

# New Constitution

Date: 11 November 2019 [date of adoption of by the Members]

**FRANKSTON LIFE SAVING CLUB INCORPORATED**

**REGISTRATION NO. A0009149G**

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# CONSTITUTION OF FRANKSTON LIFE SAVING CLUB INCORPORATED

## 1. NAME

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The name of the incorporated association is Frankston Life Saving Club Incorporated (**Association**).

## 2. INCORPORATION

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Associations shall incorporate under the Act and shall remain incorporated.

## 3. OBJECTS OF ASSOCIATION

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The Association is established solely for these Objects. The Objects of the Association are to:

- (a) participate as a member of Life Saving Victoria (**LSV**) and Surf Life Saving Australia Limited (**SLSA**) and The Royal Life Saving Society Australia (**RLSSA**) through and by which lifesaving and the preservation of life in the aquatic environment can be conducted, encouraged, promoted, advanced and administered;
- (b) provide for the conduct, encouragement, promotion and administration of lifesaving throughout Frankston;
- (c) ensure the maintenance and enhancement of the Association, LSV, Life Saving Clubs, SLSA, RLSSA and lifesaving, its standards, quality and reputation for the benefit of the Members and lifesaving;
- (d) at all times promote mutual trust and confidence between the Association, LSV, Life Saving Clubs, SLSA, RLSSA and the Members in pursuit of these objects;
- (e) at all times act on behalf of and in the interest of the Members and lifesaving;
- (f) promote the economic and community service success, strength and stability of the Association, LSV, Life Saving Clubs, SLSA, RLSSA and lifesaving;
- (g) affiliate and otherwise liaise with LSV, SLSA and RLSSA, in the pursuit of these objects and the objects of lifesaving;
- (h) conduct, encourage, promote, advance and control lifesaving in Frankston, its many aspects devoted to aquatic safety and management and the preservation of life in the aquatic environment;
- (i) conduct or commission research and development for improvements in methods of lifesaving and lifesaving equipment and in all ways to improve and safeguard the use of the aquatic environment;
- (j) use and protect the Intellectual Property
- (k) apply the property and capacity of the Association towards the fulfilment and achievement of these Objects;
- (l) promote the involvement and influence of lifesaving standards, techniques, awards and education with bodies involved in lifesaving;

- (m) strive for Governmental, commercial and public recognition of the Association as the authority on aquatic safety and management in Frankston;
- (n) promulgate, and secure uniformity in, such rules as may be necessary for the management and control of lifesaving and related activities and the preservation of life in the aquatic environment;
- (o) further extend the operations and teachings of the Association throughout Frankston;
- (p) further develop lifesaving into an organised institution and with these objects in view, to foster, regulate, organise and manage assessments, competitions, displays and other activities and to issue badges, medallions and certificates and award trophies to successful Members;
- (q) review and/or determine any matters relating to lifesaving which may arise, or be referred to it, by any Member;
- (r) pursue through itself or other such commercial arrangements, including sponsorship and marketing opportunities as are appropriate to further the interests of lifesaving in Frankston;
- (s) adopt and implement appropriate policies, including in relation to sexual harassment, equal opportunity, equity, drugs in sport, health, safety, junior and senior programs, infectious diseases and such other matters as arise from time to time as issues to be addressed in lifesaving;
- (t) represent the interests of its Members and of lifesaving generally in any appropriate forum in Frankston;
- (u) have regard to the public interest in its operations;
- (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) ensure that environmental considerations are taken into account in all lifesaving and related activities conducted by the Association;
- (x) promote the health and safety of Members and all other users of the aquatic environment;
- (y) encourage Members to realise their potential and athletic abilities by extending to them the opportunity of education and participation in lifesaving competition and to award trophies and rewards to successful competitors;
- (z) encourage and promote performance-enhancing drug free competition;
- (aa) establish, grant and support awards to Members and others, in honourable public recognition of hard and meritorious rescues from the sea, deeds of exceptional bravery from time to time performed in the course of lifesaving and other distinguished services and acts;
- (bb) give, and seek where appropriate, recognition for Members to obtain awards or public recognition in fields of endeavour other than lifesaving;

- (cc) seek and obtain improved facilities for the enjoyment of the aquatic environment in Frankston;
- (dd) promote uniformity of laws for the control and regulation of the aquatic environment in Frankston and to assist authorities in enforcing these laws;
- (ee) effect such objects as may be necessary in the interests of lifesaving and the aquatic environment in Frankston; and
- (ff) undertake and or do all such things or activities which are necessary, incidental or conducive to the advancement of these objects.

#### **4. POWERS OF ASSOCIATION**

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Solely for furthering the Objects set out above, the Association has in addition to the powers and functions under the Act, the legal capacity and powers of a company limited by guarantee as set out under section 124 of the *Corporations Act*.

#### **5. INTERPRETATION AND DEFINITIONS**

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##### **5.1 Definitions**

In this Constitution, unless the contrary intention appears:

**Act** means the *Associations Incorporation Reform Act 2012 (Vic)*.

**Active** means the act of patrolling, provision of training, coaching and age manager services, to be a member of the Board or a Committee of the Association, to provide other services as may be requested by the Board from time to time.

**Annual General Meeting** or **AGM** means a meeting of Members convened under **rule 13**.

**Annual Subscriptions** means the annual fees payable by each category of Member as determined by the Board under **rule 9**.

**Association** means Frankston Life Saving Club Incorporated.

**Board** means the body managing the Association and consisting of the Directors under **rule 18.1(a)**.

**By-Laws** mean any by-laws made by the Board under **rule 25**.

**Committee** means any committee of the Board created under **rule 22.4** from time to time.

**Constitution** means this constitution of the Association as amended from time to time.

**Delegate** means the person appointed from time to time to act for and on behalf of the Association and to attend, debate but not vote at general meetings of LSV.

**Director** means a member of the Board elected **rule 19**.

**Financial Year** means the year ending 30 June in each year.

**General Meeting** means the annual or any special general meeting of the Association convened in accordance with **rule 15**.

**Immediate family** member means spouse, domestic partner, child or stepchild, parent, parent-in-law, sibling, and anyone sharing the member's household.

**Individual Member** means a registered financial member of the Association comprised of such categories of members as provided in Rule 8 and as determined by SLISA and/or LSV from time to time and further defined in the By- Laws.

**Intellectual Property** means all rights subsisting in copyright, business names, names, trademarks (or signs), logos, designs, equipment, images (including photographs, television, videos or films) or service marks (whether registered or registrable) relating to the Association or any championship, competition, series or event or lifesaving 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 8.6**.

**Life Saving Club** means a lifesaving club which is a member of or otherwise affiliated with LSV or SLISA.

**LSV** means the body recognised by SLISA as the body administering lifesaving in Victoria.

**Member** means any person recognized as a member of the Association by the Board under **rule 8** from time to time.

**Objects** means the objects of the Association under **rule 2**.

**President** means the President for the time being of the Association appointed under **rule 19**.

**Privacy laws** means the Privacy Act 1988.

**Register** means the register of Members kept under **rule 10.1**.

**Relevant Documents** means the records and other documents, however recorded compiled or stored, that relate to the Association and management of the Association and includes membership records, financial statements, financial records, and records and documents relating to transactions, dealings, business or property of the Association.

**RLISA** means The Royal Life Saving Society Australia.

**Seal** means the common seal of the Association (if any) and includes any official seal of the Association.

**SLISA** means Surf Life Saving Australia Limited.

**Special General Meeting** or **SGM** means a meeting of members convened under **rule 14**.

**Special Resolution** means a resolution passed in accordance with the Act.

**State** means and includes a State or Territory of Australia.



**Working With Children Check** or **WWCC** shall be as provided by the Victorian Government and as required by LSV for those member categories provided in **rule 8.2**.

## **5.2 Interpretation**

In this Constitution:

- (a) a reference to a rule, regulation, schedule or annexure is to a rule, regulation, schedule or annexure of, or made under, this Constitution;
- (b) words importing the singular include the plural and vice versa;
- (c) words importing any gender include the other genders;
- (d) headings are for convenience only and shall not be used for interpretation;
- (e) words or expressions shall be interpreted in accordance with the provisions of the Act as they vary from time to time;
- (f) references to persons include natural persons, corporations and bodies politic, and any legal personal representatives, successors and permitted assigns of that person;
- (g) except where the contrary intention appears, in this Constitution, an expression that deals with a matter under the Act has the same meaning as that provision of the Act.
- (h) 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);
- (i) expressions referring to "writing" shall unless the contrary intention appears, be construed as including references to printing, photography and other modes of representing or reproducing words in a visible form, including messages sent by electronic mail; and
- (j) the model rules made under the Act are expressly displaced by this Constitution.

## **5.3 Enforceability**

If any provision of this Constitution or any phrase contained in it is invalid or unenforceable in any jurisdiction, the phrase or provision shall be read down for the purpose of that jurisdiction, if possible, so as to be valid and enforceable. If it cannot be so read down the provision shall be severed to the extent of the invalidity or unenforceability. The remaining provisions of this Constitution and its validity or enforceability shall not be affected by the severance in any other jurisdiction.

## **6. STATUS AND COMPLIANCE OF ASSOCIATION**

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### **6.1 Recognition of Association**

Subject to compliance with this Constitution, the LSV constitution, and the SLSA constitution, and the RLSSA constitution the Association shall continue to be

recognised as a Member of LSV and shall administer lifesaving activities in Frankston in accordance with the Objects.

## **6.2 Compliance of Association**

The Members acknowledge and agree the Association shall:

- (a) be or remain incorporated in Victoria;
- (b) appoint a Delegate annually to represent the Association at general and other meetings of LSV;
- (c) nominate such other persons as may be required to be appointed to LSV committees from time to time under this Constitution or the LSV constitution or otherwise;
- (d) forward to LSV a copy of its constituent documents and details of its Directors;
- (e) adopt the objects of LSV (in whole or in part as are applicable to the Association) and adopt rules which reflect, and which are, to the extent permitted or required by the Act, generally in conformity with the LSV constitution;
- (f) apply its property and capacity solely in pursuit of the Objects and lifesaving;
- (g) do all that is reasonably necessary to enable the Objects to be achieved;
- (h) act in good faith and loyalty to ensure the maintenance and enhancement of lifesaving, its standards, quality and reputation for benefit of the Members and lifesaving;
- (i) at all times act on behalf of and in the interests of the Members and lifesaving; and
- (j) by, adopting the objects of LSV, abide by the LSV Constitution.

