

# **CONSTITUTION AND RULES**

**- of -**

## **MOTORCYCLING SOUTH AUSTRALIA INCORPORATED**

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## Table of Contents

Table of Contents .....	2
1. Name.....	4
2. Objects of the Association .....	4
3. Power of the Association .....	5
4. Application of Income .....	5
5. Addition Alteration or Amendment.....	5
6. Liability of Members .....	5
7. Distribution of Property On Winding Up .....	5
8. Financial Reports .....	6
9. Interpretation .....	6
10. MEMBERSHIP .....	8
a. Membership Classes .....	8
11. Affiliated organisations .....	8
12. Effect of Membership .....	9
13. Fees.....	9
14. Membership .....	10
15. Discretion to accept or reject Membership .....	10
16. Discontinuance of Membership.....	10
17. Discipline of Members .....	10
18. Council.....	11
19. Annual General Meetings .....	11
20. Notice of Special General Meeting .....	12
21. General Meetings.....	12
22. Place of Meeting .....	12
23. Resolutions .....	12
24. Separate Documents .....	13
25. Quorum.....	13
26. Adjournment for Lack of a Quorum.....	13
27. Lack of Quorum at Adjourned Meeting .....	13
28. Chair of General Meeting .....	13
29. Adjournment Generally .....	13
30. Putting of Resolution .....	13
31. Result of Show of Hands .....	14
32. Demand for Poll.....	14
33. Casting Vote .....	14
34. Voting .....	14
35. Entitlement to Vote.....	14
36. Disallowance of Vote .....	14
37. Proxy Voting.....	15
38. The Board .....	15
39. Election of President.....	16
40. Election of Vice President .....	16
41. Remuneration of Directors .....	16
42. Vacation of Office of Director.....	16
43. Management of the Association .....	17
44. General Manager .....	17
45. General Powers of the Board.....	17
46. Official Seals .....	17
47. Negotiable Instruments.....	17

48. Minutes .....	17
49. Registers .....	17
50. Holding of Board Meetings .....	17
51. Holding of Other Offices .....	18
52. Directors and Association Officers Interests .....	18
53. Disclosure of Interests .....	18
54. General Disclosure .....	18
55. Recording Disclosures .....	18
56. Interested Directors may NOT Vote.....	18
57. Quorum.....	18
58. Chair of Board Meetings .....	19
59. Committees.....	19
60. Votes at Board Meetings .....	19
61. Validity of Directors Acts.....	19
62. Written Resolutions .....	19
63. Manner of Holding Meetings .....	19
64. Common Seal .....	19
65. Execution Under Common Seal .....	20
66. Execution without Common Seal .....	20
67. Directors Interests.....	20
68. Accounting Records .....	20
69. Financial Year.....	20
70. Access to Records.....	20
71. Auditor.....	20
72. Giving of Notices.....	20
73. Entitlement to Notices .....	21
74. Extent of Indemnity .....	21
75. By-laws and Regulations .....	21
76. Honours and Privileges.....	21
77. Patron.....	21
78. Amendments.....	21
79. Record of Amendments .....	22
Number    Details    Date.....	22

ASSOCIATIONS INCORPORATION ACT, 1985

CONSTITUTION AND RULES

**MOTORCYCLING SOUTH AUSTRALIA INCORPORATED**

**1. Name**

The name of the Association is MOTORCYCLING SOUTH AUSTRALIA INCORPORATED (hereinafter called "the Association" and also known as the State Controlling Body "SCB").

**2. Objects of the Association**

The Association is established solely to:

- (a) participate as a member of Motorcycling Australia Limited ("MA") so motorcycle sport can be conducted, encouraged, promoted, advanced and administered in South Australia by being the only South Australian affiliate of MA
  - a. affiliate and otherwise liaise with MA and adopt its rule and policy framework to further these Objects and motorcycle sport
  - b. abide by, promulgate, enforce and secure uniformity in the application of, the rules of motorcycle sport as may be determined from time to time by MA or the FIM and as may be necessary for the good management and control of motorcycle sport in South Australia
  - c. adopt and implement such policies as may be developed by MA, including (but not limited to) (as relevant and applicable) member protection, anti-doping, health and safety, junior sport, infectious diseases and such other matters as may arise as issues to be addressed in motorcycle sport
- (b) To develop By-Laws in relation to the Manual of Motorcycle Sport issued by Motorcycling Australia, governing the conduct of the sport of motorcycling in South Australia, the schedule of fees, fines, and other monetary matters, and any other regulations required for the good conduct of the Association
- (c) Acquire, provide, establish and improve facilities for the promotion, cultivation and extension of the sporting, social and other mutual interests of members
- (d) Pursue commercial arrangements, including sponsorship and marketing opportunities as appropriate to further the objects of the Association
- (e) Promote, establish, conduct and maintain such organisations and other facilities as may from time to time be desirable in furthering the interests of motor cycling and to make By-laws and regulations with respect to the administration of such organisations and other facilities
- (f) Co-operate in securing legislation and by-laws governing the use of motorcycles and the administration thereof to foster and develop motorcycling in South Australia
- (g) Establish and maintain a South Australian motorcycling judicial system so as to facilitate the resolution of disputes involving any Member or Members of the Association, or any body, Affiliated organisation or person in any way associated with the conduct of the sport in South Australia
- (h) Undertake and or do all such things as are incidental or conducive to the attainment of the objects and the exercise of the powers of the Association

### **3. Power of the Association**

Solely for the furthering of the objects set out above and in accordance with the legal capacity and powers set out in the Associations Incorporation Act 1985.

