

Rules AGM August 2018

MOUNTS BAY SAILING CLUB (INCORPORATED)

FOUNDED 1897

RULES



These Rules and the associated By-laws supersede the June 1984 Constitution of Mounts Bay Sailing Club (Incorporated)

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## Preamble

### The Act and the rules

1. The Club is an incorporated association established under the *Associations Incorporation Act 2015 (WA)* (**Act**). As a body corporate, it is a legal entity, separate from the members who are associated through it.
2. The Act requires every incorporated association to have rules which govern how the association operates. The rules bind the association and the members as if they contained an agreement by each member to be bound by and observe all of the rules, but only so far as the rules are consistent with the Act.
3. The Act itself sets out some matters that must be addressed in the rules of an incorporated association, but otherwise is flexible as to how each association runs its affairs. The Act, however, always takes precedence over the rules. Consequently, an association must ensure that it complies with the Act, and also with regulations made under the Act, as well as complying with its own rules so far as they are consistent with the Act.

### The model rules

4. The *Associations Incorporation Regulations 2016 (WA)* (**Regulations**) set out model rules that an incorporated association may, but not must, adopt as its own rules. The rules of the Club (**Rules**) are based on the model rules, but modified to take account of established procedures of the Club.
5. The model rules, and consequently the Rules, do not set out in detail all the provisions of the Act that must be complied with. The Rules and the Act must be read together. For example rule 88 echoes the Act in stating that the Club may alter its Rules “only by special resolution and by otherwise complying with Part 3 Division 2 of the Act”, but reference must still be made to the Act for the meaning of “special resolution” and for provisions for lodging the required documents with the Commissioner for Consumer Affairs (**Commissioner**), with a fine for failure to comply.

### Provisions of the Act

6. Some important matters are dealt with in the Act, but not detailed in the model rules. These include:
  - maintenance of an up-to-date copy of the rules and availability to members [sections 35-37];
  - persons who are disqualified from participating in the management of a club [section 39];
  - disclosure by the management committee members of personal interests [sections 42-43];
  - duties of officers, including (without detracting from any other rule of law) duties to exercise care and diligence, to act in good faith and for a proper purpose, and not to use the office or information gained through the office improperly to obtain an advantage for the officer or to cause detriment to the club [sections 44-49];
  - maintenance of registers of members and of management committee members and officers;
  - provisions relating to accounting records, financial statements and financial reports and their audit or review;
  - commission of an offence by management committee members if the association incurs a debt and the association is insolvent or becomes insolvent through incurring the debt [section 127];
  - making of a distribution plan for distribution of surplus property on the voluntary cancellation of an association's incorporation [sections 128-140];
  - lodgement with the Commissioner of the association's address and any change of its address [sections 174-175; 203].

### **The By-laws**

7. The model rules allow for the making of by-laws. A major difference between rules and by-laws is that, whereas rules can be made and altered only by following the statutory procedure, by-laws can be made and altered by ordinary resolution of the voting members at a general meeting. The Club has adopted by-laws (**By-laws**) that in part contain provisions that previously appeared in the Club's Constitution. The By-laws are subject to and cannot contradict the Act, the Regulations or the Rules.

### **The Liquor Act**

8. The Club has been granted a club licence under the *Liquor Control Act 1988 (WA)* (**Liquor Act**) to sell liquor to members and guests of members. The Liquor Act allows for classes of membership, including temporary membership and reciprocal membership, as provided for in the rules of a licensed club, and also has provisions relating to guests of members of the club.
9. The Liquor Act provides that the licensing authority must not grant a club licence unless satisfied that the constitution and rules of the club are appropriate for the purposes of being a licensed club, and sets out matters that must be satisfactorily addressed in the rules. Every club licence, when granted, is subject to conditions set out in the Liquor Act. One condition requires the club to provide the Director of Liquor Licensing (**Director**) with certified particulars of any proposed change to the club's constitution or rules. Effect cannot be given to the change without the prior approval of the Director.
10. The Director has also published a Policy: "Club Constitutions – Club and Club Restricted Licences". The Policy provides important guidance as to the content of a licensed club's constitution or rules.

# Rules

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**Part 1 — Preliminary**

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1. Terms used

In these rules, unless the contrary intention appears:

**Act** means the *Associations Incorporation Act 2015* (WA) as from time to time amended or replaced;

**annual general meeting** means the general meeting held in accordance with rule 58;

**associate member** means a member in a class of membership that does not confer full voting rights;

**books**, of the Club, includes the following:

- (a) a register;
- (b) financial records and financial reports, however compiled, recorded or stored;
- (c) a document;
- (d) any other record of information;

**business day** means a day that is not a Saturday, Sunday, or a public or bank holiday in Perth, Western Australia;

**by-laws** means by-laws made by the Club under rule 80;

**chair** of a meeting means the person who presides as chair of the meeting;

**Club** means Mounts Bay Sailing Club (Incorporated), the incorporated association to which these rules apply;

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

**financial records** includes:

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

**financial report** has the meaning given in section 63 of the Act;

**financial statements** means the financial statements in relation to the Club required under Part 5 Division 3 of the Act;

**financial year**, of the Club, has the meaning given in rule 4;

**full voting rights** means the right to vote at general meetings of the Club;

**general meeting**, of the Club, means a meeting of the Club that all members are entitled to receive notice of and to attend;

**Honorary Life Member** means a person elected to that class of membership in accordance with the by-laws;

**Immediate Past Commodore** means the person referred to in rule 37;

**Liquor Act** means the *Liquor Control Act 1988 (WA)* as from time to time amended or replaced;

**Management Committee** means the management committee of the Club referred to in rule 33;

**member** means a person (including a body corporate) who has been admitted to any class of membership of the Club;

**Ordinary Member** means a person admitted to that class of membership in accordance with these rules and the by-laws;

**Outport Member** means a person admitted to that class of membership in accordance with these rules and the by-laws;

**register of members** means the register of members referred to in section 53 of the Act;

**rules** means these rules of the Club, as in force for the time being;

**secretary** means the official appointed by the Management Committee to perform the functions and carry out the duties of secretary of the Club;

**special general meeting** means a general meeting convened to consider a specific item of business, and at which only that item of business may be considered;

**special resolution** means a resolution passed by the voting members at a general meeting in accordance with section 51 of the Act;

**subcommittee** means a subcommittee provided for in the by-laws or appointed by the Management Committee under paragraph 55(b)(i); and

**voting member** means a member who has full voting rights.

## 2. Name

The name of the incorporated association to which these rules apply is Mounts Bay Sailing Club (Incorporated).

## 3. Objects

The objects of the Club are:

- (a) the encouragement, promotion and teaching of all forms of recreational water-borne activities using wind, power, oars or paddles, including (without limitation) yachting, sailing, power boating, and sail, kite and paddle boarding;
- (b) the holding and arranging of races, regattas and competitions in activities referred to in paragraph (a);
- (c) the development and advancement of the Club, consistent with its sailing origins and tradition; and
- (d) the promotion of fellowship and club spirit amongst the members.

## 4. Financial year

Each financial year of the Club is the period of 12 months commencing on 1 July of each year and ending on 30 June of the following year.

## Part 2 — Club to be a not for profit body

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### 5. Not for profit body

The property and income of the Club must be applied solely towards the promotion of the objects or purposes of the Club 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.

Note for this rule:

Section 5(1) of the Act provides that an association is not eligible to be incorporated under the Act if it is formed or carried on for the purpose of securing pecuniary profit for its members from its transactions, and section 5(3) of the Act provides details about when an association is not ineligible under section 5(1) of the Act.

## Part 3 — Members

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### Division 1 — Membership

### 6. Eligibility for membership

- (a) Any person who supports the objects or purposes of the Club is eligible to apply to become a member.
- (b) The following are not eligible to apply for a class of membership that confers full voting rights:
  - (i) an individual who has not reached the age of 15 years; and
  - (ii) a corporation.

### 7. Applying for membership

- (a) A person who wants to become a member must apply in writing to the Club.
- (b) The application must include a member's nomination and another member's seconding of the applicant for membership.
- (c) The application must be signed by the applicant and the members nominating and seconding the applicant.
- (d) The applicant must specify in the application the class of membership to which the application relates.
- (e) The entrance fee (if any) set for the class of membership to which the application relates must be paid at the time the application is made, but is refundable if the application is rejected.

