

St Kilda Police and Citizens Youth Club Incorporated

Reg. No. A0015847X, ABN 68 206 026 983

CONSTITUTION

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PART 2 – NAME AND PURPOSE

2. Name

2.1 The name of the incorporated association is “St Kilda Police and Citizens Youth Club Incorporated” (in this constitution, “the Club”).

2.2 The name and registration number of the Club must appear in legible characters in all notices, advertisements and other official publications of the Club, and in all its business documents.

See section 23 of the Act*.

3. Purpose

The purpose of the Club is “empowering youth for life” by providing recreational, sporting, cultural, educational, health and welfare programs, predominantly for disadvantaged young people.

4. Legal Capacity and Powers

4.1 The Club has the legal capacity of an incorporated body.

See section 29(2) of the Act*.

4.2 The Club has power to do anything incidental or conducive to the attainment of its purpose.

See section 30(d) of the Act*.

4.3 The Club may only:

- (a) exercise its powers; and
- (b) use its income and assets (including any surplus);

for its purpose.

5. Not For Profit Organisation

5.1 The Club must not distribute any surplus, income or assets directly or indirectly to its members.

See section 33 of the Act*.

5.2 Clause 5.1 does not prevent the Club from paying its members:

- (a) reimbursement for expenses properly incurred by them, and
- (b) for goods supplied and services provided by them,

if this is done in good faith on terms no more favourable than if the member were not a member.

See section 4 of the Act*.

PART 3 – MEMBERSHIP

6. Categories

6.1 The Club has the following categories of membership:

- (a) full members,
- (b) associate members, and
- (c) supporter organisations.

6.2 The Board may by regulation* create subcategories of membership, including life membership.

6.3 In this constitution, “category” when referring to membership includes subcategory.

7. Eligibility

7.1 Full membership is open to individuals who wish:

- (a) to participate in the business of the Club; and
- (b) to use the facilities of the Club.

7.2 Associate membership is open to individuals and families who wish to use the facilities of the Club.

7.3 Membership as a supporter organisation is open to organisations that wish to support the Club.

7.4 In clause 7.3, “organisations” include businesses, not-for-profit organisations and government bodies, subject to clause 7.5.

7.5 An organisation that is not incorporated may only become a supporter organisation by nominating an individual or incorporated body to be a member on its behalf.

8. Applications

- 8.1 The Board must by regulation* prescribe the form of applications for membership.
- 8.2 The prescribed form must include a statement that the applicant agrees to comply with the constitution and regulations* of the Club.
- 8.3 Applications for membership must be:
- (a) in the prescribed form;
 - (b) accompanied by the first subscription; and
 - (c) given to the Club.

9. Approval

- 9.1 The Board must:
- (a) by resolution approve or reject the application; and
 - (b) notify the applicant in writing* whether the application has been approved or rejected.
- 9.2 No reason need be given for the rejection of an application.
- 9.3 If the Board approves the application:
- (a) the applicant becomes a member from the date of the Board meeting; and
 - (b) the name and address of the new member, category of membership and the date of becoming a member must be entered in the register of members.
- 9.4 If the Board rejects the application, it must return the subscription to the applicant.
- 9.5 The Board may by regulation* delegate its power to approve applications for associate membership to the Manager and other employees.

10. Subscriptions

- 10.1 The Board must by regulation* set the subscription.
- 10.2 The first subscription may include a joining fee.
- 10.3 The amount of the subscription and the date for payment may vary according to criteria set by the Board in the regulation*, including the category of membership.
- 10.4 The rights of members who have not paid the subscription by the date for payment are suspended until the subscription is paid.

- 10.5 The Board may by regulation* set other amounts to be paid in respect of membership of the Club.

11. Rights, Obligations and Liability

- 11.1 The rights of full members include:
- (a) to submit items of business for consideration at general meetings under clause 20.3;
 - (b) to receive notice of general meetings under clause 20;
 - (c) to participate in general meetings under clause 23;
 - (d) to elect the Board under clause 26; and
 - (e) to have access to the records of the Club under clause 58; and
 - (f) to use the facilities of the Club.

See sections 53, 57, 60 and 61 of the Act*.

- 11.2 The rights of associate members include to use the facilities of the Club.
- 11.3 Associate members and supporter organisations do not have the rights of full members under clauses 11.1(a)–11.1(e).
- 11.4 The rights of members are not transferable, and end when the member ceases to be a member in accordance with clause 14.
- 11.5 By becoming and remaining members, members agree to support the purpose of the Club.
- 11.6 Members agree that all intellectual property created by them while participating in the Club belongs to the Club and must not be used without its permission.
- 11.7 Members must at all times comply with the constitution and regulations*.
- 11.8 This constitution is an enforceable contract between the Club and each member.

See sections 46 and 67 of the Act*.

- 11.9 Members (including Board members) are not liable to contribute to the debts and liabilities of the Club only because of their membership.

See section 52(1) of the Act*.

