



# Constitution

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**VICTORIAN TENNIS ASSOCIATION INCORPORATED**

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# **ASSOCIATIONS INCORPORATION REFORM ACT (VIC) 2012**

## **CONSTITUTION**

**of**

### **VICTORIAN TENNIS ASSOCIATION INCORPORATED**

#### **1. NAME OF ASSOCIATION**

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The name of the association is Victorian Tennis Association Incorporated ("Association").

#### **2. OBJECTS OF ASSOCIATION**

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The objects for which the Association is established and maintained are to:

- (a) provide for the advancement, encouragement, conduct, promotion and administration of the game of Tennis in Victoria;
- (b) affiliate and otherwise liaise with Tennis Australia (**TA**) and such other bodies as may be desirable, in the pursuit of these Objects;
- (c) use and protect the Intellectual Property;
- (d) pursue through itself or others, such commercial arrangements, including sponsorship and marketing opportunities, as are appropriate to further the Objects;
- (e) select Victorian Tennis teams for interstate competition and provide for their proper management;
- (f) further develop the Association and Tennis in Victoria into an organised institution and having regard to these Objects, to foster, regulate, organise, control, conduct and manage tournaments, competitions, displays and other activities;
- (g) promote the health and safety of Members;
- (h) act as final arbiter on all matters arising under the jurisdiction of the Association, including disciplinary matters;
- (i) formulate or recognise and implement appropriate policies, including policies in relation to equal opportunity, equity, drugs in sport, health, safety and such other matters as arise from time to time as issues to be addressed in Tennis;
- (j) represent the interests of its Members and of Tennis generally in any appropriate forum;
- (k) have regard to the public interest in its operations;
- (l) seek and obtain improved facilities for the enjoyment of Tennis; and
- (m) undertake and or do all such things or activities which are necessary, incidental or conducive to the advancement of these Objects.

### 3. DEFINITIONS AND INTERPRETATION

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#### 3.1 Definitions

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

**"Act"** means the *Associations Incorporation Reform Act (VIC) 2012*.

**"Appointed Director"** means a Director appointed under **Rule 25**.

**"Association"** means Victorian Tennis Association Incorporated.

**"Board"** means the body consisting of the Directors.

**"By-Laws"** means any By-Laws made by the Board under **Rule 40**.

**"CEO"** means the Chief Executive Officer of the Association appointed under this Constitution to carry out the duties set out in **Rule 29**.

**"Club"** means a Country Tennis Club or a Metropolitan Tennis Club.

**"Constitution"** means this Constitution.

**"Country Tennis Association"** means a Tennis Body which is an aggregation of 3 or more Country Tennis Clubs associated by mutual agreement for the purpose of tennis competition or such other purpose consistent with the Objects.

**"Country Tennis Club"** means a Tennis Body which is a tennis club situated within the State of Victoria and located within a regional Victoria local government area as recognised by the State Government from time to time, including the Mornington Peninsula Shire.

**"Director"** means a member of the Board elected or appointed in accordance with this Constitution and includes the President, the Elected Directors and the Appointed Directors.

**"Elected Director"** means a Director elected under **Rule 24**.

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

**"General Meeting"** means the annual or any special general meeting of the Association.

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

**"Member"** means a member for the time being of the Association under **Rule 6**.

**"Metropolitan Tennis Association"** means a Tennis Body which is any aggregation of 3 or more Metropolitan Tennis Clubs associated by mutual agreement for the purpose of tennis competition or such other purpose consistent with the Objects.

**“Metropolitan Tennis Club”** means a Tennis Body which is a tennis club situated within the State of Victoria and located within a metropolitan local government area as recognised by the State Government from time to time, excluding the Mornington Peninsula Shire.

**“Objects”** means the objects of the Association in **Rule 2**.

**“Player Registration Fee”** means the fee to be paid by each Tennis Body for each of its Registered Playing Members.

**“President”** means the President of the Association elected under **Rule 23**.

**“Tennis Forum”** means a body established by the Board under **Rule 20**.

**“Registered Playing Members”** means a member of a Club that plays Tennis for or at the Club either at a competitive or social level or a natural person who is registered directly with Tennis Victoria as a member.

**“Representative”** means a duly authorised and nominated representative of a Member, who is a member of that Member.

**“Specialist Body”** means TCAV and TSV.

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

**“Tennis”** means the sport of Tennis.

**“Tennis Body”** means such entity or person as determined by the Board and admitted to membership as a Tennis Body under **Rule 7** such as (but not limited to) a Club, Specialist Body, tennis association, commercial tennis centre or tennis school.

**“TCAV”** means the Tennis Coaches Australia - Victoria or such other affiliated body representing tennis coaches in Victoria, as the Board in its absolute discretion may recognise for the purpose of this Constitution.

**“TSV”** means Tennis Seniors Victoria or such other affiliated body representing veteran tennis players in Victoria, as the Board in its absolute discretion may recognise for the purpose of this Constitution.

### **3.2 Interpretation**

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 or the performance of the duty;
- (c) words importing the singular include the plural and vice versa;
- (d) references to persons include corporations and bodies politic;
- (e) references to a person include the legal personal representatives, successors and permitted assigns of that person;

- (f) 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); and
- (g) a reference 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.

