

# Constitution

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22<sup>nd</sup> April 2018

**TASMANIAN BADMINTON ASSOCIATION INCORPORATED**

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## 1. DEFINITIONS AND INTERPRETATIONS

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### 1.1 Definitions

In this Constitution unless the context requires otherwise:

**ABA** means Australian Badminton Association Incorporated.

**ABA constitution** means the constitution and includes any by-laws made by ABA in force from time to time.

**Act** means the *Associations Incorporation Act 1964 (Tas)*.

**Administrator** means a person appointed as administrator of TBA by the Board under **clause 20**.

**Affiliate** means a Badminton club or association Registered with TBA directly or by being affiliated with or through a Constituent Association Member.

**AGM or Annual General Meeting** means the annual General Meeting of TBA required to be held by TBA in each calendar year.

**Appointed Director** means a Director appointed under **clause 15**.

**Badminton** means “badminton” as recognised by BWF from time to time.

**Board or Directors** means all or some of the Directors of TBA acting as a board.

**By-Law** means a By-Law made under **clauses 7.2 and 23**.

**BWF** means the Badminton World Federation.

**Committee** means a committee established by the Board under **clause 22**.

**Constituent Association Member** means a Member admitted to TBA under **clauses 5.2 and 5.4**.

**Constitution** means this Constitution as amended from time to time, and a reference to a particular clause is a reference to a clause of this Constitution.

**Director** means a director of TBA and includes Elected Directors and Appointed Directors.

**Elected Director** means a Director of TBA elected under **clause 14**.

**General Meeting** means a general meeting of Members.

**Individual Member** means a person who is:

- (a) a registered financial member of an Affiliate or a Constituent Association Member; or
- (b) a player, coach or official in any Badminton competition conducted by or under the auspices of TBA and/or an Constituent Association Member; and

who is admitted to TBA under **clauses 5.2 and 5.7**.

**Life Member** means a Member admitted to TBA under **clause 5.3**.

**Member** means a member of TBA under **clause 5**.

**Objects** mean the objects of TBA in **clause 2.1**.

**Official Position** means, in connection with any Constituent Association Member or Regional Member, a person who:

- (a) is an employee, or holds a position, whether elected or appointed, as president, vice president, chairman, deputy chairman, secretary, treasurer, director or equivalent, of that Constituent Association Member or Regional Member or a body corporate or organisation which is owned or controlled by, or has, directly or indirectly, a material ownership or financial interest in that Constituent Association Member or Regional Member; or

- (b) has, directly or indirectly, a material ownership or financial interest in that Constituent Association Member or Regional Member.

**Public Officer** means a person appointed as public officer under **clause 21**.

**Regional Member** means a Member admitted to TBA under **clauses 5.2 and 5.8**.

**Registration** means registration or affiliation of a Member, such registration being in the form of a signed application form and, in the case of Individual Members, their consent to membership of TBA as required by **clause 5.2**. **Registered** has a corresponding meaning.

**Representative Director** means those Directors elected to represent the Constituent Association Members on the Board.

**Special Resolution** means a resolution that must be passed by a majority of 75% of votes exercisable by Members present and entitled to vote at the relevant General Meeting in accordance with this Constitution and/or the Act.

**Statutes and Regulations** mean the constitution and internal regulations of BWF in force from time to time.

**TBA** means Tasmanian Badminton Association Incorporated ABN 17 336 304 395

## 1.2 Interpretation

In this Constitution unless the context requires otherwise:

- (a) **(presence of a Member)** a reference to a Member present at a General Meeting means the Member present in person or by proxy, attorney or Representative;
- (b) **(document)** a reference to a document or instrument includes any amendments made to it from time to time and, unless the contrary intention appears, includes a replacement;
- (c) **(gender)** words importing any gender include all other genders;
- (d) **(person)** the word person includes a firm, a body corporate, a partnership, a joint venture, an unincorporated body or association or an authority;
- (e) **(successors)** a reference to an organisation includes a reference to its successors;
- (f) **(singular includes plural)** the singular includes the plural and vice versa;
- (g) **(instruments)** a reference to a law includes regulations and instruments made under it;
- (h) **(amendments to legislation)** a reference to a law or a provision of a law includes amendments, re-enactments or replacements of that law or the provision, whether by a State or Territory or the Commonwealth or otherwise;
- (i) **(include)** the words **include**, **includes**, **including** and **for example** are not to be interpreted as words of limitation;
- (j) **(signed)** where, by a provision of this Constitution, a document including a notice is required to be signed, that requirement may be satisfied in relation to an electronic communication of the document in any manner permitted by law or by any State or Territory or Commonwealth law relating to electronic transmissions or in any other manner approved by the Directors;
- (k) **(writing)** writing and written includes printing, typing and other modes of reproducing words in a visible form including, without limitation, any representation of words in a physical document or in an electronic communication or form or otherwise; and
- (l) **(headings)** headings are inserted for convenience and do not affect the interpretation of this Constitution.

### **1.3 The Act**

- (a) In this Constitution, unless the context requires otherwise, an expression has, in a provision of this Constitution that deals with a matter dealt with by a particular provision of the Act, the same meaning as in that provision of the Act.
- (b) The model rules created under the Act are displaced by this Constitution and accordingly do not apply to TBA.

## **2. OBJECTS**

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### **2.1 Objects**

BWF is the sole international sporting authority entitled to make and enforce regulations for the encouragement and control of Badminton. So that the above authority may be exercised in a fair and equitable manner, BWF has drawn up the Statutes and Regulations governing Badminton.

Each national federation belonging to BWF shall be presumed to acquiesce in and be bound by the Statutes and Regulations. ABA is recognised by BWF as the sole sporting power for the enforcement of the present Statutes and Regulations and control of Badminton in Australia. TBA is recognised as a member of ABA under the ABA constitution.

The Objects of TBA shall be to:

- (a) recognise ABA as the BWF recognised national federation for Badminton in Australia and to act as a member of ABA in accordance with the Statutes and Regulations and the ABA constitution;
- (b) conduct, encourage, promote, advance and administer Badminton in Tasmania.
- (c) conduct elite State level competitions for both males and females and at junior and senior levels;
- (d) adopt, formulate, issue, interpret and amend by-laws, rules and regulations for the control and conduct of Badminton in Tasmania in keeping with the terms of this Constitution and the ABA constitution, as amended from time to time;
- (e) encourage the provision and development of appropriate facilities for participation in Badminton;
- (f) maintain and enhance standards, quality and reputation of Badminton for the collective and mutual benefit and interests of members and Badminton;
- (g) promote the sport of Badminton for commercial, government and public recognition and benefits;
- (h) select, prepare and enter Tasmanian teams in national competitions;
- (i) promote, control, manage and conduct state Badminton events, leagues, competitions and championships;
- (j) undertake other actions or activities necessary, incidental or conducive to advance these Objects;
- (k) have regard to the public interest in its operations; and
- (l) encourage and promote widespread participation in the sport to enhance opportunities for every participant to reach levels appropriate to their ability and aspiration.

### **2.2 ABA**

Subject to any applicable law, TBA must:

- (a) comply with, and do everything within its power to enforce compliance with, the Statutes and Regulations and the ABA constitution; and
- (b) represent Tasmania's interest in, and co-operate with, ABA in all matters relating to the organisation of national Badminton competitions, TBA's own Badminton competitions and Badminton in general.

