



SOFTBALL WESTERN AUSTRALIA (INCORPORATED)

CONSTITUTION

(Rules of Association)

October 2017

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ASSOCIATIONS INCORPORATION ACT 2015

CONSTITUTION OF SOFTBALL WESTERN AUSTRALIA INCORPORATED

PART 1 – OBJECTS, POWERS AND INTERPRETATIONS

1 NAME OF ASSOCIATION

The name of the association is Softball Western Australia Inc. (“the Association”).

2 OBJECTS OF ASSOCIATION

The objects of the Association are to:

- (a) Grow the game of Softball through equitable and inclusive practices that provide opportunities for participation at all levels in Softball.
- (b) Become affiliated with or subscribe to the national peak body, Softball Australia and reflect the objects and purposes of Softball Australia;
- (c) Encourage, promote and manage the game of Softball in Western Australia at all levels.
- (d) Abide by the Official Rules of the game of Softball as issued by the Softball Australia.
- (e) Use and protect the intellectual property of the Association in the pursuit of these objects and the sport of Softball.
- (f) Promote and protect the interests of all Members and other participants of Softball.
- (g) Ensure the proper representation of Western Australia in interstate and international matches.

3 POWERS OF ASSOCIATION

To do all such acts and things as are incidental, conducive or subsidiary to achieve all or any of the objects of the Association.

4 FINANCIAL YEAR

The Associations financial year is the 12 months commencing from the 1st July each calendar year.

5 INTERPRETATION

Any matter covered in these Rules that is not clear and concise in its presentation can be referred to the Board, who shall provide the sole interpretation, which will be enacted as though it was written in these Rules.

5.1 Definitions

In these Rules unless the contrary intention appears, these words shall have the following meanings:

Act means the Associations Incorporation Act 2015 W.A, or any other Act under which the Association may be incorporated from time to time.

Affiliated Body means an Affiliated Club, Affiliated Association or Associate Association, which has met criteria set out within these rules.

Affiliated Association is a body that is incorporated according to the Act, formed with a purpose to organize and control its own competition and to control and manage its own affairs and members, that affiliates directly to Softball WA, and which has met the criteria set out within these rules. An Affiliated Association will comprise a membership of Individual Members formed into at least two clubs. Where a body organizes competitions for its members but the members are not formed into separate standing and ongoing clubs (eg a regional association), the body shall be deemed an Affiliated Club for the purposes of these Rules.

Affiliated Club is a Club that affiliates directly to Softball WA, or which is a constituent financial member of an Affiliated Association, and which has met the criteria set out within these rules.

Any Club that is a constituent member of a financial Affiliated Association will automatically be deemed an Affiliated Club of the Association.

Affiliation Fee means any fee prescribed by Softball WA for the purpose of membership, affiliation or participation, including team fees and individual registration fees.

Associate Association is a body that is incorporated according to the Act, that affiliates directly to Softball WA, whose members consist of Individual Members that are Officials, whose purpose is to support the activities of the Association and/or Affiliated Associations, but is not the organiser of competitions nor have subsidiary member clubs. **Board** means the Board of the Association, constituted in accordance with Part V of these Rules.

Board Member means a member of the Board elected or appointed in accordance with these Rules. This does not include the CEO.

CEO means Chief Executive Officer.

Chair of the Board is the Board Member as elected under Rule 27.4 at the first Board Meeting following the Annual General Meeting.

Chairperson means the Chairperson of Board Meetings and General Meetings as set out in the Rules, including any person acting in that capacity from time to time.

Chief Executive Officer means the person who is appointed under these Rules to carry out duties set out in Rule 31.

Club is a body, comprising a softball playing membership who are Individual Members, that meet the criteria set out within these rules. Where the Club is not an Affiliated Club, it is only the Individual Members of such club that are eligible for benefits arising from the Association.

Constitution means the Constitution of the Association also used interchangeably with Rules and Rules of the Association.

Delegate means an individual nominated from time to time in writing by an Affiliated Body to act for or on behalf of that Affiliated Body and attend General Meetings. No individual can be a Delegate for more than one Affiliated Body and no employee or a Member of the Board of Softball WA Inc. can be a Delegate.

Disciplinary Committee means the Committee appointed in accordance with Rule 15.1.

Financial Statements means the financial accounts of the Association including the profit and loss accounts and the balance sheets of the Association for the relevant financial year.

Financial Year means the 12 months ending 30 June in any year.

Full Voting Rights means the right to vote at General Meetings.

General Meeting means the Annual General Meeting or any Special General Meeting of the Association.

Individual Member means a registered member of an Affiliated Body, including any player, coach or other official who is so registered, for such time as they remain a financial member, or otherwise remain registered with an Affiliated Body, or any player, coach or other official who is directly registered with

the Association in accordance with Rule 8.1 (c) and Rule 9, for such time as they remain so registered. Any financial member of an Affiliated Body who meets the criteria set out in Rule 8.1(c) will automatically be deemed an Individual Member of the Association.

Incorporated Affiliated Club is an Affiliated Club that is incorporated according to the Act, or that is an operational unit or club of a parent body (eg Youth Club, Sports Association) that is so incorporated.

Intellectual Property means all rights or goodwill subsisting in copyright, business names, names, trademarks (or signs), logos, designs, equipment, images (including photographs, videos or films) or service marks of or relating to the Association or any event, competition or softball activity of or conducted, promoted or administered by the Association.

Life Member means an individual appointed as a Life Member of the Association under Rule 8.3.

Material Personal Interest means a personal interest in a matter which could be seen to compromise the ability to act in the interests of the association and make an impartial decision. The interest may be financial or non-financial.

Member means a member for the time being of the Association according to Rule 8 under Part III of these Rules.

Member State means an entity (including the Association) recognized and authorized by Softball Australia as the peak body administering softball in its particular State or Territory of Australia.

Official means a coach, team manager, umpire, scorer, statistician, or other officiating role as recognized by Softball Australia or this Association.

Poll means secret ballot.

Register means Register of Members according to the Act.

Registered Participant means an individual who is registered with this Association or an Affiliated Body, but who is not an Individual Member. Any financial member of an Affiliated Body who meets the criteria set out in Rule 8.4 will automatically be deemed a Registered Participant of the Association.

Registration Database means a collection of data records of individuals or entities recognized by the Association. The entire Registration Database is NOT the Register of Members, however can be used to hold the Register according to Rule 13.1(b).

Regulations mean any Regulations, By-Laws or Policies made by the Board under Rule 33.

Seal means the common seal of the Association and includes any official seal of the Association.

Softball means the game of softball, a sport played to the effect of the sporting rules of Softball Australia or Softball WA, including any derivative games or rules.

Softball Australia means Softball Australia Limited or such other or substitute body as succeeds this body as the peak body in respect of Softball in Australia.

Softball Australia Delegate means the person appointed from time to time in writing by the Board under Rule 26.5 and who is entitled to exercise the rights of the Association at Softball Australia Ltd meetings under the Softball Australia Constitution. The Association is also entitled to appoint a proxy in accordance with the Constitution of Softball Australia Ltd.

Softball WA means Softball Western Australia Inc. (this Association).

Special Resolution means a resolution passed in accordance with the Act, or if no definition or procedure is specified in the Act, a resolution passed by a majority of 75% of the members present and entitled to vote at a General Meeting, where at least 14 days' notice of the resolution has been given to those entitled to notice under these Rules.

5.2 Interpretation in these Rules:

- (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 or the performance of the duty;
- (c) Words importing the singular include the plural and vice versa;
- (d) Words importing any gender include the other genders;

- (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;
- (g) A reference to a statute, ordinance, code or other law includes regulations and other statutory instruments under it and consolidations, amendments, reenactments or replacements of any of them (whether of the same or any legislative authority having jurisdiction); and
- (h) A reference 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 means.

5.3 Expressions in Act

Except where the contrary intention appears in these Rules, an expression that deals with a matter dealt with by a particular provision of the Act has the same meaning as that provision of the Act.

PART II - MEMBER STATE

6 STATUS AND COMPLIANCE OF ASSOCIATION

6.1 Recognition of Association

The Association is recognized as a Member State by Softball Australia. The Association is the official representative of and a controlling authority for Softball in Western Australia, and subject to compliance with its obligations under these Rules and the rules of Softball Australia shall continue to be recognized as a Member of Softball Australia and shall administer Softball in Western Australia in accordance with the objects of the Association.

