



swimming
victoria

[Reg No A7221]

CONSTITUTION

TABLE OF CONTENTS

1	Name	4
2	Objects of SV.....	4
3	Application of Income	5
4	Addition Alteration or Amendment	6
5	Liability of Members.....	6
6	Clubs' Contributions	6
7	Distribution of Property on Winding Up	6
8	Interpretation	6
9	Clubs, District Associations and Affiliates	8
10	Club and District Association Constitutions	10
11	Members	11
12	Subscriptions and Fees	12
13	SV Register of Members	12
14	Effect of Membership	12
15	Discontinuance of Membership	13
16	Grievances.....	14
17	Discipline of Members	14
18	Delegates	15
19	General Meetings	15
20	Notice Of General Meetings.....	16
21	Business of General Meetings	16
22	Notices of Motion	17
23	Special General Meetings	17
24	Proceedings at General Meetings	18
25	Entitlements at General Meetings	19
26	Proxy Voting not permitted	20

27	Powers of the Board	20
28	Composition of the Board	20
29	Election of Elected Directors.....	20
30	Appointment of Appointed Directors.....	21
31	Chairman	21
32	Vacancies of Directors.....	21
33	Meetings of the Board.....	22
34	Conflicts.....	23
35	Chief Executive Officer	24
36	Delegations.....	24
37	By-Laws	25
38	Records, Accounts and Documents	26
39	Auditor	27
40	Notices	27
41	Patrons and Vice Patrons	27
42	Indemnity	27
43	Dissolution.....	28
44	Colours	28
45	Badges and Logo	28
46	Laws and Rules Governing Swimming Victoria	28
47	Eligibility	28
48	Jurisdiction over Swimmers.....	29
49	Custody and Use of the Common Seal.....	29
50	The Council.....	29
51	Transition.....	30
52	Grievances.....	30
53	Disciplinary Matters	30

ASSOCIATIONS INCORPORATION ACT 1981 (VIC)

CONSTITUTION

of

SWIMMING VICTORIA INCORPORATED

1 Name

The name of the association is Swimming Victoria Incorporated (“**SV**”).

2 Objects of SV

SV is the peak body for the administration of natatorial activities in Victoria and is established solely to:

- (a) affiliate and otherwise liaise with Swimming Australia Limited (“SAL”) and such other bodies as may be desirable to achieve these Objects;
- (b) conduct, encourage, promote, advance, control and administer natatorial activities in and throughout Victoria;
- (c) provide for the conduct, encouragement, promotion and administration of natatorial activities through and by various District Associations and Clubs for the mutual and collective benefit of the Members;
- (d) act in good faith and loyalty to ensure the maintenance and enhancement of SV and swimming, its standards, quality and reputation for the collective and mutual benefit of the Members and swimming;
- (e) at all times operate with and promote mutual trust and confidence between SV and the Members in pursuit of these Objects;
- (f) at all times to act on behalf of, in the interests of, and in conjunction, with the Members;
- (g) promote the economic and sporting success, strength and stability of SV and each Member and to act interdependently with each Member in pursuit of these Objects;
- (h) ensure compliance with the rules and by-laws as amended from time to time of SAL;
- (i) apply the property and capacity of SV towards the fulfilment and achievement of these Objects;
- (j) use and protect the Intellectual Property;
- (k) collect, distribute and publish information in connection with swimming;
- (l) promote and control state meetings, competitions and championships;
- (m) strive for governmental, commercial and public recognition of SV, the Clubs, the District Associations and swimming;

- (n) promulgate and secure uniformity in such rules as may be necessary or appropriate for the management and control of swimming and related activities in Victoria;
- (o) promote swimming as a spectator sport;
- (p) through or in association with the District Associations, the Clubs or other entities or of itself, promote the health and safety of all Individual Members;
- (q) pursue through itself or others such commercial arrangements, including sponsorship and marketing opportunities as are appropriate, to further these Objects;
- (r) formulate or adopt and implement appropriate policies, including in relation to harassment, discrimination, equal opportunity, equity, drugs in sport, health, safety, junior and senior programs and such other matters as arise from time to time as issues to be addressed in swimming;
- (s) represent the interests of its Members and of swimming generally in any appropriate forum;
- (t) have regard to the public interest in its operation;
- (u) do all that is reasonably necessary to enable these Objects to be achieved and to enable the Members to receive the benefits which these Objects are intended to achieve;
- (v) encourage and promote performance-enhancing drug free competition; and
- (w) undertake and or do all things or activities which are necessary, incidental or conducive to advance these Objects.

3 **Application of Income**

- (a) The income and property of SV shall be applied solely towards the promotion of the Objects.
- (b) No portion of the income or property of SV shall be paid or transferred, directly or indirectly by way of dividend, bonus or otherwise to any Member.
- (c) No remuneration or other benefit in money or money's worth shall be paid or given by SV to any Member who holds any office of SV.
- (d) Nothing contained in **Rules 3(b) or (c)** shall prevent payment in good faith to any Member:
 - (i) for any services actually rendered to SV whether as an employee or otherwise;
 - (ii) for goods supplied to SV in the ordinary and usual course of business;
 - (iii) of interest on money borrowed from any Member;
 - (iv) of rent for premises demised or let by any Member to SV;
 - (v) for any out-of-pocket expenses incurred by the Member on behalf of SV;

provided that any such payment shall not exceed the amount ordinarily payable between ordinary commercial parties dealing at arms length in a similar transaction.

4 **Addition Alteration or Amendment**

No addition, alteration or amendment shall be made to this Constitution unless it has been approved by Special Resolution.

5 **Liability of Members**

The liability of the Members of SV is limited in accordance with the Act.

6 **Clubs' Contributions**

Every Club undertakes to contribute to the assets of SV in the event of it being wound up while a Member, or within one year after ceasing to be a Member, for payment of the debts and liabilities of SV contracted before the time at which it ceases to be a Member, and the costs, charges and expenses of winding up and for an adjustment of the rights of contributors among themselves, such amount as may be required not exceeding one dollar (\$1).

7 **Distribution of Property on Winding Up**

If upon winding up or dissolution of SV there remains after satisfaction of all its debts and liabilities any assets or property, the same shall not be paid to or distributed amongst the Members but shall be paid to or distributed to SAL or its successors to be held in trust pending the formation of another organisation having objects similar to the Objects and which prohibits the distribution of its or their income and property among its or their members to an extent at least as great as is imposed on SV by **Rule 3**.

8 **Interpretation**

(1) In this Constitution unless the contrary intention appears:

Act means the *Associations Incorporation Act 1981 (VIC)*.

Affiliate means and includes those entities recognised under **Rule 9**.

SAL means Swimming Australia Limited.

Board means the board of SV constituted under this Constitution.

By-Laws means any by-laws made by the Board under **Rule 36**.

Chief Executive Officer means the Chief Executive Officer of SV for the time being appointed under this Constitution.

Club means an organisation affiliated to SV.