### **4. Application of Income**

- (a) The income and property of the Association shall be applied solely towards the promotion of the objects of the Association
  - (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) No remuneration or other benefit in money or money's worth shall be paid or given by the Association to any member who holds any office of the Association
  - (d) Nothing in Clause 4 (b) or (c) shall prevent payment in good faith of or to any Member:
    - i. For any service actually rendered to the Association whether as an employee or otherwise
    - ii. For goods supplied to the Association in the ordinary and usual course of business
    - iii. Of interest on money borrowed from any Member
    - iv. Of rent for premises demised or let by any Member to the Association
    - v. For any out-of-pocket expenses incurred by the Members on behalf of the Association
    - vi. For any other reason at the discretion of the Board
- 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.

### **5. Addition Alteration or Amendment**

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

### **6. Liability of Members**

- a) The liability of the members of the Association is limited.
- b) No Member shall be required to contribute towards the payment of any liabilities of the Association (whether on dissolution or otherwise) beyond:
  - i) meeting the obligations to pay the members' fees, levies or subscriptions laid down by this Constitution and any other specific liabilities to the Association relating to that member arising in the normal way; plus
  - ii) \$1.00.

### **7. Distribution of Property On Winding Up**

If upon winding up or dissolution of the Association there remains after satisfaction of all its debts and liabilities any assets or property, the same shall not be paid to or distributed among the Members of the Association but shall be paid to or distributed to an organisation having objects similar to the objects of the Association and which prohibits the distribution of its or their income and property among its or their Members to an extent at least as great as is imposed on the Association by Clause 4 of this Constitution. Such organisation to be determined by the Members of the Association at or before the time of dissolution and in default thereof by such judge of the Supreme Court of South Australia as may have or acquire jurisdiction in the matter.

## **8. Financial Reports**

True accounts shall be kept of the sums of money received and expended by the Association and the manner in respect of which such receipt and expenditure takes place and of the property, assets and liabilities of the Association. Once at least in every year the accounts of the Association shall be examined by one or more properly qualified auditor or auditors who shall report to the Members in accordance with the Provisions of the Act.

## **9. Interpretation**

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

"The Act" means the Associations Incorporation Act, 1985 as amended from time to time.

"Affiliated organisation" means a body formed primarily for the purposes of participating in or promoting motorcycling or related activities pursuant to Clause 10(1)(a)

"Board" means the body consisting of the Directors of Motorcycling SA Inc. established pursuant to this Constitution.

"Chairperson" means the Chairperson for the time being of the Association

"Constitution" means the Constitution of the Association

"Council" means the delegates of affiliated organisations of the Association

"Councillor" means a delegate of an affiliated member appointed by that Affiliated Organisation to be its Councillor.

"Director" means a member of the Board

"Fees" any payment due other than subscriptions

"Financial Year" means the year ending 31<sup>st</sup> December in each year

"By-laws" means the rules of the Association including all regulations made under them and appendices to them as amended from time to time by MA

"General Manager" means the person appointed by the Board having such functions as are set out under this Constitution

"General Meeting" means the General Meeting of Council, and Presidents and Secretaries

"Intellectual Property" means all rights subsisting in copyright, trade names, trade marks, logos, designs, equipment, images(including photographs, videos and films) or service marks (whether registered or unregistered) relating to the Association the words 'motorcycling' or any events or competition or motorcycling equipment, product, publication or activity (including all State Championships and the State Motorcycling Calendar) developed, conducted, promoted or administered by the Association.

"MA" means Motorcycling Australia Limited.

"Member" means a member of the Association pursuant to Clause 11

"Objects" mean the Objects of the Association in Clause 2

"Regulations" means any regulations made by the Board pursuant to Clause 75

“Special Resolution” means a resolution:

- (a) of which at least 21 days notice has been given in accordance with the Constitution and
- (b) that has been passed by at least 75% of the votes cast by Councillors entitled to vote on the resolution

"Seal" means the common seal of the Association.

"Sport" means the sport of motorcycling and includes all forms of motorcycling whether competitive or otherwise.

“Subscription” means annual affiliation fee

“Vice Chairperson” means the Vice Chairperson for the time being of the Association

"Year" means calendar year and "month" means calendar month.