6.2 Compliance of Association

As a Member State the Association shall:

- (a) Be or remain incorporated in Western Australia;
- (b) Appoint a Softball Australia Delegate from time to time under these Rules or the Softball Australia Constitution or otherwise;
- (c) Provide Softball Australia with copies of the Association's Financial Statements, reports and other associated documents forthwith, following the Annual General Meeting, and such other reports as are reasonably required by Softball Australia, as to the Association's activities;
- (d) To the extent permitted or required by the Act and Softball Australia, ensure any amendments to, or substitution of these Rules are generally in conformity with the rules of Softball Australia at least to the extent provided in Rule 7.1;
- (e) By adopting the objects of Softball Australia, abide by the rules of Softball Australia;
- (f) Generally conform with the structure and membership categories of Softball Australia, subject always to the Association's right to govern itself internally as it sees fit;

- (g) Recognize Softball Australia as the final arbiter on matters pertaining to Softball in Australia, including in respect of disciplinary proceedings.

7 ASSOCIATION CONSTITUTION

7.1 Constitution of the Association

The Association shall take all steps to ensure these Rules are and remain in conformity with the rules of Softball Australia at least to the extent set out in Rule 10.1 and in respect of those matters set out in Rule 10.1 shall ensure the Association's constituent documents are amended in conformity with future amendments made to the rules of Softball Australia, subject to any prohibition or inconsistency in the Act.

PART III - MEMBERSHIP

8 MEMBERS

8.1 Classes of Members

Membership of the Association is open to:

- (a) **Affiliated Bodies**

- (i) **Affiliated Association.** Affiliated associations shall be incorporated bodies according to the Act. Affiliated Associations have the right to be present and to debate at General Meetings. Affiliated Associations shall have Full Voting Rights. Affiliated Associations are eligible for all relevant benefits of membership of the Association.
- (ii) **Affiliated Club.** An Affiliated Club does not need to be an incorporated body, however only Incorporated Affiliated Clubs have Full Voting Rights. Affiliated Clubs shall have the right to be present and to debate at General Meetings. Affiliated Clubs are eligible for all relevant benefits of membership of the Association.
- (iii) **Associate Association.** Associate Associations are incorporated bodies according to the Act. Associate Associations shall have Full Voting Rights. Associate Associations are eligible for all relevant benefits of membership of the Association.

- (b) **Life Members**

- (i) As deemed under Rule 8.3, shall have the right to be present and to debate at General Meetings, but shall have no voting rights. Life Members are eligible for all relevant benefits of membership of the Association, and are eligible to be elected to the Board.;

- (c) **Individual Members**

- (i) Individuals aged 18 years or older.
- (ii) Unless otherwise determined according to Rule 8.4, any financial member of an Affiliated Body aged 18 years or

older who pays a Softball WA affiliation fee will automatically be deemed an Individual Member of the Association.

- (iii) Shall have the right to be present at General Meetings, but shall have no rights to debate or vote. Individual members are eligible for all relevant benefits of membership of the Association; and
- (iv) Are eligible to be elected to the Board.

8.2 Creation of New Classes

The Board has the right and power from time to time to create new classes of membership with such rights, privileges and obligations as are determined applicable.

8.3 Life Members

- (a) Affiliated Bodies &/or Individual Members may nominate a person for Life Membership under the terms of the Awards Policy & Procedures.
- (b) The Board may recommend to the Annual General Meeting that any person who has rendered distinguished service to the Association, where such service is deemed to have assisted the advancement of Softball in Western Australia, as a player or official or otherwise, be appointed as a Life Member.
- (c) A resolution of the Annual General Meeting to confer Life Membership on the recommendation of the Board must be by a Special Resolution.
- (d) A person must accept or reject the Association's resolution to confer Life Membership in writing. Upon written acceptance, the person's details shall be entered upon the register forthwith and from the time of entry on the register the person shall be deemed a Life Member.

8.4 Classes that are NOT Members

The following are NOT deemed Members of the Association for the purposes of the Act, but in all other respects are recognized by the Association as having equivalent rights and obligations as noted:

(a) Registered Participant

- (i) A Registered Participant has all rights and obligations of an Individual Member under these Rules.
- (ii) Registered Participants will be recorded in the Registration Database however WILL NOT be deemed as recorded in the Register of Members for the purposes of the Act.
- (iii) Registered Participants will be counted towards registration numbers reported to Softball Australia or as otherwise required under these Rules.
- (iv) Any financial member of this Association or an Affiliated Body who has not attained the age of 18 years of age, who pays a Softball WA affiliation fee, and who is registered on the Registration Database will automatically be deemed a Registered Participant of the Association.

- (v) Unless otherwise stipulated in this Rule, any reference to Individual Member within these Rules shall be deemed to include a reference to Registered Participant.

9 MEMBERSHIP APPLICATIONS

9.1 Eligibility – Affiliated Bodies

- (a) To be eligible for membership as an Affiliated Body the body will comprise a register of members that conforms to the requirements of these Rules and/or the Regulations and/or Policies of Softball WA. This requirement excludes participants in social competitions organized in conjunction with Softball WA for the purposes of building participation in Softball.
- (b) Affiliated Associations and Associate Associations must be incorporated or in the process of incorporation, by which the process shall be complete within twelve (12) months of applying for membership under these Rules;
- (c) For such time as the Affiliated Body is not incorporated as required by Rule 9.1(b), the secretary or nominated person of any such unincorporated Affiliated Body shall be deemed to be the Delegate Member (on behalf of the unincorporated Affiliated Body), and the Affiliated Body shall be entitled to the same rights and have the same obligations and shall follow such procedures on behalf of the unincorporated Affiliated Body as incorporated Affiliated Bodies, to the extent that this is possible
- (d) Any dispute or uncertainty as to the application of these Rules to an Affiliated Body shall be resolved by the Board in its sole discretion.

9.2 Application for Membership or Affiliation

An application for membership or affiliation by a person or body ("applicant"):

- (a) unless membership or affiliation is automatically conferred according to 9.2(b) or 9.2(c), must be in writing on the prescribed form, completed by the applicant or its nominated representative and lodged with the Association;; and
 - (i) If the application is for an Affiliated Body, be accompanied by a copy of the applicant's constitution (or proposed constitution) where applicable for the membership class and/or where required to access some or all benefits of the Association; and
 - (ii) Be accompanied by the fee set by the Board (see Rule 11).
- (b) Any financial individual member of an Affiliated Body who pays a Softball WA affiliation fee and who is registered on the Registration Database will automatically be deemed an Individual Member or a Registered Participant of the Association, according to the criteria set out in Rule 8.1(4) and/or Rule 8.4.
- (c) Any financial club that is a constituent member of a financial Affiliated Association, that pays any affiliation fees as required, and that is registered on the Registration Database will automatically be deemed an Affiliated Club of the Association.

- (d) At the discretion of the Board or the CEO, using online registration capabilities of the Registration Database may be deemed to be the “prescribed form” as stipulated in Rule 9.2(a).
- (e) Where this Rule 9.2 requires the application to be accompanied by supporting documentation, a fee or any other supplementary information, the required supplementary information or fee can be lodged or paid separately however the application is not complete until such time as all required information or fees have been received by the Association.

The applicant shall also provide details of its nominated Delegate, if known.

9.3 Discretion to Accept or Reject Application

- (a) The Association may accept or reject an application whether the applicant has complied with the requirements in Rules 9.1 or 9.2.
- (b) Where the Association accepts an application the applicant shall become an Affiliated Body, Individual Member, or Registered Participant depending on the eligibility and/or membership class applied for.
- (c) Membership of the Association shall be deemed to commence upon acceptance of the application by the Association. The Association shall forthwith amend the register of Members accordingly.
- (d) If the Association rejects an application, it shall refund any fees forwarded with the application, and the application shall be deemed rejected by the Association.

9.4 Affiliated Body Membership Renewal

- (a) Affiliated Bodies must renew membership with the Association in accordance with the procedures set down by the Association from time to time.
- (b) Upon membership renewal an Affiliated Body must lodge with the Association an updated copy of its constitution (including all amendments) where relevant to its class of membership and provide details of any change in its Delegate, and any other information reasonably required by the Association. If this requirement is not fulfilled any voting rights in accordance of Rule 8.1(a) are forfeited until such time as the requirement is fulfilled.

9.5 Individual Membership Renewal

In order to become or remain an Individual Member:

- (a) Individuals must either:
 - (i) Become or remain financial members of their relevant Affiliated Body; or
 - (ii) Renew their membership directly with the Association in accordance with the direct registration procedures determined by the Board.