### **2.3 Powers**

Solely for furthering the Objects, TBA, in addition to any other powers it has under the Act, has the legal capacity and powers of a company limited by guarantee as set out under section 124 of the Corporations Act.

## **3. INCOME AND PROPERTY OF TBA**

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### **3.1 Sole Purpose**

The income and property of TBA will be applied only towards the promotion of the Objects.

### **3.2 Payments to Members**

No income or property will be paid or transferred directly or indirectly to any Member except for payments to a Member:

- (a) in return for any services rendered or goods supplied in the ordinary and usual course of business to TBA; or
- (b) of distribution of funding received; or
- (c) of interest at a rate not exceeding current bank overdraft rates of interest for moneys lent; or
- (d) of reasonable rent for premises let by them to TBA.

## **4. ABA MEMBERSHIP OBLIGATIONS**

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### **4.1 ABA recognition**

- (a) ABA recognises TBA as the member of ABA for Tasmania and responsible for ensuring the efficient administration of Badminton in Tasmania in accordance with the Objects. TBA must be and remain a legal entity.
- (b) TBA will:
  - (i) have Objects that align with ABA's objects and do all that is reasonably necessary to enable ABA's objects to be achieved, having regard to any legislation applicable to TBA;
  - (ii) effectively promulgate and enforce the ABA constitution and the Statutes and Regulations;
  - (iii) at all times act for and on behalf of the interests of ABA, TBA, the Members and Badminton;
  - (iv) be responsible and accountable to ABA for fulfilling its respective obligations under ABA's strategic plan as revised from time to time;
  - (v) provide ABA with copies of its audited accounts, annual report and associated documents immediately following its annual general meeting;
  - (vi) provide ABA with copies of its business plans and budgets from time to time and within 14 days of request by the ABA board;
  - (vii) be bound by the ABA constitution and the Statutes and Regulations;
  - (viii) act in good faith and loyalty to maintain and enhance ABA and Badminton, its standards, quality and reputation for the collective and mutual benefit of the Members and Badminton;



- (ix) at all times operate with, and promote, mutual trust and confidence between ABA, TBA and the Members, promoting the economic and sporting success, strength and stability of each other; and work cooperatively with each other in the pursuit of the Objects;
- (x) maintain a database of all Affiliates and Individual Members Registered with it in accordance with the ABA constitution and provide a copy to ABA upon request from time to time by the ABA board in such means as may be required;
- (xi) not do or permit to be done any act or thing which might adversely affect or derogate from the standards, quality and reputation of Badminton and its maintenance and development; and

#### **4.2 Constitution of TBA**

- (a) The constitution adopted in February 1993 and amended on 14 August 1994 and 6 June 2010 is repealed.
- (b) Any appointment made or motion passed under the constitution hereby repealed, if in force at the commencement of this constitution, shall continue in force as far as practicable as if made or passed under this constitution.
- (c) TBA shall take all steps necessary to ensure this Constitution (and any amendments) conforms, to the ABA constitution, subject to any prohibition or inconsistency in any relevant legislation.
- (d) This Constitution and any subsequent amendments to this Constitution shall be subject to the approval of ABA.
- (e) ABA shall approve, without delay, this Constitution and any subsequent amendments to this Constitution as may be submitted by TBA provided the amendments conform to the ABA constitution.
- (f) If the documents do not conform to the ABA constitution, TBA shall, without delay, take all steps necessary to address the inconsistency so that the documents conform to the ABA constitution.
- (g) For the avoidance of doubt, if any inconsistency remains between this Constitution and the ABA constitution, the ABA constitution shall prevail to the extent of that inconsistency.
- (h) TBA must:
  - (i) advise ABA as soon as practicable of any serious administrative, operational or financial difficulties TBA is having;
  - (ii) assist ABA in investigating those issues; and
  - (iii) cooperate with ABA in addressing those issues in whatever manner, including by allowing ABA to appoint an administrator to conduct and manage TBA's business and affairs, or to allow ABA itself to conduct itself all or part of the business or affairs of TBA and on such conditions as ABA considers appropriate.
- (i) TBA acknowledges that ABA may develop and implement By-Laws which may set out:
  - (i) the membership criteria (of ABA) to be met by TBA; and
  - (ii) the privileges and benefits of membership of ABA.

#### **4.3 Amendment of TBA Constitution**

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

## 5. MEMBERSHIP

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### 5.1 Categories of Members

Members of TBA shall fall into one of the following categories:

- (a) Life Members;
- (b) Constituent Association Members;
- (c) Affiliates;
- (d) Individual Members; and
- (e) Regional Members.

### 5.2 Admission to membership

A person will become a Member, and the Directors will direct the Administrator to record their name in the register of Members kept by TBA, only upon meeting the criteria applicable to the relevant category of membership set out in this Constitution and/or the By-Laws and provided the person has signed an application in which they undertake to:

- (a) be bound by this Constitution and the By-Laws of TBA (including By-Laws specific to the relevant category of membership) and the ABA constitution;
- (b) pay the fees and subscriptions determined to apply to the relevant membership category under **clause 8**; and
- (c) support TBA in the encouragement and promotion of the Objects.

### 5.3 Life Members

- (a) Life Membership is the highest honour which can be bestowed by TBA for longstanding and valued service to Badminton in Tasmania.
- (b) On the nomination of the Board, any individual may be elected as a Life Member at any AGM by Special Resolution, subject to **clause 5.2**.
- (c) Nominations for Life Membership shall include a written report outlining the history of services of any nominee, together with comments on the suitability of the honour.
- (d) The By-Laws will set out:
  - (i) current Life Members;
  - (ii) the criteria to be met by Life Members; and
  - (iii) the privileges and benefits of Life Membership which shall include the right to receive notice and attend, but not the right to vote at, General Meetings.
- (e) Subject to **clause 5.2**, at the time of adoption of this Constitution, the Life Members of TBA shall be those persons currently recognised by TBA as Life Members.

### 5.4 Constituent Association Members

- (a) Subject to **clause 5.2** and **5.4(b)**, at the time of adoption of this Constitution, the Constituent Association Members of TBA shall be those incorporated entities recognised by TBA as Constituent Association Members.
- (b) Where an applicant for Constituent Association Membership is not incorporated but otherwise meets the criteria for that membership the Directors may recognise that entity as a Constitution Association Member. Where the Directors do recognise an entity as a Constituent Association Member under this clause that entity must incorporate within 12 months of recognition otherwise its membership lapses.