### **3.3 Severance**

If any provision of this Constitution or any phrase contained in it is invalid or unenforceable in any jurisdiction, the phrase or provision must be read down for the purpose of that jurisdiction, if possible, so as to be valid and enforceable. If it cannot be read down it shall be severed to the extent of the invalidity or unenforceability, without affecting the remaining provisions of this Constitution or affecting the validity or enforceability of that provision in any other jurisdiction.

### **3.4 The Act**

Except where the contrary intention appears, in this Constitution, an expression that deals with a matter dealt with by a particular provision of the Act, has the same meaning as that provision of the Act. This Constitution expressly displaces the model rules under the Act.

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

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Solely for furthering the Objects the Association has, in addition to the rights, powers and privileges conferred on it 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. TENNIS BODIES**

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### **5.1 Objects of the Tennis Body**

A Tennis Body (where a tennis club or association) should be established for the following objects (or similar objects):

- (a) conduct, encourage, promote, advance and administer Tennis throughout the relevant local area;
- (b) act, at all times, on behalf of and in the interest of the Members and Tennis in the relevant local area;
- (c) affiliate, and otherwise liaise with the Association and adopt its rule and policy frameworks to further these objects;
- (d) abide by, promulgate, enforce and secure uniformity in the application of the rules of Tennis as may be determined from time to time as may be necessary for the management and control of Tennis and related activities in Victoria;
- (e) advance the operations and activities of the Tennis Body throughout the relevant local area;



- (f) have regard to the public interest in its operations; and
- (g) undertake and or do all such things or activities which are necessary, incidental or conducive to the advancement of these objects.

## **5.2 Compliance of Tennis Bodies**

Each Tennis Body shall, where a corporate entity:

- (a) adopt rules and objects which are satisfactory to the Association and do not conflict with the Constitution; and
- (b) upon application for membership, provide the Association with copies of its accounts and annual report and other associated documents.

## **5.3 Support of Tennis Bodies**

The Association and the Tennis Bodies agree that, where a Tennis Body is having administrative, operational or financial difficulties, the Board may act to assist that Tennis Body.

# **6. MEMBERS**

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## **6.1 Categories of Members**

The Members of the Association shall consist of:

- (a) Tennis Bodies, which subject to this Constitution, shall be represented by their Representative who shall have the right to be present, debate and vote at General Meetings;
- (b) Registered Playing Members, who shall have the right to be present at General Meetings, but shall have no voting or debating rights;
- (c) Life Members, who shall have the right to be present at General Meetings, but shall have no voting or debating rights; and
- (d) such new categories of Members, created in accordance with **Rule 6.2**.

## **6.2 Creation of new categories**

The Board has the right and power from time to time to create new categories of membership with such rights, privileges and obligations as are determined applicable. No new category of membership may be granted voting rights.

## **6.3 Life Members**

- (a) As a reward for special services rendered by any person to the administration or practice of Tennis in the Association, the Association may confer on such person the courtesy title of Life Member of the Association.
- (b) The number of Life Members shall at no time exceed 25.
- (c) No Life Member shall by virtue only of his or her election as a Life Member be entitled to vote at any General Meeting of the Association or meeting of the Board.

- (d) The nomination of a person for Life Membership shall be:
  - (i) in writing signed on the prescribed form (if any);
  - (ii) signed by a proposer and seconder (who must each be either Representative(s) and/or Director(s)); and
  - (iii) lodged with the CEO who shall refer same to the Board for consideration and approval.
- (e) A person may only be elected a Life Member if three quarters of those present at the Board meeting vote in favour thereof.
- (f) A Life Member shall be entitled to admission to all fixtures conducted by the Association on such terms and conditions as may be determined by the Board from time to time.

## **7. APPLICATION FOR MEMBERSHIP**

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### **7.1 Application**

An application for membership as a Tennis Body or Registered Playing Member (where the Registered Playing Member application is made directly to the Association) must:

- (a) be in writing on the form prescribed by the Board from time to time; and
- (b) meet all membership criteria set down in **Rule 5** and/or the By-Laws; and
- (c) be accompanied by the appropriate fee(s) as determined by the Board, if any.

### **7.2 Discretion to accept or reject application**

- (a) Any application for membership as a Tennis Body must be considered by the Board or CEO. When considering an application for membership a decision will be made within 28 days of receiving it and such decision will be made acting reasonably and in good faith.
- (b) An application for membership may be accepted or rejected whether the applicant has complied with the requirements in **Rule 7.1** or not.
- (c) Where the application is accepted, the applicant will become a Member.
- (d) Membership of the Association will commence upon the acceptance of the application by the Board or CEO.
- (e) Where an application is rejected, an applicant will be refunded any fees forwarded with the application, and the application will be deemed rejected.
- (f) Where an application is rejected, the CEO will, as soon as practicable, cause to be served on the applicant a notice in writing setting out:
  - (i) the grounds on which the rejection is based; and
  - (ii) the applicant's right to address either the Board or CEO (either in person by a nominated representative or in writing).

- (g) If the applicant notifies the CEO that it wishes to address the Board or CEO (either in person by a nominated representative or in writing) in relation to the decision to reject its application, the applicant must be provided such an opportunity and given reasonable notice of the date, time and place of the meeting. The Board or CEO must give due consideration to any submission made by the applicant and determine whether to accept or reject the application for membership.

### **7.3 Renewal of membership**

- (a) Members must renew their membership with the Association annually in accordance with the procedures determined from time to time by the Board. Upon renewal a Tennis Body must lodge with the Association any amendments to its constitution and changes in its Representative and/or Delegate. It must also lodge details of its governing body members.
- (b) In order to remain a Member, Registered Playing Members must renew their registration with their Tennis Body or directly with the Association or otherwise remain members of their Tennis Body in accordance with the Tennis Body's relevant procedures applicable from time to time.