## **6.3 Operation of Constitution**

The Association and the Members acknowledge and 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 lifesaving are to be conducted, promoted, encouraged, advanced and administered throughout Frankston and the immediate area;
- (b) to ensure the maintenance and enhancement of lifesaving, its standards, quality and reputation for the benefit of the Members and lifesaving;
- (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 lifesaving and its maintenance and enhancement;
- (d) to promote the economic and community services success, strength and stability of each other and to act interdependently with each other in pursuit of their respective objects;

- (e) to act in the interests of lifesaving and the Members;
- (f) where the Association considers or is advised that a Member has allegedly:
  - (i) breached, failed, refused or neglected to comply with a provision of this Constitution, the By-Laws, or any resolution or determination of the Board or Association; or
  - (ii) acted in a manner prejudicial to the Objects and interests of the Association and/or lifesaving; or
  - (iii) brought themselves, the Association, any Life Saving Club or lifesaving into disrepute;

the Association may after allowing the Member a reasonable opportunity to explain, adjudicate and if necessary penalise the Member with such penalty as it thinks appropriate.

## **7. ASSOCIATION'S CONSTITUTION**

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### **7.1 Constitution of the Association**

The Constitution will clearly reflect the objects of LSV and shall generally conform with the LSV constitution, subject to any requirements in the Act, and at least to the extent of:

- (a) the objects of LSV;
- (b) the structure and membership categories of LSV;
- (c) recognising SLSA as the national peak body for lifesaving in Australia, in accordance with the SLSA Constitution;
- (d) recognising LSV as the peak body for lifesaving in Victoria;
- (e) recognising SLSA as the final arbiter on matters pertaining to lifesaving in Australia; and
- (f) such other matters as are required to give full effect to the LSV constitution;

with such incidental variations as are necessary having regard to the Act.

### **7.2 Operation of the LSV Constitution**

- (a) The Association will take all steps to ensure its Constitution is in conformity with the LSV constitution at least to the extent set out in **rule 7.1** and in respect of those matters set out in **rule 7.1** shall ensure this Constitution is amended in conformity with future amendments made to the LSV constitution, subject to any prohibition or inconsistency in the Act.
- (b) The Association shall provide to LSV a copy of its Constitution and all amendments to this document. The Association acknowledges and agrees that LSV has power to veto any provision in its Constitution which, in LSV's reasonable opinion, is contrary to the objects of LSV.

## 8. MEMBERSHIP OF ASSOCIATION

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### 8.1 Minimum number of Members

The Association must have at least five Members.

### 8.2 Categories of Member

(a) General Description

- (i) All members 18 years and older are required to comply with LSV working with children check (WWCC) policy.
- (ii) To be eligible to vote, members must be financial, aged 16 years or older as defined in the following membership categories of the Association.

(b) Active Membership

- (i) **Cadet (13-15yrs)** Cadet Members shall be a Member of the age qualification as defined in SLSA's Manuals and who shall hold Surf Rescue Certificate or SLSA Bronze Medallion. Cadet Members are entitled to attend, but not debate or vote, at General Meetings
- (ii) **Active (16-17yrs)** Members who shall hold an SLSA Bronze Medallion, fulfil patrol and Association obligations and qualify in an annual proficiency test (unless that Member has obtained their Bronze Medallion in that season). Members in this category shall have the right to be present, to debate and to vote at General Meetings.
- (iii) **Active 18yrs+** Members who shall hold an SLSA Bronze Medallion, fulfil patrol and Association obligations and qualify in an annual proficiency test (unless that Member has obtained their Bronze Medallion in that season). Members in this category shall have the right to be present, to debate and to vote at General Meetings.
- (iv) **Award Member**, who shall be 16 years of age or older and who shall hold an SLSA award. Members in this category shall have the right to be present, to debate and to vote at General Meetings.

(c) Family Membership

- (i) **Junior Active** – Have only Junior Activity Members (5-13 years) participating within the club. Parents are members who do not participate in Patrols but may hold awards.
- (ii) **Senior Active** – At least one member of the family patrols (13 years or older) or who holds an official position with the Association or as approved by the Board.

(d) Junior Membership

Junior Members as provided in the following sub-category shall have the right to attend, but not to debate nor vote at General Meetings.

- (i) **Junior Activity member (5 to 13yrs)** – Junior Activities Members shall be a person who shall be a minimum age of five (5) years and up to a maximum age of thirteen (13) years and such person shall be required to gain the relevant Surf Education Certificate for that person's age group.

(e) Associate Membership (voting);

Associate Membership (voting) under this category are required to hold a current WWCC, and shall have the right to attend, to debate and to vote at General Meetings.

- (i) **Associate Member – Official** is a member that does not qualify under Life Member, Past Member or Active Member categories who is elected to office or position under the Constitution and By-Laws of the Association.
- (ii) **Associate Member – Non-Active Junior Family Adult** is an adult member of a Junior Active Family and who is not deemed an Active member.

(f) Associate Membership (non-voting)

Associate Membership (non-voting) under this category shall have the right to attend, debate but not vote at General Meetings.

- (i) **Associate Member – Non-Active Family** is a member who is part of a Junior or Senior Family and who does not participate in any role within the Association. This category includes members who are part of a Junior or Senior Family who do not fulfil the requirements of other membership categories.

(g) Probationary Members

Probationary Members shall be the designation of any person for the time period between making applying for membership and the gaining of an award and/or the granting of a formal category of membership of the Association. Probationary Members are not entitled to debate or vote at General Meetings.

(h) Honorary and Service Membership

- (i) **Life Membership** may be granted in accordance with **rule 8.6** by the Association to Members who have rendered distinguished, or special service and shall have the right to be present, to debate and to vote at General Meetings.

- (ii) **Honorary Membership**

- (A) Honorary membership is reserved for dignitaries, public personalities, benefactors and/or people of note who wish to be associated with the Association who may or may not hold a RLSSA or SLSA award and who may have no particular interest in participating in the actual activities of the Association.
- (B) Honorary membership shall be at the discretion of the Board and will endure for a time span set out by the Board. Honorary Memberships may, likewise, be revoked by the Board without reference to disciplinary matters.
- (C) Honorary Members are entitled to attend, debate but not vote at General Meetings;

(i) Non-Financial Members

Non-Financial Members are any members who have not yet met their financial obligations to the Association for a given year. This sub-category includes the following.

- (i) **Lapsed Members** have not met their financial obligations for the current season and has failed to indicate their intention to renew their membership during that season.
  - (ii) **Pending/Payment Plan Members** have been unable to renew their membership at the normal time but have been given special leave to fulfil their financial obligations after the normal date. These members do not enjoy the full rights of a financial member until such time as their financial obligations are brought up to date.
- (j) Temporary Members

Temporary Members is a special category for School Groups, Special Training and the like where those attending the Association are to be covered by the Association's insurance, rules and codes of conduct, but are not ongoing members and may only be at the Association for limited sessions. Temporary Members are not financial and do not enjoy any of the rights of financial members.

### 8.3 Application for Membership

An application for membership by an individual must be:

- (a) in writing on the form prescribed from time to time by LSV and/or SLSA, from the applicant or its nominated representative and lodged with the Association; and
- (b) accompanied by the appropriate fee, if any.

### 8.4 Discretion to Accept or Reject Application

- (a) The Board may, acting in the best interests of the Association and in good faith, accept or reject an application whether the applicant has complied with the requirements in **rule 8.3** or not, and shall not be required or compelled to provide any reason for such acceptance or rejection.
- (b) Where the Board accepts an application, the applicant shall, subject to notification to, and approval by, LSV, become a Member. The Association acknowledges that LSV may reject an applicant independently of the Association. LSV is not obliged to provide reasons if it rejects an application.
- (c) Membership of the Association shall be deemed to commence upon acceptance of the application by LSV. The Register shall be updated accordingly as soon as practicable.
- (d) If the Board rejects an application (or if LSV rejects an application), the Association shall refund any fees forwarded with the application, and the application shall be deemed rejected. No reasons for rejection need be given.
- (e) There is no right of appeal where the Board rejects an application for membership, whether a new application or a renewal application.
- (f) Member Limits – The Board shall have the power, at their absolute discretion to limit the number of members, either in total or in any particular category.

## **8.5 Renewal of membership**

- (a) Members must re-apply for membership of the Association in accordance with the timeframes and procedures set down by the Board from time to time. Members acknowledge and agree that membership renewal is not automatic.
- (b) Upon re-application a Member must provide details of any change in their personal details, and any other information reasonably required by the Board.
- (c) The Board may, acting in the best interests of the Association and in good faith, accept or reject a renewal application whether the applicant has complied with the requirements in **rules 8.5(a) and (b)** or not, and shall not be required or compelled to provide any reason for such acceptance or rejection.
- (d) If the Board rejects an application, the Association shall refund any fees forwarded with the application, and the application shall be deemed rejected by the Association. No reasons for rejection need be given.
- (e) There is no right of appeal where the Board rejects an application for membership, whether a new application or a renewal application.

## **8.6 Life Members**

- (a) The Board may recommend to the Annual General Meeting that any natural person who has rendered distinguished service to the Association and lifesaving, where such service is deemed to have assisted the advancement of the Association and lifesaving in Frankston be appointed as a Life Member.
- (b) A resolution of the Annual General Meeting to confer life membership on the recommendation of the Board must be a Special Resolution.
- (c) A person must accept or reject the Association's resolution to confer life membership. Upon acceptance, the person's details shall be entered upon the register, and from the time of entry on the register the person shall be a Life Member.
- (d) A Life Member is not required to pay an annual subscription.

## **8.7 Effect of Membership**

- (a) Members acknowledge and agree that:
  - (i) this Constitution constitutes a contract between each of them and the Association and that they are bound by this Constitution and the Regulations;
  - (ii) they shall comply with and observe this Constitution and the Regulations;
  - (iii) by submitting to this Constitution and the Regulations they are subject to the jurisdiction of the Association;
  - (iv) this Constitution and Regulations are necessary and reasonable for promoting the Objects of the Association;
  - (v) neither membership of the Association nor this Constitution gives rise to:

- (A) any proprietary right of Members in, to or over the Association or its property or assets;
  - (B) any automatic right of a Member to renewal of their membership of the Association;
  - (C) subject to the Act and the Association acting in good faith, the right of Members to natural justice unless expressly provided for in this Constitution; and
- (vi) they are entitled to all benefits, advantages, privileges and services of their membership as determined by the Board.
- (b) Members may, by virtue of membership of the Association, and subject to this Constitution:
- (i) express in writing or otherwise their views and opinions in any meeting in respect of which they are entitled to participate in accordance with this Constitution;
  - (ii) make proposals or submissions to the Board;
  - (iii) engage and participate in any activity approved, sponsored or recognised by the Association; and
  - (iv) conduct any activity approved by the Association.
- (c) A right, privilege or obligation of a person by reason of their membership of the Association:
- (i) is not capable of being transferred or transmitted to another person; and
- terminates upon the cessation of membership whether by death, resignation or otherwise.