- (c) Constituent Association Members will:
- (i) have objects that align with TBA's Objects and do all that is reasonably necessary to enable TBA's objects to be achieved;
  - (ii) conduct domestic Badminton competitions for a minimum of 20 players for at least one season of 12 weeks each year and will be responsible for running their own roster. An Association of less than 20 players may apply to the Administrator for consideration to be admitted as a Constituent Association Member. The Administrator shall consider such application and make a recommendation to the Board in respect to the applicant. Any associations that do not meet the requirements in this **clause 5.4** will subject to **clause 5.6** be deemed Affiliates;
  - (iii) effectively promulgate and enforce this Constitution, the ABA constitution and the Statutes and Regulations;
  - (iv) at all times act for and on behalf of the interests of TBA, the Members and Badminton;
  - (v) be responsible and accountable to TBA for fulfilling its respective obligations under TBA's strategic plan as revised from time to time;
  - (vi) provide TBA with copies of its audited accounts, annual report and associated documents immediately following its annual general meeting;
  - (vii) provide TBA with copies of its business plans and budgets from time to time and within 14 days of request by the Board;
  - (viii) be bound by this Constitution, the ABA constitution and the Statutes and Regulations;
  - (ix) act in good faith and loyalty to maintain and enhance TBA and Badminton, its standards, quality and reputation for the collective and mutual benefit of the Members and Badminton;
  - (x) at all times operate with, and promote, mutual trust and confidence between TBA and the Members, promoting the economic and sporting success, strength and stability of each other; and work cooperatively with each other in the pursuit of the Objects;
  - (xi) maintain a database of all Affiliates and Individual Members Registered with it in accordance with this Constitution and provide a copy to TBA upon request from time to time by the Board in such means as may be required;
  - (xii) not do or permit to be done any act or thing which might adversely affect or derogate from the standards, quality and reputation of Badminton and its maintenance and development; and
- (d) Each Constituent Association Member must:
- (i) advise TBA as soon as practicable of any serious administrative, operational or financial difficulties the Constituent Association Member is having;
  - (ii) assist TBA in investigating those issues; and
  - (iii) cooperate with TBA in addressing those issues in whatever manner, including by allowing TBA to appoint an administrator to conduct and manage the Constituent Association Member's business and affairs, or to allow TBA itself to conduct itself all or part of the business or affairs of the Constituent Association Member and on such conditions as TBA considers appropriate. TBA is not obliged to act under this clause.

## 5.5 Constituent Association Member Constitution

- (a) Each Constituent Association Member shall take all steps necessary to ensure its constitution (and any amendments) conforms, to this Constitution.
- (b) Any subsequent amendments to a Constituent Association Member's constitution shall be subject to the approval of TBA.
- (c) TBA shall approve, without delay, any subsequent amendments to a Constituent Association Member's constitution as may be submitted by a Constituent Association Member provided the amendments conform to this Constitution.
- (d) If the documents do not conform to this Constitution, the Constituent Association Member shall, without delay, take all steps necessary to address the inconsistency so that the documents conform to this Constitution.
- (e) For the avoidance of doubt, if any inconsistency remains between the Constituent Association Member Constitution and this Constitution, this Constitution shall prevail to the extent of that inconsistency.
- (f) Each Constituent Association Member acknowledges that TBA may develop and implement By-Laws which may set out:
  - (i) the membership criteria (of TBA) to be met by the Constituent Association Member; and
  - (ii) the privileges and benefits of membership of TBA which shall include the right to receive notice and attend, and the right to vote at, General Meetings subject to and in accordance with this Constitution.

## 5.6 Affiliates

- (a) Unless otherwise determined by resolution of the Directors only a legal entity may become an Affiliate.
- (b) Affiliate Membership status may be granted by the Directors on such terms and conditions as they may see fit following formal application for such status accompanied by an up-to-date copy of the applicant's constituent documents and such other information as may be required by the Directors.
- (c) Affiliate Membership may be suspended or cancelled by the Board.
- (d) The By-Laws may set out:
  - (i) the categories of Affiliate Membership which exist;
  - (ii) the criteria to be met by each category of Affiliate Member; and
  - (iii) the privileges and benefits of each category of Affiliate Member which may include the right to receive notice and attend, but can not include the right to vote at, General Meetings.

## 5.7 Individual Members

- (a) No individual shall be Registered with TBA as an Individual Member except in accordance with this **clause 5.7**. The Directors may in their discretion refuse to accept a person as an Individual Member and shall not be required or compelled to provide any reason for such rejection.
- (b) Subject to **clause 5.7(a)** an individual that is recognised, affiliated, accredited or Registered by or with, an Affiliate or a Constituent Association Member will, upon Registration with the Affiliate or Associate Member, become an Individual Member of TBA and is subject to the provisions of this Constitution.
- (c) TBA may register Individual Members directly in certain situations such as (but not only) players contracted overseas.
- (d) To remain a Member, all Individual Members must:

- (i) renew their membership, affiliation, accreditation or Registration with their Affiliate, Constituent Association Member or TBA in accordance with the procedures applicable from time to time;
  - (ii) otherwise remain a member, affiliated, accredited or Registered with their Affiliate, Constituent Association Member or TBA in accordance with the procedures applicable from time to time; and
  - (iii) pay such fees as may be prescribed by their respective Affiliate, Associate Member or TBA in respect of their membership, affiliation, accreditation or Registration, from time to time.
- (e) In addition to the effect of membership set out in **clause 5.2**, an Individual Member is bound by, and must comply with, this Constitution, the By-Laws and the ABA constitution.
- (f) An Individual Member is entitled to any benefits of membership prescribed to apply to Individual Members in the By-Laws but, shall not be entitled to receive notice of, or attend or vote, at General Meetings.

## **5.8 Regional Members**

- (a) Subject to **clause 5.2**, at the time of adoption of this Constitution, the Regional Members of TBA shall be those entities currently recognised by TBA as Regional Members.
- (b) The obligations in **clauses 5.4** and **5.5** apply as relevant to Regional Members.

## **5.9 General**

- (a) TBA must keep a register of all Members.
- (b) No Member whose membership ceases has any claim against TBA or the Directors for damages or otherwise arising from cessation or termination of membership.
- (c) Membership is personal to each Member. No Member shall, or purport to, assign the rights comprising or associated with membership to any other person and any attempt to do so shall be void.
- (d) Members must treat all staff, contractors and representatives of TBA and all other Members with respect and courtesy at all times.
- (e) Members must not act in a manner unbecoming of a Member or prejudicial to the Objects and/or interests of TBA or Badminton.

## **5.10 Limited Liability**

Members have no liability except as set out in **clause 28**.

## **6. CESSATION OF MEMBERSHIP**

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### **6.1 Cessation**

A person ceases to be a Member on:

- (a) resignation;
- (b) death;
- (c) the termination of their Membership according to this Constitution or the By-Laws;
- (d) if a body corporate, being dissolved or otherwise ceasing to exist; or
- (e) that Member no longer meeting the requirements for Membership according to this Constitution and/or the By-Laws.

## 6.2 Resignation

For the purposes of **clause 6.1(a)**, a Member may resign as a member of TBA by giving 30 days written notice to the Board. Where an Affiliate or Constituent Association Member or Regional Member seeks to resign as a Member of TBA the written notice must be accompanied by a copy of the special resolution passed by the Affiliate or Constituent Association Member or Regional Member's members resolving that the Affiliate or Constituent Association Member or Regional Member resign from TBA.

## 6.3 Forfeiture of Rights

A Member who or which ceases to be a Member shall forfeit all right in and claim upon TBA or the Directors for damages or otherwise, or claim upon its property including its intellectual property rights.

## 7. GRIEVANCES AND DISCIPLINE OF MEMBERS

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### 7.1 Jurisdiction

All Members will be subject to, and submit unreservedly to the jurisdiction, procedures, penalties and appeal mechanisms of TBA whether under the By-Laws or under this Constitution.