## **8. SUBSCRIPTIONS, FEES AND LEVIES**

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The annual membership subscription (if any), fees, levies and the Player Registration Fee payable by Members to the Association, the time for and manner of payment shall be as determined by the Board from time to time.

## **9. REGISTER OF MEMBERS**

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### **9.1 CEO to keep Register**

The CEO shall keep and maintain a register of Members in accordance with the Act and relevant privacy laws.

### **9.2 Inspection of Register**

Having regard to privacy and confidentiality considerations, an extract of the Register, excluding the address of any Registered Playing Member, Director, Representative or Delegate, shall be available for inspection by Members, upon reasonable request.

## **10. EFFECT OF MEMBERSHIP**

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Members acknowledge and agree that:

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

- (d) this Constitution and the By-Laws are necessary and reasonable for promoting the Objects and particularly the advancement and protection of Tennis;
- (e) they are entitled to all benefits, advantages, privileges and services of Association membership; and
- (f) they will not become a party to any suit at law or equity, against the Association, any Director or any other Member or any other person subject to this Constitution, until all remedies and avenues of appeal allowed by this Constitution have been exhausted, save with the written consent of the Association.

## **11. DISCONTINUANCE OF MEMBERSHIP**

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### **11.1 Notice of resignation**

- (a) Any Tennis Body which has paid all monies due and payable to the Association may, subject to **Rule 11.1(b)**, resign from the Association by giving one (1) month's notice in writing on the prescribed form to the Association of such intention to withdraw or resign. Upon the expiration of that period of notice, the Tennis Body shall cease to be a Member.
- (b) A Tennis Body may not resign, disaffiliate or otherwise seek to withdraw from the Association without approval by Special Resolution of the Tennis Body. A copy of the relevant minutes of the Tennis Body general meeting showing that the Special Resolution has been passed by the Tennis Body must be provided to the Association.
- (c) If a Tennis Body ceases to be a Member under **Rule 11.1(a)** the membership of all Registered Playing Members of that Tennis Body shall, subject to a determination of the Board to the contrary or unless they have transferred to another Tennis Body, also cease at that time.
- (d) Where a Tennis Body fails to pay all monies due and payable, the Association may resolve to deem such failure to pay as a notice of resignation. The Association must inform the Tennis Body that its failure to pay has been deemed to be a notice of resignation and after a period to be determined by the Association, being not less than 1 month (from the date the Association informs the Tennis Body), the Tennis Body shall cease to be a Member.

### **11.2 Expiration of notice period**

Upon the expiration of a notice given under **Rule 11.1(a)**, an entry, recording the date on which the Tennis Body who or which gave notice ceased to be a Member, and any other Members whose membership ceases at the time under **Rule 11.1(c)** shall be recorded in the Register.

### **11.3 Forfeiture of Rights**

A Member which ceases to be a Member, for whatever reason, shall forfeit all right in and claim upon the Association, its property including Intellectual Property and all competition and participation rights.

## **12. DISCIPLINE**

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Where the Association is advised or considers that a Member has allegedly:

- (a) breached, failed, refused or neglected to comply with a provision of this Constitution, the By-Laws or any resolution or determination of the Association, the Board or any duly authorised committee; or
- (b) acted in a manner unbecoming of a Member, or prejudicial to the objects and interests of the Association and/or Tennis; or
- (c) brought him or herself or itself, the Association or Tennis into disrepute;

the Association may commence or cause to be commenced, disciplinary and/or investigatory proceedings against that Member and, that Member, will be subject to, and submits unreservedly to the jurisdiction, disciplinary procedures and penalties and the appeal mechanisms of the Association as set out in the By-Laws or in such other form as may be determined by the Board from time to time.

This **Rule 12** shall not apply to any incident or matter which relates to a dispute or matter which may be dealt with under the Association's member protection, selection or doping policies.

## **13. ANNUAL GENERAL MEETING**

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

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

### **14.2 Requisition of Special General Meetings**

- (a) The Board may by resolution convene a Special General Meeting. The CEO shall convene a Special General Meeting within 28 days of receiving a requisition signed by not less than twenty percent (20%) of the total number of Tennis Bodies.
- (b) The requisition for a Special General Meeting shall state the object(s) of the meeting, shall be signed by the Tennis Bodies making the requisition and be sent to the Association. It may consist of several documents in a like form, each signed by one (1) or more of the Tennis Bodies making the requisition.
- (c) If the Board does not cause a Special General Meeting to be held within 28 days after the date on which the requisition is sent to the Association, the

Tennis Bodies making the requisition, or any of them, may convene a Special General Meeting to be held not later than three (3) months after that date.

- (d) A Special General Meeting convened by Tennis Bodies 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. BUSINESS**

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- (a) The business to be transacted at the Annual General Meeting includes the consideration of accounts and the reports of the Board and the auditors and the election of Directors.
- (b) All business that is transacted at a General Meeting, and also all that is transacted at an Annual General Meeting, with the exception of those matters set down in **Rule 15(a)** shall be special business.
- (c) No business other than that stated on the notice for a meeting shall be transacted at that meeting.

