

ASSOCIATIONS INCORPORATION ACT 1981 (VIC)

CONSTITUTION

of

SYNCHRONIZED SWIMMING AUSTRALIA INC

1. Name

The name of the association is Synchronized Swimming Australia Inc (“SSAI”).

2. Objects of SSAI

SSAI is the peak body for the administration of the sport of synchronized swimming in Australia and is established solely to:

- (a) affiliate and otherwise liaise with the Federation Internationale de Natation or its successor or assign (“FINA”), the Australian Swimming Inc., or its successor or assign (“ASI”) and such other bodies as may be desirable to achieve these Objects;
- (b) conduct, encourage, promote, advance, control and administer the sport of synchronized swimming throughout Australia;
- (c) provide for the conduct, encouragement, promotion and administration of the sport of synchronized swimming through and by various Member Associations for the mutual and collective benefit of the Members;
- (d) act in good faith and loyalty to ensure the maintenance and enhancement of SSAI and synchronized swimming, its standards, quality and reputation for the collective and mutual benefit of the Members and synchronized swimming;
- (e) at all times operate with and promote mutual trust and confidence between SSAI 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 SSAI and each Member Association and to act interdependently with each Member Association in pursuit of these Objects;
- (h) ensure compliance with the rules and by-laws as amended from time to time of FINA;
- (i) make Australia the leader in world synchronized swimming;
- (j) apply the property and capacity of SSAI towards the fulfilment and achievement of these Objects;
- (k) use and protect SSAI’s Intellectual Property;
- (l) collect, distribute and publish information in connection with synchronized swimming;
- (m) promote and control national and international meetings, competitions and championships;
- (n) strive for governmental, commercial and public recognition of SSAI, the Member Associations and synchronized swimming;
- (o) promulgate and secure uniformity in such rules as may be necessary or appropriate for the management and control of synchronized swimming and related activities in Australia;

- (p) promote synchronized swimming as a spectator sport;
- (q) through or in association with the Member Associations, other entities or of itself, promote the health and safety of all Individual Members;
- (r) pursue through itself or others such commercial arrangements, including sponsorship and marketing opportunities as are appropriate, to further these Objects;
- (s) formulate or adopt and implement appropriate policies, including in relation to sexual harassment, 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 synchronized swimming;
- (t) represent the interests of its Members and of synchronized swimming generally in any appropriate forum;
- (u) have regard to the public interest in its operation;
- (v) 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;
- (w) encourage and promote performance-enhancing drug free competition; and
- (x) undertake and or do all things or activities which are necessary, incidental or conducive to advance these Objects.

3. Powers of SSAI

Solely for furthering the Objects of, in addition to any powers it has under the Act, SSAI has the legal capacity and powers of a company as set out under section 124 of the *Corporations Act 2001 (Cth)*.

4. Application of Income

- (a) The income and property of SSAI shall be applied solely towards the promotion of the Objects.
- (b) No portion of the income or property of SSAI 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 SSAI to any Member who holds any office of SSAI.
- (d) Nothing contained in **Rules 4(b) or (c)** shall prevent payment in good faith to any Member:
 - (i) for any services actually rendered to SSAI whether as an employee or otherwise;
 - (ii) for goods supplied to SSAI 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 SSAI;
 - (v) for any out-of-pocket expenses incurred by the Member on behalf of SSAI;

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

5. **Addition Alteration or Amendment**

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

6. **Liability of Members**

The liability of the Members of SSAI is limited.

7. **Member Associations' Contributions**

Every Member Association undertakes to contribute to the assets of SSAI 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 SSAI 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).

8. **Distribution of Property on Winding Up**

If upon winding up or dissolution of SSAI 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 an organisation or organisations 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 SSAI by **Rule 4**. Such organisation to be determined by the Members at or before the time of dissolution, and in default thereof by such judge of the Supreme Court of Victoria as may have or acquire jurisdiction in the matter.

9. **Interpretation**

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

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

Board means the board of SSAI constituted under this Constitution.

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

Clubs means organisations affiliated to Member Associations.

Competitions means and includes:

- (i) any championship (national or otherwise) organised or conducted by a Member Association for or on behalf of SSAI;
- (ii) any championship, competition, series or meeting sponsored by or conducted by or on behalf of SSAI; or
- (iii) any international competition, series, meeting or championship at which SSAI is represented.

Competitor means a synchronized swimmer.

Constitution means the Constitution of SSAI.

Council means the body, comprised of the State Councillors and the Swimmers' Representative who are entitled, as of right (and not by invitation), to be present and vote at General Meetings of SSAI.

Councillor means the persons elected or appointed from time to time by a Member Association to act for and on behalf of that Member Association and represent the Member Association at General Meetings and includes Alternate State Councillors (where appointed).