12. Disciplinary Action

- 12.1 The Board may by resolution passed by an absolute majority* reprimand, suspend or expel a member for:
- (a) failing to comply with the constitution or regulations*; or
 - (b) conduct prejudicial to the Club.
- 12.2 The Board must not pass a resolution under clause 12.1 unless the member concerned has been:
- (a) informed of the grounds for the proposed disciplinary action; and
 - (b) given a reasonable opportunity to be heard.
- See section 54(3)(a) of the Act*.
- 12.3 The Board:
- (a) may delegate its powers under this clause to a disciplinary committee appointed by the Board; and
 - (b) must do so if any Board member is biased against (or in favour of) the member concerned.
- See section 54(3)(b) of the Act*.
- 12.4 The members of the disciplinary committee:
- (a) need not be Board members or members of the Club; but
 - (b) must not be biased against (or in favour of) the member concerned.
- See section 54(3)(b) of the Act*.
- 12.5 Clauses 12.1 and 12.2 apply to the disciplinary committee in the same way as the Board.
- 12.6 The disciplinary procedure under this clause must be completed as soon as is reasonably practicable.
- See section 54(3)(c) of the Act*.
- 12.7 The Club must not take disciplinary action under this clause against a member who is involved in the grievance procedure under clause 16 until the grievance procedure has been completed.
- Compare section 55(4) of the Act*.
- 12.8 The Club may not fine members.

13. Resignation

- 13.1 Members may resign by writing* to the Club.

- 13.2 Members whose subscriptions are more than 3 months in arrears are taken to have resigned.

14. Cessation

- 14.1 Members cease to be members on resignation, expulsion or ceasing to exist.
- 14.2 If a member ceases to be a member:
- (a) the date of ceasing to be a member must be entered in the register of members; and
 - (b) the address, category of membership and date of becoming a member of the former member must be removed from the register of members;
- within 14 days.
- See sections 56(3) and 56(4) of the Act*.

15. Register of Members

- 15.1 The Board must ensure that a register is kept containing:
- (a) for current members:
 - (i) the name of the member,
 - (ii) the address for notices last given by the member,
 - (iii) the category of membership, and
 - (iv) the date of becoming a member; and
 - (b) for former members:
 - (i) the name of the member, and
 - (ii) the date of ceasing to be a member.

See section 56 of the Act*.

- 15.2 Full members may inspect the register in accordance with clause 58.

See section 57 of the Act*.

16. Grievance Procedure

- 16.1 The grievance procedure in this clause applies to disputes under this constitution between:
- (a) a member and another member, and
 - (b) a member and the Board or the Club.
- 16.2 The parties must first attempt to resolve the dispute themselves.

16.3 If the parties are unable to resolve the dispute, the Board must appoint a conciliator and arbitrator (in this clause, “conciliator”).

16.4 The conciliator:

(a) must not have a personal interest in the dispute;

(b) must not be biased in favour of or against any party;

See section 55(3)(b) of the Act*.

(c) may be a member or former member of the Club; and

(d) if possible, must be appointed with the agreement of all parties.

16.5 The conciliator must conduct a conciliation at which each party is given a reasonable opportunity to be heard.

See section 55(3)(a) of the Act*.

16.6 The parties must in good faith attempt to resolve the dispute by conciliation.

16.7 The conciliator may during, and must at the end of, the conciliation attempt to resolve the dispute by agreement between the parties.

16.8 If the conciliator is unable to resolve the dispute by agreement between the parties, the conciliator must determine the respective rights and obligations under this constitution of the parties and any other members.

16.9 A determination of a conciliator under clause 16.8 is binding on the parties and all members.

16.10 A party may appoint another person to act on its behalf in the grievance procedure.

See section 55(2) of the Act*.

16.11 A member who is the subject of a disciplinary procedure under clause 12 must not initiate the grievance procedure under this clause until the disciplinary procedure has been completed.

See section 54(4) of the Act*.

16.12 The State, Territory and Commonwealth Acts applying to commercial arbitrations do not apply to the grievance procedure in this clause.

17. Patrons

17.1 The Board may by resolution passed by an absolute majority* appoint eminent individuals to be patrons of the Club.

17.2 Patrons may, but need not, be members of the Club.

PART 4 – GENERAL MEETINGS

18. Annual General Meeting

18.1 The Board must convene* an annual general meeting each year.

See section 63(1) of the Act*.

18.2 The annual general meeting must be held within 5 months after the end of the Club’s financial year under clause 51.

See section 63(4) of the Act*.

18.3 At the annual general meeting, the Board must submit to the members:

(a) the financial statements for the last financial year prepared in accordance with clause 54, and

(b) if required by clause 55 – the accompanying review or audit report.

See sections 94, 97 and 100 of the Act*.

18.4 The ordinary business of the annual general meeting is:

(a) to verify the minutes of:

(i) the last annual general meeting, and

(ii) any special general meetings since the last annual general meeting;

(b) to consider the annual report of the Board on the activities of the Club during its last financial year; and

(c) to consider the financial statements and any accompanying review or audit report.

18.5 The annual general meeting may only consider other business of which notice has been given in accordance with clause 20.2(b).

18.6 At, or as soon as practicable after, the conclusion of the annual general meeting, a Board member must certify in the form approved by the Registrar* that:

(a) the Board member attended the annual general meeting; and

(b) the financial statements were submitted to the members at the annual general meeting.

See sections 94(3), 97(3) and 100(3) of the Act*.

- 18.7 The Secretary must lodge with the Registrar*:
- (a) an annual statement in the form approved by the Registrar*,
 - (b) the financial statements and any accompanying review or audit report, and
 - (c) a statement of the terms of any resolution passed at the annual general meeting concerning the financial statements,

within 1 month after the annual general meeting.