## 8.8 Liability of Members

- (a) The liability of the Members of the Association is limited.
- (b) All members, Officers and staff shall familiarise themselves and at all times comply with the Codes of Conduct as provided in the By-Laws.

## 9. SUBSCRIPTIONS AND FEES

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- (a) The Annual Subscriptions and any other fees payable by Members or categories of Members to the Association, the benefits which apply, the time for, and manner of payment, shall be determined by the Board from time to time.
- (b) The Board is empowered to prevent any Member whose Annual Subscription or any other fees are in arrears from exercising the whole or any of the rights or privileges of membership of the Association, including but not limited to the right to vote at General Meetings. There is no right to natural justice or any right of appeal where the Board exercises its power under this **rule 9(b)**.



## **10. REGISTERS**

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### **10.1 Association to Keep Register of Members**

The Association shall keep and maintain a Register of Members in which shall be entered:

- (a) the full name and address of the Member;
- (b) the category of membership of the Member;
- (c) the date on which the Member became a Member;
- (d) whether the Member has been granted voting rights;
- (e) any other information determined by the Board; and
- (f) for each former Member, the date of ceasing to be a Member.

### **10.2 Changes to Member details**

Members shall provide notice of any change and required details to the Association within one month of such change.

### **10.3 Inspection of Register**

Inspection of the Register will only be available as required by the Act and in accordance with **rule 37(d)**.

### **10.4 Use of Register**

Subject to confidentiality considerations and privacy laws, the Register may be used by the Association to further the Objects, as the Board considers appropriate.

### **10.5 Right of LSV to Register**

The Association shall provide a copy of the Register at a time, and in a form, acceptable to LSV, and shall provide regular updates of the Register to LSV. The Association agrees that LSV may utilise the information contained in the Register and the Register itself to further the objects of LSV, subject always to reasonable confidentiality considerations and privacy laws.

## **11. DISCONTINUANCE OF MEMBERSHIP**

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### **11.1 Discontinuance by Notice of Resignation**

A Member having paid all arrears of fees payable to the Association may resign or withdraw from membership of the Association by giving notice in writing to the Association of resignation or withdrawal.

### **11.2 Discontinuance by Breach**

- (a) Membership of the Association may be discontinued by the Board upon breach of any rule of this Constitution, including but not limited to failure to comply with the By-Laws or any resolution or determination made or passed by the Board or any duly authorised Committee.

- (b) Membership shall not be discontinued by the Board under **rule 11.2(a)** without the Board first giving the accused Member the opportunity to explain the breach and/or remedy the breach.
- (c) Where a Member fails, in the Board's view to adequately explain or remedy the breach, that Member's membership shall be discontinued under **rule 11.2(a)** by the Board giving written notice of the discontinuance.

### **11.3 Discontinuance by Failure to Pay Subscription**

- (a) A Member, not including a Life Member, is taken to have resigned if:
  - (i) the Member's annual subscription is outstanding more than one month after the date on which subscription fees fall due and payable; or
  - (ii) if no annual subscription is payable:
    - (A) the secretary has made a written request to the Member to confirm that he or she wishes to remain a Member; and
    - (B) the Member has not, within three months after receiving that request, confirmed in writing that he or she wishes to remain a Member, or
- (b) Should a sufficient explanation be made to the Board for the failure to pay subscription or reason for not responding to a request, the Board shall have the power to restore the Membership upon payment of the amount due (if any).

### **11.4 Resignation by failure to re-apply**

If a Member, not including a Life Member, has not re-applied for Membership with the Association within one month of re-application falling due, that Member's membership will be deemed to have lapsed from that time.

### **11.5 Amendment to the Register**

Where a Member resigns in accordance with this **rule 11** an entry, recording the date on which the Member ceased to be a Member, shall be recorded in the Register as soon as practicable in accordance with **rule 10.1(f)**.

### **11.6 Forfeiture of Rights**

A Member who ceases to be a Member, for whatever reason, shall forfeit all rights in and claims upon the Association and its property and shall not use any lifesaving equipment or other property of the Association 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.

### **11.7 Membership may be Reinstated**

Membership which has been discontinued under this **rule 11** may be reinstated at the discretion of the Board, upon such conditions as it deems appropriate. The Board is not obliged to reinstate any former Member's membership.

## 11.8 Refund of Membership Fees

Membership fees or subscriptions paid by the discontinued Member may be refunded on a pro-rata basis to the Member upon discontinuance.

## 12. GRIEVANCES, JUDICIAL AND DISCIPLINE

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- (a) The Association adopts the Grievances, Judicial and Discipline Regulations of LSV and SLSA as amended from time to time.
- (b) These shall be replicated in the By-Laws but cannot be amended from the SLSA Regulations without the prior written approval of LSV and SLSA.
- (c) As required by the Act the relevant Grievances, Judicial and Discipline procedures and LSV By-Laws and SLSA regulations are set out in **appendix A** to this Constitution.
- (d) A Member who is the subject of a disciplinary procedure must not initiate a grievance procedure in relation to the matter which is the subject of the disciplinary procedure until the disciplinary procedure has been completed.

## 13. ANNUAL GENERAL MEETINGS

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### 13.1 Annual General Meeting to be Held

- (a) The Association shall convene and hold an AGM of its Members annually within five months after the end of the financial year and in accordance with the Act.
- (b) The AGM shall, subject to the Act and to **rule 13.1(a)**, be convened at a time, date and venue to be determined by the Board.

### 13.2 Business

In addition to any business required to be transacted at the AGM under the Act, the business of the AGM shall include the following:

- (a) confirmation of minutes from previous AGM and of any SGM held since then;
- (b) receive and consider:
  - (i) reports of the Board;
  - (ii) reports of auditors (if any);
  - (iii) financial statements of the Association; and
  - (iv) any other reports as determined by the Board,
- (c) election of office bearers (if applicable);
- (d) confirmation of the appointment and fixing of the remuneration of auditors (if an audit is required under the Act); and
- (e) any other business of which notice is given in accordance with this Constitution.

### **13.3 Additional Meetings**

The AGM shall be in addition to any other General Meetings that may be held in the same year. Any General Meeting other than an AGM is a Special General Meeting.

## **14. SPECIAL GENERAL MEETINGS**

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### **14.1 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 14.1** more than 15 months would elapse between Annual General Meetings, shall convene a Special General Meeting before the expiration of that period.

### **14.2 Request for Special General Meetings**

- (a) The Secretary shall on the requisition in writing of 10 voting Members 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 Members making the requisition and be sent to the Association. The requisition may consist of several documents in a like form, each signed by one or more of the Members making the requisitions.
- (c) If the Board does not cause a Special General Meeting to be held within one month after the date on which the requisition is sent to the Association, the Members making the requisition, or any of them, may convene a Special General Meeting to be held not later than three months after that date.
- (d) A Special General Meeting convened by Members under this Constitution shall be convened in the same manner, or as nearly as possible as that, in which meetings are convened by the Board.

## **15. GENERAL MEETINGS**

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### **15.1 Notice to be Given for General Meetings**

- (a) Notice of every General Meeting shall be given to every Member entitled to receive notice under **rule 8.2**, at the address (email or postal) appearing in the Register kept by the Association. The auditor (if any) and Directors shall also be entitled to notice of every General Meeting, which shall be sent to their last notified address. No other person shall be entitled as of right to receive notices of General Meetings.
- (b) At least 35 days' notice shall be given to every member entitled to receive notice under **rule 8.2** of a General Meeting and the notice shall specify the time, date and place of the meeting and shall state the business to be transacted at the meeting. Notice may be given in any form permitted under **rule 31**.
  - (i) the notice for the General Meeting shall call for any other business to be raised within 14 days of the notice being sent out in accordance with **rule 31**.
- (c) At least 21 days prior to the scheduled General Meeting those Members entitled to receive notice shall be sent:

- (i) the agenda for the meeting;
- (ii) any nominations for candidates to be elected to the Board received in accordance with **rule 19.1**;
- (iii) if a Special Resolution is to be proposed, state in full the proposed resolution and the intention to propose the resolution as a Special Resolution.
- (iv) any notice of motion received from Members under **rule 15.2(b)**; and
- (v) forms of authority in blank for proxy votes (if proxy votes are permitted).

## **15.2 Business of Meeting**

- (a) No business other than that set out in the notice convening the meeting shall be transacted at the General Meeting.
- (b) A Member desiring to bring any business before a meeting shall give at least 14 days' notice in writing of that business to the Association which shall include that business in a notice calling the next General Meeting after the receipt of the notice.

## **15.3 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 not less than 10% of eligible voting Members represented personally or by their proxies, if permitted.

- (a) If within half an hour after the appointed time for the commencement of a General Meeting, a quorum is not present, the meeting:
    - (i) if convened upon the requisition of Members, shall be dissolved; and
    - (ii) in any other case, shall stand adjourned to:
      - (A) the same day in the next week at the same time and (unless Members are notified of an alternate venue) at the same place; or
      - (B) any date, time and place determined by the chairperson;
- and if at the adjourned meeting a quorum is not present within half an hour after the time appointed for the commencement of the meeting, the meeting shall lapse.

## **15.4 President to Chair**

The President shall, subject to this Constitution, preside as chairperson at every General Meeting except:

- (a) in relation to any election for which the President is a nominee; or
- (b) where a conflict of interest exists.

If the President is not present or is unwilling or unable to preside, the Members shall appoint one of the Directors to preside as chairperson for that meeting only.

### **15.5 Chairperson May Adjourn Meeting**

- (a) 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.
- (b) When a meeting is adjourned for 30 days or more, a notice of the adjourned meeting shall be given as in the case of the original meeting.
- (c) Except as provided in **rule 15.5(b)** it shall not be necessary to give any notice of an adjournment or the business to be transacted at any adjourned meeting.

