



NETBALL WA (INCORPORATED)

CONSTITUTION

This is the annexure of 28 pages marked "A"
referred to in Form 5 signed by

Robert Byers, Netball WA Director
and dated 29 June 2012

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ASSOCIATIONS INCORPORATION ACT (1987) (WA)

CONSTITUTION

OF

NETBALL WA (INCORPORATED)

PART I – OBJECTS, POWERS AND INTERPRETATION

1. NAME OF ASSOCIATION

The name of the association is Netball WA (Incorporated) ("**Association**").
The head office of the Association is located in Perth, Western Australia.

2. OBJECTS OF ASSOCIATION

The Association is the peak body for the administration of Netball in Western Australia.
The objects for which the Association is established and maintained are to:

- (a) foster, promote, develop and manage the game of Netball in Western Australia;
- (b) become affiliated with or subscribe to the All Australia Netball Association Limited or any other association or bodies whose objects are similar to the objects of the Association and if thought fit to withdraw or retire from any such association or body;
- (c) abide by the official rules of the International Federations of Netball Associations and the interpretation thereof as determined by the International Federations of Netball Associations and/or the All Australia Netball Association Limited;
- (d) promote and conduct Netball competitions and events at all levels;
- (e) manage the representation of Western Australia in national events;
- (f) use and protect the Intellectual Property of the Association in the pursuit of these objects and the sport Netball;
- (g) promote and protect the interests of all Members and other participants of Netball.

3. POWERS OF ASSOCIATION

Solely for furthering the objects set out above 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 as set out under section 124 of the Corporations Act.

4. INTERPRETATION

4.1 Definitions

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

"Act" means the Associations Incorporation Act 1987 (WA) or any other act under which the Association may be incorporated from time to time.

"Affiliated Club" means a registered financial netball club of a Member Association, which is recognised as a member of the Association under **Rule 8**.

"Appointed Director" means a Director appointed under **Rule 26**.

"Board" means the body consisting of the Directors under **Rule 24**.

"By-Law" means any by-law, regulation or policy made by the Board under **Rule 32**.

"Chief Executive Officer" means the person who is appointed under this Constitution to carry out the duties set out in **Rule 30**.

"Corporations Act" means the Corporations Act (Cth) 2001.

"Delegate" means the persons elected or appointed from time to time by a Region to act for and on behalf of that Region and represent the Region at General Meetings or otherwise.

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

"Elected Director" means a Director elected under **Rule 25**.

"Financial Year" means the year ending 31 December in any year.

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

"Individual Member" means an affiliated financial individual member of a Member Association and Region, which is recognised as a member of the Association under **Rule 8**.

"Intellectual Property" means all rights or goodwill subsisting in copyright, business names, names, trade marks (or signs), logos, designs, patents or service marks (whether registered or registrable) relating to the Association or any event, competition or activity of or conducted, promoted or administered by the Association.

"Life Member" means an individual upon whom life membership of the Association has been conferred under **Rule 7.3**.

"Member" means a member for the time being of the Association under **Part III** of this Constitution.

"Member Association" means an affiliated financial netball association of the Region, which is recognised as a member of the Association under **Rule 8**.

"**Netball**" means the game of netball as determined by the International Federations of Netball Associations.

"**Poll**" means a count of votes.

"**Region**" means an entity recognised under **Part II** to administer the sport of Netball in a particular region.

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

"**Special Resolution**" means a special resolution passed in accordance with the Act and requiring 75% majority vote of the Members present and eligible to vote at a General Meeting of the Association.

4.2 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) words importing any gender include the other genders;
- (e) references to persons include corporations and bodies politic;
- (f) references to a person include the legal personal representatives, successors and permitted assigns of that person;
- (g) a reference to a statute, ordinance, code or other law includes regulations and other statutory instruments under it and consolidations, amendments, re-enactments or replacements of any of them (whether of the same or any legislative authority having jurisdiction); and
- (h) a reference to "writing" shall unless the contrary intention appears, be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form, including messages sent by electronic mail.

4.3 Severance

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

4.4 Expressions in 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.

PART II – REGIONS

5. REGIONS

5.1 Regions

The Association shall consist of such Regions as are recognised by the Association to conduct Netball in a particular geographic area. The boundaries of each Region shall be as decided by the Board from time to time.

5.2 Recognition of Regions as Members

A Region shall be recognised as a Member of the Association and shall administer and develop Netball in its particular geographical area, subject to the direction of the Association and in accordance with the objects of the Association.