9.6 Associate Association Membership Renewal

In order to become or remain an Associative Association Member:

- (i) Must renew their membership directly with the Association in accordance with the direct registration procedures determined by the Board.

9.7 Deemed Membership

- (a) All affiliated bodies (clubs and associations) individual members, associate associations and life members that or who are, prior to the approval of these Rules under the Act, members of the Association, shall be deemed affiliated bodies, individual members, associate associations and life members respectively, and thus Members of the Association from the time of approval of these Rules under the Act.
- (b) Any members of the Association prior to approval of these Rules under the Act, who are not deemed Members under Rule 9.7(a), shall be entitled to operate on committees or carry on such delegated functions analogous to their previous functions as are provided for under these Rules.

10 COMPLIANCE OF MEMBERS

10.1 Affiliated Bodies

Affiliated Bodies shall:

- (a) Meet rules set out in 9.1.
- (b) Become or remain incorporated in Western Australia where this required as a condition of membership.
- (c) Where being incorporated is a condition of membership, lodge a copy of their Association Constitution with Softball WA.
- (d) At all times operate with, and promote, mutual trust and confidence between the Association and the Members in pursuit of the Association objects.
- (e) Nominate a Delegate annually to attend General Meetings, and inform the Association of the details of that person accordingly.
- (f) On request provide the Association with copies of its audited accounts, reports and other associated documents forthwith, following the Affiliated Body's annual general meeting, as well as any approved amendments to Constitution;
- (g) Recognize the Association as an authority for Softball in Western Australia and Softball Australia as the national authority for Softball; and
- (h) Generally, have regard to the objects and purposes of the Association, and in particular to create a single uniform entity for the conduct, promotion, encouragement and administration of Softball, in any matters of the Affiliated Body pertaining to Softball.

10.2 Operation of Rules

Members and Board Members agree:

- (a) That they are bound by these Rules and that these Rules operates to create uniformity in the way in which the objects of the Association and the sport of

Softball are to be conducted, encouraged, promoted and administered in Western Australia;

- (b) To act in good faith and loyalty to each other to ensure the maintenance and enhancement of the sport of Softball, its standards, quality and reputation for the collective and mutual benefit of the Members and the sport of Softball;
- (c) To make full and proper disclosure to each other of all matters of importance to the Association and the sport of Softball;
- (d) Not to acquire a private advantage at the expense of the Association or any other Member or Region with regards to the sport of Softball or the Objectives of these Rules;
- (e) To act for and on behalf of the interests of the sport of Softball, the Association and the Members; and
- (f) That should an Affiliated Body have administrative, operational or financial difficulties, including but not limited to where an Affiliated Body:
 - (i) Takes or has taken or has instituted against it any action or proceeding, whether voluntary or compulsory, having as its object the winding up of the Affiliated Body; or
 - (ii) Enters into a composition or arrangement with its creditors, other than a voluntary winding up by members for the purpose of reconstruction or amalgamation; or
 - (iii) A mortgagee or other creditor takes possession of any of its assets;

The Association may, in its absolute discretion act to assist that Affiliated Body in whatever manner and on such conditions, as the Association considers appropriate, including, but not limited to the appointment of an administrator.

10.3 Rules of Affiliated Bodies

The constituent documents of each Affiliated Body shall, at the earliest available opportunity, but within two years of the commencement of these Rules, recognise the Association as an authority for Softball in Western Australia and Softball Australia as the national authority for Softball in Australia and their respective objects and purposes. Each Affiliated Body's Rules shall clearly reflect the objects of the Association.

10.4 Register of Affiliated Body

Each Affiliated Body shall maintain, in a form acceptable to the Association, a register of all clubs and individual members of the Affiliated Body. Each Affiliated Body shall provide a copy of the register at a time acceptable to the Association, and shall provide prompt and regular updates of the register to the Association.

11 SUBSCRIPTIONS AND FEES

- (a) The annual membership subscription (if any) and fees payable by Members (or any category of Members) to the Association, the basis of, the time for and manner of payment shall be as determined by the Board from time to time.
- (b) Annual Affiliated Body Fees are due by the 1st September each year (prior to the AGM)
- (c) Any Member which or who has not paid all monies due and payable by that Member to the Association shall (subject to the Board's discretion) have all rights and benefits under these Rules, including Full Voting Rights, immediately suspended from the expiry of the time prescribed for payment of those monies. Such rights will be suspended until such time as the monies are fully paid;

In the meantime, the Member shall have no automatic right to resign from the Association, and shall be dealt with in the Board's discretion, which includes the right to expel, suspend, disqualify, fine, discipline or retain that Member as a Member, or impose such other conditions or requirements as the Board considers appropriate.

12 EFFECT OF MEMBERSHIP

Upon membership, each person must be able to access a copy of these Rules (constitution). This access will be granted as seen fit by the Board.

Members acknowledge and agree that:

- (a) These Rules constitute an agreement between each of them and the Association and that they are bound by the Rules and the Regulations and in turn, the rules of Softball Australia;
- (b) They shall comply with and observe these Rules and the Regulations and the rules of Softball Australia and any determination, resolution or policy that may be made or passed by the Board or any duly authorized committee or other entity with delegated authority;
- (c) By submitting to these Rules and the Regulations and the rules of Softball Australia they are subject to the jurisdiction of the Association and Softball Australia;
- (d) The Rules and Regulations and the Rules of Softball Australia are necessary and reasonable for promoting the objects of the Association and particularly the advancement and protection of Softball as a sport; and
- (e) They are entitled to all the benefits, advantages, privileges and services of membership of the Association and Softball Australia.

13 REGISTER OF MEMBERS

13.1 Keeping of Register

- (a) The Association shall keep and maintain a register in which shall be entered such information as is required under the Act from time to time.
- (b) Use of Registration Database to hold the Member Register.

- (i) The Association may utilize a participant registration database to hold and maintain the Register, in which case the Member Register component of such database shall be deemed to only comprise that information of each Member as required by the Act.
- (ii) Inspection of the Register according to Rule 13.2 shall only be to that information deemed necessary to form the Register as required by the Act, and shall exclude any other information recorded that is not a requirement of the Act. For the avoidance of doubt, the Register shall only comprise those data records of persons or bodies deemed Members according to these Rules, and only comprise the minimum data elements of each Member required for the purposes of the Register as set out in the Act.
- (iii) Where the information required by the Act includes a preferred contact, and such information is not explicitly identified in the database, the preferred contact information for the Member shall be deemed to be the first found in the following sequence:
 - (A) Residential Address; or
 - (B) Postal Address; or
 - (C) Email Address; or
 - (D) Other Contact
- (c) Members shall provide notice of any change in required details to the Association within one (1) month of such change. Any change to the register will be recorded within twenty-eight (28) days of the change occurring.
- (d) Having regard to confidentiality considerations, the register may be used by the Association to further the objects of the Association.
- (e) The Association shall provide a copy of the Register at a time and in a form acceptable to Softball Australia, and shall provide regular updates of the register to Softball Australia. The Association agrees that Softball Australia may utilize the information contained in the register and the register itself to further the objects of Softball Australia, subject always to reasonable confidentiality considerations.

13.2 Inspection of Register

- (a) Upon the request of a member of the Association, the Chief Executive Officer shall make the register available for the inspection free of charge and the member may take an extract from, the register but shall have no right to remove the register for that purpose. Where the Register is maintained within the Participant Database as per Rule 13.1(b), the information to be made available in satisfaction of this section shall be only that information required to be held about Members according to the Act, and any additional information held for the purpose of participant registration, including that of non-members, shall not be provided.
- (b) A Member may write to the Association to request a copy of the Register, in accordance with the provisions of the Act. Such a copy will only be provided upon payment of the fee prescribed in the Regulations or as otherwise determined by the Board, where the fee will not be unreasonable. Where the Register is maintained within the Participant Database as per Rule 13.1(b), the information to be provided in satisfaction of this section shall be only that information required to be held about Members according to the Act,

and any additional information held for the purpose of participant registration, including that of non-members, shall not be provided.

- (c) The Association may require any member who wishes to make or receive a copy of, or take an extract from, the register to provide a statutory declaration setting out the purposes for viewing the register is required, and declaring that the purpose is connected with the affairs of the association. Improper use of the information obtained in accordance with this Rule will be subject to the penalties as prescribed in the Act, and any other penalties arising from action according to Rule 15.