### 7.2 By-Laws

Subject to **clause 23**, the Board may make By-Laws:

- (a) for the hearing and determination of:
  - (i) grievances by any Member who feels aggrieved by a decision or action of TBA (or a Constituent Association Member, Regional Member or Affiliate provided that all avenues of appeal available under the constitution of the relevant have been exhausted); and
  - (ii) disputes between Members relating to the conduct or administration of Badminton;
    - (A) for the discipline of Members;
    - (B) for the formation and administration of an Appeals Tribunal which must be independent of any party before it on the matter which is the subject of the appeal in question; and
    - (C) for the termination of Members.
- (b) The Board in its sole discretion may refer 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 a Member) that a Member has:
  - (i) breached, failed, refused or neglected to comply with a provision of this Constitution, the By-Laws or any other resolution or determination of the Board or any duly authorised committee; or
  - (ii) acted in a manner unbecoming of a Member or prejudicial to the Objects and interests of TBA and/or Badminton; or
  - (iii) prejudiced themselves, TBA or Badminton or brought themselves, TBA or Badminton into disrepute;for investigation or determination either under the procedures set down in the By-Laws or by such other procedure and/or persons as the Board considers appropriate.
- (c) During investigatory or disciplinary proceedings under this **clause 7**, a respondent, may not participate in Badminton, pending the determination of such proceedings (including any available appeal) unless the Board decides continued participation is appropriate having regard to the matter at hand.

- (d) The Board need not act under this clause in respect of any appeal or other matter until satisfied that all avenues of appeal and/or hearing at Affiliate, Regional Member and Constituent Association Member level have been exhausted first.
- (e) The Board may include in any By-Laws a final right of appeal to an independent body outside the control of Badminton.

## **8. FEES AND SUBSCRIPTIONS**

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### **8.1 Fees payable by Members**

- (a) The Directors must determine from time to time:
  - (i) the amount (if any) payable by an applicant for membership;
  - (ii) the amount of the annual membership fee payable by each Member, or any category of Members;
  - (iii) any other amount to be paid by each Member, or any category of Members, whether of a recurrent or any other nature; and
  - (iv) the payment method and due date for payment.
- (b) Each Member must pay to TBA the amounts determined under this **clause 8** in accordance with **clause 8.1(a)(iv)**.

### **8.2 Non-Payment of Fees**

- (a) Subject to **clause 8.2(b)** but notwithstanding any other clause of this Constitution, the right of a Member to attend and vote at a General Meeting is suspended while the payment of any subscription or other amount determined under **clause 8.1(a)(i)** or **clause 8.1(a)(ii)** is in arrears greater than 90 days.
- (b) Where a Member is in arrears greater than 90 days for any amount:
  - (i) the Board may enter an arrangement with the Member for the payment of the amount;
  - (ii) any arrangement must be disclosed to other Constituent Association Members, but does not require their approval;
  - (iii) **clause 8.2(a)** does not suspend the right of a Member to attend and vote at a General Meeting provided that the Member has not breached the arrangement.

## **9. GENERAL MEETINGS**

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### **9.1 Annual General Meeting**

AGMs of TBA are to be held:

- (a) according to the Act; and
- (b) otherwise as determined by the Directors (including date and venue).

### **9.2 Power to convene General Meeting**

- (a) The Directors may convene a General Meeting when they think fit and must do so if required by the Act.
- (b) Constituent Association Members may convene a General Meeting in accordance with the Act.

### **9.3 Notice of General Meeting**

- (a) Notice of a General Meeting of Members must be given:
  - (i) to all Members entitled to attend the General Meeting, the Directors, and the auditor of TBA; and
  - (ii) in accordance with **clause 26** and the Act.

- (b) At least 45 days prior to the proposed date of the AGM, the Administrator will request from Constituent Association Members notices of motions, which must be received no less than 28 days prior to the AGM.
- (c) At least 21 days' notice of the time and place of a General Meeting must be given, together with:
  - (i) all information required to be included in accordance with the Act;
  - (ii) in the case of a proposed Special Resolution, the intention to propose the Special Resolution and the terms of the proposed Special Resolution;
  - (iii) where applicable, any notice of motion received from any Constituent Association Member or Director;
  - (iv) where applicable, a list of all nominations received for positions to be elected at the relevant General Meeting.

#### **9.4 No other business**

No business other than that stated in the notice of meeting may be transacted at a General Meeting.

#### **9.5 Cancellation or postponement of General Meeting**

Where a General Meeting (including an AGM) is convened by the Directors they may, if they think fit, cancel the meeting or postpone the meeting to a date and time they determine. However, this clause does not apply to a General Meeting convened by:

- (a) Members according to the Act;
- (b) the Directors at the request of Members; or
- (c) a Court.

#### **9.6 Written notice of cancellation or postponement of General Meeting**

Notice of the cancellation or postponement of a General Meeting must state the reasons for doing so and be given to:

- (a) each Member entitled to attend the General Meeting; and
- (b) each other person entitled to notice of a General Meeting under this Constitution or the Act;

at least seven days prior to the date of the General Meeting.

#### **9.7 Contents of notice postponing General Meeting**

A notice postponing a General Meeting must specify:

- (a) the new date and time for the meeting;
- (b) the place where the meeting is to be held, which may be either the same as or different from the place specified in the notice originally convening the meeting; and
- (c) if the meeting is to be held in two or more places, the technology that will be used to hold the meeting in that manner.

#### **9.8 Number of clear days for postponement of General Meeting**

The number of clear days from the giving of a notice postponing a General Meeting to the date specified in that notice for the postponed meeting must not be less than the number of clear days' notice of that General Meeting required to be given by **clause 9.6**.



## **9.9 Business at postponed General Meeting**

The only business that may be transacted at a postponed General Meeting is the business specified in the notice originally convening the meeting.

## **9.10 Non-receipt of notice**

The non-receipt of a notice convening, cancelling or postponing a General Meeting by, or the accidental omission to give a notice of that kind to, a person entitled to receive it, does not invalidate any resolution passed at the General Meeting or at a postponed meeting or the cancellation or postponement of the meeting.

## **9.11 Right to appoint representative**

- (a) Each Constituent Association Member is entitled to appoint an individual as its representative to attend and vote on behalf of that Constituent Association Member at General Meetings and to exercise the powers of the Constituent Association Member in relation to resolutions to be passed without meetings. The individual appointed by the Constituent Association Member to be its representative at General Meetings must be an Individual Member of the appointing Constituent Association Member. A Director cannot also be appointed as a Constituent Association Member's representative.
- (b) A Constituent Association Member may appoint more than one representative but only one representative may exercise the Constituent Association Member's powers at any General Meeting.
- (c) Constituent Association Members must notify the Administrator of their appointed, authorised representatives no later than 48 hours prior to the General Meeting.

## **9.12 No proxy voting**

Proxy voting is not permitted at General Meetings of TBA.

# **10. PROCEEDINGS AT GENERAL MEETING**

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## **10.1 Number for a quorum**

The number of Constituent Association Members who must be present and eligible to vote for a quorum to exist at a General Meeting is 50% plus one of the total number of Constituent Association Members.

## **10.2 Requirement for a quorum**

An item of business may not be transacted at a General Meeting unless a quorum is present and remains throughout the General meeting.