### 8. Dealing with membership applications

- (a) When the secretary receives the application form, it must then be placed on the notice board in the Club premises for a period of not less than seven (7) days before election, provided also that an interval of not less than two weeks must elapse between nomination and election.
- (b) The Management Committee must consider each application for membership of the Club and decide whether to accept or reject the application.

- (c) Subject to subrule (d), the Management Committee must consider applications in the order in which they are received by the Club.
- (d) The Management Committee may delay its consideration of an application if the Management Committee considers that any matter relating to the application needs to be clarified by the applicant or that the applicant needs to provide further information in support of the application.
- (e) The Management Committee must not accept an application unless the applicant:
  - (i) is eligible under rule 6; and
  - (ii) has applied under rule 7.
- (f) The Management Committee may reject an application even if the applicant:
  - (i) is eligible under rule 6; and
  - (ii) has applied under rule 7.
- (g) The Management Committee must notify the applicant of the Management Committee's decision to accept or reject the application as soon as practicable after making the decision.
- (h) If the Management Committee rejects the application, the Management Committee is not required to give the applicant its reasons for doing so.

## 9. [Becoming a member](#)

An applicant for membership of the Club becomes a member when:

- (a) the Management Committee accepts the application; and
- (b) the applicant agrees in writing to comply with the rules, the by-laws, any resolution made at a general meeting, and all instructions and regulations of the Club; and
- (c) the applicant pays any and all relevant fees, including membership fees payable to the Club under rule 14.

## 10. [Classes of membership and full voting rights](#)

- (a) The following members have full voting rights:
  - (i) Honorary Life Members;
  - (ii) Ordinary Members; and
  - (iii) Outport Members.
- (b) The Club may have any class of associate membership as provided for in these rules or the by-laws.
- (c) A member in a class of associate membership does not have full voting rights, but may have limited voting rights as provided in the by-laws.
- (d) Except as provided in the by-laws, a person may belong to one class of membership only.
- (e) Members in each class of membership have the rights conferred on members of that class by these rules and the by-laws, or approved by resolution at a general meeting or determined by the Management Committee.

- (f) Subject to any limit imposed by the licensing authority under the Liquor Act, the number of members of any class is not limited unless otherwise approved in the by-laws or by resolution at a general meeting.

## 11. When membership ceases

- (a) A person ceases to be a member when any of the following takes place:
  - (i) for a member who is an individual, the individual dies;
  - (ii) for a member who is a body corporate, the body corporate is wound up;
  - (iii) for a temporary member admitted under subrule 77(e), the period of membership expires under paragraph 77(e)(iv);
  - (iv) the person resigns from membership of the Club under rule 12;
  - (v) the person is expelled from the Club under rule 20;
  - (vi) the person ceases to be a member under subrule 17(a).
- (b) The secretary must keep a record, for at least one year after a person ceases to be a member, of:
  - (i) the date on which the person ceased to be a member; and
  - (ii) the reason why the person ceased to be a member.

## 12. Resignation

- (a) A member may resign from membership of the Club by giving written notice of the resignation to the secretary.
- (b) The resignation takes effect:
  - (i) when the secretary receives the notice; or
  - (ii) if a later time is stated in the notice, at that later time.
- (c) A person who has resigned from membership of the Club remains liable for:
  - (i) any fees, costs, and charges, that are owed to the Club; and
  - (ii) the Club's reasonable costs of recovery of those fees, costs, and charges.
- (d) The amounts referred to in subrule (c) may be recovered by the Club in a court of competent jurisdiction as a debt due to the Club.

## 13. Rights not transferable

The rights of a member are not transferable and end when membership ceases.

## Division 2 — Membership and other fees and charges

### 14. Membership fees

- (a) Subject to the by-laws, the Management Committee must determine the entrance fee (if any) and the annual membership fee to be paid for membership of the Club.
- (b) The fees determined under subrule (a) may be different for different classes of membership.

- (c) A member must pay the annual membership fee to the Treasurer, or another person authorised by the Management Committee to accept payments, by the date (the **due date**) which is 31 days after each annual general meeting.

#### 15. Other fees and charges

- (a) The Management Committee may impose fees and charges, other than entrance and membership fees, in accordance with the by-laws.
- (b) Fees and charges imposed in accordance with the by-laws become payable by the date (the **due date**) determined by the Management Committee.

#### 16. Deferment of payments

On written application by a member the Management Committee may, at its absolute discretion, defer payment of all or one or more parts of the membership fee, or other fee or charge otherwise payable by the member, to another date or dates (for each such payment or part-payment, the **due date**) determined by the Management Committee.

#### 17. Consequences of non-payment

- (a) If a member has not paid all of the annual membership fee, and all of any other fee or charge referred to in rule 15 (the **unpaid amount**), within the period of 30 days after the due date fixed or determined in accordance with this Division, the member ceases to be a member on the expiry of that period.
- (b) If a person who has ceased to be a member under subrule (a) offers to pay the unpaid amount after the period referred to in that subrule has expired, the Management Committee may, at its absolute discretion:
  - (i) impose a fee for late payment; and
  - (ii) accept payment of the unpaid amount and any fee imposed under paragraph (b)(i).
- (c) If the payment referred to in paragraph (b)(ii) is accepted, the person's membership is reinstated from the date the payment is accepted.

### Division 3 — Register of members

#### 18. Register of members

- (a) The secretary, or another person authorised by the Management Committee, is responsible for the requirements imposed on the Club under section 53 of the Act to maintain the register of members and record in that register any change in the membership of the Club.
- (b) In addition to the matters referred to in section 53(2) of the Act, the register of members must include the class of membership to which each member belongs.
- (c) The register of members must be kept in safe custody at the Club's premises, or at another place determined by the Management Committee.
- (d) A member who wishes to inspect the register of members must contact the secretary to make the necessary arrangements.
- (e) If:
  - (i) a member inspecting the register of members wishes to make a copy of, or take an extract from, the register under section 54(2) of the Act; or

- (ii) a member makes a written request under section 56(1) of the Act to be provided with a copy of the register of members,

the Management Committee may require the member to provide a statutory declaration setting out the purpose for which the copy or extract is required and declaring that the purpose is connected with the affairs of the Club.

## Part 4 — Disciplinary Action, Disputes and Mediation

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### Division 1 — Term used

#### 19. Term used: member

In this Part:

**member**, in relation to a member who is expelled from the Club, includes former member.

### Division 2 — Disciplinary action

#### 20. Fining, suspension or expulsion

- (a) The Management Committee may decide to fine a member, suspend a member's membership, or expel a member from the Club, if:
  - (i) the member contravenes any of these rules, the by-laws, a resolution at a general meeting or regulations made by the Management Committee; or
  - (ii) the member acts detrimentally to the interests of the Club.
- (b) The secretary must give the member written notice of the proposed fining, suspension or expulsion at least 28 days before the Management Committee meeting at which the proposal is to be considered by the Management Committee.
- (c) The notice given to the member must state:
  - (i) when and where the Management Committee meeting is to be held; and
  - (ii) the grounds on which the proposed fining, suspension or expulsion is based; and
  - (iii) that the member, or the member's representative, may attend the meeting and will be given a reasonable opportunity to make written or oral (or both written and oral) submissions to the Management Committee about the proposed fining, suspension or expulsion;
- (d) At the Management Committee meeting, the Management Committee must:
  - (i) give the member, or the member's representative, a reasonable opportunity to make written or oral (or both written and oral) submissions to the Management Committee about the proposed fining, suspension or expulsion; and
  - (ii) give due consideration to any submissions so made; and
  - (iii) decide:
    - A. whether or not to fine the member and, if the decision is to fine the member, the amount of the fine; or
    - B. whether or not to suspend the member's membership and, if the decision is to suspend the membership, the period of suspension; or

- C. whether or not to expel the member from the Club.
- (e) A decision of the Management Committee to fine the member, suspend the member's membership or expel the member from the Club takes immediate effect.
- (f) The Management Committee must give the member written notice of the Management Committee's decision, and the reasons for the decision, within 7 days after the Management Committee meeting at which the decision is made.
- (g) A member who is fined, whose membership is suspended or who is expelled from the Club may, within 14 days after receiving notice of the Management Committee's decision under subrule (f), give written notice to the secretary requesting the appointment of a mediator under rule 28.
- (h) If notice is given under subrule (g), the member who gives the notice and the Management Committee are the parties to the mediation.