Director means a member of the Board (other than the National Executive Director) and includes any person acting in that capacity from time to time.

FINA means the Federation Internationale de Natation or its successor or assign responsible for the administration of natatorial activities internationally.

Financial year means the year ending 30 June each year.

General Meeting means the Annual or any Special General meeting of SSAI.

Individual Member means a registered financial member of a Member Association and/or 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 SSAI or any Event, competition, championship, meeting or synchronized swimming activity of or conducted, promoted or administered by SSAI.

Judiciary Committee means a committee of SSAI having such functions as set out in **Rule 17**.

Life Member means an individual upon whom Life Membership of SSAI has been conferred under **Rule 12(3)**.

Member means a member for the time being of SSAI under **Rule 12**.

Member Association means and includes those entities recognised under **Rule 10(1)**.

National Executive Director means the National Executive Director of SSAI for the time being appointed under this Constitution or in the absence of an appointed National Executive Director, a member of the Board or such other person or persons the Board appoints or delegates from time to time.

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

Office Bearer means and includes any of the following: the Coaching Director, Judging Director, Technical Director, Recreational Director, Selectors, Promotions Officer, Registrar.

Official means any person elected or appointed to any position within SSAI or the Member Associations.

President means the President for the time being of SSAI.

Public Officer means the person appointed by the Board pursuant to **Rule 38**.

Special Resolution means a resolution passed:

- (a) at a General Meeting of SSAI of which 30 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 or by another form of visible or electronic communication approved by SSAI from time to time.

State means a State of Australia and includes (where appropriate) the Territories of Australia.

State Acts means the state associations incorporation legislation (by whatever name called) governing the Members.

Swimmers' Representative means the person elected in accordance with this Constitution to act for and on behalf of Synchronized Swimmers at General Meetings.

Synchronized 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) SSAI is established solely for the Objects.
- (6) The model rules referred to in the Act are displaced by this Constitution.

10. Member Associations

(1) Member Associations

The entity which is the only official representative of and controlling authority for the sport of synchronized swimming in a State shall be a Member Association and shall administer synchronized swimming in that particular State in accordance with the Objects, the objects of the Member Association and the Member Associations' State Act.

(2) Compliance of Member Associations

Each Member Association shall:

- (a) be incorporated;
- (b) provide SSAI with copies of its audited accounts, annual report and other associated documents immediately 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 State Acts, generally in conformity with this Constitution;
- (d) apply its property and capacity solely in pursuit of the Objects, the Member Association and synchronized swimming;
- (e) at all times act for the joint advantage of SSAI and the Members and synchronized swimming;
- (f) do all that is reasonably necessary to enable the Objects to be achieved;
- (g) act in good faith and loyalty to maintain and enhance SSAI and synchronized swimming, its standards, quality and reputation for the collective and mutual benefit of the Members and synchronized swimming;
- (h) at all times operate with and promote mutual trust and confidence between SSAI and the Members in pursuit of the Objects; and
- (i) at all times act on behalf of and in the interests of the Members and synchronized swimming.

(3) Operation of Constitution

SSAI and the Member 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 synchronized swimming are to be conducted, encouraged, promoted and administered in Australia;
- (b) to act in good faith and loyalty to each other to ensure the maintenance and enhancement of synchronized 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 synchronized swimming and its maintenance and enhancement;

- (d) to make full and proper disclosure to each other of all matters of importance to SSAI and synchronized swimming;
- (e) to ensure that no Member acquires a material or financial advantage at the expense of SSAI or any Member Association or synchronized 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 synchronized swimming, SSAI and the Members; and
- (i) that should a Member Association have administrative, operational or financial difficulties, the Board may, in its absolute discretion, act to assist that Member Association in whatever manner and on such conditions as it considers appropriate.

(4) **Resignation**

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

(5) **Obligations after resignation**

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

(6) **New Member Associations**

SSAI may, by Special Resolution, grant Member Association status to new organisations subject to:

- (a) the limitation of one (1) Member Association per State; and
- (b) compliance with membership procedures as may be prescribed by SSAI from time to time.

11. Member Association Constitutions

(1) **Constitution**

The constituent documents of each Member Association shall clearly reflect the Objects with such incidental variations as are necessary or appropriate, having regard to the State Act applicable to each Member Association.

(2) **Amendments to Member Association Constitutions**

Each Member Association shall take all steps necessary to ensure its constituent documents are in a form acceptable to SSAI and shall ensure its documents are amended in conformity with future amendments to this Constitution, subject to any prohibition or inconsistency in any relevant State Act.