14 DISCONTINUANCE OF MEMBERSHIP

14.1 Notice of Resignation

- (a) Any Member that or who has paid all monies due and payable to the Association (if any) and has no other liability (contingent or otherwise) to the Association may resign from the Association by giving one month's notice in writing to the Association of such intention to resign and upon the expiration of that period of notice, the Member shall cease to be a Member.
- (b) If an Affiliated Body ceases to be a Member under these Rules, the Association membership of all Individual Members affiliated or registered with or through the Affiliated Body shall not automatically cease at that time, but shall be dealt with at the discretion of the Board.

14.2 Expiration of Notice Period

Upon the expiration of a notice given under Rule 14.1(a), an entry recording the date on which the Member that or who gave notice ceased to be a Member, and any other Members whose membership ceases at the time under Rule 14.1(b) (if any) shall be recorded in the register.

14.3 Failure to Renew Membership

If a Member has not has not renewed their Association membership or an Individual Member has not renewed their Affiliated Body or Association membership within one month of re-affiliation or membership renewal falling due, that party's Association membership will be deemed to have lapsed from that time. The register shall be amended to reflect any lapse of membership.

14.4 Member to Re-apply

A Member whose membership has been discontinued or has lapsed under Rule 14.3:

- (a) Must seek renewal or re-apply for membership in accordance with these Rules; and
- (b) May be re-admitted at the discretion of the Board.

14.5 Forfeiture of Rights

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

shall also forfeit its right to appoint a person to any committee or other entity with delegated authority.

- (b) Any Member that or who has not paid all monies due and payable by that Member to the Association shall (subject to the Board's discretion) have all rights under these Rules suspended, including the right to vote at General Meetings, until such time as the monies are fully paid. In the meantime, the Member shall have no automatic right to resign from the Association, and shall be dealt with in the Board's discretion, which includes the right to expel, discipline or retain that Member as a Member or impose such other conditions or requirements as the Board considers appropriate.

14.6 Delegate Position Lapses

The position of Delegate shall lapse immediately on cessation of membership of the Affiliated Body.

14.7 Membership may be Re- Instated

Membership that has been discontinued under these Rules may be reinstated at the discretion of the Board, with such conditions, as it deems appropriate.

14.8 Non-Refund of Membership Fees

Membership fees or subscriptions paid by the discontinued Member for the relevant year shall be forfeited upon discontinuance.

15 DISCIPLINE OF MEMBERS

15.1 Complaints

Where a person has a complaint regarding a dispute or grievance with or about a Member, or the Association, and that person seeks assistance, investigation and/or action by the Association, the person shall follow the procedure set out in the Regulations and/or Policies of Softball WA, which shall detail the process for the submission of a complaint concerning a dispute or grievance, and the process by which such complaints will be handled.

15.2 Disciplinary Committee

- (a) In accordance with Rule 32, the Board shall delegate its functions, powers or duties in relation to discipline of Members to a Disciplinary Committee, comprised of at least three persons appointed by the Board from time to time, which persons shall not be Board Members.
- (b) If any matter to be determined by the Disciplinary Committee under this Rule 15 gives rise to a conflict of interest on the part of any member of the Disciplinary Committee, the Board may appoint another independent person in their stead for the determination of that matter only.

15.3 Breach of Discipline by Member

A Member shall not:

- (a) Breach, fail, refuse or neglect to comply with a provision of these Rules, the Regulations or any policy, resolution or determination of the Board;
- (b) Act in a manner unbecoming of a Member or prejudicial to the objects and interests of the Association or Softball generally; or

- (c) Bring the Association or Softball generally into disrepute.

15.4 Report of Disciplinary Matter

- (a) Any Member, Board Member, official or other interested person (in this Rule, "complainant") may give to the Association written notice of a complaint relating to the conduct or otherwise of a Member to the Association following the complaints process as set out in Rule 15.1.
- (b) In the event that the complaint is referred to the Disciplinary Committee from the complaints process as set out in the Regulation and/or Policies of Softball WA, the Association shall as soon as practicable, but within seven days, forward written details of the complaint to each member of the Disciplinary Committee.
- (c) A disciplinary matter referred to the Association from the Disciplinary or Disputes Process operating under the rules or regulations of an Affiliated Body, or from the Disciplinary or Disputes Process operating under the rules and regulations of a Softball competition under the jurisdiction of Softball WA, may be referred directly to the Disciplinary Committee at the discretion of the Board.

15.5 Consideration of Matter

- (a) The Disciplinary Committee shall, as soon as practicable after receiving a notice under Rule 15.4, investigate and consider the matter, and shall within 14 days of receiving such notice, determine whether:
 - I. The matter should be dismissed, because, in its determination, there has been no relevant breach of discipline or the complaint is otherwise vexatious or trifling in nature; or
 - II. The matter warrants further review and determination (in this Rule "preliminary determination").
- (b) If the Disciplinary Committee determines the complaint should be dismissed under Rule 15.5(a) (1), it shall, as soon as practicable, give written notice to the complainant of its determination.
- (c) If the Disciplinary Committee determines the matter warrants further review under Rule 15.5(a)(2), it shall, as soon as practicable, serve a notice in writing on the Member and the complainant:
 - I. Setting out its preliminary determination, including the grounds on which this preliminary determination has been reached;
 - II. Stating that the Member and the complainant may address the Disciplinary Committee at a meeting to be held not earlier than 10 and not later than 28 days after service of the notice;
 - III. Stating the date, place and time of that meeting
 - IV. Informing the Member that it or they may do one or more of the following:
 - (A) Attend that meeting;
 - (B) Give the Association, before the date of that meeting, a written statement setting out relevant information surrounding the complaint, and (if appropriate) seeking dismissal of the complaint; or

- (C) not less than 48 hours after the meeting, lodge with the Association a notice to the effect that it or they wish to appeal to the Board.

15.6 Meeting of Disciplinary Committee

The Disciplinary Committee may conduct the meeting convened in accordance with Rule 15.5(c) in such manner as it sees fit, but shall:

- (a) Give to the Member and the complainant every opportunity to be heard;
- (b) Give due consideration to any written statements submitted by the Member and the complainant;
- (c) Allow the Member and the complainant to each be accompanied by an adult representative, which representative shall not hold a formal legal qualification;
- (d) By resolution determine whether to dismiss or uphold the complaint, and:
- (e) Request and/or require the complainant or any other witness to attend the meeting and/or provide (wherever possible, in writing) such evidence as is available as determined by the Disciplinary Committee.

15.7 Disciplinary Committee Resolution

The Disciplinary Committee, having had regard to any submission or evidence of the Member and the complainant, may by resolution to the Board:

- (a) Expel a Member from the Association; or
- (b) Suspend a Member from membership of the Association for a specified period;
- (c) Fine a Member;
- (d) Reprimand a Member; or
- (e) Otherwise impose such penalty or arrive at such other resolution as considered appropriate,

If the Disciplinary Committee considers that the Member has committed a breach of discipline contrary to Rule 15.3 above.

15.8 Effect of Resolution

Where the Member exercises a right of appeal to the Board under Rule 15.5(c) (4) (C), a resolution of the Disciplinary Committee under Rule 15.7 does not take effect unless the Board confirms the resolution in accordance with this Rule and the disciplinary procedures under the rules of Softball Australia are exhausted or a determination is made under the rules of Softball Australia.

15.9 Notice of Appeal to Board

Where the Association receives a notice under Rule 15.5(c) (4)(C) indicating the Member wishes to appeal to the Board, the Board shall convene a meeting in accordance with these Rules, to be held within 28 days of the date on which the Association received such notice.

15.10 Proceedings of Board Meeting

At a Board Meeting convened under Rule 15.9:

- (a) No business other than the question of the appeal shall be transacted;

- (b) The Disciplinary Committee may place before the meeting details of the grounds for the resolution and the reasons for the passing of the resolution;
- (c) The Member, personally, or by its Body Delegate, or through an adult representative (not holding a formal legal qualification) shall be given every opportunity to be heard (personally or in written submissions); and
- (d) The Board Members present shall vote by secret ballot on the question of whether the resolution should be confirmed or revoked.

15.11 Decision of Board

If at the Board meeting:

- (a) A resolution is passed confirming the resolution under Rule 15.7, the resolution is confirmed; and
- (b) In any other case, the resolution is revoked.

15.12 Decisions Binding

Decisions of the Board will be binding upon the Board and the Member, subject only to a further determination, or exhaustion of procedures, under the rules of Softball Australia (if any).