- (2) Expressions referring to ‘writing’ shall unless the contrary intention appears, be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form including messages sent by electronic mail.
- (3) In this Constitution:
  - (a) a reference to a function includes a reference to a power, authority and duty
  - (b) a reference to the exercise of a function includes where the function is a power, authority or duty, a reference to the exercise of the power or authority of the performance of the day
  - (c) words importing the singular include the plural and vice versa
  - (d) words importing any gender include the other gender
  - (e) reference to persons include corporations and bodies politic
  - (f) reference to a person include the legal personal representatives, successors and permitted assigns of that person
  - (g) reference to a statute, ordinance, code or other law includes regulations and other statutory instrument under it and consolidations, amendments, re-enactment or replacements of any of them (whether of the same or any legislative authority having jurisdiction)
- (4) If any provision of this Constitution or any phrase contained in it is invalid or unenforceable in any jurisdiction, the phrase or provision is to be read down for the purpose of that jurisdiction, if possible, so as to be valid and enforceable and otherwise shall be severed to the extent of the invalidity or enforceability without affecting the remaining provisions of the Constitution or affecting the validity or enforceability of that provision in any other jurisdiction.
- (5) Except where the contrary intention appears in this Constitution, an expression in a provision of this Constitution that deals with a matter dealt with by a particular provision of the Law or Act, has the same meaning as that provision of the Law or Act.
- (6) The Association is established solely for the Objects.
- (7) Words importing the singular number include the plural number and vice-versa
- (8) Words or expressions contained in these Rules must be interpreted in accordance with the provisions of the Acts Interpretation Act and any statutory modification in force from time to time.

## **10. MEMBERSHIP**

### **a. Membership Classes**

- (1) Membership of the Association shall be divided into the following classes:
  - (a) Affiliated organisations include all Clubs and other recognised associations recognised by the Association that are affiliated with the Association
  - (b) Promoters
  - (c) Individual members including members of affiliated organisations and/or Holders of licenses issued by the Association, including one event licences (where term of membership shall be limited to the period of the event) whether an individual or otherwise
  - (d) Life Members
  - (e) Interstate organisations
  - (f) Such other classes as are created from time to time under Clause 10 (4)
- (2) Only Members under Clause 10 (1) (a) through their nominated Councillors shall have the right to vote, debate and move and second motions at meetings of the Association. All other members shall have no such rights.
- (3) Where an application is received from an Interstate organisation, the determination will be made by vote at the next scheduled Board meeting following receipt of the completed application from the Interstate organisation
- (4) The Council has power from time to time to create new classes of membership
- (5) Where an affiliated organisation is unincorporated, that is, has no legal status separate from its individual members, the nominated representative of the affiliated organisation shall be deemed to represent the affiliated organisation for all membership purposes under this Constitution
- (6) Affiliation of all membership classes under Clause 10 (1), other than affiliated organisations and associations, will be governed by the procedure set out in Regulations determined by the Board from time to time.

## **11. Affiliated organisations**

The Association recognises that all of the member Affiliated organisations are responsible for ensuring the efficient administration of motorcycling in South Australia strictly in accordance with the Objects

Each Affiliated organisation will:

- (a) Act at all times with all requirements that may be imposed on it by the Association
- (b) At all times act for and on behalf of the interests of the Association, their members and motorcycling
- (c) Do all that is reasonably necessary to enable the Objects to be achieved
- (d) Act in good faith and loyalty to ensure that maintenance and enhancement of the Association and motorcycling, its standards, quality and reputation of the collective and mutual benefit of the members and motorcycling
- (e) At all times operate with and promote mutual trust and confidence between the Association and the members in pursuit of the Objects
- (f) Not do or permit to be done any act or thing which might adversely affect or derogate from the standards, quality and reputation of motorcycling and its maintenance and enhancement



- (g) Make full and proper disclosure to each other of all matters of importance to the Affiliated organisation, the Association and motorcycling
- (h) Not acquire a private advantage at the expense of the Association or any other Affiliated organisation or motorcycling; and
- (i) Promote the economic and sporting success, strength and stability of the Association and act interdependently with each other in pursuit of the Objects

Each Affiliated organisation shall maintain in a form and with such details as are acceptable to the Association, a register of all their members in South Australia. Each Affiliated organisation shall provide a copy of the register at a time and in a form acceptable to the Association and shall provide regular updates of the register to the Association.

## **12. Effect of Membership**

- (1) All membership classes acknowledge and agree that:
  - (a) The Constitution constitutes a contract between each of them and the Association and that they are bound by the Constitution and By-laws
  - (b) They shall comply with and observe the Constitution, any Regulations and By-laws and any determination or resolution which may be made or passed by the Council or by the Board
  - (c) By submitting to the Constitution and By-laws they are subject to the jurisdiction of the Association
  - (d) The Constitution is made in the pursuit of common objectives, namely the mutual and collective benefit of the Association, its Members and motorcycling
  - (e) The Constitution and By-laws are necessary and reasonable for promoting the Objects and particularly the advancement and protection of motorcycling
  - (f) They are entitled to all benefits, advantages, privileges and services of Association membership
- (2) Notwithstanding where a Member fails to comply with its financial or other obligations under this Constitution, any Regulation or By-laws, the Board may determine that member to be not of good standing. On determination that a Member under Clause 10, is not of good standing, the Board may give notice to the member of the:
  - (a) Boards determination; and
  - (b) Grounds for the Boards determination;and request that the Member show cause within such time as is determined by the Board as to why further action should not be taken against the Member in accordance with this Constitution or By-laws. The members failure to respond or act to the Boards satisfaction (including assurances or compliance with its obligations) may result in the Board suspending the members membership of the Association or otherwise imposing such conditions on membership, as the Board sees fit.

## **13. Fees**

- (1) The fees payable by members to the Association and the time and manner of payment shall be as determined by the Board from time to time
- (2) Affiliated organisations whose subscriptions and/or fees have not been paid and received by the time set by the Board in any year shall not be entitled to receive any of the benefits, advantages, privileges or services of Association membership unless otherwise approved in writing by the Board.