## **16. NOTICES OF MOTION**

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All notices of motion for inclusion as special business at a General Meeting must be submitted in writing to the CEO not less than 35 days (excluding receiving date and meeting date) prior to the General Meeting. Only the Board or a Tennis Body may submit a notice of motion in accordance with this Rule.

## **17. NOTICE OF GENERAL MEETING**

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- (a) Notice of every General Meeting shall be given to every Director and Tennis Body. No other person shall be entitled as of right to receive notices of General Meetings.
- (b) Notice of General Meeting may be given electronically or by such other means as determined by the Board including publication on the Association website.
- (c) A notice of a General Meeting shall specify the place and day and hour of meeting and shall state the business to be transacted at the meeting.
- (d) At least 28 days notice of a General Meeting shall be given to Tennis Bodies and Directors, together with:
  - (i) any notice of motion received from the Board or Tennis Bodies; and
  - (ii) the agenda for the meeting.

## **18. PROCEEDINGS AT GENERAL MEETINGS**

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### **18.1 Quorum**

No business shall be transacted at any General Meeting unless a quorum is present at the time when the meeting proceeds to business. A quorum for General Meetings of the Association shall be twenty (20) Tennis Bodies, represented by their Representatives.

## **18.2 President to preside**

The President shall, subject to this Constitution, preside as chair at every General Meeting. If the President is not present, or is unwilling or unable to preside, the Directors shall choose one of their number to preside as chair for that meeting only. If no Director is present, or is unwilling or unable to preside, the Representatives present shall appoint one (1) of their number to preside as chair for that meeting only.

## **18.3 Adjournment of meeting**

- (a) If within half an hour from the time appointed for the meeting a quorum is not present the meeting shall be adjourned until the same day in the next two (2) weeks at the same time and place or to such other day and at such other time and place as the Board may determine and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting the meeting will lapse.
- (b) The chair may with the consent of any meeting at which a quorum is present and shall if so directed by the meeting adjourn the meeting from time to time and from place to place but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (c) When a meeting is adjourned for twenty-eight (28) days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.
- (d) Except as provided in **Rule 18.3(c)** it shall not be necessary to give any notice of an adjournment or the business to be transacted at any adjourned meeting.

## **18.4 Voting procedure**

Subject to this Constitution, at any meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded by:

- (a) the chair; or
- (b) five (5) Representatives.

## **18.5 Recording of determinations**

Unless a poll is demanded under **Rule 18.4**, a declaration by the chair 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.

## **18.6 Where poll demanded**

If a poll is duly demanded under **Rule 18.4** it shall always be taken as a secret ballot and in such other manner and either at once or after an interval or adjournment or otherwise as the chair directs and the result of the poll shall be the resolution of the meeting at which the poll was demanded.

## **18.7 Use of Technology**

- (a) The Board may from time to time resolve that 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 Members present at the meeting to clearly and simultaneously communicate with each other.
- (b) If the Board resolves to permit a General Meeting to occur as set out at Rule 18.7(a), a Member participating in such General Meeting is taken to be present at the meeting and, if the Member votes at the meeting, is taken to have voted in person.

## **18.8 Minutes**

- (a) The CEO 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; and
  - (iii) the names of persons present at all meetings.
- (c) In addition, the minutes of each Annual General Meeting must include:
  - (i) the financial statements submitted to the members in accordance with the Act;
  - (ii) the certificate signed by two Board members certifying that the financial statements give a true and fair view of the financial position and performance of the Association; and
  - (iii) any audited accounts and auditor's report or report of a review accompanying the financial statements that are required under the Act.
- (d) The minutes of General Meetings shall be available for inspection and copying by the Members.

## **19. VOTING AT GENERAL MEETINGS**

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### **19.1 Entitlement to vote**

- (a) Subject to **Rule 19.1(b)** and this Constitution, each Member is entitled to one (1) vote at General Meetings which shall be exercised by their Representative.
- (b) No person is entitled to be appointed as a Representative to vote for more than one (1) Member. No other Member shall be entitled to vote, but shall, subject to this Constitution, have and be entitled to exercise, those rights set out in **Rule 6.1**. Where a Member's subscriptions or fees are 28 days in arrears at the time of the General Meeting, or a Member is indebted to the Association for any sum for a period of 28 days or more, that Member (and their Representative) shall not be entitled to vote.



## **19.2 Casting vote**

Where voting at General Meetings is equal the chair may exercise a casting vote.

## **19.3 Methods of voting**

Where voting is required to be by secret ballot including where a poll is demanded the chair may appoint a returning officer and scrutineers. If a ballot for the election of any Director is to be conducted the chair shall not appoint any candidate for election as scrutineer or returning officer.

## **19.4 Proxy voting, Postal Voting and Electronic Voting**

- (a) Proxy voting is not permitted at any General Meeting.
- (b) Postal voting or electronic voting will be permitted for the election of Elected Directors, and in other such instances as the Board may determine, and shall be held in accordance with procedures prescribed by the Board.

# **20. TENNIS FORUMS**

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## **20.1 Board to establish**

- (a) The Board shall establish the following Tennis Forums:
  - (i) a Metropolitan Tennis Associations' Forum; and
  - (ii) a Country Tennis Forum.
- (b) Each Metropolitan Tennis Association which is a Tennis Body shall be entitled to attend the Metropolitan Tennis Associations' Forum.
- (c) All country based Tennis Bodies (including Country Tennis Clubs and Country Tennis Associations) shall be entitled to attend the Country Tennis Forum.