See section 102 of the Act*.

19. Special General Meetings

- 19.1 The Board may by resolution convene* a special general meeting whenever it considers appropriate.
- 19.2 The Board must convene* a special general meeting if requested in writing* by at least 25% of members entitled to vote.
- 19.3 The request:
- (a) must state the business to be considered at the meeting, including any resolution to be proposed;
 - (b) may consist of multiple copies of the same document;
 - (c) must include the names, addresses and signatures of the members making the request; and
 - (d) must be given to the Club.
- 19.4 If the Board does not arrange for the special general meeting to be held within 6 weeks of the request being made, the members making the request (or any of them) may convene* the special general meeting.
- 19.5 A special general meeting convened by members under clause 19.4:
- (a) must be held within 3 months of the original request having been made; and
 - (b) may only consider the business stated in the original request.
- 19.6 The Club must reimburse all reasonable expenses incurred by the members convening a special general meeting under clause 19.4.

- 19.7 Special general meetings may only consider business of which notice has been given in accordance with clause 20.2(b).

20. Notice

- 20.1 At least 21 days notice in writing* of general meetings must be given to each member entitled to vote.

See section 60 of the Act*.

- 20.2 The notice must state:

- (a) the date, time and place (or places) of the meeting,

See section 60(a) of the Act*.

- (b) the general nature of each item of business to be considered, and

- (c) if a special resolution* is to be proposed:

- (i) the proposed resolution in full, and
- (ii) the intention to propose the resolution as a special resolution*.

See section 64(3) of the Act*.

- 20.3 The notice must include under clause 20.2(b) any item of business that any member entitled to vote has requested in writing* be considered at least 28 days before the notice is sent.

- 20.4 Despite clause 20.1, the accidental omission to give notice of the meeting to a member or members, or the non-receipt by a member or members of notice of the meeting does not invalidate the meeting.

21. Quorum

- 21.1 The quorum for consideration of the ordinary business of the annual general meeting is the presence of at least 10 members entitled to vote.
- 21.2 The quorum for consideration of a proposed resolution (including a special resolution) recommended by the Board is the presence of at least 10% of members entitled to vote.
- 21.3 The quorum for the consideration of all other business at general meetings is the presence of at least 25% of members entitled to vote.
- 21.4 If a quorum is not present within 30 minutes from the time of the meeting of which notice has been given, the meeting must not proceed.

22. Chairing

- 22.1 The President is entitled to chair general meetings.
- 22.2 If the President is not present, or does not wish to chair the meeting, the Vice-President is entitled to chair.
- 22.3 If neither the President nor the Vice-President is present, or if neither wishes to chair the meeting, the meeting must elect another member to chair.
- 22.4 The chair of the meeting does not have a casting vote.

23. Participation

All full members are entitled to attend and speak and vote at general meetings, except those whose rights have been suspended under clause 10.4 or 12.1.

See section 61 of the Act*.

24. Voting

- 24.1 Each full member has 1 vote.
- 24.2 Members may only vote in person. There is no voting by proxy.
- 24.3 Voting is by show of hands, unless a count is demanded.
Compare section 65(2) of the Act*.
- 24.4 Any member entitled to vote (including the chair of the meeting) may demand a count before or immediately after the declaration of the result on a show of hands.
Compare section 65(3) of the Act*.
- 24.5 If a count is demanded, the votes of each member must be counted, as directed by the chair of the meeting.
- 24.6 If an equal number of votes are cast for and against a motion or amendment, the chair of the meeting must declare the motion or amendment lost.
- 24.7 The declaration by the chair of the meeting of the result of the vote is conclusive evidence of that result.
Compare section 65(1) of the Act*.

PART 5 – THE BOARD

25. Membership

The Board has:

- (a) 6 elected Board members – 2 elected each year under clause 26, with staggered 3 year terms; and
- (b) up to 3 co-opted Board members – appointed under clause 28.

26. Election

- 26.1 Only full members who are:
- (a) entitled to vote at the close of nominations; and
 - (b) not employees of the Club;
- are eligible to be elected as Board members.
- 26.2 At least 7 weeks before the annual general meeting notice in writing* of the close of nominations must be given to each member entitled to vote. The notice may include a nomination form.
- 26.3 The Board may by regulation* prescribe a nomination form for the purposes of this clause, in which case nominations must be in the prescribed form.
- 26.4 Nominations must be received by the Club no later than 5.00 pm on the last business day 5 weeks before the annual general meeting.
- 26.5 Either the original nomination must be received, or a copy received electronically in accordance with the regulations*.
- 26.6 The Board must by regulation* provide for candidate statements and photographs to be submitted before the close of nominations and published to members entitled to vote before the ballot opens.
- 26.7 If the number of nominations received is 2 or fewer, those candidates are elected.
- 26.8 If the number of nominations received is more than 2, a ballot must be held in accordance with clause 27.

27. Ballot

- 27.1 The ballot must be a secret ballot.
- 27.2 The ballot may be conducted by post, online, or by any other means approved by the Board by regulation*.