#### **14. Membership**

- (1) Subject to these Rules any organisation, association or institution which has as its main object the promotion of any form of the sport is entitled to apply to be an affiliated organisation of the Association under Clause 10 (1) (a)
- (2) Any such organisation, association or institution may apply to become an affiliated organisation by depositing at the registered office for the time being of the Association an application and associated fee.
- (3) Such application must be accompanied by:
  - (a) The prescribed membership subscription which will be refundable if the application fails; and
  - (b) A copy of the rules, and a list of the officers and members of the intending affiliated organisation, association or institution, certified to be correct by the President and Secretary or authorised representative thereof.
- (4) As soon as practicable after receiving such application the General Manager must give all affiliated organisation written notice thereof via a postal vote, or other means as approved by the Board. A response within 30 days of notification to the Affiliated Organisations is required. A lack of written response will indicate tacit approval of the application.
- (5) Such application, with the affiliated organisations responses, will be presented to the Association Board and a determination on the application will be made .
- (6) Subject to these rules all members, pursuant to Clause 10 (1), of the Association, will be and are hereby bound by all acts and decisions of the Association relating to the advancement, development, management and control of the sport in South Australia.
- (7) Membership subscriptions, determined by the Councillors in General meeting, shall be payable annually, and may be recovered by the Association from a defaulting affiliated organisation as a debt. Any affiliated organisation which fails to pay its subscription as and when the same becomes payable is liable to forfeiture of membership.

#### **15. Discretion to accept or reject Membership**

The Directors may accept or reject an application whether the applicant has complied with the requirements in this Constitution or not. The Directors are not required, nor can they be compelled to provide, any reason for rejection.

#### **16. Discontinuance of Membership**

- (1) An affiliated organisation having paid all arrears of subscriptions and fees payable by it to the Association (if any), may withdraw from membership by giving three months notice in writing of such withdrawal to the Board
- (2) Where an affiliated organisation ceases to be affiliated with the Association the individual members of the affiliated organisation also cease to be members unless they are a member of another affiliated organisation
- (3) A member, who ceases to be a member, shall forfeit all rights in and claims upon the Association and its property including Intellectual Property

#### **17. Discipline of Members**

- (1) The Board in its sole discretion may refer any of the following matters for investigation or determination whether under the procedures set down in the By-laws or by such other procedures or persons as the Board considers appropriate:
  - (a) An allegation (which in the opinion of the Board is not vexatious, trifling or frivolous) by a complainant (including, but not only, a Director or an affiliated organisation) that a member has:

- i. Breached, failed, refused or neglected to comply with a provision of this Constitution, any Regulation, the By-laws or any other resolution or determination of the Council, the Board or any duly authorised committee; or
  - ii. Acted in a manner unbecoming of a member or prejudicial to the objects and interests of the Association and/or motorcycling; or
  - iii. Prejudiced the Association or motorcycling or brought the Association or motorcycling into disrepute
- (2) All members (in this Clause “defendant”) will be subject to, and submit unreservedly to the jurisdiction, procedures, penalties and appeal mechanisms of the Association as set out in the Manual of Motorcycle Sport or this Constitution and By-laws.
- (3) During investigatory or disciplinary proceedings a defendant may continue to participate in motorcycling, pending the determination of the proceedings (including any available appeal) unless the Board decides such continued participation is inappropriate having regard to the matter at hand.

## **18. Council**

- (1) The Council will comprise two (2) Councillors for each affiliated organisation. No affiliated organisation is entitled to appoint more than two (2) Councillors to Council. A Councillor cannot be a Board member at the same time.
- (2) An affiliated organisation shall notify the Association of its appointed Councillors and of any changes to its appointed Councillors from time to time
- (3) The Council will:
- i. Review the Association performance in achieving its aims, objectives and policies
  - ii. Be the final arbiter on matters referred to it by the Board and
  - iii. Subject to the Act and this Constitution, meet at least once per year, that being the day of the Annual General Meeting

## **19. Annual General Meetings**

- (1) The Board must in each calendar year by instrument in writing convene a Meeting of Council called the Annual General Meeting. Such instrument must be delivered to Affiliated Organisation not less than 21 days before the meeting and shall contain the agenda of the meeting.
- (2) An Annual General Meeting must be held in April of each year at such place as the Board determines.
- (3) An Annual General Meeting must be specified as such in the notice convening it.
- (4) The ordinary business of an Annual General Meeting shall be:
- (a) to establish policies for implementation by the Board;
  - (b) to give such directions and instructions to the Board as the Members consider necessary and desirable for the advancement and management of the Association;
  - (c) to confirm the minutes of the preceding Annual General Meeting;
  - (d) to receive from the Board reports upon the transactions of the Association;
  - (e) to present, consider, and, if appropriate, adopt the audited statements of accounts;
  - (g) to make by-laws and to alter, amend, add to or rescind the same;
  - (i) to elect Office Holders and Board Members at expiry of appointment terms;
  - (j) to elect a Patron if it is thought desirable to do so;
  - (k) to nominate and elect auditors;

- (1) to transact such business affecting the interest and welfare of the Association as the Affiliated Organisation think fit.
- (5) An Annual General Meeting will be in addition to any other General Meeting that may be held in the same year.