## **10.3 Quorum and time – Special General Meetings**

If within 30 minutes after the time appointed for a Special General Meeting, or at any other time during the meeting, a quorum is not present, the meeting:

- (a) if convened by, or on requisition of, Members is dissolved; and
- (b) in any other case stands adjourned to such other day, time and place as the Chair determines.

## **10.4 Quorum and time – AGMs**

- (a) If within 30 minutes after the time appointed for an AGM, or at any other time during the meeting, a quorum is not present, the AGM stands adjourned to such other day, time and place as the Chair determines.
- (b) Where an AGM has been adjourned under **clause 10.4(a)**, such Constituent Association Members as are represented by their appointed, authorised representative on the adjourned date shall constitute a quorum.

## **10.5 Chairman to preside over General Meetings**

- (a) The Chairman is entitled to preside as Chair at General Meetings.
- (b) If a General Meeting is convened and there is no Chair, or the Chair is not present within 15 minutes after the time appointed for the meeting or is unable or unwilling to act, the following may preside as Chair (in order of entitlement):
  - (i) a Director (or other person) chosen by a majority of the Directors present;
  - (ii) the only Director present; or
  - (iii) an authorised representative of a Constituent Association Member who is entitled to vote and is chosen by a majority of the Constituent Association represented by their authorised representatives.

## **10.6 Conduct of General Meetings**

- (a) The Chair:
  - (i) has charge of the general conduct of the meeting and of the procedures to be adopted;
  - (ii) may require the adoption of any procedure which in his opinion is necessary or desirable for proper and orderly debate or discussion or the proper and orderly casting or recording of votes; and
  - (iii) may, having regard where necessary to the Corporations Act, terminate discussion or debate on any matter whenever he consider it necessary or desirable for the proper conduct of the meeting.
- (b) A decision by the Chair under this **clause 10.6** is final.

## **10.7 Adjournment of General Meeting**

- (a) The Chair may with the consent of any meeting at which a quorum is present, and must if so directed by the meeting, adjourn the meeting or any business, motion, question, resolution, debate or discussion being considered or remaining to be considered by the meeting.
- (b) The adjournment may be either to a later time at the same meeting or to an adjourned meeting at any time and place agreed by vote of the members present.
- (c) Only unfinished business is to be transacted at a meeting resumed after an adjournment.

## **10.8 Notice of adjourned meeting**

- (a) It is not necessary to give any notice of an adjournment or of the business to be transacted at any adjourned meeting unless a meeting is adjourned for 30 days or more.
- (b) In that case, at least the same period of notice as was originally required for the meeting must be given for the adjourned meeting.

## **10.9 Questions decided by majority**

Subject to the requirements of the Act (if any) and except in the case of a Special Resolution, a resolution is carried if a simple majority of the votes cast on the resolution are in favour of it.

## **10.10 Equality of votes**

Where an equal number of votes are cast in favour of and against the resolution, the resolution is not carried. For the avoidance of doubt the Chair does not have a casting vote where voting is equal.

### **10.11 Declaration of results**

- (a) At any General Meeting a resolution put to the vote of the meeting must be decided on a show of hands unless a poll is properly demanded and the demand is not withdrawn.
- (b) 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 minutes of the meetings of TBA, is conclusive evidence of the fact.
- (c) Neither the Chair nor the minutes need state, and it is not necessary to prove, the number or proportion of the votes recorded for or against the resolution.

### **10.12 Poll**

- (a) If a poll is properly demanded in accordance with the *Corporations Act 2001 (Cth)* or by the Chair of the meeting, it must be taken in the manner and at the date and time directed by the Chair, and the result of the poll is the resolution of the meeting at which the poll was demanded. On a poll each Member entitled to vote will have the number of votes fixed under **clause 12.1**.
- (b) A poll demanded on the election of a chair or on a question of adjournment must be taken immediately.
- (c) A demand for a poll may be withdrawn.
- (d) A demand for a poll does not prevent the General Meeting continuing for the transaction of any business other than the question on which the poll was demanded.

### **10.13 Objection to voting qualification**

- (a) An objection to the right of a person to attend or vote at a General Meeting (including an adjourned meeting):
  - (i) may not be raised except at that meeting; and
  - (ii) must be referred to the Chair, whose decision is final.
- (b) A vote not disallowed under the objection is valid for all purposes.

### **10.14 Chair to determine any poll dispute**

If there is a dispute about the admission or rejection of a vote, the Chair must decide it and the Chair's decision made in good faith is final.

## **11. STAKEHOLDER FORUMS**

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### **11.1 Power to convene Stakeholder Forums**

- (a) The Directors may from time to time convene a Stakeholder Forum.
- (b) The Directors shall on the written requisition of 25% of the Constituent Association Members convene a Stakeholder Forum.

### **11.2 Notice of Stakeholder Forums**

Where a Stakeholder Forum is convened:

- (a) Notice of a Stakeholder Forum must be given to all Members and Directors entitled to attend the General Meeting. Other parties may be invited to the Stakeholder Forum by the Directors.
- (b) At least 28 days prior to the proposed date of the Stakeholder Forum, the Administrator will request from Members notice of any matters they wish to be discussed at the meeting, which must be received no less than 14 days prior to the meeting.

- (c) At least 14 days' notice of the time and place of a Stakeholder Forum must be given, together with any items for discussion proposed by the Directors or a Member.

### **11.3 Conduct of a Stakeholder Forum**

- (a) A Stakeholder Forum is to provide opportunity for open discussion on all matters relating to Badminton in Tasmania and all attendees shall have equal opportunity to participate in discussions. The Directors will also use the meeting to discuss, inter alia, the current or proposed Business Plan, Budgets, financial results and By-laws.
- (b) The format of proceedings at a Stakeholder Forum shall be at the discretion of the Directors and may include plenary sessions, small group workshops or guest speakers.
- (c) The Directors shall determine who shall chair the Stakeholder Forum, including who shall lead or facilitate particular discussion items.
- (d) There shall be no quorum requirement for a Stakeholder Forum.
- (e) Items for discussion which were not included in the notice issued under **clause 11.2(c)** may, with the permission of the chair, be raised for discussion.

### **11.4 Consensus at Stakeholder Forum**

- (a) No vote shall be taken at a Stakeholder forum.
- (b) A resolution may be made by consensus of the forum for consideration by the Directors.

## **12. VOTES OF MEMBERS**

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### **12.1 Votes of Members**

- (a) At a General Meeting, on a show of hands and on a poll, each Constituent Association Member shall have one vote. A Constituent Association Member's vote will be exercised by its appointed, authorised representative.
- (b) No Member other than Constituent Association Members is entitled to vote at General Meetings.

### **12.2 Resolutions not in General Meeting**

- (a) If the required majority of Members entitled to vote sign a document (that has been circulated to all Members entitled to notice of a General Meeting) containing a statement that they are in favour of a resolution in terms set out in the document, a resolution in those terms is deemed to have been passed at a General Meeting of TBA held at the time on which the document was signed by the last Member to achieve the required majority.
- (b) For the purposes of **clause 12.2(a)**, two or more separate documents containing statements in identical terms each of which is signed by one or more Members entitled to vote are deemed together to constitute one document containing a statement in those terms signed by those Members on the respective days on which they signed the separate documents.
- (c) A facsimile transmission or other form of visible or other electronic communication purported to be signed by a Member for the purpose of this clause is deemed to be a document in writing signed by that Member.