- 27.3 All full members at the close of nominations are entitled to vote, except those whose rights have been suspended under clause 10.4 or 12.1.
- 27.4 Notice in writing* of the ballot must be given to all members entitled to vote before the ballot opens.
- 27.5 The ballot must remain open for at least 2 weeks.
- 27.6 Each member entitled to vote may only vote once.
- 27.7 The voting system is first past the post.
- 27.8 Members may vote for up to 2 candidates.
- 27.9 The ballot must close at 5.00 pm on the last business day 1 week before the annual general meeting.
- 27.10 The 2 candidates who receive the most votes are elected, subject to clause 27.11.
- 27.11 If 2 or more candidates receive the same number of votes, and 1 or some but not all of those candidates must be elected, the candidate or candidates to be elected must be decided by lot.

28. Co-option

- 28.1 The Board may:
- (a) at its first meeting after each annual general meeting, and
 - (b) at any subsequent meeting,
- co-opt up to 3 additional Board members.
- 28.2 Only individuals who:
- (a) have relevant experience and expertise;
 - (b) are (or become) full members; and
 - (c) are not employees of the Club;
- are eligible to be co-opted.
- 28.3 The Board may by resolution decide when the term of office of a co-opted Board member is to begin and end.
- 28.4 Before co-opting Board members, the Club may call for expressions of interest, by advertisement or otherwise.

29. Term of Office

- 29.1 Elected Board members hold office:
- (a) from the end of the first annual general meeting after they are elected,
 - (b) until the end of the fourth annual general meeting after they are elected,
- subject to clauses 29.3–29.6.
- 29.2 Co-opted Board members hold office:
- (a) from the time they are co-opted,
 - (b) until the end of the annual general meeting after they are co-opted,
- subject to clauses 28.3 and 29.3–29.6.
- 29.3 Board members may be re-elected and co-opted again.
- 29.4 Board members may resign by writing* to the Board.
- See section 78(2)(a) of the Act*.
- 29.5 Board members cease to be Board members if they:
- (a) cease to be a full member of the Club;
 - (b) become an employee of the Club;
 - (c) fail to attend 3 consecutive Board meetings without leave of absence under clause 47;
 - (d) become insolvent under administration; or
- See section 38 of the Victorian *Interpretation of Legislation Act 1984*.
- (e) become a represented person under the Victorian *Guardianship and Administration Act 1986*.
- See section 78(2) of the Act*.
- 29.6 A general meeting may by resolution passed by a simple majority:
- (a) remove any Board member; and
 - (b) fill the resulting vacancy.
- Compare section 78(2)(b) of the Act*.
- 29.7 If there is a vacancy in its membership (including a vacancy in accordance with clause 29.6(a) not filled under clause 29.6(b)), the Board may appoint a full member who is not an employee of the Club to fill the vacancy for the remainder of the term of office.

- 29.8 The Board may continue to act despite any vacancy in its membership.
- 29.9 Even if it is subsequently found that a person who has acted as a Board member was not properly elected or appointed, the validity of:
- (a) the acts of that person as a Board member, and
 - (b) decisions of Board meetings in which that person has participated,
- is not affected.

30. Responsibility and Powers

- 30.1 The Board is responsible for both the governance and management of the Club.
- 30.2 The Board must by regulation* delegate the management of the Club to the Manager.
- 30.3 The Board may exercise all powers of the Club on its behalf.
- 30.4 The Board may delegate its powers as it considers appropriate.
- 30.5 No delegation by the Board under this clause limits the duties and liability of each Board member.

31. Committees

The Board may by regulation* or resolution establish committees with such membership and terms of reference as it considers appropriate.

32. Regulations

- 32.1 The Board may by resolution passed by an absolute majority* make regulations to give effect to this constitution.
- 32.2 Members must at all times comply with the regulations as if they formed part of this constitution.

33. Public Statements

- 33.1 The Board may by regulation* or resolution authorise an office-bearer, employee or representative of the Club to make public statements on behalf of the Club.
- 33.2 No person may make any public statement on behalf of the Club unless authorised by the Board.

34. Duties

- 34.1 Board members and former Board members must not make improper use of:
- (a) their position, or
 - (b) information acquired by virtue of holding their position,
- so as:
- (c) to gain an advantage for themselves or any other person; or
 - (d) to cause detriment to the Club.

See section 83 of the Act*.

- 34.2 Board members must exercise their powers and discharge their duties with reasonable care and diligence.

See section 84 of the Act*.

- 34.3 Board members must exercise their powers and discharge their duties:
- (a) in good faith in the best interests of the Club; and
 - (b) for a proper purpose.

See section 85 of the Act*.

35. Indemnity

The Club indemnifies Board members against any liability incurred in good faith by them in the course of performing their duties.

See section 87 of the Act*.

PART 6 – OFFICE-BEARERS

36. Positions

The office-bearers of the Club are:

- (a) the President,
- (b) the Vice-President,
- (c) the Treasurer, and
- (d) the Secretary.

37. Election

- 37.1 The Board must at its first meeting after the annual general meeting each year elect the office-bearers (other than the Secretary) from among the Board members.
- 37.2 Office-bearers may be re-elected, subject to clause 37.3.

- 37.3 An office-bearer who has held a position for 5 terms (including filling a vacancy) is not eligible to hold that position again.

