

**CONSTITUTION OF  
THE SAFETY BEACH SAILING CLUB INC.**  
Approved: 16 March 2014  
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# Rules for Safety Beach Sailing Club, an Incorporated Association

## Note

The persons who from time to time are members of the Association are an incorporated association by the name given in rule 1 of these Rules.

Under section 46 of the **Associations Incorporation Reform Act 2012**, these Rules are taken to constitute the terms of a contract between the Association and its members.

## PART 1 - PRELIMINARY

### 1 Name

- (1) The name of the incorporated association is  
SAFETY BEACH SAILING CLUB INCORPORATED (No. A0009780H)
- (2) The Club is located at 185 MARINE DR SAFETY BEACH, 3936

#### Note

Under section 23 of the Act, the name of the club and its registration number must appear on all its business documents.

### 2 Purposes

The purposes of the club are:

- (1) To provide a focal point in the Safety Beach area for the sport of sailing and associated sporting, social and cultural activities
- (2) To utilise all legitimate means at Executive Committee disposal to encourage community involvement and participation in Club activities
- (3) To provide and maintain at Safety Beach, premises, facilities, and organisational structures to adequately cater for the needs of Club Members
- (4) To apply for, hold and renew from time to time, any necessary certificates, permits, licenses, leases, or any other provision needed for the Club existence
- (5) To foster and maintain participation in all aspects of Club activities by all members eligible and willing to do so.

### 3 Financial year

The financial year of the Club is each period of 12 months ending on June 30.

### 4 Definitions

In these Rules -

***absolute majority***, of the Executive Committee, means a majority of the Executive Committee members currently holding office and entitled to vote at the time (as distinct from a majority of Executive Committee members present at an Executive Committee meeting);

***Associate member*** means a member referred to in rule 14(2);

***By-Laws*** means the bylaws of the Club made under Rule 73;

***Chairperson***, of a general meeting or committee meeting, means the person chairing the meeting as required under rule 45;

***Club*** means Safety Beach Sailing Club Incorporated.

***Executive Committee*** means the Committee having management of the business of the Club;

***Executive Committee meeting*** means a meeting of the Executive Committee held in accordance with these Rules;

***Executive committee member*** means a member of the Executive Committee elected or appointed under Division 3 of Part 5;

***disciplinary appeal meeting*** means a meeting of the members of the Club convened under rule 23(3);

***disciplinary meeting*** means a meeting of the committee convened for the purposes of rule 22;

***disciplinary subcommittee*** means the subcommittee appointed under rule 20;

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

***Flag Officers*** means the Commodore, the Vice-Commodore and the Rear-Commodore of the Club;

***general meeting*** means a general meeting of the members of the Club convened in accordance with Part 4 and includes an annual general meeting, a special general meeting and a disciplinary appeal meeting;

***member*** means a member of the Club;

***member entitled to vote*** means a member who under rule 13(2) is entitled to vote at a general meeting;

***special resolution*** means a resolution that requires not less than three-quarters of the members voting at a general meeting to vote in favour of the resolution;

***the Act*** means the **Associations Incorporation Reform Act 2012** and includes any regulations made under that Act, as amended from time to time;

***the Registrar*** means the Registrar of Incorporated Associations.

## PART 2 - POWERS OF ASSOCIATION

### 5 Powers of Association

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

### 6 Not for profit organisation

- (1) The Club must not distribute any surplus, income or assets directly or indirectly to its members.
- (2) Sub-rule (1) does not prevent the Club from paying a member—
  - (a) reimbursement for expenses properly incurred by the member; or
  - (b) for goods or services provided by the member—if this is done in good faith on terms no more favourable than if the member was not a member.

#### Note

Section 33 of the Act provides that an incorporated association must not secure pecuniary profit for its members. Section 4 of the Act sets out in more detail the circumstances under which an incorporated association is not taken to secure pecuniary profit for its members.

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

### **Division 1 - Membership**

#### **7 Minimum number of members**

The Club must have at least 5 members.

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

Any person who supports the purposes of the Club is eligible for membership.

#### **9 Application for membership**

- (1) To apply to become a member of the Club, a person must submit a completed application form to an Executive Committee member stating that the person—
  - (a) wishes to become a member of the Club; and
  - (b) supports the purposes of the Club; and
  - (c) agrees to comply with these Rules and the By-Laws of the Club; and
  - (d) is nominated and seconded by financial members who are eligible to vote.
- (2) The application—
  - (a) must be signed by the applicant, nominator and seconder; and
  - (b) may be accompanied by the joining fee.

**Note**

The joining fee is the fee (if any) determined by the Club under rule 12(2).

#### **10 Consideration of application**

- (1) As soon as practicable after an application for membership is received, the Executive Committee must decide by resolution whether to accept or reject the application.
- (2) The Executive Committee must notify the applicant in writing of its decision as soon as practicable after the decision is made.
- (3) If the Executive Committee rejects the application, it must return any money accompanying the application to the applicant.
- (4) No reason need be given for the rejection of an application.

#### **11 New membership**

- (1) If an application for membership is approved by the Executive Committee—
  - (a) the resolution to accept the membership must be recorded in the minutes of the Executive Committee meeting; and
  - (b) the Secretary must, as soon as practicable, enter the name and address of the new member, and the date of becoming a member, in the register of members.
- (2) A person becomes a member of the Club and, subject to rule 13(2), is entitled to exercise his or her rights of membership from the date, whichever is the later, on which—
  - (a) the Executive Committee approves the person's membership; or
  - (b) the person pays the joining fee and the first year's subscription as required by Rule 12.