## **13. DIRECTORS**

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### **13.1 Composition of the Board**

In the first year following adoption of this Constitution, the Board shall consist of:

- (a) two Elected Directors all of whom will be elected under **Rule 14.3**;

- (b) three Representative Directors; one representative elected by each of the three Constituent Association Members, who shall each retire after the first year after election; and
- (c) up to two additional Appointed Directors who shall be appointed in accordance with **Rule 15**.

In subsequent years, and in accordance with **Rule 14.4(c)** the Board shall consist of:

- (a) five Elected Directors all of whom will be elected under **Rule 14.3**; and
- (b) up to two additional Appointed Directors who shall be appointed in accordance with **Rule 15**.

### **13.2 Portfolios**

The Board may allocate portfolios to Directors.

### **13.3 Qualifications**

- (a) The Board may determine from time to time job descriptions and qualifications for Directors.
- (b) A person who holds an Official Position is not eligible to be elected as a Director. For the avoidance of doubt if a person who holds an Official Position nominates to be considered for election as a Director and is elected as a Director that person cannot take office as a Director until they have resigned from the Official Position. A copy of such resignation must be received by the Administrator within 48 hours of the General Meeting at which the person is elected.
- (c) A person who has been Administrator is not eligible to be elected or appointed as a Director for a period of three years since they ceased being Administrator.

### **13.4 Current Board**

The terms of the Directors in office at the date of the adoption of this Constitution shall cease at the next General Meeting following the General Meeting at which this Constitution is adopted. Those Directors may be re-elected or re-appointed for a further term, as the case may be, subject always to this Constitution.

### **13.5 Remuneration of Directors**

A Director may not be paid for services as a Director but, with the approval of the Directors and subject to the Act, may be:

- (a) paid by TBA for services rendered to it other than as a Directors; and
- (b) reimbursed by TBA for their reasonable travelling, accommodation and other expenses when:
  - (i) travelling to or from meetings of the Directors, a Committee or TBA; or
  - (ii) otherwise engaged on the affairs of TBA.

### **13.6 Honorarium**

TBA may in General Meeting by ordinary resolution determine to pay a Director an ex-gratia payment.

## **14. ELECTED DIRECTORS**

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### **14.1 Nomination for Board**

Nominations for Elected Directors shall be called for by the Administrator 60 days prior to the General Meeting at which the election is to be held (usually the AGM).

## 14.2 Form of Nomination

Nominations must be:

- (a) in writing on the prescribed form (if any);
- (b) signed by an authorised Constituent Association Member;
- (c) certified by the nominee expressing their willingness to accept the position for which they are nominated; and
- (d) delivered to TBA not less than 35 days before the date fixed for the holding of the General Meeting.

## 14.3 Elections

- (a) If the number of nominations received for positions on the Board is equal to the number of vacancies to be filled or if there are insufficient nominations received to fill all vacancies on the Board, then those nominated shall be declared elected.
- (b) If there are insufficient nominations received to fill all vacancies on the Board, the positions will be deemed casual vacancies under **clause 16.1**.
- (c) If the number of nominations exceeds the number of vacancies to be filled, voting papers shall be prepared containing the names of the candidates in order drawn by ballot, for each vacancy on the Board.
- (d) The voting shall be conducted using the exhaustive preferential ballot method, and shall be by secret ballot on papers prepared by the Administrator. For the avoidance of doubt, a candidate must receive 50% plus 1 to be elected.
- (e) If voting is equal for two or more candidates a further ballot will be held. If voting is still equal after the further ballot the election will be declared null and void and the positions will be declared casual vacancies.

## 14.4 Term of Appointment

- (a) Subject to this Constitution, and in particular **clause 14.4(d)**, Elected Directors shall be elected in accordance with this Constitution for a term of three years.
- (b) At the commencement of this section, which shall occur from the conclusion of the General Meeting at which this Constitution was adopted, two Elected Directors shall be elected in accordance with this Constitution for a term of three years.
- (c) At the General Meeting the second year after adoption of this Constitution at which the three Representative Directors shall retire, three additional Elected Directors shall be elected in accordance with this Constitution:
  - (i) One Elected Director shall be elected for a term of one year;
  - (ii) Two Elected Directors shall be elected for a term of three years; and
  - (iii) The term of the Elected Directors and the year in which they retire will be determined by the Board. If the Board cannot agree, retirements will be determined by lot.
- (d) Should any adjustment to the term of Elected Directors elected 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 **clause 14.4**.
- (e) Following the adoption of this Constitution, no person who has served as an Elected Director for a period of three consecutive full terms (nine years) shall be eligible for re-election as a Director until the Annual General Meeting following the date of conclusion of their last term as Director.

## **15. APPOINTED DIRECTORS**

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### **15.1 Appointment of Appointed Director**

The Elected Directors may appoint up to two Appointed Directors in accordance with this Constitution.

### **15.2 Qualifications for Appointed Directors**

Appointed Directors should have skills that complement and/or supplement any skill gaps that may exist in the Board, with the aim of ensuring that the Board has all the necessary skills to govern the organization. Appointed Directors do not need to be Individual Members or have experience in, or exposure to, Badminton.

### **15.3 Term of Appointment**

- (a) Directors appointed under **clause 15.1** may be appointed by the Elected Directors in accordance with this Constitution for a term of up to two years, which shall commence and conclude on dates as determined by the Elected Directors.
- (b) Following the adoption of this Constitution, no person who has served as an Appointed Director for a period of up to four consecutive full terms (eight years) shall be eligible for re-appointment as a Director for at least one year following the date of conclusion of their last term as a Director.

## **16. VACANCIES ON THE BOARD**

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### **16.1 Casual Vacancies**

- (a) Any casual vacancy that occurs in the position of an Elected Director may be filled by the remaining Elected Directors from among appropriately qualified persons.
- (b) Any casual vacancy may only be filled for the remainder of the vacating Director's term under this Constitution.

### **16.2 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) dies;
- (b) becomes bankrupt or insolvent under administration 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 TBA;
- (e) is absent without the consent of the Board from meetings of the Board held during a period of three months;
- (f) is an employee of TBA, a Constituent Association Member, a Regional Member or an Affiliate;
- (g) holds an Official Position with a Constituent Association Member or a Regional Member;
- (h) is directly or indirectly interested in any contract or proposed contract with TBA and fails to declare the nature of his interest;
- (i) in after reasonable consideration by the Board the Board determines the Director:
  - (i) has acted in a manner unbecoming or prejudicial to the Objects and/or interests of TBA and/or Badminton; or

- (ii) has brought himself, TBA or Badminton into disrepute;  
provided the Director is first given the opportunity to make written or oral submissions to the Board before a determination is made;
- (j) is removed by Special Resolution; or
- (k) would otherwise be prohibited from being a director of a corporation under the *Corporations Act*.

### **16.3 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 or to convene a General Meeting.

## **17. POWERS AND DUTIES OF DIRECTORS**

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### **17.1 Directors to manage TBA**

The Directors are to manage TBA's business and may exercise those of TBA's powers that are not required, by the Act or by this Constitution, to be exercised by TBA in General Meeting.

### **17.2 Specific powers of Directors**

Without limiting **clause 17.1**, the Directors may exercise all TBA's powers to borrow or raise money, to charge any property or business or give any other security for a debt, liability or obligation of TBA or of any other person. This total of this debt, liability or obligation is initially limited to \$30,000, and subject to annual review at AGM, or an SGM called for the included purpose of adjusting the limit.