38. Term of Office

- 38.1 Office-bearers hold office from the time of their election until their successor is elected, subject to clauses 38.2–38.5.
- 38.2 Office-bearers may resign by writing* to the Board.
- 38.3 Office-bearers who cease to be Board members, other than by the expiry of their term of office, cease to be office-bearers.
- 38.4 Office-bearers may be removed by resolution of the Board passed by an absolute majority*.
- 38.5 The Board must as soon as practicable fill vacancies in office-bearer positions for the remainder of the term.
- 38.6 This clause does not apply to the Secretary.

39. Secretary

- 39.1 The Manager is the Secretary of the Club, subject to clauses 39.5–39.8 and 49.3(b).
- 39.2 The Secretary is the secretary of the Club for the purposes of the Act*.
- 39.3 The Secretary must notify the Registrar* of:
- (a) their appointment, and
 - (b) any change of address,
- within 14 days.
- See sections 74 and 74A of the Act*.
- 39.4 The Secretary whose appointment was last notified to the Registrar* remains the secretary of the Club in some circumstances under the Act* until the appointment of a new Secretary is notified.
- See section 215 of the Act*.
- 39.5 The Secretary may resign by writing* to the Board.
- See section 78(2)(a) of the Act*.
- 39.6 A general meeting may by special resolution* remove the Secretary.
- See section 78(2)(b) of the Act*.
- 39.7 The Board must fill any vacancy in the position of Secretary within 14 days.
- See section 73 of the Act*.

- 39.8 If the position of Manager is vacant, the Board may appoint another employee or a Board member as acting Secretary until the vacancy is filled.

PART 7 – BOARD MEETINGS

40. Convening

- 40.1 The Secretary, President or any other 3 Board members may convene* a Board meeting.
- 40.2 Ordinary Board meetings must be held at least 6 times each year.
- 40.3 At its first meeting after the annual general meeting each year the Board must by resolution set the dates, times and places of ordinary Board meetings until the next annual general meeting.
- 40.4 The Board may by resolution subsequently change the dates, times and places of ordinary meetings.

41. Notice

- 41.1 Each Board member must be given at least 7 days notice in writing* of Board meetings, subject to clause 41.4.
- 41.2 Notice may be given of more than 1 Board meeting at the same time.
- 41.3 The notice must state the date, time and place (or places) of the meeting, but need not include the business to be considered.
- 41.4 In cases of urgency a meeting may be held without the notice required by clause 41.1, provided that:
- (a) as much notice as practicable is given to each Board member by the quickest practicable means; and
 - (b) resolutions may only be passed by an absolute majority*.

42. Use of Technology

- 42.1 Board meetings may be held at more than 1 place, provided that the technology used enables each Board member present at all places the meeting is held to communicate clearly and simultaneously with every other such Board member.
- See section 79 of the Act*.

- 42.2 Without limiting clauses 41.4(a) and 42.1, Board meetings may be convened* and held by telephone.

43. Quorum

The quorum for Board meetings is the presence in person of a majority of Board members at the time.

44. Chairing

- 44.1 The President is entitled to chair Board meetings.
- 44.2 If the President is not present, or does not wish to chair the meeting, the Vice-President is entitled to chair.
- 44.3 If neither the President nor the Vice-President is present, or if neither wishes to chair the meeting, the Board must elect another Board member to chair.
- 44.4 The chair of the meeting does not have a casting vote.

45. Voting

- 45.1 Each Board member has 1 vote.
- 45.2 There is no voting by proxy.
- 45.3 If an equal number of votes are cast for and against a motion or amendment, the chair of the meeting must declare the motion or amendment lost.

46. Conflict of Interest

- 46.1 Board members who have a material personal interest in a matter that is being considered at a Board meeting must:
- (a) disclose the nature and extent of their interest:
 - (i) to the Board as soon as they become aware of the interest; and
 - (ii) at the next general meeting;
 - (b) not be present while the matter is being considered at the meeting; and
 - (c) not vote on the matter.
- See sections 80 and 81 of the Act*.
- 46.2 Clause 46.1 does not apply to material personal interests that:
- (a) exist only because the Board member belongs to a class of persons for whose benefit the Club is established; or

- (b) the Board member has in common with all or a substantial proportion of the members of the Club.

See sections 80 and 81 of the Act*.

47. Leave of Absence

- 47.1 The Board may by resolution grant Board members leave of absence from Board meetings for up to 3 months.
- 47.2 The Board may not grant leave of absence retrospectively unless it is satisfied that it was not feasible for the Board member concerned to seek leave of absence in advance.

48. Resolutions without Meeting

- 48.1 A resolution agreed to in writing* by all Board members has the same effect as a resolution passed at a Board meeting.
- 48.2 In clause 48.1, “all Board members” does not include those Board members who:
- (a) would be prohibited by clause 46.1(c) from voting on the matter at a Board meeting; or
 - (b) have leave of absence from Board meetings under clause 47.

PART 8 – FINANCIAL AND LEGAL

49. Manager

- 49.1 The Board must appoint a Manager of the Club.
- 49.2 The Manager is responsible to the Board for the management of the Club.
- 49.3 The Manager:
- (a) must be the Secretary of the Club; and
 - (b) ceases to be the Secretary on ceasing to be Manager.
- 49.4 The Manager must attend all Board meetings, unless excused or requested not to by the Board.

50. Sources of Funds

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

51. Financial Year

The financial year of the Club is from 1 July to 30 June, unless the Board by regulation* adopts a different financial year.