## **20. Notice of Special General Meeting**

Subject to the provisions of the Act relating to agreements for shorter notice, not less than 21 days written notice (exclusive of the day on which the notice is served or deemed to be served, but inclusive of the day for which the notice is given) must be given of any Special General Meeting. The notice must:

- (a) Set out the place, date and time of the meeting; and
- (b) State the general nature of the meetings business; and
- (c) If a Special Resolution is to be proposed at the meeting, set out an intention to propose the Special Resolution and state the resolution

## **21. General Meetings**

- (1) Any General Meeting other than an Annual General Meeting or Special General Meeting shall be termed a General Meeting.
- (2) General Meetings shall be held the first, third and fourth quarter of each calendar year. Location and timing of such meetings to be determined by the Board.
- (3) The Board may, by instrument in writing, convene a General Meeting. Such instrument must be served on all Affiliated Organisations and must set out the date, time and place of such Meeting, and the purpose for which it is called.
- (4) The Board shall, on the requisition in writing of not less than 5 Affiliated Organisations, or if requested by 3 or more Directors, convene a General Meeting.
- (5) The requisition for a General Meeting must provide an agenda for the Meeting and shall be sent to the Board at the Association's address and may consist of several documents in a like form.
- (6) The Board must cause a General Meeting to be held within 2 months after receipt of the requisition.
- (7) Any notice given pursuant to sub-paragraph (1) hereof may, if the Board determines that the urgency and importance of the matter requires, provide for a General Meeting to be held by electronic or written communication between Councillors. Any meeting so held will be as valid and effectual as if the same had been conducted with Councillors present in person.

## **22. Place of Meeting**

The Association may hold a General Meeting at two or more venues using any technology that gives the Councillors as a whole a reasonable opportunity to participate

## **23. Resolutions**

The Association may pass a resolution without a General Meeting being held if the majority of Councillors sign a document containing a statement that they are in favour of the resolution set out in the document. The provisions of this Clause do not apply to a resolution to remove the auditor.

## **24. Separate Documents**

Separate copies of the document may be used for signing by Councillors if the wording of the resolution statement is identical in each copy.

## **25. Quorum**

- (1) No business shall be transacted at any General Meeting unless a quorum of affiliated organisations is present at the time when the meeting proceeds to business.
- (2) There shall be a quorum if there are present at the meeting at least 1 (one) Councillor from not less than 25% of the total number of affiliated organisations at that time. The quorum must be present at all times during the meeting.

## **26. Adjournment for Lack of a Quorum**

If a meeting does not have a quorum present within 15 minutes after the time for the meeting set out in the notice of meeting, the meeting is adjourned to another date the Chairperson specifies.

## **27. Lack of Quorum at Adjourned Meeting**

If no quorum is present at the resumed meeting within 15 minutes after the time for the meeting, then:

- (a) if the meeting was called as a consequence of a requisition of Affiliated Organisations, the meeting is dissolved;
- (b) in all other cases, the Members present are a quorum

## **28. Chair of General Meeting**

The Chairperson of the Board shall act as chair at every General Meeting. If the Chairperson of the Board is not present within 15 minutes after the time appointed for the holding of the meeting or is unwilling to act, the Vice-Chairperson of the Board shall act as chair the Meeting. If both be absent or unwilling to act within 15 minutes after the time appointed for the holding of the meeting, the Councillors present shall elect one of their number to be chair of the meeting. By assuming the role of chair no Councillor shall thereby forfeit a deliberative vote.

## **29. Adjournment Generally**

The chair may, at any meeting at which a quorum is present (and will if so directed by the meeting), adjourn the meeting from time to time and from place to place. No business will be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for 1 (one) month or more, notice of the adjourned meeting must be given as in the case of an original meeting. Otherwise it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

## **30. Putting of Resolution**

Unless a General Meeting is being held electronically a resolution put to the vote at a General Meeting must be decided on a show of hands unless a poll is demanded. Where a General Meeting is being held electronically, voting shall be verbal unless otherwise ruled by the chair. A poll may be demanded by:

- (a) at least 2 Affiliated Organisations present and entitled to vote on the resolution; or
- (b) the chair

### **31. Result of Show of Hands**

On a show of hands, a declaration by the chair is conclusive evidence of the result provided that the declaration reflects the show of hands. Neither the chair nor the minutes need state the number or proportion of the votes recorded in favour or against.

### **32. Demand for Poll**

A poll may be demanded on any resolution including the election of the chair. A poll demanded on a matter other than the election of the chair must be taken when and in the manner the chair directs. A poll on the election of the chair must be taken immediately. A demand for a poll may be withdrawn.

### **33. Casting Vote**

In the case of an equality of votes, whether in a show of hands or on a poll, the chair will have a casting vote.