## 21. Consequences of suspension

- (a) During the period a member's membership is suspended, the member:
  - (i) loses any rights (including voting rights) arising as a result of membership; and
  - (ii) is not entitled to a refund, rebate, relief or credit for membership fees paid, or payable, to the Club.
- (b) When a member's membership is suspended, the secretary must record in the register of members:
  - (i) that the member's membership is suspended; and
  - (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 secretary must record in the register of members that the member's membership is no longer suspended.

## Division 3 — Resolving disputes

### 22. Terms used

In this Division:

***grievance procedure*** means the procedures set out in this Division;

***party to a dispute*** includes a person who ceases to be a member within 6 months before the dispute has come to the attention of each party to the dispute.

### 23. Application of Division

The procedure set out in this Division (the grievance procedure) applies to disputes:

- (a) between members; or
- (b) between one or more members and the Club.

### 24. Parties to attempt to resolve dispute

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

## 25. How grievance procedure is started

- (a) If the parties to a dispute are unable to resolve the dispute between themselves within the time required by rule 24, any party to the dispute may start the grievance procedure by giving written notice to the secretary of:
  - (i) the parties to the dispute; and
  - (ii) the matters that are the subject of the dispute.
- (b) Within 28 days after the secretary is given the notice, a Management Committee meeting must be convened to consider and determine the dispute.
- (c) The secretary must give each party to the dispute written notice of the Management Committee meeting at which the dispute is to be considered and determined at least 7 days before the meeting is held.
- (d) The notice given to each party to the dispute must state:
  - (i) when and where the Management Committee meeting is to be held; and
  - (ii) that the party, or the party's representative, may attend the meeting and will be given a reasonable opportunity to make written or oral (or both written and oral) submissions to the Management Committee about the dispute.
- (e) If:
  - (i) the dispute is between one or more members and the Club; and
  - (ii) any party to the dispute gives written notice to the secretary stating that the party:
    - A. does not agree to the dispute being determined by the Management Committee; and
    - B. requests the appointment of a mediator,the Management Committee must not determine the dispute.

## 26. Determination of dispute by Management Committee

- (a) At the Management Committee meeting at which a dispute is to be determined, the Management Committee must:
  - (i) give each party to the dispute, or the party's representative, a reasonable opportunity to make written or oral (or both written and oral) submissions to the Management Committee about the dispute; and
  - (ii) give due consideration to any submissions so made; and
  - (iii) determine the dispute.
- (b) The Management Committee must give each party to the dispute written notice of the Management Committee's determination, and the reasons for the determination, within 7 days after the Management Committee meeting at which the determination is made.
- (c) A party to the dispute may, within 14 days after receiving notice of the Management Committee's determination under paragraph (a)(iii), give written notice to the secretary requesting the appointment of a mediator under rule 28.

- (d) If notice is given under subrule (c), each party to the dispute is a party to the mediation.

#### **Division 4 — Mediation**

##### **27. Application of Division**

- (a) This Division applies if written notice has been given to the secretary requesting the appointment of a mediator:
  - (i) by a member under subrule 20(g); or
  - (ii) by a party to a dispute under subparagraph 25(e)(ii)B or subrule 26(c).
- (b) If this Division applies, a mediator must be chosen or appointed under rule 28.

##### **28. Appointment of mediator**

- (a) The mediator must be a person chosen:
  - (i) if the appointment of a mediator was requested by a member under subrule 20(g) — by agreement between the member and the Management Committee; or
  - (ii) if the appointment of a mediator was requested by a party to a dispute under subparagraph 25(e)(ii)B or subrule 26(c) — by agreement between the parties to the dispute.
- (b) If there is no agreement for the purposes of paragraphs (a)(i) or (a)(ii), then, subject to subrules (c) and (d), the Management Committee must appoint the mediator.
- (c) The person appointed as mediator by the Management Committee must be a person who acts as a mediator for another not-for-profit body, such as a community legal centre, if the appointment of a mediator was requested by:
  - (i) a member under subrule 20(g); or
  - (ii) a party to a dispute under subparagraph 25(e)(ii)B; or
  - (iii) a party to a dispute under subrule 26(c) and the dispute is between one or more members and the Club.
- (d) A mediator appointed by the Management Committee may be a member or former member of the Club but must not:
  - (i) have a personal interest in the matter that is the subject of the mediation; or
  - (ii) be biased in favour of or against any party to the mediation.

##### **29. Mediation process**

- (a) The parties to the mediation must attempt in good faith to settle the matter that is the subject of the mediation.
- (b) Each party to the mediation must give the mediator a written statement of the issues that need to be considered at the mediation at least 5 days before the mediation takes place.
- (c) In conducting the mediation, the mediator must:
  - (i) give each party to the mediation every opportunity to be heard; and

- (ii) allow each party to the mediation to give due consideration to any written statement given by another party; and
  - (iii) ensure that natural justice is given to the parties to the mediation throughout the mediation process.
- (d) The mediator cannot determine the matter that is the subject of the mediation.
  - (e) The mediation must be confidential, and any information given at the mediation cannot be used in any other proceedings that take place in relation to the matter that is the subject of the mediation.
  - (f) The costs of the mediation are to be paid by the party or parties to the mediation that requested the appointment of the mediator.

**Note for this rule:**

Section 182(1) of the Act provides that an application may be made to the State Administrative Tribunal to have a dispute determined if the dispute has not been resolved under the procedure provided for in the incorporated association's rules.

### 30. If mediation results in decision to suspend or expel being revoked

If:

- (a) mediation takes place because a member whose membership is suspended or who is expelled from the Club gives notice under subrule 20(g); and
- (b) as the result of the mediation, the decision to suspend the member's membership or expel the member is revoked,

that revocation does not affect the validity of any decision made at a Management Committee meeting or general meeting during the period of suspension or expulsion.

### 31. Payment of fees and charges

A member is not relieved from payment, or from the consequences of non-payment, of any fee or charge determined by the Management Committee to be due and payable by the member, by reason only that:

- (a) the Club is a party to a dispute or mediation to which the member is also a party; or
- (b) unless the State Administrative Tribunal orders otherwise, the member has applied to the Tribunal to have a dispute determined,

including a dispute or mediation concerning the liability of the member to pay that fee or charge.

### 32. Access to Club premises after membership is suspended or ceases

- (a) The provisions of this rule apply after:
  - (i) a member's membership has been suspended as provided for in rule 20; or
  - (ii) a person has ceased to be a member as provided for in subrule 11(a).
- (b) The Management Committee may in writing permit the member or the member's personal representative to have access to the Club's premises, subject to the following.
  - (i) The member must apply in writing to the Management Committee for permission, stating the purpose for which access is requested.

- (ii) The Management Committee may limit the access to specified parts of the Club's premises.
- (iii) The Management Committee may impose such reasonable conditions on the access, including conditions relating to timing and duration of access, as the Management Committee sees fit.
- (c) The access must be for the purpose of removal of the member's property from Club premises, or for a purpose related to the preservation or safety of the member's property on Club premises.

## **Part 5 — Management Committee**

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### **Division 1 — Powers of Management Committee**

#### **33. Management Committee**

- (a) The Management Committee members are the persons who, as the management committee of the Club, have the power to manage the affairs of the Club.
- (b) Subject to the Act, these rules, the by-laws, and any resolution passed at a general meeting, the Management Committee has power to do all things necessary or convenient to be done for the proper management of the affairs of the Club.
- (c) The Management Committee must take all reasonable steps to ensure that the Club complies with the Act, these rules, and the by-laws.

### **Division 2 — Composition of Management Committee and duties of members**

#### **34. Management Committee members**

- (a) The Management Committee members consist of:
  - (i) the Commodore;
  - (ii) the Vice-Commodore;
  - (iii) subject to subrule (b), 2 Rear Commodores; and
  - (iv) the Treasurer.
- (b) The Management Committee may increase the number of Rear Commodores to no more than 6.
- (c) A member may be elected to the Management Committee if the member is:
  - (i) an Honorary Life Member or an Ordinary Member; and
  - (ii) to be the Commodore, an Honorary Life Member or an Ordinary Member of at least 3 years' standing; and
  - (iii) to be the Vice-Commodore or a Rear Commodore, an Honorary Life Member or an Ordinary Member of at least 1 years' standing.
- (d) A person must not hold 2 or more of the offices mentioned in subrule (a) at the same time.