## **20.2 Tennis Forum role**

Each Tennis Forum shall:

- (a) review, investigate, evaluate and discuss current tennis policy issues and make recommendations to the Board regarding these; and
- (b) communicate to each of its members initiatives of the Association as directed by the Board.

## **20.3 Tennis Forum meetings**

- (a) Each Tennis Forum shall meet at such place and at such times as determined by each Tennis Forum or as directed by the Board.
- (b) At meetings of a Tennis Forum the Board shall nominate a person to preside. If the Board fails to nominate a person to preside, such one of the remaining Tennis Forum members as may be chosen by those present shall preside.
- (c) Upon any question arising at a Tennis Forum meeting, each Representative of each member of the relevant Tennis Forum has one (1) vote only.

- (d) The Board shall determine the number of members eligible to attend and vote at a meeting of a Tennis Forum which shall constitute a quorum for the transaction of the business of a meeting of a Tennis Forum.

## **21. POWERS OF THE BOARD**

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Subject to the Act and this Constitution the business of the Association shall be managed and the powers of the Association shall be exercised, by the Board.

## **22. THE BOARD**

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### **22.1 Board Composition**

The Board shall be comprised of:

- (i) six (6) Elected Directors who shall be elected in accordance with **Rule 24**; and
- (ii) up to three (3) Appointed Directors who may be appointed in accordance with **Rule 25**.

### **22.2 Portfolios**

If the Board considers it appropriate, in order to further the Objects, it may allocate Directors to specific portfolios, with specific responsibilities, as determined in the discretion of the Board. The Board may appoint a Director from amongst its number to represent the Association as required from time to time.

## **23. PRESIDENT**

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- (a) The President shall be the nominal head of the Association and will act as chair of any Board meeting at which he or she is present.
- (b) The Directors must elect one of their number to be President by secret ballot at the first Director's meeting after an Annual General Meeting of the Association. Such election shall proceed in accordance with the By-Laws (if any).
- (c) The Director elected to be President under 23(b) will remain President until the conclusion of the next Annual General Meeting of the Association.
- (d) Despite **Rule 23(b)**, if:
  - (i) there is no person elected as President; or
  - (ii) the President is not Present within 15 minutes after the time appointed for the holding of the meeting; or
  - (iii) the President is unwilling to act,the Directors present may elect one of their number to be President for that meeting only.

## 24. ELECTED DIRECTORS

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- (a) Nominees for Elected Director positions on the Board must be over the age of 18 years, reside in Australia and meet the qualifications as prescribed from time to time by the Board.
- (b) The CEO shall call for nominations for Elected Director positions on the Board 74 days before the date of the annual general meeting. When calling for nominations the CEO shall also provide details of the necessary qualifications and job descriptions for the Elected Director position(s). Qualifications and job descriptions shall be as determined by the Board from time to time. All Members entitled to vote under this Constitution shall be notified of the call for nominations
- (c) Subject to the restrictions set out in this Constitution, each Tennis Body may nominate a candidate for election as an Elected Director. The candidate need not be a Registered Playing Member.
- (d) Nomination for Elected Directors must be:
  - (i) in writing;
  - (ii) on the prescribed form (if any) provided for that purpose;
  - (iii) signed by a proposer who shall be an officer of the proposing Tennis Body; and
  - (iv) certified by the nominee expressing his or her willingness to accept the position for which he or she is nominated.
- (e) Nominations must be received by the CEO not less than 60 days before the date fixed for holding the Annual General Meeting that will elect the Elected Director(s).
- (f) If the number of nominations received for the positions of Director equals or is less than the number of positions to be filled, the persons nominated shall be deemed elected and shall be declared elected at the following Annual General Meeting.
- (g) If the number of nominations received for the positions of Directors exceeds the number of positions to be filled, an election shall be held at the following Annual General Meeting.
- (h) Voting at any General Meeting to elect a candidate as Director shall be by a secret ballot and shall be conducted by such means as proscribed by the Board.
- (i) If insufficient nominations are received for the positions of Directors then a casual vacancy shall be deemed to exist and the provisions of **Rule 26.3** shall apply.

## 25. APPOINTED DIRECTORS

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- (a) The President and Elected Directors may appoint up to three (3) Appointed Directors.

- (b) The Appointed Directors may have specific skills in commerce, finance, marketing, law or business generally or such other skills which complement the Board composition, but need not have experience in or exposure to Tennis. They do not need to be a Registered Playing Member.

## **26. TERM OF OFFICE AND VACANCIES ON THE BOARD**

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### **26.1 Term of office**

- (a) Subject to this Constitution, all Directors shall be elected in accordance with this Constitution for a term of three (3) years.
- (b) For the purpose of ensuring rotational terms in accordance with this Constitution, for each three year interval:
  - (i) In the first year: two (2) Elected Directors shall be elected and one (1) Appointed Director may be appointed;
  - (ii) In the second year: two (2) Elected Directors shall be elected and one (1) Appointed Director may be appointed; and
  - (iii) In the third year: two (2) Elected Directors shall be elected and one (1) Appointed Director may be appointed.
- (c) Notwithstanding any other rule in this Constitution, should any adjustment to the term of Directors elected or appointed under this Constitution be necessary to ensure rotational terms in accordance with this Constitution, this shall be determined by the Board. If the Board cannot agree, retirements will be determined by lot. For the avoidance of doubt any part of a term shall be deemed a full term for the purposes of this **Rule 26.1(c)**.
- (d) Maximum Term
  - (i) Directors may serve on the Board for a maximum of nine (9) consecutive years (i.e. three (3) consecutive terms or part thereof).
  - (ii) Following the conclusion of the third consecutive term of service of a Director, that person is not eligible to be elected or appointed as a Director for the period of one term (i.e. three (3) years), subject to the following transitional provisions for existing Directors at 1 May 2014:
    - (A) if the Director commenced their consecutive period of service prior to 1 January 2010, they are eligible to serve one additional consecutive term following the conclusion of their current term;
    - (B) if the Director commenced their consecutive period of service after 1 January 2010, they are eligible to serve two additional consecutive terms following the conclusion of their current term;
    - (C) for the avoidance of doubt, should an existing Director at 1 May 2014 become President before the conclusion of their current Director term, their term as President shall be their first