### **15.6 Use of technology**

- (a) A Member not physically present at a General Meeting may participate in the meeting by the use of technology that allows that Member and the other Members present at the meeting to clearly and simultaneously communicate with each other.
- (b) A Member participating in a General Meeting as permitted under **rule 15.6(a)** is taken to be present at the meeting and, if the Member (being eligible and entitled to vote) votes at the meeting, is taken to have voted in person.

## **16. VOTING AT GENERAL MEETINGS**

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### **16.1 Members entitled to Vote**

Each Member entitled to vote as set out in **rule 8** shall have one vote at General Meetings which, subject to this Constitution, shall be exercised by him/her. The Directors shall have the right to attend and debate, but not vote, at General Meetings, unless also an Individual Member entitled to vote.

### **16.2 Voting Procedure**

- (a) Subject to this **rule 16**, votes at a General Meeting shall be given in person by those present and entitled to vote.
- (b) Subject to **rule 16.4**, all questions arising at a General Meeting shall be determined on a show of hands.
- (c) Subject to **rule 16**, all valid votes cast shall be counted by a third party, nominated by the Board.

### **16.3 Recording of Determinations**

Unless a poll is demanded under **rule 16.4**, 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 the votes recorded in favour of or against the resolution.

## 16.4 Where Poll Demanded

A poll may be demanded for any resolution put to the vote of the meeting (before or on the declaration of the result of the show of hands) by:

- (a) the chairperson; or
- (b) a simple majority of Members.

If a poll is duly demanded under this **rule 16.4**, 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.

## 16.5 Casting Vote

Subject to this Constitution, questions arising at any meeting of the Board are decided by a majority of votes and all questions so decided are for all purposes to be deemed a determination of the Board. All Directors have one vote on any question. The chair shall have no deliberative vote, but be entitled to exercise a casting vote where voting is equal. Proxy votes are not permitted for Board meetings.

## 16.6 Proxy and Postal Voting

### APPOINTMENT OF PROXY

A Member of the Association who is entitled to attend and cast a vote at a General Meeting may appoint a person as that Member's proxy to attend and vote for that Member at the meeting. No person may exercise more than one proxy vote at any one time. An appointment of a proxy is valid if it is signed by the Member making the appointment and contains the following information and is in the following form:

#### FRANKSTON LIFE SAVING CLUB INC

I, [ ] of [ ] being a Member of the above-named Association, hereby appoint [ ] of [ ] or, failing that person, [ ] of [ ] to vote for me on my behalf at the general meeting of the Association, to be held on the [ ] day of [ ] 20[ ], and at any adjournment thereof.

Signed this                      day of                      20 .

This form is to be used # in favour of / against the resolution.

# Strike out whichever is not desired.

Unless otherwise instructed, the proxy may vote as the proxy thinks fit.

- (a) Voting by Proxy

A proxy appointed to attend and vote for a Member has the same rights as the Member to:

- (i) speak at the meeting; and
  - (ii) vote; and
  - (iii) join in a demand for a poll.
- (b) Delivery of Proxy Form

For an appointment of a proxy to be effective, the proxy form must be received by the Association's nominated third party on or before the commencement of the General Meeting. If the meeting of the Association's Members has been adjourned, a proxy form received by the Association prior to the resumption of the meeting is effective for the resumed part of the meeting.

- (c) Validity of Proxy Vote

If the Association has received written notice of the matter before the start or resumption of the meeting at which a proxy votes, a vote cast by the proxy will be valid even if, before the proxy votes:

- (i) the appointing Member dies,
  - (ii) the Member is mentally incapacitated; and
  - (iii) the Member revokes the proxy's appointment.
- (d) Postal or Electronic Ballot

Should an issue arise between General Meetings which requires a decision by Members, the Board may call a postal or electronic vote in such manner as it considers necessary.

## **17. MINUTES OF GENERAL MEETINGS**

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- (a) The Board must ensure that minutes are taken and kept of each General Meeting.
- (b) The minutes must record:
  - (i) the business considered at the meeting;
  - (ii) any resolution on which a vote is taken and the result of the vote;
  - (iii) the names of persons present at all meetings; and
  - (iv) the names of persons registering an apology.
- (c) In addition, the minutes of each Annual General Meeting must include:
  - (i) any reports or financial statements submitted to the members at the Annual General Meeting; and
  - (ii) any audited accounts and auditor's report or report of a review accompanying the financial statements that are required under the Act.



## 18. BOARD

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### 18.1 Powers of Board

- (a) The business and affairs of the Association shall be managed by the Board constituted under **rule 18.2**.
- (b) Subject to this Constitution and the Act, the Board:
  - (i) shall control and manage the business and affairs of the Association;
  - (ii) may exercise all such powers and functions as may be exercised by the Association other than those powers and functions that are required by this Constitution to be exercised by the Members in General Meeting; and
  - (iii) has power to perform all such acts and things as appear to the Board to be essential for the proper management of the business and affairs of the Association.

### 18.2 Composition of Board

The Board shall comprise:

- (a) The President;
- (b) The Secretary;
- (c) The Treasurer;
- (d) Lifesaving Director;
- (e) Training Director;
- (f) Youth Development Director;
- (g) Aquatic Sports Director;
- (h) Membership Director; and
- (i) Administration Director.

who must all be Individual Members (18 years of age or older) and who shall be elected under **rule 19**.

### 18.3 Portfolios

Director portfolios shall be appointed as per **rule 18.2**. The position descriptions for each Director shall be as provided in the By-Laws.

### 18.4 Right to Co-Opt

- (a) It is expressly acknowledged that the Board may 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 Director, and shall not exercise the rights of a Director, but shall act in an advisory role only.
- (b) Prescribed Operations Positions

The Board may create or remove any number of Prescribed Operations Positions deemed necessary for the proper conduct of the affairs of the Club. The titles and position descriptions for these positions shall be as provided in the By-Laws

## **18.5 Appointment of Delegate**

- (a) The Board shall, from amongst its members, appoint a Delegate to attend general and other meetings of LSV for such term as the Board determines, and otherwise in accordance with LSV's Constitution and other requirements.
- (b) The Association must advise the LSV Chief Executive Officer in writing of its Delegate.

## **18.6 Term of Office of Directors**

- (a) Directors shall be elected in accordance with this Constitution annually, subject to **rule 18.7** and this Constitution, and shall hold office from the conclusion of the Annual General Meeting at which they were elected until the conclusion of the second Annual General Meeting from when they were elected.
- (b) Directors may be re-elected.

## **18.7 Appointment Sequence of Directors**

- (a) Directors shall be elected to a role according to the following sequence:
  - (i) In each calendar year ending in an odd number the Membership Director, Lifesaving Director, Aquatic Sports Director, Youth Development Director and the position of Secretary shall be open for nomination.
  - (ii) In each calendar year ending in an even number the Administration Director, Training Director, President and Treasurer positions shall be open for nomination.

## **19. ELECTION OF DIRECTORS**

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### **19.1 Nominations of Candidates**

- (a) The Association shall call for nominations for candidates to be elected to the Board, subject to **rule 18.7**, not less than 42 days prior to the Annual General Meeting. When calling for nominations the Association shall also provide details of the necessary qualifications and job description for the positions (if any). Qualifications and job descriptions shall be as determined by the Board from time to time and provided in the By-Laws.
- (b) Candidates must:
  - (i) be Individual Members;
  - (ii) be aged 18 years or over;
  - (iii) reside in Australia; and
  - (iv) Must abide by the Directors code of conduct as provided in the By-Laws.
- (c) Nominations of candidates for election as Directors shall be:

- (i) made in writing, identifying the office for which the nominee is nominating, signed by two Individual Members (18 years of age or older) and accompanied by the written consent of the nominee (which may be endorsed on the form of nomination); and
- (ii) delivered to the Association not less than 30 days before the date fixed for the holding of the Annual General Meeting.

The Association shall send the nominations to the Members entitled to receive notice under **rule 15.1**.

- (d) If insufficient nominations are received to fill all available vacancies on the Board:
  - (i) the candidates nominated shall, subject to declaration by the chairperson, be deemed to be elected to the office for which they have nominated; and
  - (ii) the remaining positions will be deemed casual vacancies under **rule 20.3**.
- (e) If the number of nominations received for particular offices is equal to the relevant vacancies to be filled, the persons nominated shall, subject to **rule 19.1(g)** and declaration by the chairperson, be deemed to be elected to the relevant office. By way of example only, if one nominee has been received for the office of Treasurer then subject to declaration by the chairperson, that person shall be deemed to be elected as Treasurer.
- (f) If the number of nominations for particular offices exceeds the number of relevant vacancies to be filled, voting papers shall be prepared containing the names of the candidates in alphabetical order, for each vacancy on the Board.
- (g) If the number of nominations received for particular office is equal to the relevant vacancies to be filled, the Members may still demand an election to elect that single nominee to an office and an election is so demanded that person must be elected under **rule 19.2** by a majority of voting Members present and voting.

## **19.2 Voting procedures**

Elections shall be by secret ballot and otherwise by such means as is prescribed by the Board and provided in the By-Laws.

## **19.3 Immediate family members**

- (a) Immediate family members cannot:
  - (i) hold more than 2 positions on the Board at any one time;
  - (ii) hold the positions of President and Secretary, or President and Treasurer or Secretary and Treasurer at the same time;
  - (iii) hold a quorum at any meeting; i.e. a meeting with a majority of members of the same immediate family is not quorate and the meeting must be rescheduled.

- (b) Immediate family members who each hold a position on the Board should declare a potential for a conflict of interest whenever there are discussions that involve an immediate family member.

## **20. VACANCY ON THE BOARD**

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### **20.1 Grounds for Termination of Director**

The office of a Director becomes vacant if the Director:

- (a) ceases to be a Member;
- (b) dies;
- (c) becomes bankrupt or makes any arrangement or composition with their creditors generally;
- (d) 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;
- (e) resigns their office in writing to the Association;
- (f) is absent from meetings of the Board held during a period of three months without having previously obtained leave of absence under **rule 21.5** or provided reasonable excuse for such absence;
- (g) without the prior consent or later ratification of the Members in General Meeting holds any office of profit under the Association;
- (h) is directly or indirectly interested in any contract or proposed contract with the Association and fails to declare the nature of his interest;
- (i) is removed from office in accordance with this Constitution;
- (j) has been expelled or suspended from membership (without further recourse under this Constitution or the LSV constitution); or
- (k) would otherwise be prohibited from being a director of a corporation under the *Corporations Act*.