12. Members

(1) Members

The Members of SSAI shall consist of:

- (a) the Member Associations, which subject to this Constitution, shall be represented by their Councillors who have the right to be present, debate and vote at General Meetings for and on behalf of the Member Associations;
- (b) Clubs which have no right to attend, 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 Councillor, Director or Swimmers' Representative);
- (d) Life Members, who may attend and debate at General Meetings, but otherwise have no right to vote at General Meetings; and
- (e) such new categories of Members, as may be created in accordance with **Rule 12(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.

(3) Life Members

- (a) SSAI may, from among persons who have provided long and active service with SSAI, appoint Life Members in recognition of their efforts in furthering the interests of SSAI.
- (b) A Life Member may only be elected by Special Resolution at an Annual General Meeting.
- (c) Nominations for life membership must be submitted through the Member Associations to SSAI and must be received by the National Executive Director 120 days prior to the relevant Annual General Meeting.
- (d) Upon life membership being conferred, the person's details shall be entered upon the register. A person shall become a Life Member from the time their life membership is formally announced not from the time of entry of their details on the register.

(4) Register of Members

Each Member Association shall maintain, in a form and with such details as are acceptable to SSAI, a register of all their respective Clubs and Individual Members. Each Member Association shall provide a copy of the register at a time and in a form acceptable to SSAI and shall provide prompt and regular updates of that register to SSAI when requested by the Board.

13. Subscriptions and Fees

- (1) Fees including annual membership fees, capitation fees and levies payable by Members (or any category of Member) to SSAI, the basis of, the time for and the manner of payment, shall be

determined by the Board.

- (2) Monies payable to SSAI by the Members under **Rule 13(1)** shall be forwarded to SSAI for SSAI'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 SSAI 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 13(3)** and imposes a penalty on a Member which or who has not paid all monies due and payable by that Member to SSAI, the rules of natural justice are hereby expressly excluded and do not apply to the imposition of that penalty.

14. **SSAI Register of Members**

(1) **National Executive Director to Keep Register**

The National Executive Director shall keep and maintain a register of Members, including a register of Clubs and Individual Members as provided by each Member Association in accordance with **Rule 12(4)**, in which shall be entered such information as is required under the Act from time to time.

(2) **Inspection of Register**

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

15. **Effect of Membership**

Members acknowledge and agree that:

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

16. **Discontinuance of Membership**

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

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

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

and request that the Member Association show cause within 21 days from the date of that notice as to why some action should not be taken against the Member Association. The Member Association'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 Member Association's membership of SSAI, or otherwise imposing such conditions on its membership, as the Board sees fit. A penalty of termination imposed on a Member Association by the Board must be ratified by SSAI in General Meeting. Such penalty (other than termination) will take effect upon notification by the Board. Nothing in this Rule effects the operation of **Rules 13(3) and (4)**.

(2) **Forfeiture of Rights**

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

(3) **Representation Rights**

Where a Member Association ceases to be a Member it shall also forfeit all representation rights at General Meetings. A Member Association shall return any SSAI documents, records or other property in its possession, custody or control to SSAI immediately upon cessation of membership.

(4) **Membership May be Reinstated**

Membership which has lapsed, been withdrawn or terminated under this Constitution may be reinstated at the discretion of SSAI, on application in accordance with this Constitution and otherwise on such conditions as the Board sees fit.

(5) **Clubs and Individual Members**

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

17. Discipline of Members

(1) **Matters which may be referred to a Judiciary Committee**

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

- (a) **breach of Constitution:** an allegation or grievance (not being vexatious, trifling or frivolous) by a complainant (who may be, but need not be, a Member) that a 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 SSAI and/or synchronized swimming; or
 - (iii) brought SSAI or synchronized swimming into disrepute; or
- (b) **disciplinary matter:** 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 Member Association, provided that the Individual Member or Club has first exhausted all avenues of appeal available under the constitutions of the Member Association or Club;

and any such Member will be subject to, and submits unreservedly to the jurisdiction, procedures, penalties and appeal mechanisms of SSAI set out in this **Rule 17**.