additional consecutive term under **Rules 26.1(d)(i) and 26.1(d)(ii)**.

## **26.2 Casual vacancies**

- (a) Any casual vacancy occurring in the position of Director (other than President) shall be filled by the remaining Directors from among appropriately qualified persons and in accordance with the By-Laws (if any). Any person appointed to fill a casual vacancy under this **Rule 26.2(a)** shall hold office for the remainder of the unexpired term of the office being filled.
- (b) Any casual vacancy occurring in the position of President shall be filled by the remaining Directors from among appropriately qualified persons within their own number and in accordance with the By-Laws (if any). Any person appointed to fill a casual vacancy under this **Rule 26.2(b)** shall hold office for the remainder of the unexpired term of office for President (as set out under **Rule 23.1(c)**).

## **26.3 Grounds for termination of Director**

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

- (a) deceases;
- (b) becomes bankrupt or makes any arrangement or composition with their creditors generally;
- (c) becomes of unsound mind or a person whose person or estate is liable to be dealt with in anyway under the law relating to mental health;
- (d) resigns their office in writing to the Association;
- (e) is absent without the written consent of the Board from meetings of the Board held during a period of three (3) months;
- (f) holds any office of employment with the Association;
- (g) is directly or indirectly interested in any contract or proposed contract with the Association and fails to declare the nature of his interest;
- (h) in the opinion of the Board:
  - (i) has acted in a manner unbecoming or prejudicial to the Objects and/or interests of the Association and/or Tennis; or
  - (ii) has brought themselves, the Association or Tennis into disrepute;
- (i) breaches any rule, by-law or code of conduct of the Association;
- (j) is removed by Special Resolution; or
- (k) would otherwise be prohibited from being a director of a corporation under the *Corporations Act*.

## **26.4 Board may act**

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

## **27. MEETINGS OF THE BOARD**

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### **27.1 Board to meet**

The Board shall meet at least five (5) times per calendar year and may meet as often as is deemed necessary for the dispatch of business and may adjourn and, subject to this Constitution otherwise regulate, its meetings as it thinks fit. The President or three (3) Directors may at any time, and the CEO shall, on the requisition of the President or three (3) Directors, convene a meeting of the Board within a reasonable time.

### **27.2 Notice of Board meetings**

Unless all Directors agree to hold a meeting at shorter notice (which agreement shall be sufficiently evidenced by their presence) not less than fourteen (14) days written notice of the meeting of the Board shall be given to each Director. The agenda shall be forwarded to each Director not less than seven (7) days prior to such meeting.

### **27.3 Quorum**

At meetings of the Board the number of Directors whose presence is required to constitute a quorum is half plus one (1) of the current Directors.

### **27.4 Decisions of Board**

Subject to this Constitution, questions arising at any meeting of the Board shall be decided by a majority of votes and a determination of a majority of Directors shall for all purposes be deemed a determination of the Board. All Directors shall have one (1) vote on any question. The Chair shall have a casting vote.

### **27.5 Resolutions not in meeting**

- (a) A resolution in writing, signed or assented to by facsimile or other form of electronic communication by all the Directors for the time being present in Australia shall be as valid and effectual as if it had been passed at a meeting of Directors duly convened and held. Any such resolution may consist of several documents in like form each signed by one (1) or more of the Directors.
- (b) Without limiting the power of the Board to regulate their meetings as they think fit, a meeting of Board may be held where one (1) or more of the Directors is not physically present at the meeting, provided that:
  - (i) all persons participating in the meeting are able to communicate with each other effectively simultaneously and instantaneously whether by means of telephone or other form of communication;

- (ii) notice of the meeting is given to all the Directors entitled to notice in accordance with the usual procedures agreed upon or laid down from time to time by the Board and such notice specifies that Directors are not required to be present in person;
- (iii) in the event that a failure in communications prevents condition (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 to be held then the meeting shall be suspended until condition (i) is satisfied again. If such condition is not satisfied within fifteen (15) minutes from the interruption the meeting shall be deemed to have terminated; and
- (iv) any meeting held where one (1) 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 present and if no Director is present the meeting shall be deemed to be held at the place where the chair of the meeting is located.

## **27.6 Minutes of Board Meeting**

- (a) The Board must ensure that minutes are taken and kept of each Board Meeting.
- (b) The minutes must record the following:
  - (i) the names of the Board members in attendance at the meeting;
  - (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 conflict of interested disclosed under **Rule 28.5**.
- (c) The minutes of Board Meetings shall not be available for inspection or copying by the Members.