15.13 Continuation of Rights

Until such time as the procedures set down under this Rule 15 and under the rules of Softball Australia are exhausted and/or a final determination is made, the Member shall be entitled to exercise all the usual rights of membership under these Rules, unless, having regard to the nature of the alleged act or offence, the Board considers it appropriate that the Member should be suspended pending the outcome of disciplinary proceedings.

15.14 Hearing of Disciplinary Matter of Affiliate Body

- (a) A Disciplinary Committee may also hear complaints regarding the hearing or determination of a disciplinary matter of an Affiliated Body shall have the right of appeal to the Association.
- (b) Any such complaint shall be determined in the same manner or in as nearly as possible the manner in which complaints are heard under Rule 15.6, except that the Disciplinary Committee need not require the attendance of witnesses in person, but may determine the complaint on the basis of the documentary evidence available, if considered appropriate.
- (c) In the determination of a complaint under this Rule 15.14, a Disciplinary Committee may exercise its discretion to:
 - I. Confirm the resolution of the Affiliated Body;
 - II. Revoke the resolution of the Affiliated Body;
 - III. Remit the matter for hearing or re-hearing in accordance with the Rules of the Affiliated Body; or
 - IV. Take such other course of action or impose such other penalty, as it considers appropriate in the circumstances.
- (d) A right of appeal to the Board remains available in respect of a complaint under this Rule 15.14, in accordance with such procedure under this Rule 15 as is considered appropriate.

PART IV - GENERAL MEETINGS

16 GENERAL MEETINGS

- (a) An Annual General Meeting shall be held in accordance with the provisions of the Act and these Rules, and on a date and at a venue to be determined by the Board, preferably within the last two weeks of October.
- (b) All general meetings other than the Annual General Meeting shall be Special General Meetings and shall be held in accordance with these Rules.

17 NOTICE OF ANNUAL AND SPECIAL GENERAL MEETINGS

17.1 Notice of General Meetings

- (a) Notice of every General Meeting shall be given to every Member at the address (email if provided) appearing in the register kept by the Association. Board Members shall also be entitled to notice of every General Meeting, at their last notified address (email if provided). No other person shall be entitled as of right to receive notices of General Meetings.
- (b) Affiliated Bodies shall be responsible for displaying or distributing notice to the Individual Member in such manner as is considered appropriate or reasonable. Individual Members who register directly with the Association shall not be entitled to written notice of meetings as a right.
- (c) A notice of a General Meeting shall specify the place and day and hour of meeting and shall state the business to be transacted at the meeting.
- (d) Notice of at least 60 days (excluding the meeting date) of a General Meeting shall be given to those Members entitled to receive notice.
- (e) The agenda for the General Meeting, stating the business to be transacted, (including Board Member nominees and their qualifications) at the General Meeting shall be given at least 21 days prior to the General Meeting, together with a notice of motion.

18 BUSINESS

18.1 Business of General Meetings

- (a) The business to be transacted at the Annual General Meeting includes the consideration of the Financial Statements, the reports of the Board and auditors, the election of Board Members, any Notices of Motion and any confirmation of Life Membership.
- (b) All business that is transacted at a General Meeting, and also all that is transacted at an Annual General Meeting, with the exception of those matters set down in Rule 18.1.a shall be special business of which a notice of motion has been submitted in accordance with 19.1.

18.2 Business Transacted

No business other than that stated on the agenda of a General Meeting shall be transacted at a General Meeting.

19 NOTICES OF MOTION

19.1 Notices of Motion to be submitted

- (a) Affiliated Bodies shall be entitled to submit notices of motion.
- (b) All notices of motion for inclusion as special business at a General Meeting must be submitted in writing to the Association not less than 30 days (excluding the receiving date and meeting date) prior to the General Meeting.

19.2 Unsuccessful Notice of Motion

A motion of which due notice has been given, if unsuccessful, cannot be resubmitted, nor may any other motion having a similar effect be moved at a subsequent General Meeting for a period of at least 12 months.

20 SPECIAL GENERAL MEETINGS

20.1 Special General Meetings May be Held

The Board may, whenever it thinks fit, convene a Special General Meeting of the Association and, where, but for this Rule, more than 18 months would elapse between Annual General Meetings, shall convene a Special General Meeting before the expiration of that period.

20.2 Requisition of Special General Meetings

- (a) The Association shall on the requisition in writing from 33% of those Members with Full Voting Right entitlements, where the requests in writing are counted from such request received within a period of 30 consecutive days, convene a Special General Meeting. The date upon which the 33% count has been achieved shall be deemed the date upon which the requisition for a Special General Meeting has been received.
- (b) The requisition for a Special General Meeting shall state the object(s) of the meeting, shall be signed by the Delegates of the Affiliated Bodies making the requisition and be sent to the Association and may consist of several documents in a like form, each signed by one or more of the Delegates of the Affiliated Bodies making the requisition.
- (c) If the Association does not cause a Special General Meeting to be held within one (1) month after the date on which the requisition is sent to the Association, the Affiliated Bodies making the requisition, or any of them, may convene a Special General Meeting to be held not later than two [2] months after that date.
- (d) A Special General Meeting convened by Affiliated Bodies under these Rules shall be convened in the same manner, or as nearly as possible as that, in which General Meetings are convened by the Board.

21 PROCEEDINGS AT GENERAL MEETINGS

21.1 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 of the Association shall be at least 33% of Members (or Delegates of Members) with Full Voting Rights as per Rule 8.1, including Proxies or Postal Ballots submitted according to Rule 23.

21.2 Chair of the Board to Preside

The Chair of the Board shall, subject to these Rules, preside as Chairperson at every General Meeting of the Association except:

- (a) In relation to any election for which the Chairperson is a nominee; or
- (b) Where a conflict of interest exists.

If the Chair of the Board is not present, or is unwilling or unable to preside, the Board shall appoint the Deputy Chair of the Board as Chairperson, or if also not present, unwilling or unable to preside, the Board shall nominate a Member present, who under these Rules, shall preside as Chairperson for that meeting only.

21.3 Adjournment of Meeting

- (a) If within half an hour from the time appointed for the meeting a quorum is not present, the meeting shall be adjourned until the same day in the next week at the same time and place or, to such other day and at such other time and place as the Chairperson 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 proceed.
- (b) The Chairperson may, with the consent of any meeting at which a quorum is present, 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 meeting is adjourned for thirty (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 21.3(c) it shall not be necessary to give any notice of an adjournment or the business to be transacted at any adjourned meeting.

21.4 Voting Procedure

At any meeting a resolution other than a special resolution put to the vote 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 Chairperson; or
- (b) By a simple majority of the Delegates present at that meeting.

21.5 Recording of Determinations

Unless a poll is demanded under Rule 21.4, a declaration by the Chairperson 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 the Association shall be conclusive evidence of the fact without proof of the number of votes recorded in favor of or against the resolution.

21.6 Where Poll Demanded

If a poll is duly demanded under Rule 21.4 it shall be taken in such manner and either at once or after an interval or adjournment or otherwise as the Chairperson directs and the result of the poll shall be the resolution of the meeting at which the poll was demanded.

21.7 Resolutions at General Meetings

Where voting at General Meetings is equal the motion or question is lost. The Chairperson does not have a casting vote.

21.8 Minutes

The Chief Executive Officer shall ensure that minutes of the resolutions and proceedings of each General Meeting are kept in books provided for that purpose, together with a record of the names of persons present at all meetings. The book may be kept electronically.

22 VOTING AT GENERAL MEETINGS

22.1 Affiliated Bodies Entitled to Vote

At all General Meetings, only those Affiliated Bodies eligible to vote, as outlined below, shall be entitled to one vote. Voting may be undertaken in person by the nominated Delegate, via Proxy vote or via Postal Vote.

- (a) Each Affiliated Association shall be entitled to one (1) vote.
- (b) Each Incorporated Affiliated Club shall be entitled to one (1) vote.
- (c) Each Associate Association shall be entitled to one (1) vote.

22.2 Other Members

- (a) No other Member shall be entitled to vote but shall subject to these Rules have, and be entitled to exercise, those rights set out in Rule 8.1.