### **20.2 Removal of Director**

- (a) The Association in a General Meeting may by Special Resolution remove any Director, before the expiration of their term of office and appoint another Member in their place to hold office until the expiration of the term of the first mentioned Director.
- (b) Where the Director to whom a proposed resolution referred to in **rule 20.2(a)** makes representations in writing to the Secretary and requests that such representations be notified to the Members, the Secretary may send a copy of the representations to each Member or, if they are not so sent, the Director may require that they be read out at the meeting, and the representations shall be so read.

### 20.3 Casual Vacancy

In the event of a casual vacancy in the office of any Director, the Board may appoint an eligible Member to 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.

## 21. QUORUM AND PROCEDURE AT BOARD MEETINGS

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### 21.1 Convening a Board Meeting

- (a) The Board shall meet as often as is deemed necessary for the dispatch of business. Subject to this Constitution the Board may adjourn and otherwise regulate its meetings as it thinks fit.
- (b) Unless all Directors agree to hold a meeting at shorter notice either by agreement that is sufficiently evidenced in writing or by their presence, or in accordance with **rule 21.2**, not less than seven days' written notice of Board meeting shall be given to each Director.
- (c) Written notice of each Board meeting, specifying the general nature of the time, date and place of the Board meeting and the business to be transacted, shall be served on each Director by:
  - (i) delivering it to that Director personally;
  - (ii) sending it in writing, by facsimile or other means of electronic communication (subject to receiving appropriate confirmation that the notice has been effectively dispatched);in accordance with the Director's last notified contact details.
- (d) Notice may be given of more than one Board meeting at the same time.

### 21.2 Urgent Board Meetings

- (a) In cases of urgency, a meeting can be held without notice being given in accordance with **rule 21.1** provided that as much notice as practicable is given to each Director by the quickest means practicable.
- (b) Any resolution made at an urgent Board meeting must be passed by an absolute majority of the Board.

### 21.3 Quorum

- (a) At meetings of the Board the number of Directors whose presence is required to constitute a quorum is a majority of the Directors (so half the Board plus one).
- (b) No business shall be transacted unless a quorum is present and if within half an hour of the time appointed for the meeting a quorum is not present, the meeting shall stand adjourned to the same place and at the same hour of the same day in the following week, or any date, time and place determined by the President.
- (c) The Board may act notwithstanding any casual vacancy. However, if there are casual vacancies in the office of a Director such that the number of

remaining Directors is not sufficient to constitute a quorum at a meeting of the Board, those Directors may act only for the purpose of increasing the number of Directors to a number sufficient to constitute such a quorum.

#### **21.4 Procedures at Board meetings**

- (a) At meetings of the Board, the President shall chair the meeting. If the President is absent or unwilling to act, the Directors present shall appoint another Director to chair the meeting.
- (b) Questions arising at any meeting of the Board shall be determined on a show of hands, or if demanded by a Director, by a poll taken in such manner as the person presiding at the meeting may determine.
- (c) Questions arising at any meeting of the Board shall be decided by a majority of votes and a determination of a majority of Directors shall be deemed a determination of the Board. All Directors shall have one vote on any question. The chairman may exercise a casting vote where voting is equal as per **rule 16.5**.
- (d) Voting by proxy at Board meetings is not permitted.
- (e) A resolution in writing signed or assented to by facsimile or other form of electronic communication by all the voting Directors, shall be as valid and effectual as if it had been passed at a meeting of the Board duly convened and held. Any such resolution may consist of several documents in like form each signed by one or more of the Directors.
- (f) Without limiting the power of the Board to regulate its meetings as it thinks fit, a meeting of the Directors may be held where one 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) if a failure in communications prevents **rule 21.4(f)(i)** from being satisfied by that number of Directors which constitutes a quorum, and none of such Directors are present at the place where the meeting is deemed by virtue of the further provisions of this **rule 21** to be held then the meeting shall be suspended until **rule 21.4(f)(i)** is satisfied again. If such condition is not satisfied within fifteen minutes from the interruption the meeting shall be deemed to have terminated; and
  - (iv) any meeting held where one or more of the Directors is not physically present shall be deemed to be held at the place specified in the notice of meeting provided a Director is there present and if no Director is there present the meeting shall be deemed to be held at the place where the chairperson of the meeting is located.

## 21.5 Leave of absence

- (a) The Board may grant a Director leave of absence from Board meetings for a period not exceeding three months.
- (b) The Board must not grant leave of absence retrospectively unless it is satisfied that it was not feasible for the Director to seek the leave in advance.

## 21.6 Material Personal Interests

- (a) A Director who has a material personal interest in a matter being considered at a Board meeting must disclose the nature and extent of that interest to the Board.
- (b) A Director with such a material personal interest must not:
  - (i) be present while the matter is being considered at the meeting; and
  - (ii) must not vote on the matter.
- (c) This **rule 21.6** does not apply to a material personal interest that:
  - (i) exists only because the Director belongs to a class of persons for whose benefit the Association is established; or
  - (ii) that the Director has in common with all, or a substantial proportion of the Members.
- (d) A general notice that a Director is to be regarded as having a material personal interest in a matter being considered is sufficient declaration for such Director and the said matter. After such general notice, it is not necessary for such Director to give a special notice relating to the said matter.
- (e) It is the duty of the Secretary to record in the minutes any declaration made or any general notice as aforesaid given by a Director in accordance with this **rule 21.6**.
- (f) If a Director is unsure whether they have a material personal interest they must raise the issue with the Board who will consider and determine whether the Director has a material personal interest or not. If the Board so determines this **rule 21.6** will apply.

## 21.7 Financial Interest

- (a) A Director is disqualified from:
  - (i) holding any place of profit or position of employment in the Association, or in any company or incorporated association in which the Association is a shareholder or otherwise interested; or
  - (ii) contracting with the Association either as vendor, purchaser or otherwise;

except with express resolution of approval of the Board.

- (b) Any contract or arrangement in which any Director is in any way interested which is entered into by or on behalf of the Association without the express resolution of approval of the Board, will be voided for such reason.
- (c) The nature of the financial interest of such Director must be declared by the Director at the meeting of the Board at which the contract or arrangement is first taken into consideration if the interest then exists, or in any other case at the first meeting of the Board after the acquisition of the interest.
- (d) A general notice that a Director is a member of any specified firm or company and is to be regarded as interested in all transactions with that firm or company is sufficient declaration under **rule 21.7(c)** for such Director and the said transactions. After such general notice, it is not necessary for such Director to give a special notice relating to any particular transaction with that firm or company.
- (e) It is the duty of the Secretary to record in the minutes any declaration made or any general notice as aforesaid given by a Director in accordance with **rule 21.7**.

## 21.8 Conflicts

A Director, notwithstanding the interest, may be counted in the quorum present at any meeting but cannot vote in respect of any contract or arrangement in which the Director is interested. If the Director votes, the vote shall not be counted.

## 22. DELEGATED POWERS

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### 22.1 Board May Delegate Functions

- (a) The Board may, by instrument in writing, create, establish or appoint from amongst its own members, or otherwise, special committees, sub-committees, individual officers and consultants to carry out such duties and functions, and with such powers, as the Board determines.
- (b) The Board may in the establishing instrument delegate such functions as are specified in the instrument, other than:
  - (i) this power of delegation; and
  - (ii) a function imposed on the Board by the Act or any other law, or this Constitution or by resolution of the Association in General Meeting.
- (c) At any time, the Board may by instrument in writing, revoke wholly or in part any delegation made under this **rule 22.1**, and may amend or repeal any decision made by such body or person under this **rule 22.1**.

### 22.2 Exercise of Delegated Functions

- (a) A function, the exercise of which has been delegated under this **rule 22.2**, may whilst the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation.
- (b) A delegation under this **rule 22.2** 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.



### **22.3 Procedure of Delegated Entity**

- (a) The procedures for any entity exercising delegated power shall, subject to this Constitution and with any necessary or incidental amendment, be the same as that applicable to meetings of the Board under **rule 21**. This includes those rules governing conflicts of interest.
- (b) The entity exercising delegated powers shall make decisions in accordance with the Objects, and it shall promptly provide the Board with details of all material decisions.
- (c) The entity shall also provide any other reports, minutes and information required by the Board.

### **22.4 Committees**

- (a) As set out in **rule 22.1**, the Board may establish and delegate any of its functions, powers or duties (except this power to delegate) to such committees as it thinks fit. The Board may recall or revoke any such delegation or appointment and may amend or repeal any decision made by such committee.
- (b) The Board may establish an unrestricted number of Committees.
- (c) The Board shall determine in writing the duties and powers afforded to any committee and the committee shall, in the exercise of such delegated powers, conform to any directions or By-Laws that may be prescribed by the Board.
- (d) A Director shall be an ex-officio member of any committee so appointed.

## **23. DUTIES**

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### **23.1 General Duties**

- (a) As soon as practicable after being elected or appointed to the Board, each Director must become familiar with this Constitution and the Act.
- (b) The Board is collectively responsible for ensuring that the Association complies with the Act and that individual Directors comply with this Constitution.
- (c) In addition to any duties imposed by this Constitution, a Director must perform any other duties imposed from time to time by resolution at a General Meeting.
- (d) The Board must ensure that the Association complies with all requirements in the Act regarding financial statements.

### **23.2 President**

- (a) The person elected as President under **rule 19** will, notwithstanding the legal duties under the Act, and the prescribed duties of Directors as provided by this Constitution and the By-Laws of the Association;
  - (i) be responsible to the Board, members of the Association and to LSV;
  - (ii) preside over all activities of the Association;

- (iii) have a final responsibility for the integrity and development of the Association;
  - (iv) demonstrate leadership in representing the Association at the highest level; and
  - (v) have other responsibilities as provided for in the By-Laws.
- (b) The President will, in conjunction with the Board, manage the operation and future development of all Club activities to ensure that all functions are carried out to ultimately achieve the Club's objectives.

### 23.3 Secretary

- (a) The person elected as Secretary under **rule 19** will act as the Association's secretary under the Act
- (b) The Secretary must give the registrar under the Act notice of their election within 14 days after the election.
- (c) If the position of Secretary becomes vacant, the Board must appoint a person to the position within 14 days after the vacancy arises.