#### **12 Annual subscription and fee on joining**

- (1) The annual subscription and fees, as determined by the Executive Committee, subject to 12 (5) below, are due and payable from the first of July each year.
- (2) The joining fee for each category of member is the amount fixed from time to time by the Executive Committee and recorded in the By-Laws.

- (3) The Executive Committee may determine that a lower annual subscription is payable by associate members.
- (4) The Executive Committee may determine that any new member who joins after the start of a financial year must, for that financial year, pay a fee equal to—
  - (a) the full annual subscription; or
  - (b) a reduced annual subscription.
- (5) The Executive Committee requires the approval of Members by resolution at a General Meeting to increase the annual subscription or joining fee by a percentage in excess of the increase in the Consumer Price Index for Melbourne for All Groups (CPI) in the preceding 12-month period, or 5%, whichever is the greater.
- (6) The rights of a member (including the right to vote) who has not paid the annual subscription by September 30th are suspended until the subscription is paid.

### **13 General rights of members**

- (1) A member of the Club who is entitled to vote has the right—
  - (a) to receive notice of general meetings and of proposed special resolutions in the manner and time prescribed by these Rules; and
  - (b) to submit items of business for consideration at a general meeting; and
  - (c) to attend and be heard at general meetings; and
  - (d) to vote at a general meeting; and
  - (e) to have access to the minutes of general meetings as provided under rule 74; and
  - (f) to inspect the register of members.
- (2) A member is entitled to vote at any meeting of members of the Club if—
  - (a) the member is a member other than an associate member; and
  - (b) more than 10 business days have passed since he or she became a member of the Club; and
  - (c) the member's membership rights are not suspended for any reason.

### **14 Membership**

- (1) Categories of Membership of the Club are Senior Membership, Family Membership, Associate Membership and Life Membership.
- (2) Associate members of the Club include—
  - (a) any members under the age of 21 years; and
  - (b) any other category of member as outlined in the Club By-Laws.
- (3) An Associate member does not have the right to vote at any meeting of members of the Club or to be elected to the Executive Committee.

#### **Note**

This does not stop an Associate member being on a sub-committee, if the Executive Committee considers it appropriate.

- (4) A Life Member—
  - (a) is a member who has been elected to Life Membership in consideration for special services rendered to the Club as outlined in the Club By-Laws.
  - (b) will be entitled to vote and to all the privileges of Membership without payment of any further subscription.

### **15 Rights not transferable**

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

## **16 Ceasing membership**

- (1) The membership of a person ceases on resignation, expulsion or death.
- (2) If a person ceases to be a member of the Club, the Secretary must, as soon as practicable, enter the date the person ceased to be a member in the register of members.

## **17 Resigning as a member**

- (1) A member may resign by notice in writing given to the Club.

### **Note**

Rule 72(3) sets out how notice may be given to the club. It includes by post or by handing the notice to a member of the Executive Committee.

- (2) A member is taken to have resigned if the member's annual subscription is more than 6 months in arrears.
- (3) All subscriptions, fees and other monies owing to the Club by a Member at the time of the Member's resignation remain a debt due and owing to the Club.

## **18 Register of members**

- (1) The Secretary must keep and maintain a register of members that includes—
  - (a) for each current member -
    - (i) the member's name;
    - (ii) the address for notice last given by the member;
    - (iii) the date of becoming a member;
    - (iv) if the member is an associate member, a note to that effect;
    - (v) any other information determined by the Executive Committee; and
  - (b) for each former member, the date of ceasing to be a member.
- (2) Any member may, at a reasonable time and free of charge, inspect the register of members.

### **Note**

Under section 59 of the Act, access to the personal information of a person recorded in the register of members may be restricted in certain circumstances. Section 58 of the Act provides that it is an offence to make improper use of information about a person obtained from the Register of Members.

## **Division 2 - Disciplinary action**

### **19 Grounds for taking disciplinary action**

The Club may take disciplinary action against a member in accordance with this Division if it is determined that the member—

- (a) has failed to comply with these Rules; or
- (b) refuses to support the purposes of the Club; or
- (c) has engaged in conduct prejudicial to the Club; or
- (d) has failed to comply with the published Club Policies, Procedures and By-Laws.

### **20 Disciplinary subcommittee**

- (1) If the Executive Committee is satisfied that there are sufficient grounds for taking disciplinary action against a member, the Executive Committee must appoint a disciplinary subcommittee to hear the matter and determine what action, if any, to take against the member.

- (2) The members of the disciplinary subcommittee—
  - (a) may be Executive Committee members, members of the Club or anyone else; but
  - (b) must not be biased against, or in favour of, the member concerned.

## **21 Notice to member**

- (1) Before disciplinary action is taken against a member, the Secretary must give written notice to the member—
  - (a) stating that the Club proposes to take disciplinary action against the member; and
  - (b) stating the grounds for the proposed disciplinary action; and
  - (c) specifying the date, place and time of the meeting at which the disciplinary subcommittee intends to consider the disciplinary action (the *disciplinary meeting*); and
  - (d) advising the member that he or she may do one or both of the following—
    - (i) attend the disciplinary meeting and address the disciplinary subcommittee at that meeting;
    - (ii) give a written statement to the disciplinary subcommittee at any time before the disciplinary meeting; and
  - (e) setting out the member's appeal rights under rule 23.
- (2) The notice must be given no earlier than 28 days, and no later than 14 days, before the disciplinary meeting is held.