### 35. Commodore

- (a) It is the duty of the Commodore to consult with the secretary regarding the business to be conducted at each Management Committee meeting and general meeting.
- (b) The Commodore has the powers and duties relating to convening and presiding at Management Committee meetings and presiding at general meetings provided for in these rules.

### 36. Treasurer

The Treasurer has the following duties:

- (a) ensuring that any amounts payable to the Club are collected and, if requested by the payer, issuing receipts for those amounts in the Club's name;
- (b) ensuring that any amounts paid to the Club are credited to the appropriate account of the Club, as directed by the Management Committee;
- (c) ensuring that any payments to be made by the Club that have been authorised by the Management Committee or at a general meeting are made on time;
- (d) ensuring that the Club complies with the relevant requirements of Part 5 of the Act;
- (e) ensuring the safe custody of the Club's financial records and financial reports;
- (f) coordinating the preparation of the Club's financial report before its submission to the Club's annual general meeting;
- (g) providing any assistance required by an auditor or reviewer conducting an audit or review of the Club's financial report under Part 5 Division 5 of the Act; and
- (h) carrying out any other duty given to the Treasurer under these rules or by the Management Committee.

## Division 3 — Immediate Past Commodore

### 37. Immediate Past Commodore

- (a) The office of Immediate Past Commodore is automatically filled by the retiring Commodore on the election of a new Commodore at an annual general meeting.
- (b) Each Immediate Past Commodore holds office until the office is automatically filled by operation of subrule (a), and tenure of the office is not affected by:
  - (i) the election of a Commodore under paragraph 42(c)(ii); or
  - (ii) the appointment of a Commodore to fill a casual vacancy under rule 44.
- (c) Subrules 34(c), 42(a) and (b) and paragraph 42(c)(i) apply to the Immediate Past Commodore as applicable to a Management Committee member.
- (d) The Immediate Past Commodore is not a Management Committee member but has an advisory role, and in fulfilment of that role:
  - (i) is entitled to notice of Management Committee meetings under rule 48 as appropriate to a Management Committee member; and
  - (ii) is entitled to receive a copy of any agenda, minutes, or other document circulated at or for the purposes of any Management Committee meeting; and
  - (iii) may attend and speak at any Management Committee meeting; but

- (iv) cannot vote on any matter that is to be decided at any Management Committee meeting.

#### **Division 4 — Election of Management Committee members and tenure of office**

##### **38. How members become Management Committee members**

A member becomes a Management Committee member if the member:

- (a) is elected to the Management Committee at an annual general meeting; or
- (b) is appointed to the Management Committee by the Management Committee to fill a casual vacancy.

##### **39. Nomination of Management Committee members**

- (a) At least 42 days before an annual general meeting, the secretary must send written notice to all the members:
  - (i) calling for nominations for election to the Management Committee; and
  - (ii) stating the date by which nominations must be received by the secretary to comply with subrule (b).
- (b) A member who wishes to be considered for election to the Management Committee at the annual general meeting must nominate for election by sending written notice of the nomination on the Club's official form to the secretary at least 28 days before the annual general meeting.
- (c) The written notice must include a statement by another member in support of the nomination.
- (d) A member may nominate for more than one specified position on the Management Committee provided that:
  - (i) there is a separate nomination document for each position; and
  - (ii) if the member is elected to a position, a nomination of that member for any other position is taken to be withdrawn.
- (e) A member whose nomination does not comply with this rule is not eligible for election to the Management Committee unless the member is nominated under subrule 40(c).

##### **40. Election of Management Committee members**

- (a) At the annual general meeting, a separate election must be held for each position on the Management Committee.
- (b) Elections for positions on the Management Committee must be held in the order in which the positions are listed at subrule 34(a).
- (c) If there is no nomination for a position, the chair of the meeting may call for nominations from the members at the meeting.
- (d) If only one member has nominated for a position, the chair of the meeting must declare the member elected to the position.
- (e) If more than one member has nominated for a position, the voting members at the meeting must vote in accordance with procedures that have been determined by the Management Committee to decide who is to be elected to the position.

- (f) Each voting member present at the meeting may vote for one member who has nominated for the position.
- (g) Members who have nominated for the position may vote for themselves.
- (h) Upon election, the new Commodore may take over as the chair of the meeting.

#### 41. Term of office

- (a) The term of office of a Management Committee member begins when the member:
  - (i) is elected at an annual general meeting or under paragraph 42(c)(ii); or
  - (ii) is appointed to fill a casual vacancy under rule 44.
- (b) Subject to rule 43, a Management Committee member holds office until the positions on the Management Committee are declared vacant at the next annual general meeting.
- (c) Subject to subrule (d) a Management Committee member may be re-elected.
- (d) A member cannot be elected as Commodore for more than 3 consecutive terms.

#### 42. Resignation and removal from office

- (a) A Management Committee member may resign from the Management Committee by written notice given to the secretary or, if the resigning member is the secretary, given to the Commodore.
- (b) The resignation takes effect:
  - (i) when the notice is received by the secretary or Commodore; or
  - (ii) if a later time is stated in the notice, at the later time.
- (c) At a general meeting, the Club may by resolution:
  - (i) remove a Management Committee member from office; and
  - (ii) elect a member who is eligible under subrule 34(c) to fill the vacant position.
- (d) A Management Committee member who is the subject of a proposed resolution under paragraph (c)(i) may make written representations (of a reasonable length) to the secretary or Commodore and may ask that the representations be provided to the members.
- (e) The secretary or Commodore may give a copy of the representations to each member or, if they are not so given, the Management Committee member may require them to be read out at the general meeting at which the resolution is to be considered.

#### 43. When membership of Management Committee ceases

A person ceases to be a Management Committee member if the person:

- (a) dies or otherwise ceases to be a member; or
- (b) resigns from the Management Committee or is removed from office under rule 42; or
- (c) becomes ineligible to accept an appointment or act as a Management Committee member under section 39 of the Act; or

- (d) becomes permanently unable to act as a Management Committee member because of a mental or physical disability; or
- (e) fails to attend 3 consecutive Management Committee meetings, of which the person has been given notice, without having notified the Management Committee that the person will be unable to attend.

Note for this rule:

Section 41 of the Act imposes requirements, arising when a person ceases to be a member of the management committee of an incorporated association, that relate to returning documents and records.

#### 44. Filling casual vacancies

- (a) The Management Committee may appoint a member who is eligible under subrule 34(c) to fill a position on the Management Committee that:
  - (i) has become vacant under rule 43; or
  - (ii) was not filled by election at the most recent annual general meeting or under paragraph 42(c)(ii).
- (b) Subject to the requirement for a quorum under rule 51 the Management Committee may continue to act despite any vacancy in its membership.
- (c) If there are fewer Management Committee members than required for a quorum under rule 51, the Management Committee may act only for the purpose of:
  - (i) appointing Management Committee members under this rule; or
  - (ii) convening a general meeting.

#### 45. Validity of acts

The acts of the Management Committee or a subcommittee, or of a Management Committee member or member of a subcommittee, are valid despite any defect that may afterwards be discovered in the election, appointment or qualification of a Management Committee member or member of a subcommittee.

#### 46. Payments to Management Committee members

- (a) In this rule:
  - Management Committee member** includes the Immediate Past Commodore.
- (b) With the prior approval of the Management Committee and at the Management Committee's absolute discretion, a Management Committee member may be paid out of the funds of the Club for any out-of-pocket expenses for travel and accommodation properly incurred:
  - (i) in attending a Management Committee meeting; or
  - (ii) in attending a general meeting; or
  - (iii) otherwise in connection with the Club's business.
- (c) Otherwise than as provided for in subrule (b), payment may be made to a Management Committee member out of the funds of the Club only if the payment is authorised by resolution of the Club.

## Division 5 — Management Committee meetings

### 47. Management Committee meetings

- (a) The Management Committee must meet at least 3 times in each year at the dates, times and places determined by the Management Committee.
- (b) The by-laws may require the Management Committee to meet more frequently than provided for in subrule (a).
- (c) The date, time and place of the first Management Committee meeting must be determined by the Management Committee members as soon as practicable after the annual general meeting at which the Management Committee members are elected.
- (d) Special Management Committee meetings may be convened by the Commodore or any 2 Management Committee members.