### 23.4 Financial Duties - Treasurer

- (a) The Treasurer must:
  - (i) receive all moneys paid to or received by the Association and issue receipts for those moneys in the name of the Association; and
  - (ii) ensure that all moneys received are paid into the account of the Association within 5 working days after receipt;
  - (iii) make any payments authorised by the Board from the Association's funds;
  - (iv) ensure that the financial records of the Association are kept in accordance with the Act;
  - (v) coordinate the preparation of the financial statements of the Association and their submission to the AGM;
  - (vi) ensure that at least two Directors have access to the accounts and financial records of the Association; and
  - (vii) keep in their custody or under their control:
    - (A) the financial records for the current financial year; and
    - (B) any other financial records as authorised by the Board.
- (b) In addition to the Treasurer elected under **rule 19** the Board may allocate responsibility to assist the Treasurer in his/her financial duties described at **rule 23.4(a)** to another Director in accordance with **rule 18.3**.

## 24. MINUTES OF BOARD MEETINGS

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- (a) The Board must ensure that minutes are taken and kept of each Board meeting.

- (b) As a minimum, the minutes must record:
  - (i) names of Directors in attendance and apologies registered;
  - (ii) the business considered at the meeting;
  - (iii) any resolution on which a vote is taken and the result of the vote; and
  - (iv) any interest declared under **rule 21.6** or **21.7**.

## **25. BY LAWS**

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### **25.1 Board to Formulate By-Laws**

The Board may formulate, issue, adopt, interpret and amend such By-Laws for the proper advancement, management and administration of the Association, the advancement of the Objects and lifesaving in Frankston as it thinks necessary or desirable. Such By-Laws must be consistent with the Constitution, the LSV constitution, the SLSA constitution and any regulations or by laws made by LSV or SLSA. If any By-Laws are inconsistent with the LSV or SLSA constitution and regulations the By-Laws shall be null and void and will be inapplicable.

### **25.2 By-Laws Binding**

All By-Laws made under this **rule 25.2** shall be binding on the Association and Members of the Association.

### **25.3 Notices Binding on Members**

Amendments, alterations, interpretations or other changes to By-Laws shall be advised to Members of the Association by means of Notices approved and issued by the Board.

## **26. TRANSITIONAL ARRANGEMENTS**

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- (a) Notwithstanding any other Rule of this Constitution, the transitional arrangements set out in this **rule 26** shall apply from the date of adoption of this Constitution.
- (b) The members of the Board in place immediately prior to approval of this Constitution under the Act shall continue in those positions until the next AGM following such approval, and thereafter the positions of the President and other Directors shall be filled, vacated and otherwise dealt with in accordance with this Constitution.
- (c) All clauses, rules, By-Laws and regulations of the Association in force at the date of the approval of this Constitution insofar as such clauses, rules, By-Laws and regulations are not inconsistent with, or have been replaced by this Constitution, shall be deemed to be By-Laws under **rule 25**.
- (d) All individuals who are, prior to the approval of this Constitution, Members of the Association shall be deemed Members of the Association (in the relevant category) from the time of approval of this Constitution under the Act. All such Members shall provide the Association with such details as may be required by the Association under this Constitution within one month of the approval of this Constitution under the Act.

## **27. FUNDS, RECORDS AND ACCOUNTS**

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### **27.1 Sources of Funds**

Subject always to this Constitution the Board will determine:

- (a) the sources from which the funds of the Association are to be, or may be, derived; and
- (b) the manner in which such funds are to be managed.

### **27.2 Management of funds**

- (a) The Association must open an account with a financial institution from which all expenditure of the Association is made and into which all of the Association's revenue is deposited.
- (b) The Board may authorise one Director to expend funds on behalf of the Association up to a specified limit without requiring approval from the Board for each item on which the funds are expended. This may be as a part of a designated portfolio in accordance with **rule 18.3**.
- (c) All funds of the Association must be deposited into the financial account of the Association no later than five working days after the receipt.
- (d) With the approval of the Board, one Director may maintain a cash float provided that all money paid from or paid into the float is accurately recorded at the time of the transaction. This may be as a part of a designated portfolio in accordance with **rule 18.3**.

### **27.3 Association to Keep Records**

- (a) The Association shall establish and maintain, in accordance with the Act and this Constitution, proper accounting and other records and minutes concerning all transactions, business, meetings and dealings of the Association and the Board. These records and minutes shall be produced as appropriate at each Board or General Meeting.
- (b) All records and minutes kept in accordance with **rule 27.3(a)** shall be kept in the care and control of the Board.

### **27.4 Board to Submit Accounts**

The Board shall submit to the Members at the AGM the statements of account of the Association in accordance with this Constitution and the Act.

### **27.5 Accounts Conclusive**

The statements of account when approved or adopted by an AGM shall be conclusive except as regards any error discovered in them within three months after such approval or adoption.

### **27.6 Accounts to be Sent to Members**

The Board shall cause to be sent to all persons entitled to receive notice of AGM in accordance with this Constitution, a copy of the statements of account, the Board's

report, the auditor's report (if any) and every other document required under the Act (if any).

## **28. APPLICATION OF INCOME**

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- (a) The income and property of the Association shall be applied solely towards the promotion of the Objects.
- (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 to any Member.
- (c) Nothing in this **rule 28** shall preclude payment to a Member in good faith for expenses incurred or services rendered, including, but not limited to:
  - (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; or
  - (v) any out-of-pocket expenses incurred by the Member on behalf of the Association;

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.

## **29. NEGOTIABLE INSTRUMENTS**

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Subject to this Constitution, all cheques, promissory notes, banker's drafts, bills of exchange and other negotiable instruments, shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by any two duly authorised Directors or in such other manner as the Board determines.

## **30. AUDITOR**

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- (a) A properly qualified auditor or auditors shall be appointed, and the remuneration of such auditor or auditors fixed by the Association in General Meeting. The auditor's duties shall be regulated in accordance with the Act, or if no relevant provisions exist under the Act, in accordance with the *Corporations Act* and generally accepted principles, and/or any applicable code of conduct. The auditor may be removed by the Association in General Meeting.
- (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.

### **31. SERVICE OF NOTICES**

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- (a) Notices may be given to any person entitled under this Constitution to receive any notice by sending the notice by 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 affected at the time the letter would have been delivered in the ordinary course of post.
- (c) Where a notice is sent by facsimile transmission, service of the notice shall be deemed to be affected 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 affected upon sending, unless a report advising the electronic mail message was not sent is received by the sender.

### **32. COMMON SEAL**

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- (a) The Association may have a Seal upon which its corporate name shall appear in legible characters.
- (b) The Seal shall be held securely by the Secretary.
- (c) The Seal shall not be used without the express authorisation of the Board. Every use of the Seal shall be recorded in the minutes of the Association's Board meeting. Two directors must witness every use of the Seal, unless the Board determines otherwise.

### **33. REGISTERED ADDRESS**

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The registered address of the Association is:

- (a) the address determined from time to time by resolution of the Board; or
- (b) if the Board has not determined an address to be the registered address, the postal address of the secretary.

### **34. ALTERATION OF CONSTITUTION**

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- (a) This Constitution shall not be altered except by Special Resolution in accordance with the Act, and in compliance with all other procedures under the Act (if any).
- (b) A Special Resolution is passed if not less than three quarters of the eligible Members voting at a general meeting vote in favour of the resolution.

### **35. INDEMNITY**

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- (a) Every Director, 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 him/her in his/her capacity as Director, officer, auditor, manager, employee or agent in defending any proceedings, whether civil or criminal, in which judgement is given in his

favour or in which he is acquitted or in connection with any application in relation to any such proceedings in which relief is, under the Act, granted to him/her by the Court.

- (b) The Association shall indemnify its Directors, officers, managers and employees against all damages and costs (including legal costs) for which any such Director, officer, manager or employee may be or become liable to any third party in consequence of any act or omission except wilful misconduct:
  - (i) in the case of a Director or officer, performed or made whilst acting on behalf of and with the authority, express or implied of the Association; and
  - (ii) in the case of an employee, performed or made in the course of, and within the scope of his employment by the Association.

### **36. DISSOLUTION**

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- (a) The Association may be wound up voluntarily by Special Resolution.
- (b) If the Association is wound up, the liability of the Member shall be limited to any outstanding monies due and payable to the Association, including the amount of the Annual Subscription payable in respect of the current Financial Year. No other amount shall be payable by the Member.
- (c) If upon winding up or dissolution of the Association or upon revocation of its endorsement as a deductible gift recipient (whichever occurs first), there remains after satisfaction of all its debts and liabilities any surplus assets or property as follows:
  - (i) gifts of money or property for the objects of the organisation;
  - (ii) contributions made in relation to an eligible fundraising event held for the objects of the organisation; or
  - (iii) money received by the organisation because of such gifts and contributions; thensuch surplus assets or property shall not be paid to or distributed amongst the Members but shall be given or transferred to some organisation(s):
  - (iv) having objects similar to the Objects; and
  - (v) 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 the Association by this Constitution; and
  - (vi) which is charitable at law and to which income tax deductible gifts can be made.

Such organisations(s) will 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 or other Court as may have or acquire jurisdiction in the matter.

## **37. CUSTODY OF BOOKS AND OTHER DOCUMENTS**

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- (a) Except as otherwise provided in this Constitution, the Board shall designate a Director to keep in his or her custody or control all books, minutes, documents and securities of the Association.
- (b) If requested by a Member, the Board must permit such Member to inspect:
  - (i) the rules of the Association;
  - (ii) the minutes of each General Meeting.

Such request and inspection by a Member must be made in good faith and for a proper purpose.

- (c) Upon written request and payment of a fee determined by the Board from time to time, a Member may obtain a copy of the documents listed at **rule 37(b)**.
- (d) If requested by a Member and subject to the Act, relevant privacy laws and the Board determining the Member's request is in good faith and for a proper purpose, the Board must permit such Member to inspect the register of members for his/her details.
- (e) Subject to the Act and **rules 37(b)** and **37(d)**, no Member is entitled to inspect the financial records, accounts, books, securities, minutes of Board meetings or other Relevant Documents of the Association, unless authorised in writing by the Board. Before granting such authority under this **rule 37(e)** the Board must be satisfied that such inspection is in good faith and for a proper purpose.

## **38. LIQUOR LICENCE OBLIGATIONS**

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### **38.1 No payments**

No officer or servant of the Association can be paid by way of commission or allowance from the receipts of the Association from the sale and disposal of liquor.