## **22 Decision of disciplinary subcommittee**

- (1) At the disciplinary meeting, the disciplinary subcommittee must—
  - (a) give the member an opportunity to be heard; and
  - (b) consider any written statement submitted by the member.
- (2) After complying with sub-rule (1), the disciplinary subcommittee may—
  - (a) take no further action against the member; or
  - (b) subject to sub-rule (3) —
    - (i) reprimand the member; or
    - (ii) suspend the membership rights of the member for a specified period; or
    - (iii) expel the member from the Club.
- (3) The disciplinary subcommittee may not fine the member.
- (4) The suspension of membership rights or the expulsion of a member by the disciplinary subcommittee under this rule takes effect immediately after the vote is passed.

## **23 Appeal rights**

- (1) A person whose membership rights have been suspended or who has been expelled from the Club under rule 22 may give notice to the effect that he or she wishes to appeal against the suspension or expulsion.
- (2) The notice must be in writing and given—
  - (a) to the disciplinary subcommittee immediately after the vote to suspend or expel the person is taken; or
  - (b) to the Secretary not later than 48 hours after the vote.
- (3) If a person has given notice under sub-rule (2), a disciplinary appeal meeting must be convened by the Executive Committee as soon as practicable, but in any event not later than 21 days, after the notice is received.



- (4) Notice of the disciplinary appeal meeting must be given to each member of the Club who is entitled to vote as soon as practicable and must—
- (a) specify the date, time and place of the meeting; and
  - (b) state—
    - (i) the name of the person against whom the disciplinary action has been taken; and
    - (ii) the grounds for taking that action; and
    - (iii) that at the disciplinary appeal meeting the members present must vote on whether the decision to suspend or expel the person should be upheld or revoked.

## **24 Conduct of disciplinary appeal meeting**

- (1) At a disciplinary appeal meeting—
  - (a) no business other than the question of the appeal may be conducted; and
  - (b) the Executive Committee must state the grounds for suspending or expelling the member and the reasons for taking that action; and
  - (c) the person whose membership has been suspended or who has been expelled must be given an opportunity to be heard.
- (2) After complying with sub-rule (1), the members present and entitled to vote at the meeting must vote by secret ballot on the question of whether the decision to suspend or expel the person should be upheld or revoked.
- (3) The decision is upheld if not less than half of the members voting at the meeting vote in favour of the decision.

## **Division 3 - Grievance procedure**

### **25 Application**

- (1) The grievance procedure set out in this Division applies to disputes under these Rules between -
  - (a) a member and another member;
  - (b) a member and the Executive Committee;
  - (c) a member and the Club.
- (2) A member must not initiate a grievance procedure in relation to a matter that is the subject of a disciplinary procedure until the disciplinary procedure has been completed.

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

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

### **27 Appointment of mediator**

- (1) If the parties to a dispute are unable to resolve the dispute between themselves within the time required by rule 26, the parties must within 10 days -
  - (a) notify the Executive Committee of the dispute; and
  - (b) agree to or request the appointment of a mediator; and
  - (c) attempt in good faith to settle the dispute by mediation.

- (2) The mediator must be -
  - (a) a person chosen by agreement between the parties; or
  - (b) in the absence of agreement -
    - (i) if the dispute is between a member and another member - a person appointed by the Executive Committee; or
    - (ii) if the dispute is between a member and the Executive Committee or the Club - a person appointed or employed by the Dispute Settlement Centre of Victoria.
- (3) A mediator appointed by the Executive Committee may be a member or former member of the Club but in any case, must not be a person who —
  - (a) has a personal interest in the dispute; or
  - (b) is biased in favour of or against any party.

## **28 Mediation process**

- (1) The mediator to the dispute, in conducting the mediation, must—
  - (a) give each party every opportunity to be heard; and
  - (b) allow due consideration by all parties of any written statement submitted by any party; and
  - (c) ensure that natural justice is accorded to the parties throughout the mediation process.
- (2) The mediator must not determine the dispute.

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

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

## **PART 4 - GENERAL MEETINGS OF THE CLUB**

### **30 Annual general meetings**

- (1) The Executive Committee must convene an annual general meeting of the Club to be held no later than the last day of September each year.
- (2) The Executive Committee may determine the date, time and place of the annual general meeting.
- (3) The ordinary business of the annual general meeting is as follows—
  - (a) to confirm the minutes of the previous annual general meeting and of any special general meeting held since then;
  - (b) to receive and consider —
    - (i) the annual report of the Executive Committee on the activities of the Club during the preceding financial year; and
    - (ii) the financial statements of the Club for the preceding financial year submitted by the Executive Committee in accordance with Part 7 of the Act;
  - (c) to elect the members of the Executive Committee;
  - (d) to confirm any rise in the annual subscription and joining fee above those outlined in Rule 12(5).
- (4) The annual general meeting may also conduct any other business of which notice has been given in accordance with these Rules.
- (5) A Member who wishes to raise a Motion at a General Meeting must notify the Secretary in writing at least 28 days before the meeting of the proposed motion.

- (6) Any Notice of Motion must have a proposer and a seconder both of whom must be voting members.
- (7) At least one of the proposer or seconder of the motion must be present at the meeting at which the motion is to be heard.