(2) **Referral to Judiciary Committee**

- (a) The Board or if appropriate, the National Executive Director, shall commence or cause to be commenced any disciplinary proceedings ("**proceedings**") against a defendant by referring the alleged breach or misconduct to a Judiciary Committee, comprised of such persons nominated by the Board (being no less than 3 and no more than 5 who need not be Members), for such time and for such purposes as is required under this **Rule 17**, one of whom shall be appointed chairman of the Judiciary Committee.
- (b) Any such referral to a Judiciary Committee shall be in writing and accompanied by any documentary or other evidence that is available to the referring party. The referral shall be clear and unambiguous, stating precisely the matter or matters to be determined.
- (c) No person who is an interested party, with either a direct or indirect interest, shall participate in the determination of the proceedings in any way.
- (d) On receipt of the referral, the chairman of a Judiciary Committee shall, in consultation with the remaining members of the Judiciary Committee determine an appropriate date, time and place for a hearing by the Judiciary Committee. The meeting shall be no less than 14 days from, but shall be as soon as practicable after the receipt of the referral, unless the matter is deemed to require urgent attention, in which case the defendant and Judiciary Committee may agree on a variation of the time frame set out in this **Rule 17**, having regard to the availability of key witnesses and timing of relevant competitions, amongst other things.
- (e) The chairman of the Judiciary Committee shall notify the remaining members of the Judiciary Committee, the defendant and any complainant or relevant Member of the date, time and place of the hearing, and in addition, shall advise that each party to the proceedings has the right:
 - (i) to make written submissions to be filed with the chairman of the Judiciary Committee not less than 5 days prior to the date of the hearing; and
 - (ii) to appear at the hearing and/or be represented by a person who is not legally qualified (as determined in the Judiciary Committee's discretion).
- (f) The Judiciary Committee may invite a legally qualified person to be present at the hearing

to render advice or assistance to the Judiciary Committee concerning any legal issue raised at the hearing provided that such person shall not participate in any deliberations or vote of the Judiciary Committee in relation to its findings or its decision. Nothing in this Rule, however, shall otherwise disqualify a legally qualified person from being a member of the Judiciary Committee.

- (g) Subject to this Rule, the Judiciary Committee shall conduct the hearing as it sees fit, always having regard to the principles of natural justice, and in particular shall not be bound by rules of evidence, or unnecessary formality. The defendant must be advised of the hearing procedure determined by the Judiciary Committee at or before the commencement of the proceedings.
- (h) The Judiciary Committee shall be entitled to call such evidence as it thinks fit, and all Members shall be compelled to provide such evidence, as they are able. The Judiciary Committee may adjourn the hearing if this is considered necessary.
- (i) If the Judiciary Committee, having taken into account the written and verbal submissions and other evidence of the parties, considers the allegations sustained, the Judiciary Committee may impose such penalty as it considers appropriate in accordance with **Rule 17.3**.
- (j) If a decision cannot be given immediately after the proceedings, the relevant party or parties must be advised of the time and place at which the decision will be given. The decision, any penalty, the reasons for the decision and notice of the person's appeal rights (if any) shall be given in writing and signed by the Judiciary Committee chairman.
- (k) On exhaustion of all disciplinary procedures available to the Member (if any), whether by elapse of time or otherwise, notice of any penalty, suspension or disqualification imposed shall be given by the National Executive Director to all Member Associations and shall be mutually recognised by all Member Associations immediately upon receipt of such notice.
- (l) Reinstatement of any Member shall be recognised by all Member Associations immediately upon receipt of notice to this effect.

(3) **Penalties**

Penalties which may be imposed, include:

- (a) a reprimand;
- (b) suspension of such activities, on such terms and for such period as is seen fit;
- (c) exclusion from a particular activity, event or events competition or competitions;
- (d) expulsion;
- (e) fines imposed in such manner and in such amount as is seen fit;
- (f) such combination of any of the above penalties as is seen fit; or
- (g) any other penalty considered appropriate in the circumstances.

During proceedings (including any appeal), the defendant may continue to participate in the sport on such terms as the determining body under these Rules thinks fit, pending the determination of the proceedings (including any available appeal) unless the determining body decides (in its sole

discretion) such continued participation is inappropriate having regard to the matter at hand.

(4) **Effect of Penalty**

- (a) Where a Member is suspended under this Rule its membership of, and representation rights and privileges shall be forfeited during the period of such suspension.
- (b) Any Individual Member so suspended or disqualified shall not be entitled to enter any competition, tournament or event held under the Rules or By-Laws of SSAI.

(5) **Appeal Committee**

Subject to these Rules the Appeal Committee will act as final arbiter on all disciplinary matters referred to it.

- (a) An appeal lodged with the National Executive Director, in writing within 14 days of the determination of a Judiciary Committee and specifying the grounds of appeal, by a Member who has received a penalty or is the subject of an adverse finding by a Judiciary Committee shall be referred to the Board for consideration. If the Board in its sole discretion considers the appeal has merit the Board will refer the appeal to an Appeal Committee for consideration and determination. The Board may reject or accept (and thus refer) any appeal under this Rule in its sole discretion.
- (b) The decision of the Board in rejecting an appeal by a Member under this Rule 17.5 shall be final and not subject to further appeal.
- (c) The appointment of, referral to, and proceedings of an Appeal Committee in convening, hearing and determining an appeal shall be similar to or the same as those in respect of a Judiciary Committee set out in Rule 17.5 above, with such incidental variations as are appropriate or necessary. Any dispute as to the application of this Rule shall be determined by the Board in its sole discretion.
- (d) In the matter of an appeal under Rule 17.5(a), an Appeal Committee may in its sole discretion confirm the penalty or adverse finding of the Judiciary Committee, or may decide not to confirm such penalty but instead impose an alternate penalty available under Rule 11.5, including increasing the penalty, or may revoke the penalty or adverse finding of the Judiciary Committee.
- (e) The effect of any penalty imposed by an Appeal Committee shall be the same as set down in Rule 17.4 above. The decision of an Appeal Committee under this Rule 17.5 shall be final and not subject to further appeal.