### **17.3 Time, etc.**

Subject to the Act, where this Constitution requires that something be done by a particular time, or within a particular period, or that an event is to occur or a circumstance is to change on or by a particular date, the Directors may in their absolute discretion extend that time, period or date as they think fit.

### **17.4 Delegation of powers**

- (a) The Directors may, by resolution or by power of attorney or writing under seal, delegate any of their powers to the Administrator or any employee of the TBA or any other person as they think fit.
- (b) Any delegation by the Directors of their powers:
  - (i) must specify the powers delegated, any restrictions on, and conditions attaching to, the exercise of those powers and the period during which that delegation is to be in force;
  - (ii) may be either general or limited in any way provided in the terms of the delegation;
  - (iii) need not be to a specified person but may be to any person holding, occupying or performing the duties of a specified office or position; and
  - (iv) may include the power to delegate.
- (c) If exercising a power depends on a person's opinion, belief or state of mind, then that power may be exercised by the delegate on the delegate's opinion, belief or state of mind about that matter.
- (d) Any power exercised by a delegate is as effective as if it had been exercised by the Directors.



## 17.5 Code of Conduct

The Directors must:

- (a) adopt a code of conduct for Directors; and
- (b) periodically review the code of conduct in light of the general principles of good corporate governance.

## 18. PROCEEDINGS OF DIRECTORS

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### 18.1 Directors meetings

- (a) Subject to **clause 18.1(b)**, the Directors may meet together for conducting business, adjourn and otherwise regulate their meetings as they think fit.
- (b) The Directors must meet at least six times in each calendar year.

### 18.2 Questions decided by majority

A question arising at a Directors' meeting is to be decided by a majority of votes of the Directors present in person and entitled to vote. Each Director present has one vote on a matter arising for decision by Directors.

### 18.3 Chair's casting vote

The chair of the meeting will not have a casting vote.

### 18.4 Quorum

Four Directors present in person constitutes a quorum.

### 18.5 Convening meetings

- (a) A Director may, and the Administrator on the request of a Director must, convene a Directors' meeting.
- (b) Notice of a meeting of Directors must be given individually to each Director (except a Director on leave of absence approved by the Directors). Notice of a meeting of Directors may be given in person, or by post or by telephone, facsimile or other electronic means.
- (c) A Director may waive notice of a meeting of Directors by giving notice to that effect to TBA in person or by post or by telephone, facsimile or other electronic means.
- (d) A person who attends a meeting of Directors waives any objection that person may have in relation to a failure to give notice of the meeting.
- (e) The non-receipt of a notice of a meeting of the Directors or the accidental omission to give notice of a meeting to a person entitled to receive notice does not invalidate anything done (including the passing of a resolution) at that meeting of Directors.

### 18.6 Election of Chairman

- (a) The Elected Directors must at the first Board meeting after the AGM annually elect by majority vote one of their number to the office of chairman of directors (and a Director participating in such a vote will not have a casting vote).
- (b) The Director elected to the office of chairman of directors under **clause 18.6(a)** will remain chairman for one year from the date of their election until the first Board meeting after the next AGM and shall chair any Board meeting. A Director elected as chairman may be re-elected as chairman in following years so, long as he remains a Director.
- (c) Despite **clause 18.6(b)**, if:
  - (i) there is no person elected as Chair; or

- (ii) the Chair is not present within 15 minutes after the time appointed for the holding of the meeting; or
- (iii) the Chair is unwilling to act;

the Directors present may elect one of their number to be chair of the meeting.

### **18.7 Circulating resolutions**

- (a) The Directors may pass a resolution without a Directors' meeting being held if the required majority of the Directors who are 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.
- (b) Separate copies of the document may be used for signing by the Directors if the wording of the resolution and statement is identical in each copy.
- (c) The resolution is passed when the last Director required to achieve the required majority signs.

### **18.8 Validity of acts of Directors**

Everything done at a Directors' meeting or a Committee meeting, or by a person acting as a Director, is valid even if it is discovered later that there was some defect in the appointment, election or qualification of any of them or that any of them was disqualified or had vacated office.

### **18.9 Directors' interests**

- (a) A Director shall declare to the Board that Director's interest in any matter in which any material personal interest or related party transaction arises as defined by the *Corporations Act 2001 (Cth)*, and that Director must absent himself or herself from discussion of such matter and shall not be entitled to vote in respect of such matter.
- (b) In the event of any uncertainty in this regard, the issue shall immediately be determined by a vote of the Directors or, if this is not possible, the matter shall be adjourned or deferred to the next meeting.
- (c) The Administrator shall maintain a register of declared interests.

### **18.10 Minutes**

The Directors must cause minutes of meetings to be made and kept according to the Act and the *Corporations Act 2001 (Cth)*.

## **19. TELECOMMUNICATION MEETINGS OF TBA**

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### **19.1 Telecommunication meeting**

- (a) A General Meeting or a Directors' Meeting may be held by means of a telecommunication meeting, provided that:
  - (i) the number of Members or Directors (as applicable) participating is not less than a quorum required for a General Meeting or Directors' Meeting (as applicable);
  - (ii) the meeting is convened and held in accordance with the Act.
- (b) All provisions of this Constitution relating to a meeting apply to a telecommunication meeting in so far as they are not inconsistent with the provisions of this **clause 19**.

### **19.2 Conduct of telecommunication meeting**

The following provisions apply to a telecommunication meeting of the TBA:

- (a) all persons participating in the meeting must be linked by telephone, audio-visual or other instantaneous means for the purpose of the meeting;

- (b) each of the persons taking part in the meeting must be able to hear and be heard by each of the other persons taking part at the commencement of the meeting and each person so taking part is deemed for the purposes of this Constitution to be present at the meeting;
- (c) at the commencement of the meeting each person must announce his or her presence to all other persons taking part in the meeting;
- (d) a person may not leave a telecommunication meeting by disconnecting his or her telephone, audio-visual or other communication equipment unless that person has previously notified the Chair;
- (e) a person may conclusively be presumed to have been present and to have formed part of a quorum at all times during a telecommunication meeting unless that person has previously notified the Chair of leaving the meeting; and
- (f) a minute of proceedings of a telecommunication meeting is sufficient evidence of the proceedings and of the observance of all necessary formalities if the minute is certified to be a correct minute by the Chair.

## **20. ADMINISTRATOR**

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### **20.1 Appointment of Administrator**

The Directors may appoint an Administrator.

### **20.2 Powers, duties and authorities of Administrator**

- (a) If appointed the Administrator holds office on the terms and conditions (including any remuneration) and with the powers, duties and authorities, determined by the Directors.
- (b) The exercise of those powers and authorities, and the performance of those duties, by the Administrator are subject at all times to the control of the Directors.

### **20.3 Suspension and removal of Administrator**

Subject to the terms and conditions of the appointment, the Directors may suspend or remove the Administrator from that office.