### **31 Special general meetings**

- (1) Any general meeting of the Club, other than an annual general meeting or a disciplinary appeal meeting, is a special general meeting.
- (2) The Executive Committee may convene a special general meeting whenever it thinks fit.
- (3) No business other than that set out in the notice under rule 33 may be conducted at the meeting.

#### **Note**

General business may be considered at the meeting if it is included as an item for consideration in the notice under rule 33 and the majority of members at the meeting agree.

### **32 Special general meeting held at request of members**

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

### **33 Notice of general meetings**

- (1) The Secretary (or, in the case of a special general meeting convened under rule 32(3), the members convening the meeting) must give to each member of the Club—
  - (a) at least 21 days' notice of a general meeting.
- (2) The notice must—
  - (a) specify the date, time and place of the meeting; and
  - (b) indicate the general nature of each item of business to be considered at the meeting; and
  - (c) if a special resolution is to be proposed—
    - (i) state in full the proposed resolution; and
    - (ii) state the intention to propose the resolution as a special resolution; and
  - (d) in the case of the Annual General Meeting include the Agenda.

- (3) The Treasurers Report and Balance Sheet will be provided to members no less than 7 days before the Annual General Meeting.
- (4) This rule does not apply to a disciplinary appeal meeting.

**Note**

Rule 23(4) sets out the requirements for notice of a disciplinary appeal meeting.

### **34 Quorum at general meetings**

- (1) No business may be conducted at a general meeting unless a quorum of members is present.
- (2) The quorum for a general meeting is the presence of at least 20% of the number of members of the Club who are entitled to vote at the time of the meeting.
- (3) If a quorum is not present within 30 minutes after the notified commencement time of a general meeting -
  - (a) in the case of a meeting convened by, or at the request of, members under rule 32—the meeting must be dissolved;

**Note**

If a meeting convened by, or at the request of, members is dissolved under this sub-rule, the business that was to have been considered at the meeting is taken to have been dealt with. If members wish to have the business reconsidered at another special meeting, the members must make a new request under rule 32.

- (b) in any other case -
    - (i) the meeting must be adjourned to a date not more than 21 days after the adjournment; and
    - (ii) notice of the date, time and place to which the meeting is adjourned must be given at the meeting and confirmed by written notice given to all members as soon as practicable after the meeting.
- (4) If a quorum is not present within 30 minutes after the time to which a general meeting has been adjourned under sub-rule (3)(b), the members present at the meeting (if not fewer than 3) may proceed with the business of the meeting as if a quorum were present.

### **35 Adjournment of general meeting**

- (1) The Chairperson of a general meeting at which a quorum is present may, with the consent of a majority of members present at the meeting, adjourn the meeting to another time at the same place or at another place.
- (2) Without limiting sub-rule (1), a meeting may be adjourned—
  - (a) if there is insufficient time to deal with the business at hand; or
  - (b) to give the members more time to consider an item of business.
- (3) No business may be conducted on the resumption of an adjourned meeting other than the business that remained unfinished when the meeting was adjourned.
- (4) Notice of the adjournment of a meeting under this rule is not required unless the meeting is adjourned for 14 days or more, in which case notice of the meeting must be given in accordance with rule 33.

### **36 Voting at general meeting**

- (1) On any question arising at a general meeting—
  - (a) subject to sub-rule (3), each member who is entitled to vote has one vote; except
  - (b) Family Memberships, where both partners are alive, have two votes; and
  - (c) except in the case of a special resolution, the question must be decided on a majority of votes.

- (2) If votes are divided equally on a question, the Chairperson of the meeting has a second or casting vote.
- (3) If the question is whether or not to confirm the minutes of a previous meeting, only members who were present at that meeting may vote.
- (4) This rule does not apply to a vote at a disciplinary appeal meeting conducted under rule 24.

### **37 Special resolutions**

A special resolution is passed if not less than three quarters of the members voting at a general meeting vote in favour of the resolution.

#### **Note**

In addition to certain matters specified in the Act, a special resolution is required—

- (a) to remove a committee member from office ;
- (b) to alter these Rules, including changing the name or any of the purposes of the Club.

### **38 Determining whether resolution carried**

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

### **39 Minutes of general meeting**

- (1) The Executive Committee must ensure that minutes are taken and kept of each general meeting.
- (2) The minutes must record the business considered at the meeting, any resolution on which a vote is taken and the result of the vote.
- (3) In addition, the minutes of each annual general meeting must include—
  - (a) the names of the members attending the meeting; and
  - (b) the financial statements submitted to the members in accordance with rule 30(3)(b)(ii); and
  - (c) the certificate signed by two committee members certifying that the financial statements give a true and fair view of the financial position and performance of the Club; and
  - (d) any audited accounts and auditor's report or report of a review accompanying the financial statements that are required under the Act.

## **PART 5 – EXECUTIVE COMMITTEE**

### **Division 1 - Powers of the Executive Committee**

#### **40 Role and powers**

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

#### **41 Delegation**

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

### **Division 2 - Composition of Executive Committee and duties of members**

#### **42 Composition of Executive Committee**

The majority of Executive Committee members must be free of any business or other relationship that could materially interfere with, or could reasonably be perceived to materially interfere with, the exercise of their independent judgment.

The Executive Committee consists of—

- (a) a Commodore; and
- (b) a Vice-Commodore; and
- (c) a Rear-Commodore; and
- (d) a Secretary; and
- (e) a Treasurer; and
- (f) a minimum of 4 ordinary members elected under rule 53.