### **34. Voting**

- (a) At General Meetings each Affiliated Organisation has one vote. No other person, including the chair has a deliberative vote.
- (b) Voting for Positions at the Annual General Meeting:
  - i. All nominations for vacant Board positions will be on the approved form as determined by the Board from time to time
  - ii. All nominations must be received at the Motorcycling SA office by close of business on the second Friday in December in the year preceding the year of the AGM
  - iii. Nominations, together with endorsed voting papers, will be forwarded to all affiliated and financial organisations prior to the end of January in the year of the AGM
  - iv. Only votes returned on the endorsed voting papers and correctly completed will be eligible for counting
  - v. No nominations will be taken from the floor on the night of the AGM unless there are no nominations for a position
  - vi. In the event of a tied vote, a vote by secret ballot will be taken from the floor to fill the vacant position. The General Manager shall act as returning officer in this instance.
  - vii. If there is no nomination from the floor, the position will be declared as a casual vacancy and will be filled via Board appointment

### **35. Entitlement to Vote**

No affiliated organisation is entitled to vote or be represented at any General Meeting unless all sums presently due and payable by the Affiliated Organisation being represented, in respect of monies owed to the Association have been paid.

### **36. Disallowance of Vote**

A challenge to a right to vote at a General Meeting:

- (c) may only be made at the meeting; and
- (d) must be determined by the chair whose decision is final

### **37. Proxy Voting**

Proxy votes are permitted as follows:

- a) A club may be the proxy for only one additional club
- b) Only clubs >100km by road from Motorcycling SA are eligible to utilise proxy voting
- c) Motorcycling SA must be advised in writing of the club nomination of the proxy, prior to the commencement of the meeting.
- d) Proxy votes may only be made on motions on notice
- e) Proxy votes count towards the forming of a quorum

### **38. The Board**

Unless otherwise determined by the Association in General Meeting the Board will comprise not less than 5 and no more than 7 Directors as follows:

- (a) Up to 4 elected Directors, elected from and by the members of the association;
- (b) up to 2 other Directors, appointed by the 4 elected Directors, who need not be Members; and
- (c) the General Manager (who is non-voting)
- (d) There shall be no more than 1 (one) Director from any 1 (one) affiliated organisation
- (e) No Board member shall hold more than 1 (one) office within the Association, this includes being a:
  - i. Delegate/Councillor of a Club
  - ii. Office Bearer or member of the Executive of a Club
  - iii. Sports Manager of any discipline

#### **Election of Directors**

- (1) Nominations of candidates for election as Director shall be in such form as the Board prescribes from time to time.
- (2) Nominations for positions shall be in the prescribed form, to the General Manager by the close of business on the second Friday in December of the year prior to the AGM.
- (3) If no nominations have been received by the prescribed date, nominations may be taken from the floor at the Annual General Meeting.
- (4) Nominations, together with endorsed voting papers (or method), will be forwarded to all affiliated and financial organisations prior to the end of January in the year of the AGM
- (5) Only votes returned on the endorsed format and correctly completed will be eligible for counting
- (6) Outcome of the election of the Directors shall be advised at the Annual General Meeting.
- (7) All elected Directors, other than those appointed under Clause 36 (b) who shall hold office for such term as is determined by the Directors who appointed them (for a maximum of two years), shall hold their position for a maximum of 2 years. All Directors shall, upon the expiration of their respective terms of office, be eligible for re-election. Chairperson and 1 (one) elected Director shall vacate their position in an even year with the Vice Chairperson and 1 (one) elected Director vacating their position in an odd year.

- (8) In the event of the death, removal, resignation or disqualification from office of a Director, the Board will appoint the new Director, to fill the casual vacancy. Such new Director will hold office for the balance of the term of the Director who has vacated the Board. In the event that the Director was the Chairperson, the newly formed Board will duly select the President as per the process defined for the Election of President in this Constitution.
- (9) In the event of a vacancy or vacancies in the office of Directors, the remaining Directors may act but, if the number of remaining Directors is not sufficient to constitute a quorum at a Board meeting, they may act only for the purpose of ensuring the number of Directors are a number sufficient to constitute a quorum. Vacancies will be filled in accordance with this Constitution.

**39. Election of President**

The elected and appointed Directors will select, by majority vote, the President. This shall occur immediately following the Annual General Meeting, or as soon as practicable thereafter. The President will be appointed Chairperson.

**40. Election of Vice President**

The elected and appointed Directors will select, by majority vote, the Vice President. This shall occur immediately following the Annual General Meeting, or as soon as practicable thereafter. The Vice President will be appointed Vice Chairperson.

**41. Remuneration of Directors**

Subject to this Constitution the Directors (other than the General Manager) are not entitled to be paid remuneration. The Directors may be paid travelling and other expenses that they properly incur:

- (a) in attending Board meetings or any meetings of Committees of the Board; and
- (b) in attending any Council meeting; and
- (c) in connection with the Association business

Expenses must be agreed by Directors at a convened Board meeting.

**42. Vacation of Office of Director**

The office of a Director (including the Chairperson) is automatically vacated if the Director:

- (a) becomes bankrupt; or
- (b) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health; or
- (c) resigns office by written notice to the Association at its registered office; or
- (d) becomes prohibited from being a Director by virtue of law; or
- (e) accepts remuneration, payment or other benefits, other than prize money from the Association other than in accordance with this Constitution; or
- (f) is directly or indirectly in any contract or proposed contract with the Association and fails to declare the nature of the interest in the manner required by this Constitution; or
- (g) is removed by resolution of the Council; or
- (h) dies; or
- (i) ceases to be a Member as defined in Clause 36(b)



#### **43. Management of the Association**

The business direction of the Association is to be managed by or under direction of the Board.

