and its maintenance and enhancement;
- (d) to promote the economic and community service success, strength, and stability of each other and to act interdependently with each other in pursuit of their respective objects;
- (e) to act in the interests of the Association and the Members; and
- (f) that should a Member have administrative, operational, or financial difficulties, the Association may act to assist the Member in whatever manner the Association considers appropriate.

### **20.3 Zone and Member Club Compliance**

Zones and Member Clubs acknowledge and agree that they shall:

- (a) be or remain incorporated in Western Australia;
- (b) recognise the Association as the authority for Pony Club in Western Australia and PCA as the national authority for Pony Club;
- (c) adopt and implement all applicable policies and procedures as may be developed by the Association from time to time; and
- (d) have regard to the Objects in any matter of the Zone or Member Club pertaining to Pony Club.

### **20.4 Zone and Member Club Constitutions**

- (a) The constituent documents of Zones and Member Clubs must clearly reflect the Objects and will substantially conform to this Constitution.
- (b) Zones and Member Clubs:
  - (i) will take all reasonable steps necessary to ensure their constituent documents substantially conform to this Constitution;
  - (ii) shall provide to the Association a copy of their constituent documents and all amendments to these documents; and
  - (iii) acknowledge and agree that the Association has the power to require the amendment or removal of any provision in a Zone or Member Club constitution which, in the Association's opinion, is contrary to the Objects.

- (c) The constituent documents of each Zone and Member Club shall, at the earliest available opportunity, but within one year of the commencement of this Constitution, recognise the Association as the authority for Pony Club in Western Australia and PCA as the national authority for Pony Club in Australia.

## **21. EXECUTION OF DOCUMENTS**

- (a) The Association may validly execute a document if the document is signed by:
  - (i) two Directors; or
  - (ii) one Director and another person authorised by the Board; or
  - (iii) The CEO.
- (b) The Association does not have a common seal.

## **22. INSPECTION OF RECORDS**

- (a) Subject to the Act and to this Constitution, the Board must determine whether and on what terms the books, records and other documents of the Association will be open to the inspection of Members other than Directors.
- (b) A Member other than a Director does not have the right to inspect any document of the Association except as provided by the Act, or otherwise as authorised by the Board or by the Association in a General Meeting.
- (c) the records, documents, securities and books of account shall be kept in the custody and control of the CEO.

## **23. NOTICE**

- (a) All notices, including notices of a General Meeting, may be given by the Association to any Member by:
  - (i) delivering it personally to the Member;
  - (ii) sending it by post to the address for the Member in the Register or an alternative address nominated by the Member by giving notice in writing to the Association for this purpose;
  - (iii) sending it to an email or other electronic address, or by any other means of electronic communication, nominated by the Member by giving notice in writing to the Association for this purpose, in which case the Association may give that communication to the Member by attaching a file containing it to, or by providing a URL link to it from, the email or other electronic communication; or
  - (iv) giving it by any other means permitted or contemplated by the Act.
- (b) A notice is taken to have been received by the Member:
  - (i) if delivered in person, on the date that it is delivered to the Member;

- (ii) if sent by post, one Business Day after it was put into the post; or
- (iii) if sent by email or other electronic means, the earlier of:
  - (A) at the time of transmission unless the sender receives an automatic notification that the email has not been received (other than an out of office greeting for the named addressee) and it receives the notification before two hours after the time of transmission;
  - (B) the sender receiving a message from the intended recipient's information system confirming delivery of the email; and
  - (C) when the email (including any attachment) becomes available to be read at the email address specified by the recipient in accordance with this agreement,

but if the notice or other communication would otherwise be taken to be received after 5.00pm or on a Saturday, Sunday, or public holiday in the place of receipt, then the notice or communication is taken to be received at 9.00 am on the next day that is not a Saturday, Sunday, or public holiday in the place of receipt.

## **24. FINANCIAL MATTERS**

### **24.1 Source of Funds**

The funds of the Association may be derived from entrance fees, affiliation fees, membership fees, donations, fundraising activities, grants, interest, and any other sources approved by the Board or permitted by the Act.

### **24.2 Control of Funds**

- (a) The funds of the Association must be kept in an account or accounts in the name of the Association in a financial institution determined by the Board.
- (b) The Board is responsible for the expenditure of the funds of the Association and may authorise any person to expend the funds of the Association within specified limits and any expenditure above those limits must be approved or ratified by the Board.
- (c) The funds of the Association are to be used to do:
  - (i) anything which it considers will advance or achieve the Objects; and
  - (ii) all other things that are incidental to carrying out the Objects.
- (d) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments of the Association and all electronic payments by the Association must be signed, made, or authorised (as applicable) by:
  - (i) two Directors; or
  - (ii) any person or persons authorised by the Board.

### **24.3 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 Division 3 of Part 5 of the Act.
- (b) The Association must retain its financial records for at least seven years after the transactions covered by the records are completed.
- (c) The Association must allow the Directors and the auditor to inspect the financial records of the Association at all reasonable times.

### **24.4 Financial Reporting, Audit and Review**

- (a) The Board must cause the Association to comply with all financial reporting obligations imposed on it under the Act.
- (b) An auditor must be approved by the members to audit the books of the Association. The auditor must be approved by the Members at a Special General Meeting called for the purpose of appointing the auditor or approved at an AGM.
  - (i) The books of the Association must be audited annually.
  - (ii) A meeting to approve the auditor may be held by electronic means.
  - (iii) The Board must present a copy of the financial report or the auditor's report on the Financial Statements or Financial Report (as applicable) to the annual general meeting.

### **24.5 Financial Year**

The financial year of the Association is the 12-month period starting on 1 January each calendar year (the **Financial Year**).

## **25. INDEMNITY AND INSURANCE**

- (a) Every Director and employee of the Association shall be indemnified out of the property and assets of the Association against any liability incurred by them in their capacity as Director or employee in defending any proceedings, whether civil or criminal, in which judgment is given in their favour or in which they are acquitted or in connection with any application in relation to any such proceedings in which relief is granted by the Court.
- (b) The Association shall indemnify its Directors and employees against all damages and losses (including legal costs) for which any such Director or employee may be or become liable to any third party in consequence of any act or omission, except in the case of wilful misconduct, fraud and negligence engaged in:

- (i) by any Director while acting on behalf of and with the authority, express or implied of the Association; and
  - (ii) by any employee of the Association during, and within the scope of their employment by, the Association.
- (c) Subject to applicable law, the Association shall maintain a Directors' and Officers' insurance policy which is adequate and appropriate, having regard to the Association's circumstances and which shall cover the Director's term of appointment and a period of seven years after the Director ceases to serve the Association as a Director.

## **26. WINDING UP, CANCELLATION AND DISTRIBUTION OF SURPLUS PROPERTY**

- (a) For the purposes of this clause 26, **Surplus Property** has the meaning given in section 3 of the Act.
- (b) Subject to the Act, the Association may cease its activities and be wound up or cancelled if authorised by a Special Resolution.
- (c) Upon the winding up or cancellation of the Association, any Surplus Property will not be paid to or distributed among the Members but will be distributed to one or more organisations listed in section 24(1) of the Act with objects similar to the Objects.

## **27. ALTERATION OF CONSTITUTION**

This Constitution shall not be altered except by Special Resolution and in accordance with the Act.