### 48. Notice of Management Committee meetings

- (a) Notice of each Management Committee meeting must be given to each Management Committee member:
  - (i) at least 48 hours before the time of the meeting; or
  - (ii) if the business of the meeting is determined by the Commodore to be urgent, by such lesser time as the Commodore determines.
- (b) The notice must state the date, time and place of the meeting and must describe the general nature of the business to be conducted at the meeting.
- (c) Unless subrule (d) applies, the only business that may be conducted at the meeting is the business described in the notice.
- (d) Urgent business that has not been described in the notice may be conducted at the meeting if the Management Committee members at the meeting unanimously agree to treat that business as urgent.

### 49. Procedure and order of business

- (a) The Commodore or, in the Commodore's absence, the Vice-Commodore must preside as chair of each Management Committee meeting.
- (b) If the Commodore and Vice-Commodore are absent or are unwilling to act as chair of a meeting, the Management Committee members at the meeting must choose one of them to act as chair of the meeting.
- (c) The procedure to be followed at a Management Committee meeting must be determined from time to time by the Management Committee.
- (d) The order of business at a Management Committee meeting may be determined by the Management Committee members at the meeting.
- (e) A member or other person who is not a Management Committee member may attend a Management Committee meeting if invited to do so by the Management Committee.
- (f) A person invited under subrule (e) to attend a Management Committee meeting:
  - (i) has no right to any agenda, minutes, or other document circulated at or for the purposes of the meeting; and
  - (ii) must not comment about any matter discussed at the meeting unless invited by the Management Committee to do so; and

- (iii) cannot vote on any matter that is to be decided at the meeting; and
- (iv) must preserve strict confidence in relation to all matters discussed at the meeting except to the extent that confidentiality is dispensed with by the Management Committee in relation to any particular matter or matters.

#### 50. Use of technology to be present at Management Committee meetings

- (a) The presence of a Management Committee member at a Management Committee meeting need not be by attendance in person but may be by that Management Committee member and each other Management Committee member at the meeting being simultaneously in contact by telephone or other means of instantaneous communication.
- (b) A member who participates in a Management Committee meeting as allowed under subrule (a) is taken to be present at the meeting and, if the member votes at the meeting, the member is taken to have voted in person.

#### 51. Quorum for Management Committee meetings

- (a) The quorum for a meeting of the Management Committee is 4 members.
- (b) Subject to subrule 44(c), no business is to be conducted at a Management Committee meeting unless a quorum is present.
- (c) If a quorum is not present within 30 minutes after the notified commencement time of a Management Committee meeting:
  - (i) in the case of a meeting convened under rule 47(d) — the meeting lapses; or
  - (ii) otherwise, the meeting is adjourned to the same time, day and place in the following week.
- (d) If:
  - (i) a quorum is not present within 30 minutes after the commencement time of a Management Committee meeting held under paragraph (c)(ii); and
  - (ii) at least 2 Management Committee members are present at the meeting,those members present are taken to constitute a quorum.

#### 52. Voting at Management Committee meetings

- (a) Each Management Committee member present at a Management Committee meeting has one vote on any question arising at the meeting.
- (b) A motion is carried if a majority of the Management Committee members present at the Management Committee meeting vote in favour of the motion.
- (c) If the votes are divided equally on a question, the chair of the meeting has a second or casting vote.
- (d) A vote may take place by the Management Committee members present indicating their agreement or disagreement verbally or by a show of hands, unless the Management Committee decides that a secret ballot is needed to determine a particular question.
- (e) If a secret ballot is needed, the chair of the meeting must decide how the ballot is to be conducted.

### 53. Resolutions of Management Committee without a meeting

A resolution made in accordance with the procedure set out in subrule (a) or the procedure set out in subrule (b) is as valid and effectual as if passed at a meeting of the Management Committee duly convened and held.

- (a) Resolution by writing
  - (i) A resolution may be made by a document in writing that:
    - A. sets out the resolution in full; and
    - B. Is signed and dated by each Management Committee member.
  - (ii) For purposes of this paragraph, a document in writing may comprise any number of counterparts, each signed by one or more Management Committee members on the same or on different occasions, all of which together will constitute a single document.
  - (iii) A resolution in writing takes effect when the secretary has received a document, single or in counterparts, signed by all Committee members.
  - (iv) After a resolution in writing takes effect, the secretary must:
    - A. as soon as reasonably practicable, retain the resolution in writing as forming part of the record of proceedings of the Management Committee; and
    - B. ensure that the making of the resolution and the date it took effect is included in the agenda for the next Management Committee meeting as an item for noting.
- (b) Resolution by electronic mail
  - (i) A resolution may be made by electronic mail by:
    - A. the secretary sending to each Management Committee member an electronic mail message that sets out the resolution in full; and
    - B. each Management Committee member sending to each other Management Committee member and to the secretary an electronic mail message confirming that the Management Committee member is in favour of the resolution (a **confirmation message**).
  - (ii) A resolution made by electronic mail takes effect when the secretary receives a confirmation message from the last of the Management Committee members to send a confirmation message.
  - (iii) After a resolution made by electronic mail takes effect the secretary must:
    - A. as soon as reasonably practicable, make a record of the resolution and the date it took effect so as to form part of the record of proceedings of the Management Committee; and
    - B. ensure that the making of the resolution and the date it took effect is included in the agenda for the next Management Committee meeting as an item for noting.

### 54. Minutes of Management Committee meetings

- (a) The Management Committee must ensure that minutes are taken and kept of each Management Committee meeting.

- (b) The minutes must record the following:
  - (i) the names of the Management Committee members present at the meeting;
  - (ii) the name, if present, of the Immediate Past Commodore;
  - (iii) the name of any person attending the meeting under subrule 49(e);
  - (iv) the business considered at the meeting;
  - (v) any motion on which a vote is taken at the meeting and the result of the vote.
- (c) The minutes of a Management Committee meeting must be entered in the Club's minute book within 30 days after the meeting is held.
- (d) The Commodore must ensure that the minutes of a Management Committee meeting are reviewed and signed as correct by:
  - (i) the chair of the meeting; or
  - (ii) the chair of the next Management Committee meeting.
- (e) When the minutes of a Management Committee meeting have been signed as correct they are, until the contrary is proved, 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 appointment purportedly made at the meeting was validly made.

Note for this rule:

Section 42(6) of the Act requires details relating to the disclosure of a committee member's material personal interest in a matter being considered at a committee meeting to be recorded in the minutes of the meeting.

## Division 6 — Subcommittees and subsidiary offices

### 55. Subcommittees and subsidiary offices

- (a) The by-laws may provide for the creation of subcommittees and the creation of subsidiary offices.
- (b) Subject to the by-laws, the Management Committee may, in writing, do either or both of the following:
  - (i) appoint one or more subcommittees;
  - (ii) create one or more subsidiary offices and appoint people to those offices.
- (c) Subject to the by-laws, a subcommittee may consist of the number of people, whether or not members, that the Management Committee considers appropriate.
- (d) A person may be appointed to a subsidiary office whether or not the person is a member.
- (e) Subject to the by-laws and any directions given by the Management Committee:
  - (i) a subcommittee may meet and conduct business as it considers appropriate; and

- (ii) the holder of a subsidiary office may carry out the functions given to the holder as the holder considers appropriate.

## 56. Delegation to subcommittees and holders of subsidiary offices

- (a) In this rule:
  - non-delegable duty** means a duty imposed on the Management Committee by the Act or another written law.
- (b) The Management Committee may, in writing, delegate to a subcommittee or the holder of a subsidiary office the exercise of any power or the performance of any duty of the Management Committee other than:
  - (i) the power to delegate; and
  - (ii) a non-delegable duty.
- (c) A power or duty, the exercise or performance of which has been delegated to a subcommittee or the holder of a subsidiary office under this rule, may be exercised or performed by the subcommittee or holder in accordance with the terms of the delegation.
- (d) The delegation may be made subject to any conditions, qualifications, limitations or exceptions that the Management Committee specifies in the document by which the delegation is made.
- (e) A delegation under this rule does not prevent the Management Committee from exercising or performing at any time the power or duty delegated.
- (f) Any act or thing done by a subcommittee, or by the holder of a subsidiary office, under a delegation under this rule has the same force and effect as if it had been done by the Management Committee.
- (g) The Management Committee may, in writing, amend or revoke the delegation.