## **28. CONFLICTS**

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### **28.1 Directors' interests**

A Director is disqualified by 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 from contracting with the Association either as vendor, purchaser or otherwise except with express resolution of approval of the Board. Any such contract or any contract or arrangement entered into by or on behalf of the Association in which any Director is in any way interested will be void unless approved by the Board.

### **28.2 Conflict of interest**

A Director shall declare any interest in any matter in which a conflict of interest arises or may arise, and shall, unless otherwise determined by the Board, absent herself from discussions of such matter and shall not be entitled to vote in respect of such matter. If the Director votes their vote shall not be counted. In the event of any

uncertainty as to whether it is necessary for a Director to absent herself from discussions and refrain from voting, the issue should be immediately determined by vote of the Board, or if this is not possible, the matter shall be adjourned or deferred.

### **28.3 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 other matter 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 other matter 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.

### **28.4 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 **Rule 28.3** as regards 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.

### **28.5 Recording Disclosures**

It is the duty of the CEO to record in the minutes any declaration made or any general notice given by a Director in accordance with **Rules 28.3** and **28.4**.

## **29. CEO**

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### **29.1 Appointment of CEO**

The CEO shall be appointed by the Board for such term and on such conditions as the Board thinks fit. The CEO shall be entitled to notice of, attend and participate in debate at, all meetings of the Board, but shall have no entitlement to vote.

### **29.2 CEO to Administer**

The CEO shall administer and manage the Association in accordance with this Constitution and at the direction of the Board.

### **29.3 Specific Duties**

The CEO shall:

- (a) execute tasks relating to the day to day management of the Association;
- (b) as far as is practicable attend all Board meetings and all General Meetings;
- (c) prepare in consultation with the President, and distribute the agenda for all Board meetings and General Meetings;
- (d) facilitate the recording and preparation of minutes of the proceedings of all meetings of the Board and the Association;



- (e) regularly report to the Board and/or the Association on the activities of, and issues relating to, the Association; and
- (f) employ such personnel as are deemed necessary from time to time.

#### **29.4 Broad Power to Manage**

Subject to the Act, this Constitution, the By-Laws and any policy directive of the Board, the CEO has power to perform all such things as appear necessary or desirable for the proper management and administration of the Association.

#### **29.5 CEO to Act as Secretary**

- (a) The CEO shall (unless prohibited by law) act as and carry out the duties of Secretary of the Association required under the Act to be performed by the secretary of an incorporated association.
- (b) The CEO must give the registrar notice of his or her appointment as Secretary within 14 days after the appointment.
- (c) If the position of Secretary becomes vacant, the Board must appoint a person to the position within 14 days after the vacancy arises.

#### **29.6 CEO not to be appointed to Board after leaving role (for three years)**

The CEO is not eligible to be a Director of the Association for a period of three (3) years following the conclusion of their employment by the Association.

### **30. DELEGATIONS**

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#### **30.1 Board may delegate functions**

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

#### **30.2 Delegation by instrument**

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

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

#### **30.3 Delegated function exercised in accordance with terms**

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

### **30.4 Procedure of delegated entity**

The procedures for any delegated entity shall, with any necessary or incidental amendment, be the same as that applicable to meetings of the Board under this Constitution.

### **30.5 Delegation may be conditional**

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

### **30.6 Revocation of delegation**

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

## **31. RECORDS AND ACCOUNTS**

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### **31.1 Custody of Records**

The Board shall ensure the safe and proper custody or control of all books, documents and securities of the Association.

### **31.2 Records kept in accordance with Act**

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

### **31.3 Association to retain records**

The Association shall retain such records for seven (7) years after the completion of the transactions or operations to which they relate.

### **31.4 Board to submit accounts**

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

### **31.5 Accounts to be distributed**

The CEO shall cause to be provided to all persons entitled to receive notice of Annual General Meetings of the Association in accordance with this Constitution, a copy of the statements of account, the Board's report, the auditor's report and every other document required under the Act (if any).

### **31.6 Management of Funds and Negotiable instruments**

- (a) The Association must maintain an account with a financial institution from which all expenditure of the Association is made and into which all of the Associations' revenue is deposited.
- (b) All cheques and other negotiable instruments shall be signed or otherwise executed, as the case may be, by any two (2) authorised Directors or one (1)

authorised Director and the CEO or in such other manner as the Board determines.

### **31.7 Inspection of Records**

- (a) Members may on request inspect free of charge -
  - (i) the minutes of general meetings;
  - (ii) Subject to **Rule 31.7(b)**, the financial records, books, securities and any other relevant document of the Association.
- (b) The Board may refuse to permit a member to inspect records of the Association that relate to confidential, personal, employment, commercial or legal matters or where to do so may be prejudicial to the interests of the Association.
- (c) The Board must on request make copies of these rules available to members and applicants for membership free of charge.
- (d) Subject to **Rule 31.7(b)**, a member may make a copy of any of the other records of the Association referred to in this rule and the Association may charge a reasonable fee for provision of a copy of such a record.
- (e) For the purposes of this rule -

relevant documents means the records and other documents, however compiled, recorded or stored, that relate to the incorporation and management of the Association and includes the following:

  - (i) its financial statements;
  - (ii) its financial records;
  - (iii) records and documents relating to transactions, dealings, business or property of the Association.

## **32. SOURCES OF FUNDS AND INCOME**

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### **32.1 Source of funds**

The funds of the Association shall be derived from membership fees, donations and such other sources as the Board determines.