23 PROXY AND POSTAL VOTING

23.1 Proxy Voting

- (a) In the event that the Delegate of an Affiliated Body is not present then a proxy may represent the Affiliated Body. A proxy must be in writing and must be signed by the Chair of the Board or Secretary for the time being of the Affiliated Body. The proxy must be lodged at the office of the Association at least three days prior to the date of a meeting, provided always that the meeting may approve a proxy which is not lodged within that time.
- (b) A Board Member or Softball Western Australia staff member shall not act as a proxy.
- (c) A person may act as a proxy for more than one Affiliated Body.
- (d) The proxy shall expire at the conclusion of the meeting.

23.2 Postal Ballot

- (a) An Affiliated Body, may, if none of its representatives is available to attend a General Meeting, exercise a postal vote on any matter contained in the

notice of meeting instead of appointing a proxy for the meeting. Any Postal Votes validly received must be counted as a vote in respect of the matter.

- (b) Each agenda of General Meeting must include a postal voting paper in such form, as the Board deems reasonable. To be valid, postal votes must be signed by the Delegate of the relevant Affiliated Body (which signature may be a facsimile or electronic signature) and must be submitted so as to be received at the registered office of Softball Western Australia at any time up to two (2) clear days prior to the day of the relevant meeting. The Board will make provision for postal votes to be submitted by post, by facsimile transmission or by electronic mail. Postal votes will be recorded in a register by the CEO or Softball WA employee or Softball WA volunteer as they are received by Softball WA. To be deemed a valid postal vote at the time of the meeting, it must be so recorded in the register, and meet all other requirements of this Rule.
- (c) No proceeding of any general meeting will be invalidated or otherwise open to challenge in any way by reason of any failure to take an invalid postal vote into account.

PART V - THE BOARD

24 POWERS OF THE BOARD

Subject to the Act and these Rules the business of the Association shall be managed, and the powers of the Association shall be exercised, by the Board. In particular, the Board as the controlling authority of the Association shall be responsible for acting on all State issues in accordance with the Objects of the Association and shall operate for the collective and mutual benefit of the Association and the sport of Softball throughout Western Australia and shall:

- (a) Govern the sport of Softball in Western Australia in accordance with the objects of the Association;
- (b) Determine major strategic directions of the Association;
- (c) Review the Association's performance in achieving its pre-determined aims, objectives and policies;
- (d) Manage national responsibilities; and
- (e) Manage finances of the Association appropriately.

25 PERSONS WHO ARE NOT TO BE MEMBERS OF BOARD

25.1 Ineligibility according to the Act

Under the Act the following persons must not, without leave of the Commissioner, accept an appointment or act as a Board Member of an Association:

- (a) A person who is, according to the *Interpretation Act 1984* section 13D, a bankrupt or person whose affairs are under insolvency laws;
- (b) A person who has been convicted, within or outside the State, of-
 - (i) An indictable offence in relation to the promotion, formation or management of a body corporate; or

- (ii) An offence involving fraud or dishonesty punishable by imprisonment for a period of not less than three months; or
- (iii) An offence under Part 4 Division 3 or section 127 of the Act.

This requirement of the Act only applies to a person who has been convicted of the above offences only for a period of 5 years from the time of the person's conviction, or if the conviction results in a term of imprisonment, from the time of the person's release from custody.

25.2 Ineligibility according to good governance principles

To ensure Board independence, a Board Member cannot concurrently hold a position:

- (a) In a management committee of an Affiliated Body; or
- (b) As an employee of Softball WA; or
- (c) In any operational role within Softball WA that is under the management control of the CEO.

A person holding any of the positions identified in this Rule may nominate for appointment to the Board however must resign the position in order to take up any appointment as a Board Member.

26 COMPOSITION OF THE BOARD

26.1 Board Composition

The affairs of the Association will be governed by a Board consisting of:

- (a) A minimum of five (5) and up to a maximum of seven (7) board members, who are NOT required to be Individual Members of the Association, and who are elected in accordance with Rule 27; and
- (b) Two independent board members appointed by the Board in accordance with Rule 26.2.

26.2 Appointment of Independent Board Members

The Board Members referred to in Rule 26.1 (b) may be appointed by the Board at any time to assist the Board undertake special projects or provide a level of expertise not available from the Elected Board Members.

26.3 Term of Independent Board Members

The Independent Board Members shall be appointed for up to two (2) years in accordance with the procedure in Rule 26.2, and the term of Independent Board Members shall be from the date of acceptance of the invitation in the year of appointment.

26.4 Right to Co-opt

It is expressly acknowledged that the Board shall have the right to co-opt any person with appropriate experience or expertise to assist the Board in respect of such matters and on such terms as the Board thinks fit. Any person so co-opted shall not be a Board Member, and shall not exercise the rights of a Board Member, but shall act in an advisory role only.

26.5 Appointment of Softball Australia Delegate

The Board shall, from amongst its Board Members or persons holding other committee or executive positions, appoint a Softball Australia Delegate to attend designated meetings of Softball Australia for a term of one (1) year, in accordance with the Softball Australia Constitution. The person may be reappointed in any subsequent year.

26.6 Rights of Board Members and Co-opted persons

Without affecting any other rights or obligations set out in these Rules, Board Members, and any persons Co-Opted by the Board according to Rule 26.4 or Rule 32, whilst undertaking official duties and appointed roles according to these Rules, shall be deemed to have equivalent rights and obligations of Individual Members.

27 ELECTION OF ELECTED BOARD MEMBERS

27.1 Nominations of Candidates

- (a) Nominations of candidates for election as Elected Board Members shall be:
 - (i) Called for sixty (60) days before the date of the Annual General Meeting
 - (ii) Made in writing on the prescribed form for that purpose
 - (iii) Signed by two (2) Members of the Affiliated Body
 - (iv) Accompanied by the written consent of the nominee (who must be a member) expressing willingness to accept position nominated for; and
 - (v) Delivered to the Association not less than thirty (30) days (excluding the date of the meeting) before the date fixed for the holding of the Annual General Meeting.
- (b) If insufficient nominations are received to fill all available vacancies on the Board the candidates nominated shall only be appointed in accordance with Rule 28.4.
- (c) If the number of nominations received is equal to the number of vacancies to be filled, the candidates nominated shall only be appointed in accord with Rule 28.4.
- (d) If the number of nominations exceeds the number of vacancies to be filled, voting papers for each vacancy on the Board shall be prepared containing the names of the candidates in alphabetical order.

27.2 Voting Procedures

The elections shall be by ballot and on papers prepared by the Association for each Affiliated Bodies eligible to vote. These papers shall be distributed as set down in Rule 17 and returned to the Association in accordance with the issued instructions approved by the Board.

27.3 Term of Office of Elected Board Members

The Board Members' term of office will be for two (2) years from election at an Annual General Meeting.

- (a) Upon adoption of these rules, existing Board Members will continue until their existing term expires.
- (b) The rotation of term of office for Board Members will be four (4) members in the first year of rotation, the three (3) members the following year of rotation.
- (c) If a Board Member vacates their position during their term, the Board may appoint an independent board member for the remainder of their term.

27.4 Appointment of Chair and Deputy Chair of the Board

At the first Board Meeting following the Annual General Meeting, the Board Members must elect a Chair of the Board and Deputy Chair of the Board who will hold office for the balance of their current term of appointment.

27.5 Nominations not requiring an Election

If the number of persons nominated for election to membership of the Board does not exceed or is equal to the number of vacancies to be filled, the candidates at the annual general meeting shall provide a resume of themselves and their appointment must be approved by at least fifty-one percent (51%) of the members present and eligible to vote. Any vacancies resulting from this process will be dealt with by the Board as a casual vacancy as set out in Rule 28.4.

28 VACANCIES OF BOARD MEMBERS

28.1 Grounds for Termination of Office of Board Member

In addition to the circumstances in which the office of a Board Member becomes vacant by virtue of the Act, the office of a Board Member becomes vacant if the Board Member:

- (a) Dies;
- (b) Becomes bankrupt or makes any arrangement or composition with their creditors generally;
- (c) Becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
- (d) Resigns their office in writing to the Association;
- (e) Is absent without the consent of the Board from all meetings of the Board held during a period of six months;
- (f) Without the prior consent or later ratification of the Members of the Association in General Meeting holds any office of profit under the Association;
- (g) Has a Material Personal Interest in any contract or proposed contract with the Association and fails to declare the nature of that interest as required by the Act;

- (h) Has been expelled or suspended from membership (without further recourse under these Rules or the rules of Softball Australia) as a result of an action arising under Rule 15;
- (i) In the opinion of the Board in its discretion:
 - (i) Has acted in a manner unbecoming or prejudicial to the objects and interests of the Association and/or Softball; or
 - (ii) Has brought the Association, any Affiliated Body or Softball into disrepute; or
 - (iii) Would otherwise be prohibited from being a director of a corporation under the Corporations Law.