Competitions means and includes:

- (i) any championship (national or otherwise) organised or conducted by a District Association for or on behalf of SV;
- (ii) any championship, competition, series or meeting sponsored by or conducted by or on behalf of SV; or

(iii) any international competition, series, meeting or championship at which SV is represented.

Competitor means and includes a swimmer, diver, waterpolo player or synchronised swimmer.

Conference means the Annual General Meeting.

Constitution means the Constitution of SV.

Delegate means the persons elected or appointed from time to time by a Club or District Association to act for and on behalf of that Club or District Association and represent the Club or District Association at General Meetings and includes Alternate Delegates (where appointed).

Director means a member of the Board and includes any person acting in that capacity from time to time.

District Association means an organisation formed by Clubs within an area approved by SV.

FINA means Federation Internationale de Natation.

Financial year means the year ending 30 April each year.

General Meeting means the annual general meeting (normally called the "Conference"), or any special general meeting of SV.

Hearings Tribunal means a committee established under the **By-Laws** to investigate and determine breaches of this Constitution, the By-Laws and/or the SAL Member Protection Policy and to make recommendations to the **Board**.

Individual Member means a registered financial member of a Club.

Intellectual Property means all rights or goodwill subsisting in copyright, business names, names, trade marks (or signs), logos, designs, patents or service marks (whether registered or registrable) relating to SV or any Event, competition, championship, meeting or swimming activity of or conducted, promoted or administered by SV.

Life Member means an individual upon whom Life Membership of SV has been conferred under **Rule 11(c)**.

Member means a member for the time being of SV under **Rule 11**.

Member Protection Officer means a person appointed under the SAL Member Protection Policy.

Objects means the Objects of SV in **Rule 2**.

Official means any person elected or appointed to any position within SV.

President means the president for the time being of SV.

Special Resolution means a resolution passed:

- (a) at a General Meeting of SV of which 21 days notice, accompanied by notice of intention to propose a resolution as a special resolution, has been given to the Members in accordance with this Constitution; and
- (b) by at least three quarters of those Members who, being entitled to vote, vote in person at the meeting.

Swimmer means an Individual Member.

- (2) Expressions referring to “writing” shall unless the contrary intention appears, be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form, including messages sent by electronic mail.
- (3) In this Constitution
 - (a) a reference to a function includes a reference to a power, authority and duty;
 - (b) a reference to the exercise of a function includes, where the function is a power, authority or duty, a reference to the exercise of the power or authority of the performance of the duty;
 - (c) words importing the singular include the plural and vice versa;
 - (d) words importing any gender include the other gender;
 - (e) references to persons include corporations and bodies politic;
 - (f) references to a person include the legal personal representatives, successors and permitted assigns of that person; and
 - (g) a reference to a statute, ordinance, code or other law includes regulations and other statutory instruments under it and consolidations, amendments, re-enactments or replacements of any of them (whether of the same or any legislative authority having jurisdiction).
- (4) If any provision of this Constitution or any phrase contained in it is invalid or unenforceable in any jurisdiction, the phrase or provision is to be read down for the purpose of that jurisdiction, if possible, so as to be valid and enforceable. If it cannot be read down it shall be severed to the extent of the invalidity or unenforceability, without affecting the remaining provisions of the Constitution or affecting the validity or enforceability of that provision in any other jurisdiction.
- (5) SV is established solely for the Objects.
- (6) The model rules referred to in the Act are displaced by this Constitution.

9 **Clubs, District Associations and Affiliates**

(1) **Recognition of District Associations**

SV shall allocate Clubs to District Associations. Each District Association shall administer swimming in the territory determined by SV or administer their particular discipline in accordance with the Objects, but not to the exclusion of Clubs, SV or any Affiliate.

(2) **Recognition of Affiliates**

The following entities are recognised by SV as Affiliates to administer their particular discipline in accordance with the Objects:

Victorian Waterpolo Association Inc
Victorian Diving Association Inc
Victorian Synchronised Swimming Inc
Aussi Masters (Victorian Branch).

New Affiliates may be recognised in accordance with this Constitution.

(3) **Compliance of Clubs and District Associations**

Each Club and District Association shall:

- (a) be incorporated;
- (b) provide SV with copies of its independently reviewed financial statements, annual report and other associated documents by June 14th following its annual general meeting;
- (c) adopt the Objects and adopt rules which reflect and which are, to the extent permitted or required by the applicable law, generally in conformity with this Constitution;
- (d) apply its property and capacity in a manner consistent with the pursuit of the Objects, and swimming;
- (e) do all that is reasonably necessary and within its power to enable the Objects to be achieved;
- (f) act in good faith and loyalty to maintain and enhance SV and swimming, its standards, quality and reputation for the collective and mutual benefit of the Clubs and swimming;
- (g) at all times operate with and promote mutual trust and confidence between SV and the Clubs in pursuit of the Objects; and
- (h) at all times not act in a manner which is inconsistent with the interests of the Clubs and swimming.

(4) **Operation of Constitution**

SV, the Clubs and the District Associations agree:

- (a) that they are bound by this Constitution and that this Constitution operates to create uniformity in the way in which the Objects and the sport of swimming are to be conducted, encouraged, promoted and administered in Victoria;
- (b) to act in good faith and loyalty to each other to ensure the maintenance and enhancement of swimming, its standards, quality and reputation for the collective and mutual benefit of the Members;
- (c) not to do or permit to be done any act or thing which might adversely affect or derogate from the standards, quality and reputation of swimming and its

maintenance and enhancement;

- (d) to make full and proper disclosure to each other of all matters of importance to SV and swimming;
- (e) to ensure that no Member acquires a material or financial advantage at the expense of SV or any District Association or swimming;
- (f) to operate with mutual trust and confidence in pursuit of the Objects;
- (g) to promote the economic and sporting success, strength and stability of each other and to act interdependently with each other in pursuit of the Objects;
- (h) to act for and on behalf of the interests of swimming, SV and the Members; and
- (i) that should a District Association have administrative, operational or financial difficulties, the Board may, in its absolute discretion, act to assist that District Association in whatever manner and on such conditions as it considers appropriate.

(5) Resignation

A Club may resign from SV upon giving written notice to SV. The resignation shall come into effect upon receipt of the notice by SV.

(6) Obligations after resignation

In the event that a Club resigns from SV, the Club must fulfil all its obligations to SV up to and including the date of resignation.

(7) New District Associations and Affiliates

- (a) SV may, by Special Resolution, grant District Association or Affiliate status to new organisations subject to such organisations complying with such membership and/or affiliation procedures as may be prescribed by SV from time to time.
- (b) Affiliate status may be granted by SV for such term and upon such terms and conditions as SV considers appropriate. New District Associations will be governed by this Constitution.

10 Club and District Association Constitutions

(1) Constitution

The constituent documents of each Club and District Association shall clearly reflect the Objects with such incidental variations as are necessary or appropriate.