### **20.4 Delegation by Directors to Administrator**

The Directors may delegate to the Administrator the power (subject to such reservations on the power as are decided by the Directors) to conduct the day-to-day management and control of the business and affairs of TBA. The delegation will include the power and responsibility to:

- (a) develop business plans, budgets, strategies, policies, processes and codes of conduct for consideration by the Directors and to implement them to the extent approved by the Directors;
- (b) manage the financial and other reporting mechanisms of TBA;
- (c) approve and incur expenditure subject to specified expenditure limits;
- (d) sub-delegate his or her powers and responsibilities to employees or internal management committees of TBA; and
- (e) any other powers and responsibilities which the Directors consider appropriate to delegate to the Administrator.

### **20.5 Administrator to attend meetings**

If appointed, the Administrator is entitled, subject to a determination otherwise by the Directors, to attend all meetings of TBA, all meeting of the Directors and any Committees and may speak on any matter, but does not have a vote.

## **21. PUBLIC OFFICER**

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- (a) There must be a Public Officer who is to be appointed by the Directors under the Act.
- (b) In addition to the manner in which the office of public officer becomes vacant under the Act the Directors may suspend or remove the Public Officer from that office.
- (c) The Public Officer holds office on the terms and conditions and with the powers, duties and authorities, determined by the Act and the Directors. Subject to this Constitution the Public Officer is not entitled to remuneration unless the Public Officer is also the Administrator.

## **22. COMMITTEES**

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### **22.1 Committees**

The Directors may by written instrument delegate any of their powers to Committees consisting of such persons they think fit (including Directors, individuals and consultants), and may vary or revoke any delegation.

### **22.2 Powers delegated to Committees**

- (a) A Committee must exercise the powers delegated to it according to the terms of the delegation and any directions of the Directors. A Committee is responsible to and reports to the Board.
- (b) Powers delegated to and exercised by a Committee are taken to have been exercised by the Directors.

### **22.3 Committee meetings**

Committee meetings are governed by the provisions of this Constitution dealing with Directors' meetings, as far as they are capable of application.

## **23. BY-LAWS**

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### **23.1 Making and amending By-Laws**

- (a) In addition to By-Laws made under **clause 7.2** the Directors may from time to time make By-Laws which in their opinion are necessary or desirable for the control, administration and management of TBA's affairs and Badminton in Tasmania and may amend, repeal and replace those By-Laws.
- (b) Interpretation of the By-Laws is solely the province of the Directors.

### **23.2 Effect of By-Laws**

A By-Law:

- (a) is subject to this Constitution;
- (b) must be consistent with this Constitution; and
- (c) when in force, is binding on all Members and has the same effect as a provision in this Constitution.

## **24. KEEPING AND INSPECTION OF RECORDS**

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- (a) The Directors will cause Association records to be kept for a period of seven years from their creation.
- (b) Subject to privacy and confidentiality obligations Members shall have the right to inspect documents of TBA as permitted by the Act.
- (c) The Board may impose conditions on a Member's inspection of TBA documents under this clause or may refuse such inspection where the Board reasonably considers that the Member is not seeking and/or undertaking the inspection in good faith and/or for a proper purpose.

## **25. ACCOUNTS**

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### **25.1 Accounting Records**

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

### **25.2 Transactions**

All cheques, promissory notes, bankers drafts, bills of exchange and other negotiable instruments, and all receipts for money paid to TBA, shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, in such manner as the Directors determine from time to time.

### **25.3 Auditor**

A properly qualified auditor or auditors shall be appointed by the Directors and the remuneration of such auditor or auditors fixed and duties regulated in accordance with the *Corporations Act 2001 (Cth)*.

## **26. SERVICE OF DOCUMENTS**

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### **26.1 Document includes notice**

In this **clause 26**, document includes a notice.

### **26.2 Methods of service on a Member**

TBA may give a document to a Member:

- (a) personally;
- (b) by sending it by post to the address for the Member in the Register or an alternative address nominated by the Member; or
- (c) by sending it to a fax number or electronic address nominated by the Member.

### **26.3 Methods of service on TBA**

A Member may give a document to TBA:

- (a) by delivering it to TBA's registered office;
- (b) by sending it by post to TBA's registered office; or
- (c) by sending it to a fax number or electronic address nominated by TBA.

### **26.4 Post**

A document sent by post:

- (a) if sent to an address in Australia, may be sent by ordinary post; and
- (b) if sent to an address outside Australia, or sent from an address outside Australia, must be sent by airmail,

and in either case is taken to have been received on the second business day after the date of its posting.

### **26.5 Electronic transmission**

If a document is sent by any form of electronic transmission, delivery of the document is taken to:

- (a) be effected by properly addressing and transmitting the electronic transmission; and
- (b) have been delivered on the business day following its transmission.

## **27. INDEMNITY**

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### **27.1 Indemnity of officers**

Every person who is or has been:

- (a) a Director;
- (b) Administrator; or
- (c) Public Officer,

is entitled to be indemnified out of the property of TBA against:

- (d) every liability incurred by the person in that capacity (except a liability for legal costs); and
- (e) all legal costs incurred in defending or resisting (or otherwise in connection with) proceedings, whether civil or criminal or of an administrative or investigatory nature, in which the person becomes involved because of that capacity, unless:
  - (i) TBA is forbidden by statute to indemnify the person against the liability or legal costs; or
  - (ii) an indemnity by TBA of the person against the liability or legal costs would, if given, be made void by statute.

## **27.2 Insurance**

TBA may pay or agree to pay, whether directly or through an interposed entity, a premium for a contract insuring a person who is or has been a Director, Public Officer or Administrator against liability incurred by the person in that capacity, including a liability for legal costs, unless:

- (a) TBA is forbidden by statute to pay or agree to pay the premium; or
- (b) the contract would, if TBA paid the premium, be made void by statute.

## **27.3 Deed**

TBA may enter into a deed with any Indemnified Officer or a deed poll to give effect to the rights conferred by **clause 27.1** on the terms the Directors think fit (as long as they are consistent with **clause 27.1**.)

## **28. WINDING UP**

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### **28.1 Contributions of Members on winding up**

- (a) Each Constituent Association Member must contribute to TBA's property if TBA is wound up while they are a Member or within one year after their membership ceases.
- (b) The contribution is for:
  - (i) payment of TBA's debts and liabilities contracted before their membership ceased;
  - (ii) the costs of winding up; and
  - (iii) adjustment of the rights of the contributories among themselves; and the amount is not to exceed \$1.00.
- (c) No other Member must contribute to TBA's property if TBA is wound up.

### **28.2 Excess property on winding up**

- (a) If on the winding up or dissolution of TBA, and after satisfaction of all its debts and liabilities, any property remains, that property must be given or transferred to another body or bodies:
  - (i) having objects similar to those of TBA; and
  - (ii) whose constitution prohibits (or each of whose constitutions prohibit) the distribution of its or their income and property among its or their

members to an extent at least as great as is imposed under this Constitution.

- (b) That body is, or those bodies are, to be determined by the Constituent Association Members at or before the time of dissolution or, failing that determination, by a judge who has or acquires jurisdiction in the matter.

**29. COMMON SEAL**

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- (a) If TBA has a common seal it shall:
    - (i) be kept in the custody of the Administrator; and
    - (ii) not be affixed to any instrument except by the authority of the Board and the affixing of the common seal shall be attested by the signatures of 2 Directors.
  - (b) A Director may not sign a document to which the seal of TBA is fixed where the Director is interested in the contract or arrangement to which the document relates.
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