### **32.2 Income of Association**

The income and property of the Association shall be applied solely towards the promotion of the Objects. 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, but this shall not preclude payment to a Member in good faith for expenses properly incurred or services properly rendered.

### **33. AUDITOR**

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- (a) A properly qualified auditor shall be appointed and the remuneration of such auditor fixed by the Board. The auditor's duties shall be regulated in accordance with the Act and the *Corporations Act (Cth) (2001)*.
- (b) The accounts of the Association shall be examined and their correctness ascertained by an auditor at least once in every year.

### **34. SEAL**

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#### **34.1 Safe custody of Seal**

The CEO shall provide for safe custody of the common seal.

#### **34.2 Affixing Seal**

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

#### **34.3 Director interest**

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

### **35. NOTICE**

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- (a) Notices may be given by the CEO to any Member by sending the notice by pre-paid post or facsimile transmission or where available, by electronic mail, to the Member's registered address or facsimile number or electronic mail address.
- (b) Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing and posting the notice. Service of the notice is deemed to have been effected two (2) days after posting.
- (c) Where a notice is sent by facsimile transmission, service of the notice shall be deemed to be effected upon receipt of a confirmation report confirming the facsimile was sent to/or received at the facsimile number to which it was sent.
- (d) Where a notice is sent by electronic mail, service of the notice shall be deemed to be effected unless a return electronic mail message is received advising the electronic mail message was not received at the electronic mail address to which it was sent.

### **36. PATRON**

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The Board may appoint a patron for such time as it determines appropriate.

### **37. ALTERATION OF CONSTITUTION**

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This Constitution shall not be altered except by Special Resolution in accordance with the Act.

## **38. DISSOLUTION**

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### **38.1 Liability of Members**

The liability of the Members of the Association is limited.

### **38.2 Member's contribution**

Every Tennis Body undertakes to contribute to the assets of the Association in the event of it being wound up while a Member, or within one (1) year after ceasing to be a Member, for payment of the debts and liabilities of the Association and the costs, charges and expenses of winding up, such amount not to exceed one dollar (\$1.00).

### **38.3 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 property, the same shall not be paid to or distributed amongst the Members, but shall be given or transferred to some other organisation having purposes similar to the purposes of the Association and which prohibits the distribution of its income and property among its Members and which is also not carried on for the profit or gain to its Members. Such body or bodies shall be determined by the Members at or before the time of dissolution or in accordance with the Act.

## **39. INDEMNITY**

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- (a) Every Director, employee of the Association and member of a committee or sub-committee of the Association shall be indemnified out of the property and assets of the Association against any liability incurred by them in such capacity in defending any proceedings, whether civil or criminal, in which judgement is given in their favour or in which they are acquitted or in connection with any application in relation to any such proceedings in which relief is granted by the Court.
- (b) The Association shall indemnify its Directors, employees and members of a committee or sub-committee of the Association against all damages and losses (including legal costs) for which any such person 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 member of a committee or sub-committee of the Association, 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 their employment by the Association.

## **40. BY-LAWS**

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### **40.1 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 Tennis as it thinks necessary or desirable. Such By-Laws must be consistent with this Constitution.

## **40.2 By-Laws binding**

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

## **40.3 Bulletins binding on Members**

Amendments, alterations, interpretations or other changes to By-Laws shall be advised to Tennis Bodies by means of bulletins approved by the Board and prepared and issued by the CEO. Such bulletins are binding upon all Members.

# **41. GRIEVANCE PROCEDURES**

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- (a) The grievance procedure set out in this Rule applies to disputes under these Rules between:
  - (i) a Member and another Member; or
  - (ii) a Member and the Association.
- (b) The parties to the dispute must meet and discuss the matter in dispute, and, if possible, resolve the dispute within 14 days after the dispute comes to the attention of all of the parties.
- (c) If the parties are unable to resolve the dispute at the meeting, or if a party fails to attend that meeting, then the parties must, within 10 days, hold a meeting in the presence of a mediator.
- (d) The mediator must be:
  - (i) a person chosen by agreement between the parties; or
  - (ii) in the absence of agreement:
    - (A) in the case of a dispute between a Member and another Member, a person appointed by the Board; or
    - (B) in the case of a dispute between a Member and the Association, a person who is a mediator appointed or employed by the Dispute Settlement Centre of Victoria (Department of Justice).
- (e) A Member can be a mediator.
- (f) The mediator cannot be a Member who is a party to the dispute.
- (g) The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.
- (h) The mediator, in conducting the mediation, must:
  - (i) give the parties to the mediation process every opportunity to be heard; and
  - (ii) allow due consideration by all parties of any written statement submitted by any party; and

- (iii) ensure that natural justice is accorded to the parties to the dispute throughout the mediation process.
- (i) The mediator must not determine the dispute.
- (j) If the mediation process does not result in the dispute being resolved, the parties may seek to resolve the dispute in accordance with the Act or otherwise at law.

#### **42. TENNIS AUSTRALIA NATIONAL POLICIES**

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By virtue of its membership with Tennis Australia, the Association agrees to adopt and abide by certain national by-laws and policies of Tennis Australia, as implemented and amended from time to time, including, but not limited to, the Member Protection Policy, the Anti-Doping Policy, the Disciplinary Policy and the Code of Behaviour Tournaments and Weekly Competitions. The Association, its members and its officers will be bound by each of these policies. Each Club agrees that all of its members will also be bound by each of these policies.