#### **43 Test of Independence**

- (1) An Executive Committee member will be considered to be independent if he/she:
  - (a) within the last three years has not been employed in an executive capacity by the Club;
  - (b) within the last three years has not been a principal of a professional adviser to the Club, or an employee associated with advice so provided (having regard to the materiality of the advice);
  - (c) is not a supplier of the Club or otherwise associated directly or indirectly with a supplier (having regard to the materiality of the business dealings);
  - (d) has no contractual relationship with the Club other than as an Executive Committee member (having regard to the materiality of the relationship); and

- (e) is free from any interest and any business or other relationship which could, or could reasonably be perceived to, materially interfere with the Executive Committee member's ability to act in the best interests of the Club.
  - (f) within the last three years has not been a principal of a professional adviser to the Club, or an employee associated with advice so provided (having regard to the materiality of the advice);
- (2) Executive Committee members must advise the Executive Committee in a timely manner of any changes to their independence.
  - (3) The Executive Committee must annually assess the independence of each member in the light of interests disclosed by them. So that it can do this, each Executive Committee member must provide the Executive Committee with all relevant information and the Executive Committee should consider materiality thresholds from the perspective of both the Club and its Executive Committee members.

#### **44 General Duties**

- (1) As soon as practicable after being elected or appointed to the Executive Committee, each executive committee member must become familiar with these Rules and the Act.
- (2) The Executive Committee is collectively responsible for ensuring that the Club complies with the Act and that individual members of the Executive Committee comply with these Rules.
- (3) Executive Committee members must exercise their powers and discharge their duties with reasonable care and diligence.
- (4) Executive Committee 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.
- (5) Executive Committee members and former executive committee members must not make improper use of—
  - (a) their position; or
  - (b) information acquired by virtue of holding their position—
    - so as to gain an advantage for themselves or any other person or to cause detriment to the Club.

**Note**

See also Division 3 of Part 6 of the Act which sets out the general duties of the office holders of an incorporated club.

- (6) In addition to any duties imposed by these Rules, an executive committee member must perform any other duties imposed from time to time by resolution at a general meeting.

#### **45 Commodore and Vice-Commodore**

- (1) Subject to sub-rule (2), the Commodore or, in the Commodore's absence, the Vice-Commodore is the Chairperson for any general meetings and for any executive committee meetings.
- (2) If the Commodore and the Vice-Commodore are both absent, or are unable to preside, the Chairperson of the meeting must be—
  - (a) in the case of a general meeting - a member elected by the other members present; or
  - (b) in the case of an executive committee meeting – an executive committee member elected by the other executive committee members present.

#### **46 Secretary**

- (1) The Secretary must perform any duty or function required under the Act to be performed by the secretary of an incorporated club.

**Example**

Under the Act, the secretary of an incorporated club is responsible for lodging documents of the club with the Registrar.

- (2) The Secretary must—
  - (a) maintain the register of members in accordance with rule 18; and
  - (b) keep custody of the common seal (if any) of the Club and, except for the financial records referred to in rule 68(3), all books, documents and securities of the Club in accordance with rules 70 and 74; and
  - (c) if required by the Act and these Rules, provide members with access to the register of members, the minutes of general meetings and other books and documents; and
  - (d) perform any other duty or function imposed on the Secretary by these Rules.
- (3) The Secretary must give to the Registrar notice of his or her appointment within 14 days after the appointment.

**Note**

The inspection of the register of members under Rule 46(2)(c) is restricted by these rules and is subject to each member's right to privacy.

#### **47 Treasurer**

- (1) The Treasurer must—
  - (a) receive and record all moneys paid to or received by the Club; and
  - (b) ensure that all moneys received are paid into the account of the Club within 5 working days after receipt; and
  - (c) make any payments authorised by the Executive Committee or by a general meeting of the Club from the Club's funds; and
  - (d) ensure cheques are signed by at least 2 executive committee members.
- (2) The Treasurer must—
  - (a) ensure that the financial records of the Club are kept in accordance with the Act; and
  - (b) coordinate the preparation of the financial statements of the Club and their certification by the Executive Committee prior to their submission to the annual general meeting of the Club.
- (3) The Treasurer must ensure that at least one other executive committee member has access to the accounts and financial records of the Club.

### **Division 3 - Election of Executive Committee members and tenure of office**

#### **48 Who is eligible to be an Executive Committee member**

- (1) A member is eligible to be elected or appointed as an Executive Committee member if the member—
  - (a) is 18 years or over; and
  - (b) is entitled to vote at a general meeting.
- (2) Any Executive Committee member, having served at least one full term on the Executive Committee, is eligible to nominate for, or accept appointment to, the office of Vice Commodore or Rear Commodore.



- (3) Any Executive Committee member, having served at least two full terms on the Executive Committee, is eligible to nominate for or accept appointment to the office of Commodore.

#### **49 Term of office**

- (1) One full term on Executive Committee equals two (2) years and that position is declared vacant at the second annual general meeting after their election.

**Note**

The intention is that half the Executive Committee be elected in any given year on a rotational basis.