#### **44. General Manager**

- (1) The General Manager shall act as Public Officer and shall be appointed as such by the Board in accordance with the Act, but otherwise for such term, and upon such conditions as the Board thinks fit.
- (2) The Association shall be managed by the General Manager who may exercise all powers of the Association which are not, under the Act or these Rules, required to be exercised by the Board or by the Council.
- (3) The General Manager shall administer motorcycling in South Australia in accordance with the rules and regulations of Motorcycling Australia, this Constitution, the By-laws and all policy directions.
- (4) The General Manager shall not be permitted to be a member of the Board for a period of 3 years from leaving the role.

#### **45. General Powers of the Board**

The Board may exercise all of the powers of the Association except any power that the Act or this Constitution requires the Council to exercise.

#### **46. Official Seals**

The Board may exercise all the powers of the Association in relation to any official seal.

#### **47. Negotiable Instruments**

Any 2 Directors may sign, draw, accept, endorse or otherwise execute a negotiable instrument. This provision is subject to the Board determining that a negotiable instrument may be signed, drawn, accepted, endorsed or otherwise executed in a different manner.

#### **48. Minutes**

The Board will cause minute books, or acceptable record, be that written or electronic, to be kept within the Association records within 1 (one) month of:

- (a) proceedings and resolutions of General Meetings and other meetings of Members; and
- (b) proceedings and resolutions of Board meetings (including meetings of a committee of the Board); and
- (c) resolutions passed by Members without a meeting; and
- (d) resolutions passed by the Board without a meeting.

#### **49. Registers**

The Board will cause the following Association register to be kept:

- (a) a register of members

#### **50. Holding of Board Meetings**

The Board may meet for the despatch of business, adjourn and otherwise regulate its meetings as it thinks fit, with a minimum of 8 per year. Two Directors may at any time, and the General Manager will on the request of 2 Directors, call a meeting of the Board by reasonable notice individually to each Director. A Director who is for the time being out of Australia is only entitled to receive notice of a meeting of the Board if the Director has given written notice to the Association of an address for the giving of notices of meetings.

**51. Holding of Other Offices**

A Director (other than the General Manager) shall NOT hold any other office or place of profit under the Association in conjunction with the office of Director. This includes but is not limited to:

- i. Delegate/Councillor of a Club
- ii. Office Bearer or member of the Executive of a Club
- iii. Sports Manager of any discipline

**52. Directors and Association Officers Interests**

A Director (other than the General Manager) is disqualified from that office by holding any other office (whether voluntary or otherwise) or place of profit in the Association or in any company in which the Association is a shareholder or otherwise interested or from contracting with the Association whether as vendor, purchaser or otherwise. Any contract or any contract arrangements entered into by or on behalf of the Association in which any Director is in any way interested will be voided for such reason.

**53. Disclosure of Interests**

The nature of the 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. If a Director becomes interested in a contract or arrangement after it is made or entered into the declaration of the interest must be made at the first meeting of the Board held after the Director becomes so interested.

**54. General Disclosure**

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 Clause 53 as regards such Director and the said transaction. 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.

**55. Recording Disclosures**

It is the duty of the Public Officer to record in the minutes any declaration made or any general notice as aforesaid given by a Director in pursuance of Clauses 53 and 54.

**56. Interested Directors may NOT Vote**

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

**57. Quorum**

Unless the Board determines otherwise, the quorum for a Board meeting is 4 Directors and the quorum must be present at all times during the meeting.

**58. Chair of Board Meetings**

The Chairperson will chair Board meetings. If the Chairperson is not available within 10 minutes after the time appointed for holding the meeting or declines to act for the meeting or the part of the meeting the Vice Chairperson will chair that meeting or part of it. The Board must elect a Director present to chair the meeting or part of it, if the Chairperson and the Vice Chairperson is not available within 10 minutes after the time appointed for holding the meeting or declines to act for the meeting or the part of the meeting.

**59. Committees**

The Board may delegate any of its powers to committees consisting of such persons as the Board thinks fit. Any such committee will conform to any Regulations (including but not only, the conduct of meetings, reporting obligations) that may be imposed on it by the Board in the delegation to it in accordance with any directions of the Board. The effect of the committee exercising a power in this way is the same as if the Board exercised the power.

**60. Votes at Board Meetings**

Each Director (other than the General Manager and Chairperson) shall have 1 (one) vote at Board meetings. A resolution of the Board must be passed by a majority of votes of the Directors entitled to vote on the resolution. In the case of an equality of votes the Chairperson has a casting vote.

**61. Validity of Directors Acts**

All acts by any meeting of the Board or of a committee or by any person acting as a Director are, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any such Director or person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every person had been duly appointed and was qualified to be a Director.

**62. Written Resolutions**

The Board may pass a resolution without a Board meeting being held if a majority of the Directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. Separate documents may be used for signing by Directors if the wording of the resolution and statement is identical in each copy. The resolution is passed when a majority of the Directors in favour of the resolution sign the document and return their respective signed copies of to the General Manager.

**63. Manner of Holding Meetings**

A Board meeting may be called or held using any technology consented to by all the Directors. The consent may be a standing one. A Director may only withdraw the Directors consent within a reasonable period before the meeting.