### **38.2 Guests**

A visitor to the Association's premises must not be supplied with liquor in those premises unless the visitor is:

- (a) a guest in the company of an adult Member; or
- (b) an authorised gaming visitor admitted in accordance with any relevant rules of the Association.
- (c) A guest attending a pre-booked function.

### **38.3 Records**

The Association must maintain records of guests to the Association's premises.



## **39. APPENDIX A**

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### **39.1 ASSOCIATION GRIEVANCE PROCEDURES**

#### **1. Application**

- 1.1 The grievance procedure set out in this Division applies to disputes under these Rules between:
- (a) A Member and another Member;
  - (b) A Member and a Board Member; or
  - (c) A Member and the Association.
- 1.2 A Member must not initiate a grievance procedure in relation to a matter that is the subject of a disciplinary procedure until the disciplinary procedure has been completed.

#### **2. Parties must attempt to resolve the dispute**

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

#### **3. Appointment of Mediator**

- 3.1 If the parties to a dispute are unable to resolve the dispute between themselves within the time required by Rule 2 (Appendix A), the parties must within 10 days:
- (a) Notify the Board of the dispute;
  - (b) Agree to or request the appointment of a mediator;
  - (c) Attempt in good faith to settle the dispute by mediation.
- 3.2 The mediator must be:
- (a) A person chosen by agreement between the parties; or
  - (b) In the absence of agreement:
    - (i) If the dispute is between a Member and another Member – a person appointed by the Board; or
    - (ii) If the dispute is between a Member and a Board Member or the Association – a person appointed or employed by the Dispute Settlement Centre of Victoria.
- 3.3 A mediator appointed by the Board may be a Member or former Member of the Association but in any case must not be a person who:
- (a) has a personal interest in the dispute; or
  - (b) is biased in favour of or against any party.

#### **4. Mediation Process**

- 4.1 The mediator to the dispute, in conducting the mediation, must:
- (a) Give each party every opportunity to be heard; and
  - (b) Allow due consideration by all parties of any written statement submitted by any party; and
  - (c) Ensure that natural justice is accorded to the parties throughout the mediation process.
- 4.2 The mediator must not determine the dispute.

#### **5. Failure to resolve dispute by mediation**

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

## **6. SLSA Grievance Procedure**

- 6.1 Notwithstanding anything in this Constitution, the Board may refer any grievance complaints to LSV and/or SLSA who will apply their current policy on Grievance Procedure to resolve any dispute between:
- (a) A Member and another Member;
  - (b) A Member and a Board Member; or
  - (c) A Member and the Association.

## **39.2 LSV GRIEVANCE AND JUDICIARY PROCEDURES**

The following Grievance and Judiciary Procedures are from the LSV By-Laws, version 28, February 2018 (Part 5) and are applicable to the Association.

By Law 5.1 Grievance and Judiciary Procedures

- (a) Where a person, be they a member or an officer of LSV or a Life Saving Club has a grievance arising from their respective involvement in lifesaving, whatever that may be, with another such member or officer or club, and that person considers the grievance warrants investigation and action by LSV that person and LSV shall follow the LSV Member Protection and Complaints Handling Policy.
- (b) A grievance that has not, for whatever reason, been resolved through the procedures outlined in the LSV Member Protection and Complaints Handling Policy it shall be deemed concluded unless it is alleged there is a potential disciplinary or judiciary matter.
- (c) If a person lodges a grievance under the LSV Member Protection and Complaints Handling Policy they are not permitted to lodge the same grievance or related grievance under the procedures in the SLSA Member Protection Policy. For the avoidance of doubt a grievance can only be raised under one policy or the other.
- (d) If a grievance is not resolved under the LSV Member Protection and Complaints Handling Policy a complainant may:
  - (i) Write to LSV to request reconsideration of the grievance via either an Independent Investigation or a Hearing Tribunal. LSV is not obliged to agree to any request made under this paragraph; or
  - (ii) Where there is such a right available at law, approach an external agency such as an anti-discrimination commission or equal opportunity commission to resolve the matter.
- (e) There is no right of appeal arising from the grievance process.

## **39.3 DISCIPLINE AND JUDICIAL**

### **Regulation 5.1 Judiciary Matters**

These Judiciary Regulations are authorised under clauses 16, 18 and 39 of the SLSA Constitution and rules 12, 18 and 25 of the LSV Constitution.

#### **5.1.1 Breach**

Where a Member has allegedly:

- i) Breached, failed, refused or neglected to comply with the membership directives or any resolution or determination of the Board, a State Centre, a Branch, Club or any duly authorised SLSA committee; or
  - ii) Acted in a manner unbecoming of a Member or prejudicial to the Objects and interests of SLSA and/or surf lifesaving; or
  - iii) Brought themselves, SLSA, any State Centre, Branch or Club or surf lifesaving into disrepute; or
  - iv) Competed or in any way participated in a lifesaving competition and/or used SLSA equipment contrary to **Regulation 4.3(c)** or has failed to obtain the permission of SLSA to so compete or participate in that competition or use that SLSA equipment;
- the Board, a State Centre, a Branch or a Club may commence or cause to be commenced investigatory and/or disciplinary proceedings ("proceedings") against that Member, and that Member will be subject to and submits unreservedly to the jurisdiction, procedures, penalties and appeal mechanisms set out in these Regulations; providing that, the Board, State Centre, Branch or Club may commence proceedings, or investigate conduct which may warrant the commencement of proceedings by referring the matter to a Judiciary Committee.

### **5.1.2 Judiciary Committee**

Judiciary Committees shall be convened and function as follows:

#### **Convening of Committee**

Each SLS entity (State Centre, Branch and/or Club) shall annually or as required appoint a Judiciary Committee to investigate and/or determine matters referred to it. The Board may also convene a Judiciary Committee on such terms and for such purpose(s) as is required. A member of each committee shall act as committee secretary and keep records of all investigations and decisions of that committee.

#### **Jurisdiction**

The jurisdiction of a Judiciary Committee shall be as follows:

- i) Where a Judiciary Committee has been convened by the Board, that Judiciary Committee shall have unlimited jurisdiction in all matters referred to it throughout Australia including but not limited to referrals between State Centres or between Members from different State Centres or between a State Centre and a Member from a different State Centre, or where a Judiciary Committee convened by another SLS entity within SLSA fails to take satisfactory action or impose a satisfactory result, or where another SLS entity within SLSA fails to take action at all and convene a Judiciary Committee where the Board considers such a Committee should have been convened.
- ii) Where within the boundaries of a Club, the alleged offender shall be dealt with by his/her Club Judiciary Committee.
- iii) Where within the boundaries of a Branch, the alleged offender shall be dealt with by his/her its Branch Judiciary Committee.
- iv) Where otherwise within the boundaries of his/her State Centre, the alleged offender shall be dealt with by the State Centre Judiciary Committee.
- v) Where the matter, in the opinion of SLSA, is better dealt with by the criminal justice system it will not be considered however SLSA may reserve its rights.

#### **Referrals**

- a) Every referral to a Judiciary Committee shall be clear and unambiguous and shall clearly set out the matter(s) required to be investigated or determined by the Judiciary Committee.
- b) Upon a referral to a Judiciary Committee the committee secretary shall, as soon as practicable, appoint a time and place suitable to the Judiciary Committee for the proceedings and may appoint an investigator to inquire into the referral.
- c) A Judiciary Committee shall process any referral to it within such time as the Board, State Centre, Branch or Club directs, provided always that a concerned person may apply for an adjournment by application in writing to the committee secretary. Such

application must be received at least two (2) days prior to commencement of proceedings.

- d) A Judiciary Committee shall have power to require the attendance of any member at any proceedings before it. Notice shall be given in accordance with these Regulations.
- e) The referring authority shall decide the quorum for a Judiciary Committee.
- f) Should an investigator have been appointed, the chairperson of the Judiciary Committee should in conjunction with the investigator determine if the matter should proceed.

### **5.1.3 Procedure**

Proceedings commenced under these Regulations shall be conducted as follows:

#### **Request to Appear**

- a) Upon receipt of a referral, the Judiciary Committee shall request the party or parties concerned in the referral to appear before them. Such request shall be in writing either delivered personally or in appropriate cases by post or facsimile to the appropriate address (mail or electronic) or facsimile number of the party or parties concerned. A notice given by post shall be deemed to have been given on the second day following that on which it shall be posted. A notice given by facsimile shall be deemed to be given upon receipt of a confirmation report confirming the facsimile was received at the facsimile number to which it was sent. A notice given by email shall be deemed to be given unless an email is received in reply stating email not successfully transmitted.

#### **Notice**

- b) Proceedings shall take place as soon as practicable. All parties concerned shall be given at least seven (7) days' notice of the proceedings by the Judiciary Committee. The notice shall:
  - (i) Be in writing;
  - (ii) State that the party or parties concerned are required to appear and in what capacity;
  - (iii) State the nature of the proceedings and the matters or alleged offence(s), the subject of investigation or determination, the possible penalty or penalties and the date, place and time of the hearing;
  - (iv) Be delivered in accordance with **Regulation 5.1.3(a)** above.

#### **Appearance**

- c) Persons appearing before the Judiciary Committee shall be entitled to call witnesses, but must state their case in person unless the Judiciary Committee has permitted representation through an advocate. If an advocate is permitted such advocate is not entitled to be legally trained or qualified. For the avoidance of doubt persons appearing before a Judiciary Committee are not entitled to legal representation in the Judiciary Committee proceedings. They and their witnesses shall be given a full opportunity to be heard. In their absence, or in the absence of their witnesses, a decision may be made by default. Before making a decision in default of appearance, the Judiciary Committee must satisfy itself that the party concerned was aware of the time, date and place of hearing and had been requested to appear in accordance with **Regulations 5.1.3(a)** and **5.1.3(b)** above.

#### **Procedure at Proceedings**

- i) Judiciary proceedings shall be conducted as follows.
- ii) The Judiciary Committee chairperson shall announce the opening of the proceedings, stating the Judiciary Committee's authority, jurisdiction, composition and the nature and purpose(s) of the proceedings.
- iii) The procedure to be followed at proceedings shall be clearly explained by the Judiciary Committee Chairperson. The Judiciary Committee chairperson shall state who is entitled to be present throughout proceedings during evidence and submissions.