- (2) Subject to sub-rule (6) and rule 55, Flag Officers and Executive Committee members hold office until the position is declared vacant.
- (3) No member shall hold office as Commodore, Vice-Commodore, or Rear Commodore in excess of two consecutive terms. Such members will not be eligible for re-election or appointment to the same office until expiration of at least one full term after the date of their vacating that office.
- (4) The retiring Commodore will be entitled to remain a member of the Executive Committee, ex-officio and without voting rights, until the date of the annual general meeting next after vacating office.
- (5) An executive committee member may be re-elected subject to sub-rules (3) and (4) above
- (6) A general meeting of the Club may—
  - (a) by special resolution remove an executive committee member from office; and
  - (b) elect an eligible member of the Club to fill the vacant position in accordance with Rules 52 to 54.
- (7) A member who is the subject of a proposed special resolution under sub-rule (6) (a) may make representations in writing to the Secretary or Commodore of the Club (not exceeding a reasonable length) and may request that the representations be provided to the members of the Club.
- (8) The Secretary or the Commodore may give a copy of the representations to each member of the Club or, if they are not so given, the member may require that they be read out at the meeting at which the special resolution is to be proposed.

#### **50 Positions to be declared vacant**

- (1) This rule applies to any annual general meeting of the Club, after the annual report and financial statements of the Club have been received.
- (2) The Chairperson of the meeting must declare vacant positions on the Executive Committee occupied by persons who have completed their full term and hold elections for those positions in accordance with rules 51 to 54.

**Note**

The intention is that half the Executive Committee be elected in any given year on a rotational basis.

#### **51 Nominations**

- (1) Nomination of candidates for election as flag officers of the Club, or a member of the executive committee shall be made on the Club “Form of Nomination” duly proposed and seconded by members inscribed on the Register of Members as being eligible to vote, and endorsed with the written consent of the nominee.
- (2) Nominations must reach the Secretary of the Club no less than fourteen days before the date of the annual general meeting, after which time they shall be displayed on the official notice board until commencement of the annual general meeting.
- (3) If insufficient nominations are submitted under sub-clause (2), then the Chairperson may call for nominations from the floor.

- (4) A member who is nominated for a position and fails to be elected to that position may be nominated for any other position for which an election is yet to be held.

## **52 Election of Commodore etc.**

- (1) At the annual general meeting, separate elections must be held for the following positions, if declared vacant under Rule 50 (2)—
  - (a) Commodore;
  - (b) Vice-Commodore;
  - (c) Rear-Commodore;
  - (d) Secretary, and
  - (e) Treasurer.
- (2) If only one member is nominated for the position, the Chairperson of the meeting must declare the member elected to the position.
- (3) If more than one member is nominated, a ballot must be held in accordance with rule 54.
- (4) On his or her election, the new Commodore may take over as Chairperson of the meeting.
- (5) In the event that no eligible nominations for Commodore under Rule 48(3) are received 14 days prior to the Annual General Meeting, then special nominations for Commodore can be accepted for members who are eligible to vote and have served a term or part term on the Executive Committee or two years on a subcommittee. These nominations may be accepted until two days prior to the AGM.
  - a) These special nominees for Commodore must be voted on and endorsed by an 80% majority of the Executive Committee, prior to being presented as candidates for Commodore at the AGM.
- (6) Rule 52 (5) is a special case that can only have effect up to and including the 2022 AGM.

## **53 Election of ordinary members**

- (1) The annual general meeting must elect a minimum of four (4) ordinary members of the Executive Committee.
- (2) A single election may be held to fill all of those positions.
- (3) If the number of members nominated for the position of ordinary Executive Committee member is less than or equal to the number to be elected, the Chairperson of the meeting must declare each of those members to be elected to the position.
- (4) If the number of members nominated exceeds the number to be elected, a ballot must be held in accordance with rule 54.

## **54 Ballot**

- (1) If a ballot is required for the election for a position, the Chairperson of the meeting must appoint a member to act as returning officer to conduct the ballot.
- (2) The returning officer must not be a member nominated for the position.
- (3) Before the ballot is taken, each candidate may make a short speech in support of his or her election.
- (4) The election must be by secret ballot.
- (5) The returning officer must give a blank piece of paper to each voting member present.
- (6) If the ballot is for a single position, the voter must write on the ballot paper the name of the candidate for whom they wish to vote.

- (7) If the ballot is for more than one position
  - (a) The voter must write on the ballot paper the name of each candidate for whom they wish to vote;
  - (b) The voter must not write the names of more candidates than the number to be elected.
- (8) Ballot papers that do not comply with sub-rule (7) (b) are not to be counted.
- (9) Each ballot paper on which the name of a candidate has been written counts as one vote for that candidate.
- (10) The returning officer must declare elected the candidate or, in the case of an election for more than one position, the candidates who received the most votes.
- (11) If the returning officer is unable to declare the result of an election under sub-rule(10) because 2 or more candidates received the same number of votes, the returning officer must -
  - (a) conduct a further election for the position in accordance with sub-rules (4) to (10) to decide which of those candidates is to be elected; or
  - (b) With the agreement of those candidates, decide by lot which of them is to be elected.

**Examples**

The choice of candidate may be decided by the toss of a coin, drawing straws or drawing a name out of a hat.

**55 Vacation of office**

- (1) An Executive Committee member may resign from the Executive Committee by written notice addressed to the Executive Committee.
- (2) A person ceases to be an Executive Committee member if he or she—
  - (a) ceases to be a member of the Club; or
  - (b) fails to attend 3 consecutive Executive Committee meetings (other than special or urgent Executive Committee meetings) without leave of absence under rule 65; or
  - (c) otherwise ceases to be an Executive Committee member by operation of section 78 of the Act.

**Note**

An Executive Committee member may not hold the office of secretary if they do not reside in Australia.