52. Management of Funds

52.1 The Board is responsible for the management of the funds of the Club.

52.2 The Club must keep financial records that:

- (a) correctly record and explain its transactions and financial position and performance; and
- (b) would enable true and fair financial statements to be prepared in accordance with clause 54.

See section 89(1) of the Act*.

52.3 All money received by or on behalf of the Club must be deposited without delay into a bank account in the name of the Club.

53. Payments

53.1 All payments by the Club must be:

- (a) specifically authorised in writing*, and
- (b) in the case of cheques – signed,

by at least 2 employees of the Club or Board members nominated by the Board by regulation* or resolution.

53.2 The Board may nominate a list of individuals or positions for the purposes of clause 53.1.

53.3 Signatories must not sign cheques until the payee and amount have been written in.

53.4 This clause does not apply to credit card and petty cash payments where the amount is within limits set by the Board by regulation* or resolution.

54. Financial Statements

54.1 In this clause and clause 55:

- (a) “tier one association” means an incorporated association that has a total revenue of less than \$250,000;
- (b) “tier two association” means an incorporated association that has a total revenue of between \$250,000 and \$1 million;

(c) “tier three association” means an incorporated association that has a total revenue of more than \$1 million; and

(d) “total revenue” means the total income of the incorporated association during its last financial year from all the activities of the Club before any expenses, including the cost to the Club of goods sold by it, are deducted.

See section 90 of the Act*.

54.2 As soon as practicable after the end of the Club’s financial year under clause 51, the Board must cause financial statements of the Club for that year to be prepared in accordance with this clause.

See sections 92(1), 95(1) and 98(1) of the Act*.

54.3 For tier one associations, the financial statements must give a true and fair view of the financial position and performance of the Club during and at the end of its last financial year.

See section 92(2)(a) of the Act*.

54.4 For tier two associations and tier three associations, the financial statements must be prepared in accordance with the Australian Accounting Standards.

See sections 95(2)(a) and 98(2)(a) of the Act*.

54.5 The financial statements must contain particulars of:

- (a) the income and expenditure of the Club during and at the end of its last financial year,
- (b) the assets and liabilities of the Club at the end of its last financial year,
- (c) the mortgages, charges and securities of any description affecting any property of the Club at the end of its last financial year,
- (d) the same particulars in respect of each trust of which the Club was trustee during any part of its last financial year, and
- (e) any trust, held on behalf of the Club by a person or body other than the Club, in which funds or assets of the Club are placed.

See section 101(1) of the Act*.

54.6 The financial statements must also deal with any matters prescribed by the regulations under the Act*.

See sections 92(2)(b), 95(2)(b) and 98(2)(b) of the Act*.

54.7 The financial statements must have a certificate attached in the form prescribed under the Act* signed by 2 Board members in accordance with a resolution of the Board certifying that the financial statements give a true and fair view of the financial position and performance of the Club during and at the end of its last financial year.

Compare sections 94(2)(b), 97(2)(b) and 100(2)(b) of the Act*.

54.8 The Board must submit the financial statements (including the attached certificate) to the annual general meeting under clause 18.3(a).

See sections 94, 97 and 100 of the Act*.

54.9 If different amounts are prescribed under the Act*, the amounts in clause 54.1 are varied accordingly.

See section 90 of the Act*.

55. Review and Audit of Accounts

55.1 For tier two associations, the Board must:

- (a) have the financial statements reviewed in accordance with the Act*; and
- (b) submit the review report to the annual general meeting under clause 18.3(b).

See sections 96 and 97(2)(c) of the Act*.

55.2 For tier three associations, the Board must:

- (a) have the financial statements audited in accordance with the Act*; and
- (b) submit the audit report to the annual general meeting under clause 18.3(b).

See sections 99 and 100(2)(c) of the Act*.

55.3 For tier one associations, if a majority of the members present at a general meeting vote to have the financial statements reviewed, the financial statements must be reviewed as if it were a tier two association.

See section 93 of the Act*.

55.4 An auditor may only be removed by a general meeting in accordance with the procedure set out in the Act*.

See sections 106 and 107 of the Act*.

56. Minutes

56.1 The Board must ensure that minutes are taken and kept of all general meetings, Board meetings and resolutions without meeting.

Compare item 14 of Schedule 1 of the Act*.

56.2 The minutes of annual general meetings must include a copy of the financial statements and any accompanying review or audit report submitted at the meeting in accordance with clause 18.3.

See sections 94(4), 97(4) and 100(4) and item 15 of Schedule 1 of the Act*.

56.3 The minutes of special general meetings must include a copy of any financial statements submitted at the meeting.

See item 15 of Schedule 1 of the Act*.

56.4 Full members may inspect and obtain copies of minutes in accordance with clause 58.

57. Retention of Records

57.1 The Board must provide for the safe keeping of the records of the Club.

57.2 The Club must keep its financial records for at least 7 years after the transactions covered by the records are completed.

See section 89(2) of the Act*.

57.3 The Club must keep the financial statements submitted to the annual general meeting for at least 7 years after the annual general meeting.

See section 105(1) of the Act*.

57.4 The Club must keep the certificate referred to in clause 18.6 for at least 7 years after the certificate was signed.

See section 105(2) of the Act*.