18. Councillors

(1) **Appointment of Councillors**

Each Member Association shall be entitled to appoint one (1) Councillor. Member Associations shall appoint their Councillors for such term as is deemed appropriate by the Member Association. A Councillor must:

- (a) not also be a Director;
- (b) be an Individual Member of the Member Association which appoints him/her;
- (c) be appropriately empowered by his/her Member Association to make decisions at General

Meetings; and

(d) reside in the State of the Member Association which s/he represents.

(2) **Councillors as Representative**

Councillors shall represent their Member 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 National Executive Director of its appointed Councillor prior to any General Meeting.

(4) **Alternate Councillors**

A Member Association may appoint an Alternate Councillor. An Alternate Councillor must comply with the requirements for Councillors set out in **Rule 18(1)** and has such rights and powers as does a Councillor. Where a Member Association appoints an Alternate Councillor it shall advise the National Executive Director as soon as practicable after the appointment.

19. General Meetings

(1) **Powers of the Council in General Meeting**

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

- (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) Special Resolutions;
- (h) power to admit new Member Associations; and
- (i) be the final arbiter on matters referred to it by the Board.

(2) **Annual General Meeting to be held**

- (a) An Annual General Meeting of SSAI shall be held within five (5) months after the end of the Financial Year (in accordance with the Act) 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 Member Association, Councillor, Swimmers' Representative, Life Member, Director and Office Bearer at the address appearing in the register kept by SSAI. No other person shall be entitled as of right to receive notices of General Meetings, except SSAI's auditor(s).
- (b) At least 60 days notice shall be given:
 - (i) of the place and day and hour of the General Meeting;
 - (ii) of the Board positions declared vacant; and
 - (iii) calling for nominees for those Office Bearer positions declared vacant.
- (c) At least 30 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 Association, Swimmers' Representative, 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 SSAI 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, proposed budget and the reports of the Board, Member Associations (if any) and the auditors, the election of Directors (as relevant), consideration of recommendations for, and if so resolved, conferral of, Life Membership (if any), Service Awards and the appointment, removal and fixing the remuneration of the auditors.
- (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 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 Member Associations to be submitted

All notices of motion from Member Associations for inclusion as Special Business at a General Meeting must be submitted in writing (in the required form) to the National Executive Director 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 National Executive Director 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, but so that no fewer than one (1) meeting is conducted during the course of each calendar year, convene a Special General Meeting of SSAI 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 50% or more of Member Associations 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 Councillors of the Member Associations making the requisition and be sent to SSAI. The requisition may consist of several documents in a like form, each signed by one (1) or more of the Member Associations making the requisition.

(c) If the Board does not cause a Special General Meeting to be held within one (1) month after the date on which the requisition is sent to SSAI, the Member Associations 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 Member Associations 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 at least two-thirds of the Member Associations represented by their notified Councillors.

(2) President to preside

The President shall, subject to this Constitution, preside at every General Meeting of SSAI. If the

President is not present, or is unwilling or unable to preside, the Members shall elect one of the remaining Directors who shall, subject to this Constitution, 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 over half the Councillors (including the Swimmers' Representative) 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 SSAI 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 one (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 one (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) Each Member Association shall have voting rights. Councillors shall represent their respective Member Associations. Each Councillor shall have two (2) votes. The Swimmers' Representative is entitled to one (1) vote. The chairman shall not have a casting vote. 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 12(1)**.
- (2) Each Director and Office Bearer is entitled to notice of, and to attend and debate at, all General Meetings.