**56 Filling casual vacancies**

- (1) The Executive Committee may appoint an eligible member of the Club to fill a position on the Executive Committee that—
  - (a) Has become vacant under rule 55; or
  - (b) Was not filled by election at the last annual general meeting.
- (2) If the position of Secretary becomes vacant, the Executive Committee must appoint a member to the position within 14 days after the vacancy arises.
- (3) Rule 49 applies to any Executive Committee member appointed by the Executive Committee under sub-rule (1) or (2).
- (4) The Executive Committee may continue to act despite any vacancy in its membership.

**Division 4 - Meetings of Executive Committee**

**57 Meetings of Executive Committee**

- (1) The Executive Committee must meet at least 8 times in each year at the dates, times and places determined by the Executive Committee.

- (2) The date, time and place of the first Executive Committee meeting must be determined by the members of the Executive Committee as soon as practicable after the annual general meeting of the Club at which the members of the Executive Committee were elected.
- (3) Special Executive Committee meetings may be convened by the Commodore or by any 4 members of the Executive Committee.
- (4) Executive Committee may approve the formation of Sub-Committees to administer to specific activities e.g. House, Sailing, Social, Training, etc.
- (5) Sub-Committees shall meet as and when considered necessary, at such times and places as may be decided, and of which all members shall have due and timely notice.

#### **58 Notice of meetings**

- (1) Notice of each Executive Committee meeting must be given to each Executive Committee member no later than 7 days before the date of the meeting.
- (2) Notice may be given of more than one Executive Committee meeting at the same time.
- (3) The notice must state the date, time and place of the meeting.
- (4) If a special executive committee meeting is convened, the notice must include the general nature of the business to be conducted.

#### **59 Urgent meetings**

- (1) In cases of urgency, a meeting can be held without notice being given in accordance with rule 58 provided that as much notice as practicable is given to each Executive Committee member by the quickest means practicable.
- (2) Any resolution made at the meeting must be passed by an absolute majority of the Executive Committee.
- (3) The only business that may be conducted at an urgent meeting is the business for which the meeting is convened.

#### **60 Procedure and order of business**

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

#### **61 Quorum**

- (1) No business may be conducted at an Executive Committee meeting unless a quorum is present.
- (2) The quorum for an Executive Committee meeting is the presence of a majority of the Executive Committee members holding office.
- (3) If a quorum is not present within 30 minutes after the notified commencement time of an Executive Committee meeting -
  - (a) In the case of a special meeting - the meeting lapses;
  - (b) In any other case - the meeting must be adjourned to a date no later than 14 days after the adjournment and notice of the time, date and place to which the meeting is adjourned must be given in accordance with rule 58.

#### **62 Voting**

- (1) On any question arising at an Executive Committee meeting, each Executive Committee member present at the meeting has one vote.
- (2) A motion is carried if a majority of Executive Committee members present at the meeting vote in favour of the motion.

- (3) Sub-rule (2) does not apply to any motion or question which is required by these Rules to be passed by an absolute majority of the Executive Committee.
- (4) If votes are divided equally on a question, the Chairperson of the meeting has a second or casting vote.

### **63 Conflict of interest**

- (1) An Executive Committee member who has a material personal interest in a matter being considered at an Executive Committee meeting must disclose the nature and extent of that interest to the Executive Committee.
- (2) The member -
  - (a) Must not be present while the matter is being considered at the meeting; and
  - (b) Must not vote on the matter.

#### **Note**

Under section 81(3) of the Act, if there are insufficient Executive Committee members to form a quorum because a member who has a material personal interest is disqualified from voting on a matter, a general meeting may be called to deal with the matter.

- (3) This rule does not apply to a material personal interest—
  - (a) That exists only because the member belongs to a class of persons for whose benefit the Club is established; or
  - (b) That the member has in common with all, or a substantial proportion of, the members of the Club.

### **64 Minutes of meeting**

- (1) The Executive Committee must ensure that minutes are taken and kept of each Executive Committee meeting.
- (2) The minutes must record the following—
  - (a) The names of the members in attendance at the meeting;
  - (b) The business considered at the meeting;
  - (c) Any resolution on which a vote is taken and the result of the vote;
  - (d) Any material personal interest disclosed under rule 63.

### **65 Leave of absence**

- (1) The Executive Committee may grant a committee member leave of absence from Executive committee meetings for a period not exceeding 3 months.
- (2) The Executive Committee must not grant leave of absence retrospectively unless it is satisfied that it was not feasible for the Executive Committee member to seek the leave in advance.

## **PART 6 - FINANCIAL MATTERS**

### **66 Source of funds**

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

### **67 Management of funds**

- (1) The Club must open at least one account with a financial institution from which all expenditure of the Club is made and into which all of the Club's revenue is deposited.
- (2) Subject to any restrictions imposed by a general meeting of the Club, the Executive Committee may approve expenditure on behalf of the Club.

- (3) The Executive Committee may authorise the Treasurer to expend funds on behalf of the Club (including by electronic funds transfer) up to a specified limit without requiring approval from the Executive Committee for each item on which the funds are expended.
- (4) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by 2 Executive Committee members.
- (5) All funds of the Club must be deposited into the financial account of the Club no later than 5 working days after receipt.
- (6) With the approval of the Executive Committee, the Treasurer may maintain a cash float provided that all money paid from or paid into the float is accurately recorded at the time of the transaction.