(2) Amendments to Club and District Association Constitutions

Each Club and District Association shall take all steps necessary to ensure its constituent documents are in a form acceptable to SV and shall ensure its documents are amended in conformity with future amendments to this Constitution. Changes to Club and District Association Constitutions shall be submitted to SV for approval prior to them being implemented.

11 **Members**

(1) **Members**

The Members of SV shall consist of:

- (a) the Clubs and District Associations, which subject to this Constitution, shall be represented by their Delegates who have the right to be present, debate and vote at General Meetings for and on behalf of the Clubs and District Associations;
- (b) the Affiliates, which are entitled to be represented at General Meetings, but have no right to debate or vote at General Meeting;
- (c) Individual Members who may attend General Meetings but otherwise have no right to debate or vote at General Meetings (unless also a Delegate or a Director);
- (d) Life Members, who may attend, debate and vote at General Meetings, and
- (e) such new categories of Members, as may be created in accordance with **Rule 11(2)** of this Constitution.

(2) **Creation of New Categories of Membership**

The Board has the right and power from time to time to create new categories of membership with such rights (other than voting rights), privileges and obligations as are determined applicable, even if the effect of creating a new category is to alter rights, privileges or obligations of an existing category of Members. No new category of membership may be granted voting rights without a Special Resolution.

(3) **Life Members**

- (a) SV may confer Life Membership on a person who has provided long and meritorious service with SV in recognition of their efforts in furthering the interests of SV.
- (b) Life Membership may only be conferred by Special Resolution at an Annual General Meeting.
- (c) Nominations for life membership must be submitted through the Clubs, District Associations or Individual Members to SV and must be received by the Chief Executive Officer not later than 60 days prior to the relevant Annual General Meeting.
- (d) Upon life membership being conferred on a person, that person's details shall be entered upon the register. A person shall become a Life Member from the time the Special Resolution conferring the life membership is passed not from the time of entry of their details on the register.

(4) **Register of Members**

Every Club shall maintain, in a form and with such details as are acceptable to SV, a register of its Individual Members. Every Club shall provide a copy of the register at a time and in a form acceptable to SV and shall provide prompt and regular

updates of that register to SV when requested by the Board.

12 Subscriptions and Fees

- (1) Fees including annual membership fees, capitation fees, fines, penalty fees and levies payable by Members (or any category of Member) to SV, the basis of, the time for and the manner of payment, shall be determined by the Board. No fee shall be charged for admission to membership of the Association.
- (2) Monies payable to SV by the Members under **Rule 12(1)** shall be forwarded to SV for SV's use by such dates as are prescribed by the Board.
- (3) Any Member which has not paid all monies due and payable by that Member to SV shall (subject to the Board's discretion) have all rights under this Constitution immediately suspended from the expiry of the time prescribed for payment of those monies. Such rights will be suspended until the monies are fully paid or otherwise in the Board's discretion. The Member shall be dealt with in the Board's discretion, which includes the right to suspend, disqualify, discipline or retain (but not impose a financial penalty) that Member as a Member, or impose such other conditions or requirements as the Board considers appropriate.
- (4) Where the Board exercises its discretion under **Rule 12(3)** and imposes a penalty on a Member which or who has not paid all monies due and payable by that Member to SV, the rules of natural justice are hereby expressly excluded and do not apply to the imposition of that penalty.
- (5) The funds of SV shall be derived from the annual membership fees, capitation fees, levies, donations, sponsorships and such other sources as the Board determines.

13 SV Register of Members

(1) Chief Executive Officer to Keep Register

The Chief Executive Officer shall keep and maintain a register of Members in which shall be entered such information as is determined by the Board from time to time.

(2) Inspection of Register

Having regard to privacy and confidentiality considerations, an extract of the register of Members, excluding the address of any Life Member, Director or Delegate, shall be available for inspection (but not copying) by Clubs and District Associations, upon reasonable request.

14 Effect of Membership

Members acknowledge and agree that:

- (a) this Constitution constitutes a contract between each of them and SV and that they are bound by this Constitution and the By-Laws;
- (b) they shall comply with and observe this Constitution and the By-Laws and any determination, resolution or policy which may be made or passed by the Board or any duly authorised committee;
- (c) by submitting to this Constitution and the By-Laws they are subject to the jurisdiction of SV;

- (d) this Constitution is made in pursuit of a common object, namely the mutual and collective benefit of SV, the Members and swimming;
- (e) this Constitution and the By-Laws are necessary and reasonable for promoting the Objects and particularly the advancement and protection of swimming; and
- (f) they are entitled to all benefits, advantages, privileges and services of SV membership.

15 **Discontinuance of Membership**

(1) **Member's Failure to Comply**

Notwithstanding **Rule 17**, where a Club fails to comply with its financial, reporting or other obligations under this Constitution, the Board may determine that Club to be not of good standing. On determination that a Club is not of good standing, the Board may give notice to the Club of:

- (a) the Board's determination; and
- (b) the grounds for the Board's determination;

and request that the Club show cause within 21 days from the date of that notice as to why some action should not be taken against the Club. The Club's failure to respond or act to the Board's satisfaction (including assurances or compliance with its obligations) may result in the Board suspending or terminating the Club's membership of SV, or otherwise imposing such conditions on its membership, as the Board sees fit. A penalty of termination imposed on a Club by the Board requires ratification by SV in General Meeting, and the Board may suspend a Club pending such ratification. A penalty (other than termination) will take effect upon notification by the Board. Nothing in this Rule affects the operation of **Rules 12(3) and (4)**.

(2) **Forfeiture of Rights**

A Member who or which ceases to be a Member, for whatever reason, shall forfeit all right in and claim upon SV and its property including Intellectual Property. Any SV documents, records or other property in the possession, custody or control of that Member shall be returned to SV immediately.

(3) **Representation Rights**

Where a Club ceases to be a Member it shall also forfeit all representation rights at General Meetings.

(4) **Conference**

Notwithstanding **Rule 15(3)** a Member retains representation rights up to and including the Conference following conclusion of the financial year.

(5) **Membership May be Reinstated**

Membership which has lapsed, been withdrawn or terminated under this Constitution may be reinstated by the Board in its discretion, on application in accordance with this Constitution and otherwise on such conditions as the Board

sees fit.

(6) **Clubs and Individual Members**

Where a Club ceases to be a Member in accordance with this Constitution or the Act, the Individual Members of that Club may continue to be recognised by SV to the extent (if any) and for such time (if any) as is determined in the sole discretion of the Board.

16 **Grievances**

(1) Where a Member, or Individual Member has a grievance arising from their involvement in the activities of the Association, (whatever that may be), with another Member, Individual Member, or employee of the Association, and that Member or Individual Member considers that the grievance warrants investigation and action by the Association that Member or Individual Member shall follow the procedures specified in clause 52.

(2) All grievance procedures shall be conducted according to the rules of natural justice.