26. Proxy and Postal Voting Permitted

- (1) Proxy voting shall be permitted at all General Meetings provided a proxy form in the form authorised by the Board which has been duly completed and executed, is lodged with the National Executive Officer before the commencement of the meeting. Proxies shall only be exercised by Members entitled to vote.
- (2) The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.
- (3) A Member must instruct its proxy to vote in favor of or against any proposed resolutions.
- (4) Where voting is required on a matter which in the interests of SSAI, cannot be held over to the next General Meeting, a postal vote shall be conducted.
- (5) Where a postal vote is to be held, the National Executive Director shall forward to each Member Association and the Swimmer's Representative elected in accordance with **Rule 48**:
 - (a) full details of the matter to be resolved;
 - (b) ballot papers;

- (c) any instructions required for the ballot;
 - (d) the date by which the vote is due.
- (6) Where the proposal to be resolved involves only two (2) alternatives the decision shall, unless a Special Resolution is required or is the Rules otherwise specify, require a majority of the votes cast. Where voting is equal the motion will fail.
 - (7) Where the proposal to be resolved involves more than two (2) alternatives the proposal shall be resolved in favour of the alternative which has the most votes out of the alternatives. Where voting is equal the motion will fail.
 - (8) Within five (5) days after the close of voting, the National Executive Director shall notify each Member Association, the Swimmers' Representative and each Board Member the result of the voting, including detailing votes for and against.

27. Powers of the Board

Subject to the Act and this Constitution, the business of SSAI shall be governed, and the powers of SSAI shall be exercised, by the Board. The Board shall act in accordance with the Objects of SSAI and shall operate for the collective and mutual benefit of SSAI, the Members and synchronized swimming.

28. Composition of the Board

(1) Composition

The Board will, subject to this Constitution, comprise no more than five (5) Directors including the President, two (2) Vice-Presidents and two (2) Other Directors all elected under **Rule 29**. Of the two Other Directors, the Board will nominate one (1) Other Director to fill the position of Secretary and one (1) Other Director to fill the position of Treasurer.

(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 Member Associations of any requirements, qualifications and modifications when determined.

(3) Portfolios

The Board may determine the interests of SSAI 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 SSAI from time to time.

29. Election of Elected Directors

(1) Election of Elected Directors

Subject to **Rule 49**, the President, two (2) Vice-Presidents and two (2) other Directors will be elected at a General Meeting in accordance with this Constitution. Nominations must be received by SSAI from persons to be considered for election as Directors 30 days prior to the relevant General Meeting. When calling for nominations details of the necessary requirements and qualifications (if any) applicable to the position shall also be provided.

(2) 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/her willingness to accept the position for which he is nominated; and
- (e) endorsed by the nominee's Member Association confirming the nominee is an Individual Member.

(3) **Elections**

Elections for Elected Directors under **Rule 29(1)** shall be by exhaustive ballot at the relevant General Meeting on papers prepared by the National Executive Director.

(4) **Term**

- (a) Subject to **Rule 49** and provisions in this Constitution relating to the earlier retirement or removal of Directors, each elected Director shall hold office for 2 years but is eligible for re-election subject to having the required qualifications and complying with the job description. A Director can not hold the office of President for more than 4 concurrent years.
- (b) The terms of office of elected Directors shall rotate in accordance with the initial terms determined under **Rule 29(5)**.

(5) **Rotational Terms**

To ensure rotational terms one (1) Vice President and one (1) other Director shall retire each year. Any adjustment to the term of Director(s) to ensure rotational terms in accordance with this Constitution, shall be determined by the Board and in the event of the Board failing to agree, by lot. Elections to, and vacancies on, subsequent Boards shall then proceed in accordance with the procedures in this Constitution.

30. Chairman

The President shall chair any Board meeting at which s/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.

31. Vacancies of Directors

(1) **Vacancy of Directors**

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 SSAI;
- (e) is absent without the consent of the Board from Board meetings held during a period of 6 months;
- (f) without the prior consent or later ratification of the Members in General Meeting, holds any office of profit under SSAI;
- (g) is directly or indirectly interested in any contract or proposed contract with SSAI and fails to declare the nature of his interest;
- (h) is removed from office in accordance with these Rules; or
- (i) would otherwise be prohibited from being a director of a corporation under the *Corporations Act*.

(2) **Removal of a Director**

If a notice of motion is put forward in accordance with these Rules, and in the opinion of the Council, the notice of motion is not vexatious, trifling or frivolous, that a Director:

- (a) has acted in a manner unbecoming or prejudicial to the objects and interests of SSAI and/or the sport;
- (b) has brought SSAI, any Member Association or synchronized swimming into disrepute; or
- (c) is otherwise unsuitable or unable to carry on his/her office;

and should be removed from office, the Council shall:

- (d) cause the National Executive Director to call a General Meeting at such time and place as is determined appropriate;
- (e) give at least 14 days notice to the relevant Director of the meeting, together with a copy of the notice of motion, and inviting the Director to appear at the meeting and/or make submissions no less than 7 days prior to the meeting; and

at the General Meeting called for this purpose, the Council shall:

- (f) give the Director an opportunity to be heard, and/or ensure there is sufficient time devoted to reviewing any submissions made by the Director; and
- (g) vote on the proposed removal, having first taken into account the submissions and representations of the Director. The Director shall be entitled to remain in office if such a Special Resolution fails. The Council's decision shall be final.