28.2 Handing over documents and records

Where a person ceases to be a member of the Association's Board, the Act requires that person to, as soon as practicable after their membership ceases, deliver to a member of the Board all of the relevant documents and records they hold pertaining to the management of the Association's affairs.

28.3 Remaining Board Members May Act

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

28.4 Casual Vacancy

- (a) In the event of a casual vacancy in the office of any Board Member, the Board may fill the vacant office and the person so appointed may continue in office up to the conclusion of the Annual General Meeting at which the term of the previous appointee would have expired.
- (b) Should the Board Members be reduced in number to three (3) or less, a General Meeting shall be convened by the Association, or if there is no Association, a surviving Board Member, for the purpose of filling the vacancies.

29 LEAVE OF ABSENCE

29.1 Grant of Leave of Absence

The Board shall grant a leave of absence to a Board Member for such period as it sees fit and in accordance with Rule 29.2, on the submission of a written application for such leave to the Association.

29.2 Discretion as to Leave of Absence

The Board may, in its discretion, grant leave of absence to a Board Member following consideration of an application submitted in writing to the Association, provided:

- (a) If such period is less than six (6) months, the Board may appoint a temporary replacement from amongst the Members;
- (b) If such period is six (6) months or more, that Board Member is taken to have resigned their position (and a casual vacancy arises), but the Board Member shall be entitled to seek re-election at the Annual General Meeting at which their term of office would otherwise have expired; and

- (c) In no circumstances shall the leave of absence exceed the remaining term of office of the Board Member.

30 MEETINGS OF THE BOARD

30.1 Chair of the Board

The Chair of the Board shall preside at every meeting of the Board. If the Chair of the Board is not present, or is unwilling or unable to preside, the Deputy Chair of the Board shall preside, if not present or is unwilling or unable to preside then, the Board Members shall choose one of their numbers to preside as chair for that meeting only.

30.2 Board to Meet

The Board shall meet as often as is deemed necessary in every calendar year for the dispatch of business (and shall be at least as often as is required under the Act) and subject to these Rules may adjourn and otherwise regulate its meetings as it thinks fit. The Chair of the Board or four (4) Board Members may at any time convene a meeting of the Board within a reasonable time.

30.3 Decisions of Board

Subject to these Rules, questions arising at any meeting of the Board shall be decided by a majority of votes and a determination of a majority of Board Members shall for all purposes be deemed a determination of the Board. All Board Members shall have one vote on any question. An equal vote on any question deems it to be lost and the Chairperson shall not have a casting vote.

30.4 Resolutions not in Meeting

- (a) A resolution in writing signed or assented to by facsimile, electronic mail or other form of visible or other electronic communication by all the Board Members shall be as valid and effectual as if it had been passed at a meeting of Board Members duly convened and held. Any such resolution may consist of several documents in like form each signed by one or more of the Board Members.
- (b) Without limiting the power of the Board to regulate their meetings as they think fit, a meeting of Board may be held where one (1) or more of the Board Members 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 Board Members entitled to notice in accordance with the usual procedures agreed upon or laid down from time to time by the Board or these Rules and such notice specifies that Board Members are not required to be present in person;
 - (iii) In the event that a failure in communications prevents Rule 30.4 (b) (i) from being satisfied by that number of Board Members that constitutes a quorum, and none of such Board Members are present at the place where the meeting is deemed by virtue of the further provisions of this Rule to be held then the meeting shall be suspended

until Rule 30.4 (b) (I) is satisfied again. If such condition is not satisfied within fifteen (15) minutes from the interruption the meeting shall be deemed to have been terminated or adjourned; and

- (iv) Any meeting held where one or more of the Board Members is not physically present shall be deemed to be held at the place specified in the notice of meeting provided a Board Member is there present and if no Board Member is there present the meeting shall be deemed to be held at the place where the Chair of the Board of the meeting is located.

30.5 Quorum

At meetings of the Board the number of Board Members whose presence (or participation under Rule 30.4) is required to constitute a quorum is 50% plus one Board Member.

30.6 Notice of Board Meetings

Unless the majority of Board Members agree to hold a meeting at shorter notice, which agreement shall be sufficiently evidenced by their apology, presence or attendance in accordance with Rule 30.4, not less than 14 days' notice of the meeting of the Board shall be given to each Board Member. The agenda shall be forwarded to each Board Member not less than three days prior to such meeting.

30.7 Conflict of Interest

- (a) In accordance with the Act a member of the Board who has a Material Personal Interest in a matter being considered at a Board meeting must:
 - (i) As soon as he or she becomes aware of that interest, disclose the nature and extent of his or her interest to the Board;
 - (ii) Disclose the nature and extent of the interest at the next general meeting of the association
- (b) This rule does not apply in respect of a Material Personal Interest that exists only because the member:
 - (i) Is an employee of the incorporated association; or
 - (ii) Is a member of a class of persons for whose benefit the association is established; or
 - (iii) That the member has in common with all, or a substantial proportion of, the members of the Association.
- (c) In accordance with the Act a member of the Board who has a Material Personal Interest in a matter being considered at a meeting of the Board must not be present while the matter is being considered at the meeting or vote on the matter.
- (d) In accordance with the Act the Association must record every disclosure made by a committee member of a Material Personal Interest in the minutes of the Board meeting at which the disclosure is made.
- (e) Without limiting the extent of this Rule, Material Personal Interests exist in the context of:

- (i) Decisions regarding employment of related persons; or
- (ii) Decisions regarding award of contracts to associated entities; or
- (iii) Decisions regarding appointment of related persons to State Teams, or any other roles within Softball WA.

30.8 Minutes of Board Meetings

- (a) The Board must ensure that minutes are taken and kept of each Board meeting.
- (b) The minutes must record the following:
 - (i) The names of the Board members present at the meeting;
 - (ii) The name of any person attending the meeting;
 - (iii) The business considered at the meeting;
 - (iv) Any motion on which a vote is taken at the meeting and the result of the vote.
- (c) The minutes of a committee meeting must be entered in the Association's minute book within thirty (30) days after the meeting is held.
- (d) The chairperson must ensure that the minutes of a Board meeting are reviewed and signed as correct by:
 - (i) The chairperson of the meeting; or
 - (ii) The chairperson of the next committee meeting.
- (e) When the minutes of a Board meeting have been signed as correct they are, until the contrary is proved, evidence that:
 - (i) The meeting to which the minutes relate was duly convened and held; and
 - (ii) The matters recorded as having taken place at the meeting took place as recorded; and
 - (iii) Any appointment purportedly made at the meeting was validly made.
- (f) Any disclosure of a Board member's Material Personal Interest in a matter being considered at a Board meeting to be recorded in the minutes of the meeting.

30.9 Record of Office Holders

The association must maintain a record of:

- (i) The names and addresses of the persons who are members of its Board; or hold other offices of the association provided for by the rules;
- (ii) The name and address of any person who is authorised to use the common seal of the association;

The Association must, upon the request of a member of the Association, make available the record for the inspection of the member as per rule 34.3.

31 CHIEF EXECUTIVE OFFICER

31.1 Appointment of Chief Executive Officer

The Board shall appoint a Chief Executive Officer for such term and on such conditions as it thinks fit. The Chief Executive Officer shall be entitled to receive notice of, attend and participate in all meetings of the Board upon invitation, but shall have no entitlement to vote.

31.2 Chief Executive Officer as Public Officer

The Chief Executive Officer shall act as and carry out the duties of the Public Officer of the Association and shall administer and manage the Association in accordance with these Rules.

31.3 Specific Duties

The Chief Executive Officer shall be responsible for completing duties as set down by the Board, which includes but is not limited to:

- (a) As far as practicable attend all Board meetings and General Meetings;
- (b) In conjunction with the Chair of the Board prepare the agenda for all Board Meetings and all General Meetings;
- (c) Ensure that minutes of the proceedings of all meetings of the Board and the Association are both prepared and recorded; and
- (d) Regularly report on the activities of, and issues relating to, the Association.

31.4 Broad Power to Manage

Subject to the Act, these Rules, the Regulations and any directive of the Board, the Chief Executive Officer shall have the delegated power to perform all such things as are necessary or desirable for the proper management and administration of the Association. No resolution passed by the Association in General Meetings shall invalidate any prior act of the Chief Executive Officer or the Board that would have been valid if that resolution had not been passed.