17 **Discipline of Members**

The Board may refer the following matters for investigation or determination by a Hearings Tribunal in its sole discretion:

(a) an allegation or grievance (not being vexatious, trifling or frivolous) by a complainant (who may be, but need not be, a Club or Individual Member) that a Club or Individual Member has:

(i) breached, failed, refused or neglected to comply with a provision of this Constitution, the By-Laws or any other resolution or determination of the Board or duly authorised committee; or

(ii) acted in a manner unbecoming of a Member or prejudicial to the Objects and interests of SV and/or swimming; or

(iii) brought SV or swimming into disrepute; or

(iv) breached the Member Protection Policy of SAL or any other policy or rule of SAL;

(v) or committed an act of misconduct.

(b) where the Board (in its sole discretion) considers a matter is of a serious enough nature, an appeal from an Individual Member or Club who has received a penalty or an adverse finding in disciplinary proceedings conducted by a Club or District Association or Affiliate, provided that the Individual Member or Club has first exhausted all avenues of appeal available under the constitutions of the District Association, Affiliate or Club;

and any such Member will be subject to, and submits unreservedly to the jurisdiction, procedures, penalties and appeal mechanisms of SV set out in Clause 53.

18 Delegates

(1) Appointment of Delegates

Each Club and District Association shall be entitled to appoint 1 Delegate. Each Club and District Association shall appoint its Delegate for such term as it deems appropriate. A Delegate must:

- (a) not also be a Director;
- (b) be an Individual Member of the Member which appoints him; and
- (c) be appropriately empowered by the Member to make decisions and vote at General Meetings.

(2) Delegates as Representative

Delegates shall represent their Clubs or District Associations at General Meetings and shall have full power to consider and vote on resolutions at General Meetings.

(3) Member Associations to advise

Each Member Association shall advise the Chief Executive Officer of its appointed Delegate prior to any General Meeting.

(4) Alternate Delegates

A Club or District Association may appoint an Alternate Delegate. An Alternate Delegate must comply with the requirements for Delegates set out in **Rule 18(1)** and has such rights and powers as does a Delegate. Where a Member appoints an Alternate Delegate it shall advise the Chief Executive Officer as soon as practicable after the appointment.

19 General Meetings

(1) Powers of the General Meeting

SV in General Meeting shall act in accordance with the Objects and for the mutual and collective benefit of the Members, swimming and the general community throughout Australia. SV in General Meetings will act in the best interests of SV and in addition to its other powers and functions under the Act shall have power to:

- (a) requisition a General Meeting;
- (b) convene a General Meeting;
- (c) elect / dismiss Directors;
- (d) determine Directors fees (as applicable);
- (e) alter the Constitution;
- (f) accept or reject the Annual Report;
- (g) power to move consider and vote on Special Resolutions;
- (h) Power to admit new District Associations; and
- (i) be the final arbiter on matters referred to it by the Board.

(2) **Annual General Meeting (also known as the Conference) to be held**

- (a) An Annual General Meeting of SV shall be held in accordance with the Act and this Constitution on a date and at a venue to be determined by the Board.
- (b) All General Meetings other than the Annual General Meeting shall be Special General Meetings and shall be held in accordance with this Constitution.

20 **Notice Of General Meetings**

(1) **Notice of General Meetings**

- (a) Notice of every General Meeting shall be given to every Club, District Association, Delegate, Life Member, SV Auditor and Director at the address appearing in the register kept by SV.
- (b) At least 60 days notice of the place and day and hour of the General Meeting shall be given.
- (c) At least 21 days notice of the business to be transacted at a General Meeting shall be given, together with:
 - (i) any notice of motion received from any Member, Director or the Board in accordance with this Constitution;
 - (ii) relevant accounts and reports in accordance with this Constitution and the Act;
 - (iii) a list of all nominations received for positions to be elected at the relevant General Meeting; and
 - (iv) the agenda for the meeting.

(2) **Entitlement to Attend General Meeting**

Notwithstanding any other clause of this Constitution, no Member shall be represented at, or take part in a General Meeting, unless all monies then due and payable by that Member to SV are paid.

21 **Business of General Meetings**

(1) **Business to be transacted**

- (a) The business to be transacted by the Annual General Meeting includes the consideration of the accounts and the reports of the Board, District Associations (if any) and the auditors, the election of Directors (as relevant), the appointment of auditors and (if required) the appointment of patrons.
- (b) All business that is transacted at a General Meeting, with the exception of those matters set out in **Rule 21(1)(a)** shall be Special Business. "Special Business" is business of which a notice of motion has been submitted in

accordance with **Rule 22** and includes amendments to the Constitution.

(2) **No other Business**

No Special Business other than that stated on the notice for a meeting shall be transacted at the General Meeting.

22 **Notices of Motion**

(1) **Notices of Motion from Members to be submitted**

All notices of motion from Members for inclusion as Special Business at a General Meeting must be submitted in writing (in the required form) to the Chief Executive Officer not less than 40 days (excluding receiving date and meeting date) prior to the General Meeting.

(2) **Notices of Motion from the Board to be submitted**

All notices of motion from the Board for inclusion as Special Business at a General Meeting must be submitted in writing (in the required form) to the Chief Executive Officer not less than 40 days (excluding receiving date and meeting date) prior to the General Meeting.

23 **Special General Meetings**

(1) **Special General Meetings may be held**

The Board may, whenever it thinks fit, convene a Special General Meeting of SV and, where but for this Rule more than 15 months would elapse between Annual General Meetings, shall convene a Special General Meeting before the expiration of that period.

(2) **Requisition of Special General Meetings**

- (a) The Board shall on the requisition in writing of not less than 12 voting Members, who are not all members of the same District Association, convene a Special General Meeting.
- (b) The requisition for a Special General Meeting shall state the object(s) of the meeting shall be signed by the Delegate of the Member making the requisition and be sent to SV. The requisition may consist of several documents in a like form, each signed by 1 or more of the Members making the requisition.
- (c) If the Board does not cause a Special General Meeting to be held within 1 month after the date on which the requisition is received by SV, the Members making the requisition, or any of them, may convene a Special General Meeting to be held not later than 3 months after that date.
- (d) A Special General Meeting convened by Members under this Constitution shall be convened in the same manner, or as nearly as possible as that, in which meetings are convened by the Board.

24 Proceedings at General Meetings

(1) Quorum

No business shall be transacted at any General Meeting unless a quorum is present at the time when the meeting proceeds to business. A quorum for General Meetings shall be persons who between them are entitled to cast 30 or more votes. These may be Members represented by their notified Delegates (or Alternate Delegates), Directors or Life Members.

(2) President to preside

The President shall, subject to this Constitution, preside at every General Meeting of SV. If the President is not present, or is unwilling or unable to preside, the Members who are present and entitled to vote shall elect one of the remaining Directors who shall, subject to this Constitution, preside as chairman for that meeting only. If there is no Director present, willing or able to preside as chairman the Members who are present and entitled to vote shall elect one of the persons who is present and entitled to vote to preside as chairman for that meeting only.