(3) **Casual Vacancies**

Any casual vacancy occurring in the office of Director will be filled by the Board from appropriately qualified persons within 3 months of the vacancy arising. Any such vacancy shall only be filled for

the remainder of the Director's term under this Constitution.

(4) **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.

32. Meetings of the Board

(1) **Board to Meet**

The Board shall meet as often as is deemed necessary but not less than six (6) times 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 one (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 one (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 one (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 prevents **Rule 32(3)(b)(i)** from being satisfied by a quorum of Directors then the meeting shall be suspended until **Rule 32(3)(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 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 four (4) 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 14 days' written notice of the meeting of the Board shall be given to each Director. The agenda shall be forwarded to each Director not less than 7 days prior to such meeting.

(6) **Validity of Board decisions**

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

33. Conflicts

Conflict of Interest

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

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

in which a conflict of interest arises or may arise and shall, unless otherwise determined by the Board, absent himself/herself 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/herself 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 National Executive Director shall maintain a register of declared interests.

34. National Executive Director

(1) **Appointment of National Executive Director**

A National Executive Director may be appointed by the Board for such term and on such conditions as it thinks fit.

(2) **Specific Duties**

Where the Board has appointed a National Executive Director, the National Executive Director 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, SSAI.

(3) **Broad Power to Manage**

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

(4) **National Executive Director may employ**

The National Executive Director, 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 National Executive Director and the Board determine.

(5) **No Appointed National Executive Director**

Where the Board has determined not to appoint a National Executive Director, the Board shall appoint or delegate the responsibilities of the National Executive Director set out in this Constitution to a Director or Directors of the Board or such other person or persons the Board appoints or delegates from time to time

35. Delegations(1) **Board may Delegate Functions**

The Board may by instrument in writing 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 in the establishing instrument delegate such functions as are specified in the instrument, other than:

- (a) this power of delegation; and
- (b) a function imposed on the Board or the National Executive Director by the Act or any other law or this Constitution.

(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 instrument in writing, revoke wholly or in part any delegation made under this Rule, and may amend, repeal or veto any decision made by such body or person under this Rule.

(7) **Standing Appointments**

Office Bearers shall be appointed by the Board. The terms of office shall be two (2) years. In accordance with **Rule 20(1)(b)(iii)**, the Board will call for nominations from Member Associations. Such appointments will be advised at the Annual General Meeting.

(8) **Responsibility of Office Bearers**

Office Bearers are responsible to the Board and are subject to the direction of, and delegation prepared by, the Board in accordance with this **Rule 35**.

36. 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 SSAI, 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 36** shall be binding on SSAI and Members.

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

All rules, regulations and by-laws of SSAI 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 advised to Member Associations by means of notices approved by the Board and prepared and issued by the National Executive Director. Member Associations shall be obliged to draw such notices to the attention of their respective Members. Notices are binding upon all Members.

37. Records and Accounts(1) **National Executive Director to Keep Records**

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

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

Proper accounting and other records shall be kept in accordance with the Act and the *Corporations 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 National Executive Director.

(3) **SSAI to retain records**

SSAI 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 SSAI in accordance with this Constitution and the Act.

(5) **Accounts Conclusive**

The accounts when approved or adopted by an Annual General Meeting shall be conclusive except as regards any error discovered in them within 3 months after such approval or adoption.

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

The National Executive Director shall cause to be sent to all persons entitled to receive notice of Annual General Meetings of SSAI 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 or *Corporations Act* (if any).

(7) **Inspection of accounts**

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 shall be open to inspection (but not copying) by the Councillors.

(8) **Negotiable Instruments**

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

38. Public Officer

- (a) The Board shall appoint a person resident in Victoria to be the Public Officer of SSAI.
- (b) Once appointed, the Public Officer shall continue in this position until replaced by the Board or his/her office becomes vacant in accordance with the Act. In the event that the Public Officer should retire then the Board shall appoint a replacement in accordance with these Rules within the time prescribed by the Act for such replacement.

39. Auditor

- (1) A properly qualified auditor or auditors shall be appointed and the remuneration of such auditor or auditors fixed by the Board. The auditor's duties shall be regulated in accordance with the *Corporations Act*, or if no relevant provisions exist under the *Corporations Act* in accordance with generally accepted principles, or any applicable code of conduct.
- (2) The accounts of SSAI 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 two (2) 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. Seal

(1) Safe Custody of Seal

The National Executive Director shall provide for safe custody of the Seal.

(2) Affixing Seal

The Seal shall only be used by authority of the Board and every document to which the seal is affixed shall be signed by two (2) Directors.