31.5 Chief Executive Officer May Employ

The Chief Executive Officer may in consultation with the Board, and as appropriate, employ such personnel as are deemed necessary or appropriate from time to time and such appointments shall be for such period and on such conditions as the Chief Executive Officer determines, subject to Board approval.

PART VI - MISCELLANEOUS

32 DELEGATIONS

32.1 Board May Delegate Functions

The Board may by instrument in writing, create, establish or appoint from among its own members or otherwise, committees to carry out such duties and functions, and with such powers, as the Board determines.

32.2 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 Association by the Act or any other law, or these Rules or by resolution of the Association in General Meeting.

32.3 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.

32.4 Procedure of Delegated Entity

- (a) The procedures for any committee established shall, with any necessary or incidental amendment, be the same as that applicable to meetings of the Board under Rule 29. The quorum shall be determined by the committee, but shall be no less than the majority of the total number of committee members.
- (b) A Board Member or the Chief Executive Officer shall be an ex-officio member of any committee so appointed.
- (c) Within fourteen (14) days of any meeting of any committee, the committee shall send a copy of the minutes and any supporting documents to the Chief Executive Officer.

32.5 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.

32.6 Revocation of Delegation

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

33 REGULATIONS

33.1 Board to Formulate Regulations

The Board may formulate issue, adopt, interpret and amend such regulations, by-laws and policies for the proper advancement, management and administration of the Association, the advancement of the objects of the Association and Softball in Western Australia as it thinks necessary or desirable. Members of the Association may, by resolution at a general meeting, make, amend or revoke regulations, by-laws and policies. Such regulations must be consistent with these Rules.

33.2 Regulations Binding

All Regulations (as defined in Rule 5.1) made under this Rule shall be binding on the Association, and Members.

33.3 Regulations Deemed Applicable

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

33.4 Bulletins/Memorandums Binding on Members

Amendments, alterations, interpretations or other changes to Regulations shall be advised to Members of the Association by means of bulletins approved by the Board and prepared and issued by the Association. The Affiliated Bodies shall take reasonable steps to distribute information in the bulletins to Individual Members. Such inclusions in the bulletins are binding upon all Members.

34 RECORDS AND ACCOUNTS

34.1 Association to Keep Records

The Association shall ensure that proper records and minutes concerning all transactions, business, meetings and dealings of the Association and the Board are established and maintained and shall produce these as appropriate at each Board Meeting or General Meeting.

34.2 Records Kept in Accordance with Act

Proper accounting and other records shall be kept in accordance with Act. The books of accounts shall be kept in the care and control of the Association.

34.3 Inspection of Records

Subject to privacy and commercial considerations, the Association may in its discretion make the records, books and other documents of the Association available for inspection (but not copying) by a Member at any reasonable hour. The Association may impose reasonable charges in relation to such inspection.

34.4 Association to Retain Records

The Association shall retain such records for at least seven (7) years after the completion of the financial year to which the transactions or operations relate or any such length of time as might be required by law.

34.5 Board to Submit Accounts

The Board shall present to the Members at the Annual General Meeting the Financial Statements of the Association in accordance with these Rules.

34.6 Accounts Conclusive

The Financial Statements when presented to the Annual General Meeting shall be conclusive except as regards any error discovered in them within three (3) months of that Annual General Meeting.

34.7 Accounts to be sent to Members

The Association shall cause to be sent to all persons entitled to receive the agenda of Annual General Meetings of the Association in accordance with these Rules, a copy of the Financial Statements, the Board's report, the auditor's report and every other document required under the Act (if any).

34.8 Negotiable Instruments

All cheque's, promissory notes, bankers' drafts, bills of exchange and other negotiable instruments, and all receipts for money paid to the Association, shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by the Association in such manner as the Board determines.

34.9 Auditor

- (a) The Board shall appoint a properly qualified auditor or auditors and their remuneration shall be approved by the Board. The auditor's duties shall be regulated in accordance with the Act, or if no relevant provisions exist under the Act, in accordance with generally accepted principles, and/or any applicable code of conduct.
- (b) The accounts of the Association shall be examined and the correctness of the profit and loss accounts and balance sheets ascertained by an auditor or auditors at the conclusion of each Financial Year.

35 NOTICES

35.1 Manner of Notice

- (a) Notices may be given by the Association to any Member or Delegate 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, or in the case of a Delegate, to the last notified address, 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 three 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.

36 SEAL

36.1 Safe Custody of Seal

The Association shall have its own seal and provide for safe custody of the Seal.

36.2 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 Board Members or one Board Member and the Chief Executive Officer and recorded in a register of such use.

37 PATRONS AND VICE PATRONS

The Association at its Annual General Meeting may appoint annually on the recommendation of the Board a Chief Patron and such number of Patrons and Vice-Patrons as it considers necessary, subject to agreement by that person or persons.

38 ALTERATION OF CONSTITUTION (RULES)

The Rules of the Association shall not be altered except by Special Resolution and in compliance with all other procedures under the Act (if any).

39 INDEMNITY

39.1 Board Members to be indemnified

Every Board Member, Officer, Auditor, Manager, Employee or Agent of the Association shall be indemnified out of the property or assets of the Association against any liability incurred by them in their capacity as Board Member, Officer, Auditor, Manager, Employee or Agent in defending any proceedings, whether civil or criminal, in which judgement is given in their favor or in which they are acquitted or in connection with any application in relation to any such proceedings in which relief is, under the Act, granted to them by the court.

39.2 Association to Indemnify Board Members

The Association shall indemnify its Board Members, Officers, Managers and Employees against all damages and costs (including legal costs) for which any such Board Member, Officer, Manager or Employee may be or become liable to any third party in consequence of any act or omission except willful misconduct:

- (a) In the case of a Board Member or Officer, performed or made whilst acting on behalf of and with the authority, express or implied of the Association; and
- (b) In the case of an Employee, performed or made in the course of, and within the scope of their employment by the Association.

40 DISSOLUTION

40.1 Winding up of the Association

- (a) The Association shall not disband unless with the consent of seventy-five percent (75%) majority vote of the members attending a Special meeting called to discuss the disbandment and entitled to vote.
- (b) Motion to disband the Association shall be submitted in writing to the Association office signed by the Proposer and Second, who shall give at least twenty-eight (28) days' notice of such motion to all members. Such notice shall be dealt with at a Special Meeting of the Association.
- (c) If carried by the necessary seventy-five percent (75%) majority notice to disband the Association shall be forwarded to the Federation.

40.2 Distribution of Property upon Winding Up

If upon the winding up or dissolution of the Association there remains after satisfaction of all debts and liabilities any property whatsoever, the same shall not be paid to or distributed among members but shall be given or transferred to:

- (a) An incorporated Association;
- (b) A company limited by guarantee registered under the Corporations Act 2001;
- (c) An organization that holds a current license under the Charitable Collections Act 1946;
- (d) An organization that is a member or former member of the Association and whose rules prevent the distribution of property to its members; or
- (e) A non-distributing co-operative registered under the Co-operatives Act 2009.

41 APPLICATION OF INCOME

- (a) The income and property of the Association shall be applied solely towards the promotion of the objects or purposes of the Association and no part of that property or income may be paid or otherwise distributed, directly or indirectly, to any member of the association except in good faith in the promotion of those objectives or purposes.
- (b) No portion of the income or property of the Association shall be paid or transferred, directly or indirectly by way of dividend, bonus or otherwise any Member: and,

- (c) Nothing contained in Rule 41(a) and 41(b) shall prevent payment in good faith to any Member for:
- (i) Any services actually rendered to the Association whether as an employee or otherwise;
 - (ii) Goods supplied to the Association in the ordinary and usual course of operation;
 - (iii) Interest on money borrowed from any Member;
 - (iv) Rent for premises demised or let by any Member to the Association;
 - (v) Any out-of-pocket expenses incurred by the Member on behalf of the Association; or
 - (vi) Any other reason;

Provided that any such payment shall not exceed the amount ordinarily payable between ordinary commercial parties dealing at arm's length in a similar transaction.

- (d) A Board Member is entitled to be paid out of the funds of the Association for any out-of-pocket expenses for travel and accommodation properly incurred —
- (i) In attending a Board meeting or
 - (ii) In attending a general meeting; or
 - (iii) Otherwise in connection with the Association's business.