(3) Adjournment of Meeting

- (a) If within half an hour from the time appointed for the General Meeting a quorum is not present the meeting shall be adjourned to such other day and at such other time and place as the chairman may determine. If at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting the meeting will lapse.
- (b) The chairman may, and shall if so directed by the meeting, adjourn the meeting from time to time and from place to place but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (c) When a General Meeting is adjourned for 30 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.
- (d) Except as provided in **Rule 24(3)(c)** it shall not be necessary to give any notice of an adjournment or the business to be transacted at any adjourned meeting.

(4) Poll

At any General Meeting a resolution put to the vote of the meeting shall be decided on a show of hands, unless a poll is (before or on the declaration of the result of the show of hands) demanded:

- (a) by the chairman; or
- (b) by more than one half of the Delegates present.

(5) Recording of Determinations

Unless a poll is demanded under **Rule 24(4)**, a declaration by the chairman that a resolution has on a show of hands been carried, or carried unanimously, or by a particular majority or lost, and an entry to that effect in the book containing the minutes of the proceedings of SV shall be conclusive evidence of the fact without

proof of the number of the votes recorded in favour of or against the resolution.

(6) **Where Poll demanded**

If a poll is duly demanded under **Rule 24(4)** it shall be taken in such manner and either at once or after an interval or adjournment or otherwise as the chairman directs, and the result of the poll shall be the resolution of the meeting at which the poll was demanded.

(7) **Resolutions not in Meeting**

(a) Except:

- (i) in the case of an Annual General Meeting; or
- (ii) where a Special Resolution is required under this Constitution or under the Act;

a resolution in writing signed or assented to by facsimile or other form of visible or other electronic communication by all the Members entitled to vote shall be as valid and effectual as if it had been passed at a meeting of Members entitled to vote duly convened and held. Any such resolution may consist of several documents in like form each signed by 1 or more of the Members entitled to vote.

(b) Without limiting the power to hold Special General Meetings in accordance with this Constitution, a Special General Meeting may be held where 1 or more of the Members entitled to vote is not physically present at the meeting, provided that:

- (i) all persons participating in the meeting are able to communicate with each other effectively, simultaneously and instantaneously whether by means of telephone or other form of communication;
- (ii) notice of the meeting is given to all persons entitled to notice in accordance with this Constitution;
- (iii) in the event that a failure in communications prevents **Rule 24(7)(b)(i)** from being satisfied by a quorum then the meeting shall be suspended until **Rule 24(7)(b)(i)** is satisfied again. If such is not satisfied within 15 minutes from the interruption the meeting shall be deemed to have terminated; and
- (iv) no meeting shall be invalidated merely because no Member entitled to vote is physically present at the place for the meeting specified in the notice of meeting.

25 **Entitlements at General Meetings**

- (1) Delegates shall represent their respective Club or District Association. Each Delegate shall have one vote. The chairman shall not have a casting vote but is otherwise entitled to exercise his or her other voting entitlements. Where voting is equal the vote shall be lost. No other person shall be entitled to vote but shall, subject to this Constitution, have and be entitled to exercise those rights set out in **Rule 11(1)**.

- (2) Each Director is entitled to notice of, and to attend, debate and vote at all General Meetings.

26 **Proxy Voting not permitted**

Proxy voting shall not be permitted.

27 **Powers of the Board**

- (1) Subject to the Act and this Constitution, the business of SV shall be governed, and the powers of SV shall be exercised, by the Board. The Board shall act in accordance with the objects of SV and shall operate for the collective and mutual benefit of SV, the Members and swimming; and
- (2) The Board shall have the power to suspend or stand down a Director, if it has reasonable grounds to believe that the Director has been involved in any action which may be misconduct or a breach of the Constitution.

28 **Composition of the Board**

(1) **Composition**

The Board will, subject to this Constitution, comprise no more than 9 Directors being 7 Directors including the President elected under **clause 29** ("Elected Directors") and 2 Appointed Directors.

(2) **Qualifications of Directors**

Subject always to the law, the Board will determine necessary requirements and qualifications for eligibility as Directors from time to time. The Board shall advise the Members of any requirements, qualifications and modifications when determined.

(3) **Portfolios**

The Board may determine the interests of SV are best served by the allocation of portfolios to Directors. The Board shall be entitled to vary the titles and portfolios of each of the Directors in accordance with the needs of SV from time to time.

29 **Election of Elected Directors**

(1) **Election of Elected Directors**

Subject to **Clause 51** Elected Directors shall be subject to election each year. Nominations must be submitted to the Chief Executive Officer by May 1st in each year. Where elections are required the election shall be conducted by a mail vote of all Members entitled to vote at a General Meeting. Nomination details of the necessary requirements and qualifications (if any) applicable to the position shall also be provided. Ballot papers shall be circulated by May 21st in each year and the ballot shall close on the 30th of June in each year.

(2) **Call for Nominations**

Notification of the call for nominations for Directors shall be made to all members during the month of March. Such notification may be in written form or may be in

electronic form on the Association web site or both at the discretion of the Chief Executive Officer.

(3) **Form of Nomination**

Nominations must be:

- (a) in writing;
- (b) on the prescribed form (if any) provided for that purpose;
- (c) signed by a nominator and a seconder, who shall be Individual Members;
- (d) certified by the nominee expressing his willingness to accept the position for which he is nominated.

30 **Appointment of Appointed Directors**

(1) **Appointment**

The Board will, as soon as practicable but in any event within 6 months of a vacancy in the office of Appointed Director occurring, appoint up to 2 Appointed Directors. Appointed Directors may have specific skills and should (but need not) have some experience in or exposure to swimming.

(2) **Term**

Appointed Directors shall remain in office for up to 2 years following their appointment. An Appointed Director may upon the expiration of his term of office be re-appointed.

31 **Chairman**

The President shall chair any Board meeting at which he is present. If the President is not present, or is unwilling or unable to preside the remaining Directors shall appoint one of their number to preside as chairman for that meeting only.

The Board shall from amongst the Elected Directors appoint one of their number annually to fulfil the office of President.

32 **Vacancies of Directors**

(1) **Grounds for Termination of Director**

In addition to the circumstances (if any) in which the office of a director becomes vacant by virtue of the *Corporations Act*, the office of a Director becomes vacant if the Director:

- (a) dies;
- (b) becomes bankrupt or makes any arrangement or composition with his/her creditors generally;
- (c) becomes of unsound mind or a person whose person or estate is liable to be dealt with in anyway under the law relating to mental health;

- (d) resigns his office by providing notice in writing to SV;
- (e) is absent without the consent of the Board from all Board meetings held during a period of 3 months;
- (f) in the case of an Elected Director, without the prior consent or later ratification of a General Meeting, holds any office of profit under SV;
- (g) is directly or indirectly interested in any contract or proposed contract with SV and fails to declare the nature of his interest;
- (h) is removed from office by Special Resolution; or
- (i) would otherwise be prohibited from being a director of a corporation under the *Corporations Act*.