57.5 The Club must keep all its other records for at least 7 years after the record was created.

57.6 A person who is no longer entitled to custody of records of the Club must return them to the Board within 28 days.

See section 88 of the Act*.

58. Access to Records

58.1 Full members may on request inspect:

- (a) the register of members,
- (b) the minutes of general meetings,

- (c) a copy of any trust deed referred to in clause 54.5(e), and
- (d) subject to clause 58.2, the other records of the Club, including the minutes of Board meetings,

at any reasonable time.

See sections 53(1), 57 and 101(2) and items 13, 15 and 16 of Schedule 1 of the Act*.

- 58.2 Full members may not inspect the records of the Club that relate to confidential personal, employment, commercial and legal matters, except as permitted by the Board.

See items 13 and 16 of Schedule 1 of the Act*.

- 58.3 The Club must on request make copies of the constitution and regulations* available to members and applicants for membership without charge.

Compare section 53 of the Act*.

- 58.4 The Club must within 7 days of request make copies of the minutes of general meetings available to full members without charge.

See section 53(2) and items 13 and 15 of Schedule 1 of the Act*.

- 58.5 A member may request that access to their personal information in the register of members be restricted in accordance with the Act*, if there are special circumstances that justify doing so.

See section 59 of the Act*.

59. Use of Register of Members

- 59.1 Full members may only use or disclose information from the register of members to contact or send material to other members if this is directly related to the management or purpose of the Club.

See section 58 of the Act*.

- 59.2 Persons who are not full members must not use or disclose information from the register of members to contact or send material to members unless this is:

- (a) directly related to the management or purpose of the Club; and
- (b) authorised by the Board.

See section 58 of the Act*.

60. Signing of Documents

- 60.1 The Club may sign contracts and other documents either:

- (a) by using a common seal under clause 61; or
- (b) by having the document signed by 2 Board members.

See section 38 of the Act*.

- 60.2 A document may only be signed by 2 Board members if authorised by resolution of the Board.

61. Common Seal

- 61.1 The Club may have a common seal.

See section 29(2)(b) of the Act*.

- 61.2 Clauses 61.3–61.7 only apply if the Club has a common seal.

- 61.3 The name of the Club must appear in legible characters on the common seal.

See section 23(1)(a) of the Act*.

- 61.4 A document may only be sealed with the common seal if authorised by resolution of the Board.

- 61.5 The sealing must be witnessed by the signatures of at least 2 Board members nominated by the Board by regulation* or resolution.

- 61.6 The Board may nominate a list of individuals or positions to be signatories for the purpose of clause 61.5.

- 61.7 The Board must provide for the safe keeping of the common seal.

62. Registered Address

- 62.1 The Club must have a registered address for the service of documents on the Club.

See sections 28 and 217 of the Act*.

- 62.2 The registered address of the Club must be the address of the principal office of the Club.

- 62.3 The Club must notify the Registrar* of any change of registered address within 14 days.

See section 28(3) of the Act*.

63. Amendment of Constitution

63.1 This constitution may only be amended by special resolution*.

See section 50(1) of the Act*.

63.2 An amendment to this constitution does not take effect until it has been approved by the Registrar*.

See section 50(2) of the Act*.

63.3 The Secretary must apply to the Registrar* for approval of the amendment within 28 days after the special resolution* was passed.

See section 50(3) of the Act*.

64. Winding Up

64.1 The Club may be wound up voluntarily by special resolution*.

See section 125 of the Act*.

64.2 If the Club is:

- (a) wound up voluntarily or otherwise; or
- (b) its incorporation is cancelled;

the surplus assets of the Club must not be distributed to any member.

See section 132(4) of the Act*.

64.3 The surplus assets must be given to a body that:

- (a) has a similar purpose to the Club; and
- (b) also prohibits the distribution of any surplus, income and assets to its members to at least as great an extent as the Club;

subject to clauses 64.5, 65.2(e) and 65.2(f).

64.4 If the Club is wound up voluntarily, the body to which its surplus assets are to be given must be decided by special resolution*.

64.5 The surplus assets of the Club do not include any property supplied by a government department, public authority or municipal council, including the unexpended portion of a grant. On winding up, that property must be returned to the body that supplied it or its nominee.

See section 132(3) of the Act*.

65. Tax Deductibility

65.1 In this clause:

- (a) “contributions” and “fund-raising event” have the same meaning as in Division 30 of the Tax Act;
- (b) “DGR” means a deductible gift recipient under Division 30 of the Tax Act;
- (c) “gift funds” means:
 - (i) gifts and contributions to the Club, and
 - (ii) money received by the Club because of such gifts and contributions; and
- (d) “the Tax Act” means the *Commonwealth Income Tax Assessment Act 1997*.

65.2 Because the Club is a DGR:

- (a) receipts for gifts to the Club must include:
 - (i) the name and ABN of the Club, and
 - (ii) the fact that the receipt is for a gift;
- (b) receipts for contributions to the Club in relation to a fund-raising event must include:
 - (i) the name and ABN of the Club, and
 - (ii) the other information required by section 30-228 of the Tax Act;
- (c) the Club must keep records that record and explain all transactions and other acts it engages in relevant to its status as a DGR for at least 5 years;
- (d) the records must show that the Club uses gift funds only for the principal purpose of the Club;
- (e) on winding up of the Club or revocation of its endorsement (whichever occurs earlier), any surplus gift funds must be transferred to another DGR; and
- (f) on winding up or dissolution of the Club its surplus assets other than any surplus gift funds must also be given to another DGR.