## 57. Secretary

- (a) The Management Committee must:
  - (i) appoint in writing, pursuant to these rules, an official to be known as the secretary; and
  - (ii) provide appropriate office and other support to enable the secretary to perform the functions and carry out the responsibilities and duties of secretary.
- (b) Subject to these rules, the Management Committee delegates to the secretary the authority, power and functions of the secretary as set out in these rules, and may delegate in writing to the secretary such other authority, power and functions as the Management Committee sees fit.
- (c) The secretary has the following responsibilities:
  - (i) dealing with correspondence addressed to the Club;
  - (ii) consulting with the Commodore regarding the business to be conducted at each Management Committee meeting and general meeting;
  - (iii) preparing the notices required for meetings and for the business to be conducted at meetings;

- (iv) maintaining on behalf of the Club the register of members, and recording in the register any changes in the membership, as required under section 53(1) of the Act;
- (v) maintaining on behalf of the Club an up-to-date copy of these rules, as required under section 35(1) of the Act;
- (vi) unless another person is authorised by the Management Committee to do so, maintaining on behalf of the Club a record of Management Committee members and other persons authorised to act on behalf of the Club, as required under section 58(2) of the Act;
- (vii) ensuring the safe custody of the books of the Club, other than the financial records and financial reports;
- (viii) maintaining full and accurate minutes of Management Committee meetings and general meetings;
- (ix) carrying out any other responsibility given to the secretary under these rules or by the Management Committee.

## Part 6 — General Meetings of the Club

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### 58. Annual general meeting

- (a) Subject to the by-laws, the Management Committee must determine the date, time and place of the annual general meeting.
- (b) If the Commissioner's approval is needed under section 50(3)(b) of the Act to hold the annual general meeting more than 6 months after the end of the Club's financial year, the secretary must apply to the Commissioner for that approval within 4 months after the end of the financial year.
- (c) The ordinary business of the annual general meeting must be as follows:
  - (i) to confirm the minutes of the previous annual general meeting and of any general meeting held since then if the minutes of that meeting have not yet been confirmed;
  - (ii) to receive and consider:
    - A. the Management Committee's annual report on the Club's activities during the preceding financial year; and
    - B. the financial report of the Club for the preceding financial year presented under Part 5 of the Act; and
    - C. a copy of the report of the review or auditor's report on the financial report;
  - (iii) to declare all elected positions vacant;
  - (iv) to elect the Patron and any Vice-Patrons, the Management Committee members and, if applicable, other office holders of the Club;
  - (v) if desired, to appoint or remove a reviewer or auditor of the Club in accordance with the Act;
  - (vi) on the recommendation of the Management Committee, to increase the membership fee beyond the maximum amount provided for in the by-laws.

- (d) Any other business of which notice has been given in accordance with these rules may be conducted at the annual general meeting.

Note for this rule:

Unless the Commissioner approves otherwise, under section 50(3) of the Act the annual general meeting must be held within 6 months after the end of the association's financial year. If it is the first annual general meeting, section 50(2) of the Act provides that it may be held at any time within 18 months after incorporation.

## 59. Special general meetings and other general meetings

- (a) The Management Committee may convene a special general meeting.
- (b) The Management Committee must convene a special general meeting if at least 20% of the members require a special general meeting to be convened.
- (c) The members requiring a special general meeting to be convened must:
  - (i) make the requirement by written notice given to the secretary; and
  - (ii) state in the notice the business to be considered at the meeting; and
  - (iii) each sign the notice.
- (d) A special general meeting must be convened within 28 days after notice is given under paragraph (c)(i).
- (e) If the Management Committee does not convene a special general meeting within that 28 day period, the members making the requirement (or any of them) may convene the special general meeting.
- (f) A special general meeting convened by members under subrule (e):
  - (i) must be held within 3 months after the date the original requirement was made; and
  - (ii) may only consider the business stated in the notice by which the requirement was made.
- (g) The Club must reimburse any reasonable expenses incurred by the members convening a special general meeting under subrule (e).
- (h) The Management Committee may convene a general meeting not being a special general meeting or the annual general meeting.

## 60. Notice of business

- (a) A member may give notice of motion to be considered at a general meeting other than a special general meeting by giving written notice to the secretary at least 28 days before the meeting is convened.
- (b) The secretary must ensure that notice of motion given in accordance with paragraph (a) is included as an item of business on the notice of meeting of the next available general meeting.
- (c) Subject to these rules and the by-laws, the Commodore may direct the secretary as to items of business to be included on the notice of meeting of each general meeting.

## 61. Notice of general meetings

- (a) The secretary or, in the case of a special general meeting convened under subrule 59(e), the members convening the meeting, must give to each member:

- (i) at least 21 days' notice of a general meeting if a special resolution is to be proposed at the meeting; or
  - (ii) at least 14 days' notice of a general meeting in any other case.
- (b) The notice must:
- (i) specify the date, time and place of the meeting; and
  - (ii) indicate the general nature of each item of business to be considered at the meeting; and
  - (iii) if the meeting is the annual general meeting, include the names of the members who have nominated for election to the Management Committee under subrule 39(b); and
  - (iv) if a special resolution is proposed:
    - A. set out the wording of the proposed resolution as required by section 51(3) of the Act; and
    - B. state that the resolution is intended to be proposed as a special resolution.

Note for this paragraph:

Section 51(1) of the Act states that a resolution is a special resolution if it is passed:

- (a) at a general meeting of an incorporated association; and
- (b) by the votes of not less than three-fourths of the members of the association who cast a vote at the meeting.

## 62. Use of technology to be present at general meetings

- (a) The presence of a member at a general meeting need not be by attendance in person but may be by that member and each other member at the meeting being simultaneously in contact by telephone or other means of instantaneous communication.
- (b) A member who participates in a general meeting as allowed under subrule (a) is taken to be present at the meeting and, if the member votes at the meeting, the member is taken to have voted in person.

## 63. Presiding member and quorum for general meetings

- (a) The Commodore or, in the Commodore's absence, the Vice-Commodore must preside as chair of each general meeting.
- (b) If the Commodore and Vice-Commodore are absent or are unwilling to act as chair of a general meeting, the Management Committee members at the meeting must choose one of them to act as chair of the meeting.
- (c) The quorum for a general meeting is 20 voting members.
- (d) No business is to be conducted at a general meeting unless a quorum is present.
- (e) If a quorum is not present within 30 minutes after the notified commencement time of a general meeting, the meeting is adjourned to:
  - (i) the same time and day in the following week; and

- (ii) the same place, unless the chair specifies another place at the time of the adjournment or written notice of another place is given to the members before the day to which the meeting is adjourned.
- (f) If a quorum is not present within 30 minutes after the commencement time of a general meeting held under paragraph (e)(ii), the meeting lapses.

#### 64. Adjournment of general meeting

- (a) The chair of a general meeting at which a quorum is present may, with the consent of a majority of the voting members present at the meeting, adjourn the meeting to another time at the same place or at another place.
- (b) Without limiting subrule (a), a meeting may be adjourned:
  - (i) if there is insufficient time to deal with the business at hand; or
  - (ii) to give the members 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) 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 61.

#### 65. Voting at general meeting

- (a) On any question arising at a general meeting:
  - (i) subject to subrule (c), each voting member has one vote; and
  - (ii) voting members may vote only in person.
- (b) Except in the case of a special resolution, a motion is carried if a majority of the voting members present at a general meeting vote in favour of the motion.
- (c) If votes are divided equally on a question, the chair of the meeting has a second or casting vote.
- (d) If the question is whether or not to confirm the minutes of a previous general meeting, only voting members who were present at that meeting may vote.
- (e) For a person to be eligible to vote at a general meeting as a voting member, the voting member:
  - (i) must have been a voting member at the time notice of the meeting was given under rule 61; and
  - (ii) must have paid any fee or other money payable to the Club by the member.

#### 66. When special resolutions are required

- (a) A special resolution is required if it is proposed at a general meeting:
  - (i) to affiliate the Club 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) Subrule (a) does not limit the matters in relation to which a special resolution may be proposed.

Note for this rule:

Under the Act, a special resolution is required if an incorporated association proposes to do any of the following:

- (a) to adopt these model rules (section 29(1));
- (b) to alter its rules, including changing the name of the association (section 30(1));
- (c) to decide to apply for registration or incorporation as a prescribed body corporate (section 93(1));
- (d) to decide the terms of an amalgamation with one or more other incorporated associations (section 102(4));
- (e) to be wound up voluntarily (section 121(2)) or by the Supreme Court (section 124(a) and Schedule 4 item 9);
- (f) to cancel its incorporation (section 129).