(2) **Casual Vacancies**

The Board may fill any casual vacancy occurring in the office of Director from appropriately qualified persons and shall endeavour to do so within 3 months of the vacancy arising.

(3) **Remaining Directors May Act**

In the event of a casual vacancy or vacancies in the office of a Director, the remaining Directors may act but, if the number of remaining Directors is not sufficient to constitute a quorum at a Board meeting, they may act only for the purpose of increasing the number of Directors to a number sufficient to constitute such a quorum.

33 **Meetings of the Board**

(1) **Board to Meet**

The Board shall meet as often as is deemed necessary in every Financial Year for the dispatch of business and may adjourn and, subject to this Constitution, otherwise regulate, its meetings as it thinks fit. Any Director may at any time convene a meeting of the Board within a reasonable time.

(2) **Decisions of Board**

Subject to this Constitution, questions arising at any meeting of the Board shall be decided by a majority of votes and a determination of a majority of Directors present and entitled to vote shall for all purposes be deemed a determination of the Board. All Directors shall have 1 vote on any question. The Chairman shall also have a casting vote where voting is equal.

(3) **Resolutions not in meeting**

- (a) A resolution in writing, signed or assented to by facsimile or other form of visible or other electronic communication by all the Directors shall be as valid and effectual as if it had been passed at a meeting of Directors duly convened and held. Any such resolution may consist of several documents in like form each signed by 1 or more of the Directors.
- (b) Without limiting the power of the Board to regulate their meetings as they

think fit, a meeting of the Board may be held where 1 or more of the Directors is not physically present at the meeting, provided that:

- (i) all persons participating in the meeting are able to communicate with each other effectively, simultaneously and instantaneously whether by means of telephone or other form of communication;
- (ii) notice of the meeting is given to all the Directors entitled to notice in accordance with the usual procedures agreed upon or laid down from time to time by the Board;
- (iii) in the event of a failure in communications which prevents **Rule 32(3)(b)(i)** from being satisfied and thereby a quorum does not exist then the meeting shall be suspended until **Rule 32(3)(b)(i)** is satisfied again and a quorum exists. If such is not satisfied within 15 minutes from the interruption the meeting shall be deemed to have terminated; and
- (iv) no meeting shall be invalidated merely because no Director is physically present at the place for the meeting specified in the notice of meeting.

(4) **Quorum**

At meetings of the Board the number of Directors whose presence (or participation under **Rule 32(3)**) is required to constitute a quorum is 5 Directors.

(5) **Notice of Board meetings**

Unless all Directors agree to hold a meeting at shorter notice (which agreement shall be sufficiently evidenced by their presence), not less than 7 days' written notice of the meeting of the Board shall be given to each Director.

(6) **Validity of Board decisions**

A procedural defect in decisions taken by the Board shall not result in such decision being invalidated.

34 **Conflicts**

Conflict of Interest

A Director shall declare to the Board his interest in any:

- (a) contractual matter;
- (b) selection matter;
- (c) disciplinary matter;
- (d) financial matter; or
- (e) any other matter;

in which a conflict of interest arises or may arise and shall, unless otherwise determined by the Board, absent himself from discussion of such matter and shall

not be entitled to vote in respect of such matter. In the event of any uncertainty as to whether it is necessary for a Director to absent himself from discussions and refrain from voting, the issue should be immediately determined by vote of the Board, or if this is not possible, the matter shall be adjourned or deferred. The Chief Executive Officer shall maintain a register of declared interests.

35 **Chief Executive Officer**

(1) **Appointment of Chief Executive Officer**

The Chief Executive Officer shall be appointed by the Board for such term and on such conditions as it thinks fit.

(2) **Specific Duties**

The Chief Executive Officer shall:

- (a) as far as practicable attend all Board meetings and General Meetings;
- (b) prepare the notice of and agenda for all Board meetings and all General Meetings;
- (c) ensure that minutes of the proceedings of all Board meetings and General Meetings are recorded and prepared; and
- (d) regularly report to the Board on the activities of, and issues relating to, SV.

(3) **Board Power to Manage**

Subject to the Act, this Constitution, the By-Laws and any directive of the Board, the Chief Executive Officer has power to perform all such things as appear necessary or desirable for the proper management and administration of SV. No resolution passed by the General Meeting shall invalidate any prior act of the Chief Executive Officer or the Board which would have been valid if that resolution had not been passed.

(4) **Chief Executive Officer may employ**

The Chief Executive Officer, in consultation with the Board, may employ such office personnel as are deemed necessary from time to time. Such appointments shall be for such period and on such conditions as the Chief Executive Officer and the Board determine.

36 **Delegations**

(1) **Board may Delegate Functions**

The Board may by resolution create or establish or appoint from among the Directors or otherwise, committees, individual officers or consultants to carry out such duties and functions and with such powers, as the Board determines.

(2) **Delegation by Instrument**

The Board may delegate such functions as are specified in the resolution, other than:

- (a) this power of delegation; and
- (b) a function imposed on the Board or the Chief Executive Officer by the Act or any other law or this Constitution and which is stated to not be capable of delegation.

(3) **Delegated function exercised in accordance with terms**

A function, the exercise of which has been delegated under this Rule, may whilst the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation.

(4) **Procedure of delegated entity**

The procedures for any delegated entity shall, with any necessary or incidental amendment, be the same as that applicable to meetings of the Board under **Rule 32**. The quorum shall be determined by the committee, but shall be no less than one half of the total number of committee members.

(5) **Delegation may be conditional**

A delegation under this Rule may be made subject to such conditions or limitations as to the exercise of any function or at the time or circumstances as may be specified in the delegation.

(6) **Revocation of delegation**

The Board may by resolution, revoke wholly or in part any delegation made by it, and may amend, repeal or veto any decision made by such body or person under the delegated power.

(7) **Standing Committees**

There will be a number of standing committees established under the By-Laws.. Persons shall be appointed to these standing committees each year by the Board. The Board will call for nominations from Members for consideration to appointment to these committees. Such appointments will be advised at the Annual General Meeting.

(8) **Operation of Standing Committees**

The standing committees under **Rule 36(7)** will function as committees of the Board in accordance with this **Rule 36**. For the avoidance of doubt the standing committees and their members are responsible to the Board and are subject to the direction of, and delegation by, the Board in accordance with this **Rule 36**.

37 **By-Laws**

(1) **Board to formulate By-Laws**

The Board may (by itself or by delegation to a committee) formulate, approve, issue, adopt, interpret and amend such By-Laws for the proper advancement, management and administration of SV and the advancement of the Objects as it thinks necessary or desirable. Such By-Laws must be consistent with this Constitution.

(2) **By-Laws binding**

All By-Laws made under this Rule shall be binding on SV and Members.

(3) **By-Laws deemed applicable**

All rules, regulations and by-laws of SV in force at the date of the approval of this Constitution under the Act insofar as such rules, regulations or by-laws are not inconsistent with, or have been replaced by this Constitution, shall be deemed to be By-Laws under this Rule.