66. Notices

- 66.1 Members must give the Club their address for notices, and any change in that address.
- 66.2 The address for notices may include an email address and a fax number.
- 66.3 The Club must enter any change in the address of a member in the register of members without delay.
- 66.4 Notice may be given to a member by sending it to the address last given by the member.
- 66.5 In this constitution a period of notice of a meeting expressed in days:
- (a) does not include the day on which notice is given; but
 - (b) includes the day on which the meeting is held.
- 66.6 Notices are taken to have been given on the first day after sending that is not a Saturday, Sunday or public holiday at that address.
- 66.7 In this clause, “member” includes a Board member.

67. Interpretation

- 67.1 In this constitution, unless the contrary intention appears:
- (a) “absolute majority” means a majority of the votes of all Board members entitled to vote at the time, whether or not those Board members are present, and whether or not they vote;
 - (b) “the Act” means the Victorian *Associations Incorporation Reform Act 2012*;
 - (c) “the Club” has the meaning given in clause 2.1;
 - (d) “convene” means call and arrange to hold, and includes setting the date, time and place of the meeting;
 - (e) “the Registrar” means the Registrar of Incorporated Associations under the Act*;
 - (f) “regulations” means regulations of the Club made under clause 30.1, and “regulation” has a corresponding meaning;

- (g) “special resolution” means a resolution:

- (i) to amend this constitution;
 - (ii) to change the name of the Club;
 - (iii) to amalgamate the Club with another association incorporated under the Act*; or
 - (iv) to wind up the Club;
- which may only be passed at a general meeting where:
- (v) at least 21 days notice of the proposed resolution has been given to each member entitled to vote;
 - (vi) the notice specifies that it is intended that the resolution be proposed as a special resolution; and
 - (vii) at least three-quarters of those members who vote at the meeting, vote in favour; and

See section 64 of the Act*.

- (h) “writing” includes emails and documents sent electronically.

- 67.2 The headings form part of this constitution.
- 67.3 The explanatory notes inserted in a smaller font size after provisions of this constitution are for guidance only and do not form part of this constitution.
- 67.4 This constitution is to be interpreted in accordance with the Victorian *Interpretation of Legislation Act 1984* as if this constitution were an Act of the State of Victoria, unless the contrary intention appears.
- 67.5 The Board is responsible for the interpretation of the constitution and regulations*.
- 67.6 The provisions of this constitution are the rules of the Club for the purposes of the Act*.
- 67.7 This constitution is intended to make provision for all matters required by the Act*, with the intention that none of the model rules prescribed under the Act* apply to the Club.

See section 48(3) and Schedule 1 of the Act*.

68. Transitional

68.1 In this clause:

- (a) “AGM” means annual general meeting;
- (b) “2015 AGM” means the AGM for the 2015 calendar year held in 2016 under an extension of time granted by the Registrar*; and

See section 104 of the Act*.

- (c) “2016 AGM”, “2017 AGM” and “2018 AGM” mean the AGMs to be held in those years

68.2 Despite clause 25:

- (a) the members of the Committee in office immediately before this constitution came into effect remain in office as the Board under this constitution until the end of the 2015 AGM: and
- (b) all 6 elected Board members must be elected at the 2015 AGM.

68.3 Clause 26 applies to the election at the 2015 AGM, except that:

- (a) in clause 26.2, “7 weeks” is replaced with “3 weeks”;
- (b) in clause 26.4, “5 weeks” is replaced with “1 week”;
- (c) clause 26.6 does not apply; and
- (d) in clauses 26.7 and 26.8, “2” is replaced with “6”.

68.4 Clause 27 applies to any ballot at the 2015 AGM, except that:

- (a) clause 27.2 is replaced with:
27.2 The ballot must be conducted at the 2015 AGM by a Returning Officer appointed by the Board.

;

- (b) clause 27.5 is replaced with:
27.5 Each candidate may give a 3 minute speech in support of their election.

; and

- (c) in clauses 27.8 and 27.10, “2” is replaced with “6”.

68.5 Clause 29 applies the term of office of Board members elected at the 2015, except that:

- (a) clause 29.1 does not apply;
- (b) the Board members take office at the end of the 2015 AGM;
- (c) the Board members may before or at the first Board meeting after the 2015 AGM agree in writing between themselves:
 - (i) which 2 Board members are to have a term of office until the end of the 2016 AGM;
 - (ii) which 2 Board members are to have a term of office until the end of the 2017 AGM; and
 - (iii) which 2 Board members are to have a term of office until the end of the 2018 AGM;

in which case the Board members have those terms of office, subject to clauses 29.3–29.6; or

(d) failing which:

- (i) the 2 Board members who received the fewest votes at the 2015 AGM have a term of office until the end of the 2016 AGM;
- (ii) the 2 Board members who received the next fewest votes at the 2015 AGM have a term of office until the end of the 2017 AGM; and
- (iii) the 2 Board members who received the most votes at the 2015 AGM have a term of office until the end of the 2018 AGM;

subject to clauses 27.11 and 29.3–29.6.

68.6 The Board must at its first meeting after the 2015 AGM elect the office-bearers (other than the Secretary) from among the Board members.

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