**64. Common Seal**

The Association may have a Common Seal. If it does then:

- (a) the common seal must comply with the Act
- (b) the Board will provide for the safe custody of the common seal
- (c) the common seal may only be used under the authority of the Board

**65. Execution Under Common Seal**

If the Association does have a common seal then it may execute a document if the seal is fixed to the document and the fixing of the seal is witnessed by:

- (a) 2 Association Directors; or
- (b) a Director and the General Manager

**66. Execution without Common Seal**

The Association may execute a document without using the common seal if the document is signed by:

- (a) 2 Association Directors; or
- (b) a Director and the General Manager

**67. Directors Interests**

A Director may NOT sign a document to which the common seal of the Association is fixed where the Director is interested in the contract or arrangement to which the document relates.

**68. Accounting Records**

The Board will cause proper accounting and other records to be kept and will distribute copies of financial statements as required by the Act.

**69. Financial Year**

The financial year of the Association shall end on the 31st day of December in each year.

**70. Access to Records**

Affiliated Organisations are entitled to apply in writing, giving 7 days notice, of any request to inspect records. The Board will determine whether and to what extent and at what times and places and under what conditions or regulations the accounting and other records of the Association or any of them will be open for the inspection of Affiliated Organisations. The Board must be satisfied that the Affiliated Organisations is acting in good faith and the request for inspection is for a proper purpose.

**71. Auditor**

- (1) An Auditor qualified in accordance with Section 35 of the Act must be elected annually to examine the books and accounts of the Association and to report on same at the Annual General Meeting and at any other time that the Association in General Meeting may require. The Auditor must certify as to the correctness of the Annual Balance Sheet and Financial Statements prepared by the Board. The Board may fill a casual vacancy in the position of Auditor.
- (2) If at any election for Auditor there is an equality of votes it shall be decided by lot which of the nominees having an equal number of votes shall be Auditor.

**72. Giving of Notices**

The Association may give notice to any Director or Affiliated Organisation:

- (a) personally; or
- (b) by sending it by post to the address of the Director as notified to the Board or the address for the Affiliated Organisation in the register of members or the alternative address (if any) nominated by the Director or Affiliated Organisation; or

- (c) by sending it to the facsimile number or electronic address (if any) nominated by the Director or Affiliated Organisation.

### **73. Entitlement to Notices**

Notices of a General Meeting will be given in any manner authorised by this Constitution to:

- (a) the Affiliated Organisations;
- (b) the Directors;
- (c) the auditor for the time being of the Association if required to be notified

No other person is entitled to receive notices of General Meetings.

### **74. Extent of Indemnity**

Every Member of the Board, the Auditor and any other officer for the time being of the Association shall be indemnified out of the assets of the Association against any liability arising out of the execution of duties incurred in conducting any proceedings whether civil or criminal.

### **75. By-laws and Regulations**

- (1) The Board may from time to time as circumstances dictate, interpret and adopt the MA Rules for the proper advancement, management and administration of the Association, the advancement of the Objects and motorcycling as it thinks necessary or desirable. The By-laws are binding on all members.
- (2) The Board may from time to time as circumstances dictate, formulate, interpret, adopt, make, alter and amend such Regulations for the proper advancement, management and administration of the Association, the advancement of the Objects and motorcycling as it thinks necessary or desirable. Such Regulations must be consistent with this Constitution. Such Regulations are binding on all members.
- (3) The General Manager shall bring to the notice of the Board and affiliated organisations all MA Rules and Regulations and any formulation, interpretation, amendment, alteration and repeal of them. Affiliated organisations shall be obliged to draw such notices to the attention of members in South Australia. Notices are binding on all members.
- (4) All Rules and Regulations of the Association in force at the date of the approval of these Rules and Regulations (including existing MA Rules) insofar as such Rules and Regulations are not inconsistent with, or have been replaced by these Rules, shall continue in force under this Constitution.

### **76. Honours and Privileges**

The Board may confer on any person whom it considers has performed meritorious service to the Association, whether as an officer, employee or otherwise, such honours and privileges as it thinks appropriate in the circumstances.

### **77. Patron**

The Association in General Meeting may elect such person as it thinks fit as a Patron for two years.

### **78. Amendments**

These Rules may be amended by a resolution of not less than seventy five per cent of Councillors present at a General Meeting called for such a purpose.

**79. Record of Amendments**

<b>Number</b>	<b>Details</b>	<b>Date</b>
(2)	Clause 2 Clause 4 (a) Clause 5 Clause 6 Clause 9 (1) Clause 10 (a) (c) (e) Clause 10 (2) (3)(5)(6) Clause 12 (1) (2) Clause 13 Clause 14 Clause 15 added Clause 16 Clause 17 Clause 18 Clause 21 Clause 24 Clause 26 Clause 26 Clause 30- 40, renumbering Clause 38 Clause 39 Clause 40 Clause 41 Clause 42 Clause 50 Clause 51 Clause 58 Clause 60 Clause 69 Clause 75	1 July 2015
(1)	Clause 11 (1) (f) (g) Clause 11 (3) Clause 11 (4) (5) (6) renumbering only Clause 12 (2) Clause 12 (4) Clause 12 (5)	6 <sup>th</sup> April 2006