(4) **Notices binding on members**

Amendments, alterations, interpretations or other changes to By-Laws shall be published by means of notices approved by the Board. Notices are binding upon all Members.

38 **Records, Accounts and Documents**

(1) **Chief Executive Officer to Keep Records**

The Chief Executive Officer shall establish and maintain proper records and minutes concerning all transactions, business, meetings and dealings of SV and the Board and shall produce these as appropriate at each Board meeting or General Meeting.

(2) **Records Kept in Accordance with the Act**

Proper accounting and other records shall be kept in accordance with the Act, generally accepted accounting principles and/or any applicable code of conduct. The books of account shall be kept in the care and control of the Chief Executive Officer.

(3) **SV to retain records**

SV shall retain such records for not less than 7 years after the completion of the transactions or operations to which they relate.

(4) **Board to submit accounts**

The Board shall submit to the Annual General Meeting the accounts of SV in accordance with this Constitution and the Act.

(5) **Accounts to be sent to Members**

The Chief Executive Officer shall cause to be sent to all persons entitled to receive notice of Annual General Meetings of SV in accordance with this Constitution, a copy of the accounts, the Board's report, the auditor's report and every other document required under the Act (if any).

(6) **Inspection of accounts and documents**

Subject to any reasonable restrictions as to time and manner of inspecting the same that may be imposed in accordance with this Constitution, the accounts and documents shall be open to inspection (but not copying) by the Delegates.

(7) Negotiable Instruments

All cheques, promissory notes, bankers drafts, bills of exchange and other negotiable instruments and all receipts for money paid to SV, shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by any 2 authorised Directors or by 1 authorised Director and the Chief Executive Officer or in such other manner and by such persons the Directors determine.

39 Auditor

- (1) A properly qualified auditor or auditors shall be appointed by the Board and the remuneration of such auditor or auditors shall be fixed by the Board. The auditor's duties shall be regulated in accordance with the Act, and in accordance with generally accepted principles, or any applicable code of conduct.
- (4) The accounts of SV including the profit and loss accounts and balance sheet shall be examined by the auditor or auditors at least once in every year.

40 Notices

(1) Manner of Notice

- (a) Notices may be given to any Member by sending the notice by pre-paid post or facsimile transmission or where available, by electronic mail, to the Member's registered address or facsimile number or electronic mail address.
- (b) Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying and posting the notice. Service of the notice is deemed to have been effected 2 business days after posting.
- (c) Where a notice is sent by facsimile transmission, service of the notice shall be deemed to be effected upon receipt of a confirmation report confirming the facsimile was sent to/or received at the facsimile number to which it was sent.
- (d) Where a notice is sent by electronic mail, service of the notice shall be deemed to be effected upon receipt of a confirmation report confirming the electronic mail message was received at the electronic mail address to which it was sent.

(2) Notice of General Meeting

Notice of every General Meeting shall be given in the manner authorised and to the persons entitled to receive notice under this Constitution.

41 Patrons and Vice Patrons

SV at its Annual General Meeting may appoint on the recommendation of the Board a Chief Patron and such number of Patrons and Vice-patrons as it considers necessary.

42 Indemnity

(1) Directors to be Indemnified

Every Director, auditor, manager, employee or agent of SV shall be indemnified out

of the property or assets of SV against any liability incurred by him in his capacity as Director, auditor, manager, employee or agent in defending any proceedings, whether civil or criminal, in which judgement is given in his favour.

(2) **SV to Indemnify Directors**

SV shall indemnify its Directors and employees against all damages and costs (including legal costs) for which any such Director or employee may be or become liable to any third party in consequence of any act or omission except wilful misconduct:

- (a) in the case of a Director, performed or made whilst acting on behalf of and with the authority, express or implied of SV; and
- (b) in the case of an employee, performed or made in the course of, and within the scope of his employment by SV.

43 **Dissolution**

- (1) Subject to **Rule 42(2)**, SV may be wound up in accordance with the provisions of the Act.
- (2) The provisions of **Rules 6 and 7** of this Constitution relating to the winding up and dissolution of SV shall take effect and be observed as if the same were repeated in this Rule.

44 **Colours**

The colours of SV shall be navy blue and white.

45 **Badges and Logo**

The badge of SV shall be as prescribed by the By-Laws from time to time.

The logo of SV shall be as prescribed by the By-Laws from time to time.

46 **Laws and Rules Governing Swimming Victoria**

- (1) Where no provision is made in the Constitution or any rules or By-Laws made under the Constitution, SV may apply to SAL for a ruling and such ruling shall be enforceable by SV as if it was a term of this Constitution.
- (2) The technical laws of FINA as set out in the handbook of SAL with regard to swimming, shall (where practicable) be binding on all competitions held in Victoria. Any alterations or amendments to the FINA technical laws shall be immediately notified to all Members by SV and shall become operative 2 months after the date of approval by FINA.

47 **Eligibility**

To be eligible to compete in any Competition a Competitor must be an Individual Member or a Member of a national federation affiliated to FINA.

48 Jurisdiction over Swimmers

- (1) The eligibility definition in **Rule 48** shall be binding on all Competitors and Individual Members.
- (2) A sentence of suspension, disqualification or expulsion or other penalty by SV shall be binding on all Members. A suspension, disqualification or expulsion shall be notified to SAL immediately. All matters affecting the status or reinstatement of any Swimmer shall be forwarded to SV by the relevant Member of which the Swimmer is an Individual Member and the Board of SV will alone, or with reference to the SAL Board, determine the matter.
- (3) A Swimmer who has broken the Eligibility Law (as defined by FINA), knowingly, may not be requalified, provided that:
 - (a) A Swimmer who has been suspended, disqualified or expelled shall not compete until the term of suspension has been served, the disqualification lifted or the expulsion reversed.

N.B. In connection with this Rule, the words “conducted under the Rules of SAL” shall appear in every entry form and program and each Member is responsible to see this direction is implemented.
- (5) SV may recognise masters swimming, diving, water polo or synchronised swimming organisations who administer and control a program of competition for adults 25 years of age and older who are interested in the physical fitness and social benefits to be derived from pursuing such a program

The following regulations shall apply for each of the four disciplines:

- (a) Affiliates may establish a special category of membership in each of the four disciplines, with a minimum age limit of 25 years and for a fee to be determined by that Affiliate. (Such category to be referred to in this Constitution as Masters).
- (b) Masters Competitions shall be closed to any persons 24 years of age or younger.

49 Custody and Use of the Common Seal

- (1) The Association has elected not to use a Common Seal.
- (2) Any document that would have required the use of the Common Seal, shall be authorised by the Board, and shall be countersigned by 2 Directors.

50 The Council

- (1) The Council shall consist of:
 - The Board;
 - 1 Delegate from each Country District;
 - 2 Delegates from each Metropolitan District; and
 - All Life Members.
- (2) It shall meet at least quarterly, and shall receive reports from Board members for dissemination within their District, and shall advise the Board on matters affecting

their District and swimming in general. The Board shall not be bound by decisions of Council.