- iv) The matter(s) the subject of proceedings shall then be read to the person(s) concerned. The body or person reporting the matter(s) and the subjects of the proceeding shall be given the opportunity to report the circumstances of those matter(s). The person(s) concerned will be given the opportunity to respond to this report and present evidence/submissions as to their view of the circumstances of those matter(s). Any witnesses called by either the reporting body or the person(s) concerned will be given the opportunity to give evidence or make submissions. Witnesses may be questioned on their evidence. Evidence and/or submissions may be tendered in writing.
- v) The Judiciary Committee will consider the evidence presented. The Judiciary Committee may adjourn the hearing if considered necessary. No other person shall be present or partake in any discussion with the Judiciary Committee at this time. If the Judiciary Committee finds an offence has not been committed or not proved it will advise the referring authority and dismiss the charge, accordingly.
- vi) If the Judiciary Committee finds an offence has been committed or proved, it may impose, in its discretion, an appropriate penalty or penalties, or it may report its findings to the referring authority with such recommendations, as it considers appropriate. The Judiciary Committee chairperson will declare the proceedings closed.
- vii) If a decision cannot be given immediately after 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 shall be given in writing and signed by the Judiciary Committee chairperson. A referring authority must advise persons found guilty of an offence under these Regulations of their rights of appeal.
- viii) Every decision of a Judiciary Committee appointed by the Board, a State Centre, a Branch or a Club under these Regulations shall be conveyed in writing to the parties concerned, and where an Individual Member, to that Individual Member's Club, Branch (where relevant) and State Centre. It shall be incumbent on such Club to give effect to the decision immediately and to notify the referring authority that such has been done. The referring authority may deal with an Affiliated Club failing to give immediate effect to such decision at that authority's discretion.

#### **5.1.4 Penalties**

- a) Penalties which may be imposed include:
  - i) A reprimand;
  - ii) Suspension of such activities, on such terms and for such period as the Judiciary Committee thinks fit;
  - iii) Exclusion from a particular activity, event or events;
  - iv) Expulsion;
  - v) Fines imposed in such manner and in such amount as the Judiciary Committee thinks fit;
  - vi) Such combination of any of the above penalties as the Judiciary Committee thinks fit.
  - vii) Additional Service, requiring the Member to undertake an activity based penalty, imposed in such manner as the Judiciary Committee deems fit.
- b) During proceedings, the subject(s) of the proceedings may be suspended, on such terms and for such period as the relevant referring authority thinks fit, and shall remain under suspension unless the relevant referring authority decides otherwise.

#### **5.1.5 Reporting**

- a) Unless the decision of a Judiciary Committee is unanimous, a separate report may be made to the referring authority by the minority. The decision of the majority however, shall be deemed to be the decision of the Judiciary Committee. Where voting is equal, the Judiciary Committee chairperson may exercise a casting vote.
- b) A decision of a Judiciary Committee cannot be altered by the referring authority.

### 5.1.6 Effect of Penalty

- a) Where an Affiliated Club is suspended under these Regulations, its membership of, and representation rights and privileges in, SLSA shall be forfeited during the period of such suspension. Officers of SLSA who may be members of a suspended Affiliated Club shall not be affected by such suspension nor shall a suspension, absolve the Club from any beach patrol responsibilities.
- b) Where an Individual Member is suspended under these Regulations, all rights and privileges of that Member shall be forfeited, either partially or completely, during the period of suspension. In the case of complete suspension, a member shall also forfeit all Affiliated Club rights during the currency of the suspension. Partial suspension shall prevent a Member's participation in inter-Club, Branch, State Centre or SLSA activities, but shall not interfere with his rights as a member of an Affiliated Club or his beach patrol responsibilities.
- c) Where an Affiliated Club or Individual Member is expelled under these Regulations, its or his membership of, and representation rights and privileges in, SLSA shall be forfeited immediately and membership shall cease. No monies will be refunded to expelled or suspended Members. The provisions of clauses 17 and 18 of the SLSA Constitution shall apply.
- d) The provisions of SLSA Regulation 6: Membership Directives apply to any penalties under this **Regulation 5**.

### Regulation 5.2 Appeals

- a) SLSA shall appoint or recognise a panel of persons ("SLS Appeals Panel") from whom SLS Appeals Tribunals shall be appointed as required. The SLS Appeals Panel shall comprise persons appointed by SLSA and/or each State Centre.
- b) A Member who or which has received a penalty or an adverse finding from a Judiciary Committee under **Regulation 5.1** or a Carnival Disciplinary Committee under **Regulation 5.3** may, within 14 days from the date of receiving the determination in writing, appeal to the SLS Appeals Tribunal. For the avoidance of doubt there is only one appeal from a Judiciary Committee regardless of whether that Judiciary Committee was appointed by the Board or by a Club, Branch or State Centre.
- c) Appeals under this clause will be determined in accordance with this Regulation.
- d) An appeal is only permitted on one or more of the following grounds:
  - i) the decision was affected by actual bias; or
  - ii) there was no material on which the decision could reasonably be based.
- e) An appeal must be lodged in writing with the relevant State Centre. The appeal must set out the:
  - i) ground(s) on which the appeal is made (under **Regulation 5.2 (d)**); and
  - ii) reasons or circumstances supporting the alleged ground(s) of appeal; and
  - iii) must be accompanied by a non-refundable appeal fee of \$500.
- f) In these Regulations, the "relevant body" and "relevant State Centre" are those in which the appellant (whether Individual Member or Club or Branch or State Centre) is located.
- g) Nothing in this Regulation prevents the withdrawal of an appeal at any time in writing to the relevant State Centre. If the appellant seeks to withdraw an appeal after an appeal hearing has commenced the appeal may only be withdrawn with the consent of the relevant appeal panel chairperson. Once an appeal is withdrawn a new appeal in respect of the same matter cannot be lodged.
- h) On receipt of an appeal in accordance with this Regulation, the relevant State Centre must as soon as practicable convene an SLS Appeals Tribunal and forward the appeal documents to the nominated chairperson of the convened Tribunal.
- i) An SLS Appeals Tribunal shall be constituted by up to three persons (but a minimum of two) available to hear the appeal from members of the SLS Appeals Panel, which must include the following:
  - i) up to two persons with a thorough knowledge of surf lifesaving; and
  - ii) a barrister or solicitor who will chair the Appeals Tribunal.

No member of the SLS Appeals Tribunal may be a party to or directly interested in the matter under consideration.

- j) The SLS Appeals Tribunal has complete jurisdiction and discretion to re hear the matter in its entirety.
- k) The chairperson of an appointed SLS Appeals Tribunal shall, as soon as practical after receiving the appeal documents under **Regulation 5.2(g)**, investigate and consider the matter and determine whether the:
  - i) the appeal should be dismissed as:
    - A. it does not set out a valid ground of appeal;
    - B. there are sufficient grounds for the appeal to proceed; or
    - C. The matter is trifling in nature or has no merit; or
  - ii) the appeal warrants further review and determination in accordance with these Regulations.

The chairperson has complete discretion in undertaking this review and there is no further appeal against a decision to dismiss under **Regulation 5.2 (k)(i)**.

- l) If the SLS Appeals Tribunal determines the matter warrants further review under **Regulation 5.2(j)(ii)**, it shall as soon as practicable, having regard to timing, serve a notice in writing on all relevant parties:
  - i) stating that the parties may address the SLS Appeal Tribunal at a hearing to be held as soon as practicable, being not earlier than 4 days from the date of the notice;
  - ii) stating the date, place and time of that hearing; and
  - iii) informing the parties that they may do any one or more of the following:
    - A. attend that meeting (either personally or by their representative who subject to **Regulations 5.2(m)** and **(n)** may not be legally trained or qualified) and bring such witnesses as they wish to rely upon in respect of the matter the subject of appeal; and/or
    - B. give the SLS Appeal Tribunal, no later than 24 hours before the time of that meeting, a further written statement setting out relevant information surrounding the appeal.
- m) The SLS Appeal Tribunal may conduct a hearing convened in accordance with **Regulation 5.2(l)** (or any adjournment) in such manner as it sees fit, but shall:
  - i) give to all relevant parties and their witnesses every opportunity to be heard;
  - ii) give due consideration to any written statements received from any relevant party;
  - iii) allow relevant parties to be present along with their adult representative; and may request or require such parties or other witness to attend the hearing or provide such evidence as is available to enable the SLS Appeals Tribunal to properly consider the matter.
- n) Persons appearing before the SLS Appeals Tribunal are not entitled as of right to:
  - i) Legal representation before the SLS Appeals Tribunal. Subject to paragraph (ii) below the Appeal Tribunal may grant a right to legal representation to a party where that party has made written application to the SLS Appeals Tribunal for such representation. Such application must be received by the chairperson of the SLS Appeals Tribunal within 7 days from the date of the notice served under **Regulation 5.2(k)**.
  - ii) Legal representation will only be permitted by the SLS Appeals Tribunal where the party seeking legal representation can demonstrate to the SLS Appeals Tribunal that the matter is serious, complex or the consequences for that party proceeding without legal representation are significant from a livelihood or business perspective. The onus is on the party seeking legal representation to prove that such representation should be permitted.
  - iii) The SLS Appeals Tribunal may refuse or grant such application in its absolute discretion. The SLS Appeals Tribunal's decision in respect to legal representation is final and there is no appeal from such decision.
- o) Following consideration of all information which the SLS Appeals Tribunal considers relevant and which is available, the SLS Appeals Tribunal shall arrive at a finding. The SLS Appeals Tribunal can impose new penalties or vary an existing penalty. A decision

of the SLS Appeals Tribunal may be by a majority decision. A decision of the SLS Appeals Tribunal is final.

- p) The SLS Appeals Tribunal shall notify all relevant parties, including SLSA and the relevant State Centre of its decision as soon as practicable.
- q) An SLS Appeals Tribunal has no power to award costs. That is, each party will be responsible for their own costs of the appeal.

### **Regulation 5.3 Competition Discipline**

#### **5.3.1 Surf Sports Manual**

The SLSA Surf Sports Manual and in particular but not only clause 14.5 of the Surf Sports Manual applies in respect to SLS carnival and competition discipline.

#### **5.3.2 Appeals**

For the purposes of clauses 14.5.1(c) and (d) of the SLSA Surf Sports Manual the appeal body for any appeal against a penalty imposed by a Competition Disciplinary Committee shall be the SLS Appeals Tribunal and **Regulation 5.2** shall apply to such appeal.