## 67. Determining whether resolution carried

- (a) In this rule:

**poll** means the process of voting in relation to a matter that is conducted in writing.

- (b) Subject to subrule (d), the chair of a general meeting may, on the basis of general agreement or disagreement or by a show of hands, declare that a resolution has been:
  - (i) carried; or
  - (ii) carried unanimously; or
  - (iii) carried by a particular majority; or
  - (iv) lost.
- (c) If the resolution is a special resolution, the declaration under subrule (b) must identify the resolution as a special resolution.
- (d) If a poll is demanded on any question by the chair of the meeting or by at least 3 other voting members:
  - (i) the poll must be taken at the meeting in the manner determined by the chair; and
  - (ii) the chair must declare the determination of the resolution on the basis of the poll.
- (e) If a poll is demanded on the election of the chair or on a question of an adjournment, the poll must be taken immediately.
- (f) If a poll is demanded on any other question, the poll must be taken before the close of the meeting at a time determined by the chair.
- (g) A declaration under subrule (b) or subrule (d) must be entered in the minutes of the meeting, and the entry is, without proof of the voting in relation to the resolution, evidence of how the resolution was determined.

## 68. Minutes of general meeting

- (a) The secretary, or a person authorised by the Management Committee from time to time, must take and keep minutes of each general meeting.

- (b) The minutes must record the business considered at the meeting, any resolution on which a vote is taken, and the result of the vote.
- (c) In addition, the minutes of each annual general meeting must record:
  - (i) the names of the voting members attending the meeting; and
  - (ii) the financial report presented at the meeting, as referred to in subparagraph 58(c)(ii)B; and
  - (iii) the report of the review or auditor's report on the financial report presented at the meeting, as referred to in subparagraph 58(c)(ii)C.
- (d) The minutes of a general meeting must be entered in the Club's minute book within 30 days after the meeting is held.
- (e) The Commodore must ensure that the minutes of a general meeting are reviewed and signed as correct by:
  - (i) the chair of the meeting; or
  - (ii) the chair of the next 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 proof 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.

## Part 7 — Financial Matters

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### 69. Source of funds

The funds of the Club may be derived from entrance fees, annual subscriptions, donations, fund-raising activities, grants, interest and any other sources approved by the Management Committee.

### 70. Control of funds

- (a) The Club must open one or more accounts in the name of the Club with a financial institution from which all expenditure of the Club is made and into which all funds received by the Club are deposited.
- (b) Subject to any restrictions imposed by the by-laws or at a general meeting, only the Management Committee may approve expenditure on behalf of the Club.
- (c) The Management Committee may authorise the Treasurer to expend funds on behalf of the Club up to a specified limit without requiring approval from the Management Committee for each item on which the funds are expended.
- (d) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments of the Club must be signed by, and all electronic transfers of funds by the Club must be effected by, 2 persons, each of whom must be either:
  - (i) a Management Committee member; or

- (ii) a person authorised by the Management Committee.
- (e) All funds of the Club must be deposited into the Club's account within 5 business days after their receipt.
- (f) All payments by a member to the Club must be made in cash, by bank cheque or in cleared funds.
- (g) Unless otherwise agreed between the Club and the drawer, a cheque other than a bank cheque will be regarded as cleared 7 business days after its receipt.

#### 71. Financial records

- (a) The Club must keep financial records that:
  - (i) correctly record and explain its transactions, financial position and performance; and
  - (ii) enable a financial report to be prepared under Part 5 of the Act.
- (b) The Club must retain the financial records for at least 7 years after the transactions covered by the records are completed.

#### 72. Financial statements and financial reports

- (a) For each financial year, the Management Committee must ensure that the requirements imposed on the Club under Part 5 of the Act relating to the financial report of the Club are met.
- (b) Without limiting subrule (a), those requirements include:
  - (i) the preparation of the financial report; and
  - (ii) the review or auditing of the financial report, as applicable; and
  - (iii) the presentation to the annual general meeting of the financial report; and
  - (iv) the presentation to the annual general meeting of the copy of the report of the review or auditor's report, as applicable, on the financial report.

## Part 8 — Liquor Act

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#### 73. Definitions

In this Part 8:

**guest** means a person who, not being a member of the Club, is introduced to the Club by a member:

- (a) for purposes that include the consumption of alcohol on the Club's licensed premises; and
- (b) in accordance with the rules of the Club;

**Corporate nominee** means the holder of a position nominated by a Corporate member in accordance with subrule 79(c); and

the terms "Director", "licence", "licensed premises", "licensee", "meal", and "permitted hours" have the meanings given to them in the Liquor Act.

#### 74. General provisions

- (a) The Management Committee must ensure that the Club as licensee at all times complies with:
  - (i) the Liquor Act and any regulations made under that Act; and
  - (ii) the Club's licence and any conditions to which that licence is subject; and
  - (iii) these rules, as approved by the Director.
- (b) The number of persons admitted to any class of membership must not exceed any limit considered appropriate by the Club or imposed by the Director.
- (c) The rights and privileges of any member who has not reached the age of 18 years are restricted, in relation to use of Club premises and the consumption of liquor, in accordance with the provisions of the Liquor Act.

#### 75. Visitors

A member may introduce a visitor to the Club for social or other purposes connected with the member's enjoyment of the privileges of membership, but not including the consumption of alcohol by the visitor on the Club's licensed premises.

#### 76. Guests

- (a) A member may introduce up to 5 guests, or such greater or lesser number as may be permitted by the Liquor Act, to the Club's licensed premises during permitted hours on any one day.
- (b) The Club must not sell liquor to a member or the guest of a member for consumption by the guest on the Club's licensed premises unless the guest is in the company of the member.
- (c) A member may introduce more than 5 guests to the Club's licensed premises during permitted hours on any one day if the following requirements are met.
  - (i) The guests must be introduced for the purpose either:
    - A. of accompanying the member at a meal for which liquor may be supplied as ancillary to the meal, in which case the Club may sell liquor to the member and to the guests; or
    - B. of attending a function held by or on behalf of the member, in which case the Club will only sell liquor for consumption by the guests to the member.
  - (ii) The member must give the Club at least 24 hours' notice of the attendance stating the approximate number of guests.
  - (iii) The Club must approve the attendance.
  - (iv) The member must comply with any conditions imposed by the Club, including any limit on the number of guests.

#### 77. Temporary membership

- (a) A person who is visiting the Club on any day as a member or an official of another club is to be taken to have been accorded temporary membership of the Club for that day in accordance with subrules (b), (c) and (d).
- (b) The attendance must be for the purpose either:

- (i) of engaging in a pre-arranged event with the Club conducted for one of the principal purposes of the Club; or
  - (ii) of holding a pre-arranged function at the Club involving the use of the club's sporting facilities.
- (c) The pre-arranged event or function must have been approved by the Management Committee, the Commodore or the Vice-Commodore.
- (d) A person taken to be a temporary member under subrule (a) may, for the purposes of the pre-arranged event or function but subject to the provisions of the Liquor Act, these rules and the by-laws, use and enjoy the Club's grounds and facilities.
- (e) Any Management Committee member (in this subrule **authorised person**) may admit a person to temporary membership of the Club in accordance with the following provisions.
- (i) The period of membership must not be longer than 2 days.
  - (ii) The authorised person must record the name and address (which may be a residential, postal or email address) of the person admitted, and the date or dates for which the person is admitted.
  - (iii) The record is to form part of the register of members that the Club is required to maintain under the Act.
  - (iv) The period of membership is from the time the record is made until midnight on the day or second day of admission.
  - (v) Subject to the Liquor Act, these rules and the by-laws, the person admitted may use and enjoy the Club's grounds and facilities as determined by the authorised person.

## 78. Reciprocal membership

The Management Committee may make arrangements for reciprocity of membership with another club:

- (a) in Western Australia having principal objects the same as, or which include, the principal objects of the Club; or
- (b) in another state or a territory of Australia; or
- (c) in New Zealand.