51 Transition

In the initial election of Directors under this Constitution the 4 elected Directors who receive the greatest number of votes shall be elected for a period of 2 years. The next 3 elected Directors, who are elected shall be appointed for a period of 1 year, thus establishing a rotational election cycle.

As of completion of the 2009 Annual Conference this rule shall have no further effect.

52 Grievances

- 52.1.1 A dispute between, or grievance involving;
- (a) An Individual Member and another Individual Member;
 - (b) A Member and another Member;
 - (c) An Individual Member and a Member; or
 - (d) A Member or an Individual Member and SV or an employee of SV;

other than a breach or complaint which is dealt with under **Clause 53**, shall be dealt with under this **Clause 52.1**.

- 52.1.2 If the dispute or grievance is between two or more Individual Members of the same Club or between an Individual Member and his Club, the dispute or grievance may be submitted to a Grievance Officer for the relevant Club, District or SV.
- 52.1.3 If the dispute or grievance is between two or more Individual Members of different Clubs, or between a Club or Individual Member and SV or an employee of SV, the dispute or grievance may be submitted to the Chief Executive Officer.
- 52.1.4 Such matters shall be dealt with by mediation; in accordance with the Grievance procedure in the rules of the Club, District or SV. If the mediation is unsuccessful the matter may with the consent of the complainant, be referred to the Chief Executive Officer.
- 52.1.5 The Chief Executive Officer shall refer all matters referred to him under **Rule 52.1.2** or **52.1.3** or **52.1.4** to a Member Protection Officer in accordance with the SAL Member Protection Policy or for consideration by a Hearings Tribunal.
- 52.1.6 All complaints that are not resolved by mediation which may result in a member or individual member being sanctioned must be referred to a Hearings Tribunal for consideration before a recommendation is presented to the Board. The Board shall accept the recommendations of a Hearings Tribunal.

53. **Disciplinary Matters**

53.1 Breaches/Complaints

53.1.1 Any complaint, that a member or individual member has committed a breach as referred to in **Clause 53.7** or **Rule 17** of the SV Constitution (other than an alleged breach of the SAL Member Protection Policy) shall be submitted to the Chief Executive Officer.

53.1.2 A complaint received by the Chief Executive Officer pursuant to **Rule 53.1.1** may be referred to a Member Protection Officer for investigation and/or mediation, or to a Hearings Tribunal for further investigation and/or determination.

53.1.3 A breach or alleged breach of the SAL Member Protection Policy shall be dealt with in accordance with the SAL Member Protection Policy.

53.1.4 The Board may from time to time, nominate appropriate persons to be Member Protection Officers.

53.2 Notification of Hearings Tribunal Complaint

53.2.1 If the Chief Executive Officer refers a dispute or grievance received under **Clause 52.1** or a complaint of a breach as referred to in **Clause 53.1** to a Hearings Tribunal, the Chief Executive Officer shall;

- (a) advise the member or individual member against whom the complaint has been made of any alleged breach;
- (b) convene the Hearings Tribunal at such time and place as is arranged with the members of the Hearings Tribunal;
- (c) notify the person about whom the complaint has been made, of the complaint and the details of the hearing to be conducted by the Hearings Tribunal;
- (d) notify the complainant of the details of the hearing to be conducted by the Hearings Tribunal.

53.2.2 The date, the place and the time of the hearing, (which shall be not less than 7 days and not more than 28 days after the giving of the notice), together with a notice of the right to be assisted by another person at any such hearing, are considered to be the minimum information to be provided.

53.3 Hearings Tribunal

53.3.1 The Board shall establish a panel of persons from which the Hearings Tribunal shall be selected. The panel shall consist of a number of qualified legal practitioners and other members.

53.3.2 Each Hearings Tribunal shall be appointed by the Chief Executive Officer from the panel and shall consist of a qualified legal practitioner as the Chair, plus two other panel members.

- 53.3.4 The Hearings Tribunal shall investigate and consider the matters referred to them, according to the rules of natural justice, and shall make recommendations to the Board of any recommended penalties or otherwise according to the information placed before them. They shall conduct the hearing as they see fit, and shall not be bound by the rules of evidence.
- 53.3.5 The Board shall accept the recommendations of a Hearings Tribunal.
- 53.4 Decision Notification
- 53.4.1 The Chief Executive Officer shall notify all parties to a complaint of the decision of the Board and the applicable penalty.
- 53.4.2 Such notification shall include details of the right to appeal and the methods involved, plus the right to be represented by a legally qualified person at such appeal.
- 53.5 Appeals
- 53.5.1 Any party to a hearing may appeal a decision of a Hearings Tribunal.
- 53.5.2 Any appeal shall be submitted to the Hearings Tribunal of Swimming Australia Limited. There can only be one appeal.
- 53.5.3 Notice of intention to appeal shall be submitted to the Chief Executive Officer within 5 business days of the notification of the decision of the Hearings Tribunal has been accepted by the Board. The formal appeal must be submitted to the Chief Executive Officer within 15 business days of the notification of the decision.
- 53.5.4 Further details of appeal procedures are to be found in the SAL Constitution, Rules, and Member Protection Policy.
- 53.6 Sanctions
- 53.6.1 The Board shall have the power to fine, reprimand, suspend, disqualify or otherwise deal with any Club, District or individual member, based upon the recommendation of a Hearings Tribunal.
- 53.7 Breaches of the Rules
- 53.7.1 Breaches of the rules under the SV Constitution or By-Laws include but are not limited to:
- 53.7.1.1 a member or individual member who has committed any breach of the Constitution, By-Laws, Swimming Australia Member Protection Policy, or any regulation made thereunder;

- 53.7.1.2 a member or individual member who fails to carry out the reasonable instructions of any Officer, Official or Team Manager of SV when taking part in any competition under the control of SV;
- 53.7.1.3 a member or individual member who commits any act contrary to good order and discipline when taking part in an event under the control of SV or when travelling with or stationed with any team under the control of SV;
- 53.7.1.4 an individual member when acting as an Officer or Team Manager appointed by SV neglects to carry out his defined duties to the reasonable satisfaction of SV;
- 53.7.1.5 an individual member who competes at a swim meet not sanctioned by SV or otherwise infringes the Constitution or By-Laws of SV, or acts in a manner calculated to bring the sport into disrepute whether relating to competing or not; and
- 53.7.1.6 an individual member who competes at a Masters meet whilst less than the minimum age as specified by the FINA.
- 53.8 Consequential Actions
- 53.8.1 No person shall be eligible for membership of SV whilst under sentence of suspension or disqualification imposed by or recognised by SV. Such sentences shall be binding on all affiliated bodies.
- 53.8.2 An individual member who has knowingly competed against one who is under sentence of suspension or disqualification, may be suspended until the expiration of such sentence or a longer period as the Board may think fit.
- 53.8.3 All State Associations and SAL shall be advised of the suspension or disqualification of a member of SV imposed by SV.