#### **68 Financial records**

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

#### **69 Financial statements**

- (1) For each financial year, the Executive Committee must ensure that the requirements under the Act relating to the financial statements of the Club are met.
- (2) Without limiting sub-rule (1), those requirements include—
  - (a) the preparation of the financial statements;
  - (b) if required, the review or auditing of the financial statements;
  - (c) the certification of the financial statements by the Executive Committee;
  - (d) the submission of the financial statements to the annual general meeting of the Club;
  - (e) the lodgment with the Registrar of the financial statements and accompanying reports, certificates, statements and fee.

### **PART 7 - GENERAL MATTERS**

#### **70 Common seal**

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

#### **71 Registered address**

The registered address of the Club is—

- (a) the address determined from time to time by resolution of the Executive Committee; or

- (b) if the Executive Committee has not determined an address to be the registered address - the postal address of the Secretary.

## **72 Notice requirements**

- (1) Any notice required to be given to a member or an executive committee member under these Rules may be given—
  - (a) by handing the notice to the member personally; or
  - (b) by sending it by post to the member at the address recorded for the member on the register of members; or
  - (c) by email or facsimile transmission.
- (2) Sub-rule (1) does not apply to notice given under rule 59.
- (3) Any notice required to be given to the Club or the Executive Committee may be given—
  - (a) by handing the notice to a member of the Executive Committee; or
  - (b) by sending the notice by post to the registered address; or
  - (c) by leaving the notice at the registered address; or
  - (d) if the Executive Committee determines that it is appropriate in the circumstances—
    - (i) by email to the email address of the Club or the Secretary; or
    - (ii) by facsimile transmission to the facsimile number of the Club.

## **73 By-Laws and Rules**

- (1) The Executive Committee may make, repeal and amend any By-Laws necessary for the good conduct of the Club and which are not inconsistent with these Rules. In the event of an inconsistency between these Rules and the By-Laws, the relevant provision of these Rules prevails.
- (2) The members in general meeting may by special resolution repeal or amend any By- Law made by the Executive Committee.
- (3) These Rules and any By-Laws are binding on all Members.
- (4) The Secretary must:
  - (a) maintain a record of all By-Laws; and
  - (b) notify Members of any additions or alterations to By-Laws that have been made by the Executive Committee by e-mail, or posting a notice on the club Notice Board, outlining those alterations or additions.

## **74 Custody and inspection of books and records**

- (1) Members may on request inspect free of charge—
  - (a) the register of members;
  - (b) the minutes of general meetings;
  - (c) The Club must give each member access to the records, securities and other relevant documents of the Club (as defined in Section 3 of the Associations Incorporation Reform Act 2012) at any reasonable time and permit a member to make copies at the member's own expense.

### **Note**

See note following rule 18 for details of access to the register of members.

- (2) The Executive Committee may refuse to permit a member to inspect records of the Club that relate to confidential, personal, employment, commercial or legal matters or whereto do so may be prejudicial to the interests of the Club.

- (3) The Executive Committee must on request make copies of these rules available to members and applicants for membership free of charge.
- (4) Subject to sub-rule (2), a member may make a copy of any of the other records of the Club referred to in this rule that the member is entitled by the Act or these Rules to inspect and the Club may charge a reasonable fee for provision of a copy of such a record.
- (5) For purposes of this rule—
 

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

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

## **75 Removal of Unclaimed Property**

- (1) For the purposes of these Rules, unclaimed property includes property found on the Club premises which has no apparent owner, or an owner who refuses to collect the property on the demand of the Executive Committee.
- (2) The Executive Committee may, at its discretion, dispose of any unclaimed property after 28 days from notifying the owner, if known, and advertising the intention to dispose of the property on the Notice Board and the Club electronic news.
- (3) Any funds, less expenses incurred generated by such Executive Committee action shall be returned to the owner, if known, or held by the Executive Committee for a period of 12 calendar months from the date of realisation, being utilised at Executive Committee discretion, but separately accounted for, and covered by adequate reserves.
- (4) On expiration of the 12 calendar months, residuals shall be transferred into Club general funds, and no subsequent claim(s) recognised.

## **76 Indemnity**

- (1) The Club must indemnify every member of the Executive Committee, and any Sub-Committee, and persons who assist them, against any liability incurred in good faith by that person in the course of performing his or her duties.
- (2) The Executive Committee may effect and maintain insurance to cover this indemnity.

## **77 Licensing Laws**

- (1) No person is entitled under these Rules or any By-Laws to derive any profit, benefit or advantage from the Club which is not shared equally by every member, provided always that the distribution of monies, property or otherwise, to members is prohibited whilst the Club is a going concern,
- (2) No payment or part payment to any Officer or servant of the Club shall be made by way of commission or allowance from the receipts of the Club for the supply of liquor.
- (3) Liquor may not be sold or disposed of on the Club premises except in accordance with the License held on behalf of the Club under the Liquor Act.
- (4) While and so long as the Club is licensed under the Liquor Act, the Secretary must, within 14 days of the making of an alteration to these Rules, forward to the secretary of the Victorian Commission for Gambling and Liquor a certified copy of the alteration.
- (5) An alteration to the Rules must be approved by the Victorian Commission for Gambling and Liquor.



**78 Winding up and cancellation**

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

**79 Alteration of Rules**

These Rules may only be altered by special resolution of a general meeting of the Club.

**Note**

An alteration of these Rules does not take effect unless or until it is approved by the Registrar.