42. Indemnity

(1) Directors to be Indemnified

Every Director, auditor, manager, employee or agent of SSAI shall be indemnified out of the property or assets of SSAI against any liability incurred by him/her in his/her capacity as Director, auditor, manager, employee or agent in defending any proceedings, whether civil or criminal, in which judgment is given in his/her favour or in which s/he is acquitted or in connection with any application in relation to any such proceedings in which relief is, under the *Corporations Act*, granted to him/her by the Court.

(2) SSAI to Indemnify Directors

SSAI 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 SSAI; and
- (b) in the case of an employee, performed or made in the course of, and within the scope of his/her employment by SSAI.

43. **Dissolution**

- (1) Subject to **Rule 43(2)**, SSAI may be wound up in accordance with the provisions of the Act.
- (2) The provisions of **Rules 7 and 8** of this Constitution relating to the winding up and dissolution of SSAI shall take effect and be observed as if the same were repeated in this Rule.

44. **Authority to Trade**

SSAI is authorised to trade in accordance with the Act.

45. **Laws and Rules Governing Australian synchronized swimming**

The technical laws of FINA as set out in the handbook of FINA with regard to synchronized swimming, shall (where practicable) be binding on all competitions held in Australia. Any alterations or amendments to the FINA technical laws shall be immediately notified to all Member Associations by SSAI and shall become operative two (2) months after the date of approval by FINA.

46. **Eligibility**

To be eligible to compete in any Competition any Competitor must be an Individual Member .

47. **Jurisdiction over Synchronized Swimmers**

- (1) The eligibility definition in **Rule 46** shall be binding on all Competitors and Individual Member.
- (2) Sentences of suspension or disqualification or expulsion by a Member Association shall be binding on every other Member Association and such suspension or disqualification shall be notified to SSAI immediately. All matters affecting the status or reinstatement of any Synchronized Swimmer shall be forwarded to SSAI by the relevant Member Association of which the Synchronized Swimmer is an Individual Member and SSAI will alone or with reference to the FINA Bureau give a decision. All such applications first shall be submitted to the relevant Member Association, and this recommendation forwarded with the said application. An application for reinstatement shall first be submitted to the relevant Member Association which originally dealt with the matter.
- (3) A Synchronized Swimmer who has broken the Eligibility Law knowingly, may not be re-qualified, provided that:
 - (a) a Synchronized 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; and
 - (b) in all cases where “permits” to hold meets are granted, each Member Association agrees to ensure that the Rule governing amateurism is strictly enforced and each Member Association shall insist that all synchronized swimming competitions, shall be stated in entry forms, programs and all official notices as going to be held and shall actually be held under the Rules of SSAI.

48. Swimmers' Representative

- (1) The Swimmers' Representative shall be elected every two (2) years by majority vote cast by Synchronised Swimmers participating at the Australian Open Championship.
- (2) Nominations in writing must be received by the National Executive Director at least seven (7) days prior to the commencement of the Australian Open Championship.
- (3) In the event no nominations are received, the national Executive Director may receive nominations verbally from the Synchronized Swimmers' forum held in conjunction with the Australian Open Championship.
- (4) Those eligible to nominate include:
 - (a) Synchronized Swimmers competing in open competition in the year of nomination or alternatively, a former Synchronized Swimmer who has competed in at least one (1) of the preceding two (2) Australian Open Championships; and
 - (b) a current registered n Individual Member.

49. Transitional Provisions**(1) Nature of clause**

This **Rule 49** is a transitional Rule. At the conclusion of the General meeting at which this Constitution is adopted, this clause will be of no further force or effect.

(2) Individual Members

All persons who were Individual Members prior to the time of approval of these Rules under the Act, shall be deemed Individual Members from the time of approval of these Rules under the Act, and entitled to such benefits as are conferred on them by SSAI, whether directly or indirectly.

(3) Councillors

All persons who were, or were to become, Councillors of SSAI prior to approval of these Rules under the Act shall, unless these positions have otherwise terminated, hold the corresponding position of Councillors of SSAI from the time of approval of these Rules under the Act.

(4) Member Associations

All parties which were Member Associations prior to the time of approval of these Rules under the Act, shall be deemed Member Associations from the time of approval of these Rules under the Act.

(5) Board Members

The Board (including the President) of SSAI in office prior to approval of these Rules under the Act shall, unless their positions are otherwise terminated, continue in those positions until the next General Meeting following such approval, and thereafter the positions of the Board shall continue, be filled, vacated and otherwise dealt with in accordance with these Rules.

(6) Rules & By Laws

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



CONSTITUTION

- of -

**SYNCHRONIZED SWIMMING
AUSTRALIA INC**

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