## 79. Corporate membership

- (a) A body corporate that wishes to support the objects or purposes of the Club may be elected to Corporate membership.
- (b) The by-laws may provide for different classes of Corporate membership with different rights and privileges.
- (c) In its application for membership, a body corporate may nominate up to 3 positions within its organisational structure, for example Managing Director, Chief Executive Officer and Chief Financial Officer, the holders of which (its **Corporate nominees**) will be entitled to exercise and enjoy the rights and privileges of the Corporate member set out in the by-laws.
- (d) The application must list the nominated positions and the names of the current Corporate nominees, and if elected to membership the Corporate member must notify the Club as soon as reasonably practicable of any change in the list.

- (e) The procedure for election to Corporate membership is the same as for election of any member.

## Part 9 — General Matters

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### 80. By-laws

- (a) The Club may, by resolution of the voting members at a general meeting, make, amend or revoke by-laws.
- (b) By-laws may:
  - (i) provide for the rights and obligations that apply to any class of membership approved under rule 10; and
  - (ii) impose restrictions on the Management Committee's powers, including the power to dispose of the Club's assets; and
  - (iii) impose requirements relating to the financial reporting and financial accountability of the Club and the auditing of the Club's accounts; and
  - (iv) provide for any other matter the Club considers necessary or convenient to be dealt with in the by-laws.
- (c) A by-law is of no effect to the extent that it is inconsistent with the Act, regulations made under the Act or these rules.
- (d) Without limiting subrule (c), a by-law made for the purposes of paragraph (b)(iii) may only impose requirements on the Club that are additional to, and do not restrict, a requirement imposed on the Club under Part 5 of the Act.
- (e) At the request of a member, the Club must make a copy of the by-laws available for inspection by the member.

### 81. Executing documents and common seal

- (a) The Club may execute a document without using a common seal if the document is signed by:
  - (i) 2 Management Committee members; or
  - (ii) one Management Committee member and a person authorised by the Management Committee.
- (b) The name of the Club must appear in legible characters on the common seal.
- (c) A document may only be sealed with the common seal by the authority of the Management Committee and in the presence of:
  - (i) 2 Management Committee members; or
  - (ii) one Management Committee member and a person authorised by the Management Committee,and each of them is to sign the document to attest that the document was sealed in their presence.
- (d) The secretary must make a written record of each use of the common seal.

- (e) The common seal must be kept in safe custody at the Club's premises or at another place determined by the Management Committee.

## 82. Giving notices to members

- (a) In this rule:

**recorded** means recorded in the register of members.

- (b) A notice or other document that is to be given to a member under these rules is taken not to have been given to the member unless it is in writing and:
  - (i) delivered by hand to the recorded address of the member; or
  - (ii) sent by prepaid post to the recorded postal address of the member; or
  - (iii) sent by facsimile or electronic transmission to an appropriate recorded number or recorded electronic address of the member.
- (c) A notice or other document given to a member under these rules is taken to be received by the member:
  - (i) in the case of delivery by hand, on delivery;
  - (ii) in the case of prepaid post, on the third day after the date of posting;
  - (iii) in the case of facsimile transmission, at the time in the place to which it was sent equivalent to the time shown on the transmission confirmation report produced by the facsimile machine from which it was sent or other verification of the time of sending; and
  - (iv) in the case of electronic transmission, at the time when the electronic transmission reaches the member's recorded electronic address,

but if the notice is taken to be received on a day that is not a business day or after 5.00 pm on a business day, it is taken to be received at 9.00 am on the next business day.

## 83. Custody of books and securities

- (a) The books and any securities of the Club, and the financial records and financial reports of the Club, must be kept in safe custody at the Club's premises, or at another place determined by the Management Committee.
- (b) The books of the Club must be retained for at least 7 years.

## 84. Record of office holders

The record of Management Committee members and other persons authorised to act on behalf of the Club that is required to be maintained under section 58(2) of the Act must be kept in safe custody at the Club's premises, or at another place determined by the Management Committee.

### Note for this rule:

Section 58 of the Act:

- (a) sets out the details of the record that an incorporated association must maintain of the committee members and certain others; and
- (b) provides for members to inspect, make a copy of or take an extract from the record; and
- (c) prohibits a person from disclosing information in the record except for authorised purposes.

## 85. Inspection of records and documents

- (a) This rule applies to a member who wants to inspect:
  - (i) the register of members under section 54(1) of the Act; or
  - (ii) the record of the names and addresses of Management Committee members under section 58(3) of the Act; or
  - (iii) any other record or document of the Club.
- (b) The member must contact the secretary to make the necessary arrangements for the inspection.
- (c) The inspection must be free of charge.
- (d) If the member wants to inspect a document that records the minutes of a Management Committee meeting, the right to inspect that document is subject to any decision the Management Committee has made about minutes of Management Committee meetings generally, or the minutes of a specific Management Committee meeting, being available for inspection by members.
- (e) The member may inspect a record or document referred to in paragraph (a)(iii) subject to the following provisions.

**Note for this subrule:**

Sections 54(2) and 58(4) of the Act provide for the making of copies of, or the taking of extracts from, the register referred to in paragraph (a)(i) and the record referred to in paragraph (a)(ii).

- (f) The member is not entitled to inspect any record or document in respect of which the Club has a duty or obligation to maintain confidentiality including, without limitation, records relating to staff.
- (g) The Management Committee, acting reasonably, may refuse to allow the member to inspect any record or document, or may allow inspection only subject to redaction, but must give the member its reasons for the refusal or redaction.
- (h) The member may make a copy of or take an extract from a record or document that the member has been permitted to inspect under subrule (e) subject to the following provisions.
  - (i) The member does not have a right to remove the record or document.
  - (ii) The Management Committee may require the member to provide a statutory declaration setting out the purpose for which the copy or extract is required and declaring that the purpose is:
    - A. directly connected with the affairs of the Club; or
    - B. related to complying with a requirement of the Act.
- (i) The member must not use or disclose information in a record or document referred to in paragraph (a)(iii) except for a purpose:
  - (i) that is directly connected with the affairs of the Club; or
  - (ii) that is related to complying with a requirement of the Act.

**Note for this subrule:**

Sections 57(1) and 58(5) of the Act impose restrictions on the use or disclosure of information in the register referred to in paragraph (a)(i) and the record referred to in paragraph (a)(ii).

**86. Publication by Management Committee members of statements about Club business prohibited**

- (a) In this rule **Management Committee member** includes:
- (i) the Immediate Past Commodore; and
  - (ii) a person invited to attend a Management Committee meeting as provided for in subrule 49(f).
- (b) A Management Committee member must not publish, or cause to be published, any statement about the business conducted by the Club at a general meeting or Management Committee meeting unless:
- (i) the Management Committee member has been authorised to do so at a Management Committee meeting; and
  - (ii) the authority given to the Management Committee member has been recorded in the minutes of the Management Committee meeting at which it was given.

**87. Distribution of surplus property on cancellation of incorporation or winding up**

- (a) In this rule:
- surplus property**, in relation to the Club, means property remaining after satisfaction of:
- (i) the debts and liabilities of the Club; and
  - (ii) the costs, charges and expenses of winding up or cancelling the incorporation of the Club,
- but does not include books relating to the management of the Club.
- (b) On the cancellation of the incorporation or the winding up of the Club, its surplus property must be distributed as determined by special resolution by reference to the persons mentioned in section 24(1) of the Act.

**Note for this subrule:**

Section 24(1) of the Act sets out a provision that is implied in these rules describing the entities to which the surplus property of an incorporated association may be distributed on the cancellation of the incorporation or the winding up of the association. Part 9 of the Act deals with the winding up of incorporated associations, and Part 10 of the Act deals with the cancellation of the incorporation of incorporated associations.

**88. Alteration of rules**

If the Club wants to alter or rescind any of these rules, or to make additional rules, the Club may do so only by special resolution and by otherwise complying with Part 3 Division 2 of the Act.

**Note for this rule:**

Section 31 of the Act requires an incorporated association to obtain the Commissioner's approval if the alteration of an incorporated association's rules has effect to change the name of the association.

Section 33 of the Act requires an incorporated association to obtain the Commissioner's approval if the alteration of an incorporated association's rules has effect to alter the objects or purposes of the association or the manner in which surplus property of the association must be distributed or dealt with if the association is wound up or its incorporation is cancelled.

89. Transitional

A person appointed or elected to a position or acting in any capacity pursuant to the then constitution of the Club and holding that position or capacity immediately before the adoption of these rules by the Club shall be deemed to have been appointed or elected pursuant to these rules and shall continue to hold that position or act in that capacity as if appointed or elected pursuant to these rules.