5.3 Compliance of Regions

Each Region shall:

- (a) be incorporated in Western Australia under the Act or similar legislation;
- (b) at all times operate with, and promote, mutual trust and confidence between the Association and the Members in pursuit of these objects;
- (c) elect or appoint two adult Delegates to represent it at General Meetings in accordance with this Constitution (one Delegate to be appointed the voting Delegate);
- (d) if requested, provide the Association with copies of its audited accounts, annual report and other associated documents within 30 days of the Region's annual general meeting;
- (e) adopt in principle, the objects of the Association and adopt rules which reflect and which are generally in conformity with this Constitution;
- (f) do all that is reasonably necessary to enable the objects of the Association to be achieved;

5.4 Operation of Rules

The Association and the Regions agree:

- (a) that they are bound by this Constitution and that this Constitution operates to create uniformity in the way in which the objects of the Association and the sport of Netball are to be conducted, encouraged, promoted and administered in Western Australia;
- (b) to act in good faith and loyalty to each other to ensure the maintenance and enhancement of the sport of Netball, its standards, quality and reputation for the collective and mutual benefit of the Members and the sport of Netball;
- (c) to make full and proper disclosure to each other of all matters of importance to the Association and the sport of Netball;
- (d) not to acquire a private advantage at the expense of the Association or any other Region or the sport of Netball;
- (e) to act for and on behalf of the interests of the sport of Netball, the Association and the Members; and
- (f) that should a Region have administrative, operational or financial difficulties, including but not limited to where a Region:
 - (i) takes or has taken or has instituted against it any action or proceeding, whether voluntary or compulsory, having as its object the winding up of the Region; or
 - (ii) enters into a composition or arrangement with its creditors, other than a voluntary winding up by members for the purpose of reconstruction or amalgamation; or
 - (iii) a mortgagee or other creditor takes possession of any of its assets;

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

6. REGION CONSTITUTIONS

6.1 Constitution

The constituent documents of each Region shall clearly reflect the objects of the Association and shall be in a form acceptable to the Board.

6.2 Amendments to Region Constitutions

- (a) Each Region shall take all steps necessary to ensure its constituent documents and rules are in a form acceptable to the Board and shall ensure its documents are amended in conformity with future amendments made to this Constitution.

- (b) Regions shall have a transitional period, as determined by the Board, from the time of approval of this Constitution under the Act in which to amend their constitution in accordance with this Constitution, and for such time as their constitutions do not conform shall not be unduly penalised for such non-compliance, to the extent that such non-compliance is not wilful or calculated to cause harm or prejudice to the Association.

6.3 Register of Members

Each Region shall maintain, in a form and with such details as are acceptable to the Association, a register of all Member Associations, Affiliated Clubs and Individual Members in its Region.

PART III – MEMBERSHIP

7. MEMBERS

7.1 Category of Members

The Members of the Association shall consist of:

- (a) the Regions, which subject to this Constitution, shall be represented by their Delegates who shall have the right to attend, debate and vote at General Meetings for and on behalf of the Regions;
- (b) the Member Associations, which subject to this Constitution, may appoint a representative to attend General Meetings, but shall have no right to debate or vote at General Meetings;
- (c) the Affiliated Clubs, which subject to this Constitution, may appoint a representative to attend General Meetings, but shall have no right to debate or vote at General Meetings;
- (d) Individual Members, who subject to this Constitution, may attend General Meetings, but have no right to debate or vote at General Meetings;
- (e) Life Members, who subject to this Constitution, may attend General Meetings, but have no right to debate or vote at General Meetings;
- (g) such new categories of Members, created in accordance with **Rule 7.2** below.

7.2 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 (other than voting rights), even if the effect of creating a new category is to alter rights, privileges or obligations of an existing category of Members. No new category of membership may be granted voting rights.

7.3 Life Members

- (a) The criteria for life membership, as determined by the Board, shall be set out in the By-Laws.

- (b) The Board shall appoint a Life Member in accordance with the criteria and procedure set out in the By-Laws.
- (c) Conditions, obligations and privileges of life membership shall be as prescribed in the By-Laws.

7.5 Deeming Provisions

- (a) All persons who were individual members or life members of the Association prior to the time of approval of this Constitution under the Act, shall be deemed Individual Members and Life Members respectively from the time of approval of this Constitution under the Act, and will be entitled to such benefits as are conferred on them by the Association.
- (b) All Regions of the Association prior to the time of approval of this Constitution under the Act, shall be deemed Regions from the time of approval of this Constitution under the Act, and will be entitled to such benefits as are conferred on them by the Association.

8. MEMBERSHIP APPLICATIONS

8.1 Application for Membership

- (a) An application for new membership by a Member Association must be:
 - (i) in writing on the forms prescribed by the Board and lodged with the Chief Executive Officer for Board acceptance; and
 - (ii) accompanied by the appropriate fee and by the due date.
- (b) An application for new membership by an Individual Member must be:
 - (i) in writing on the form prescribed from time to time by the Board, from the applicant and lodged with the Member Association who shall then forward it to the Region. The Region shall then forward the application to the Association; and
 - (ii) in writing on the form prescribed to the Association, for special circumstances as determined by the Board, from the Region to the Association or direct to the Association; and
 - (iii) accompanied by the appropriate fee and by the due date.

8.2 Discretion to Accept or Reject Application

- (a) The Association may accept or reject an application. If an application is rejected, upon request by the applicant, the reasons for the rejection of the membership application shall be provided.
- (b) Where the Association accepts an application, the applicant shall become a Member. Membership of the Association shall be deemed to commence upon acceptance of the application by the Association. The Chief Executive Officer shall ensure that the register is amended accordingly as soon as practicable.

- (c) Where the Association rejects an application the Association shall refund any fees forwarded with the application and the application shall be deemed rejected by the Association.

8.3 Membership Renewal

- (a) Regions shall:
 - (i) renew their membership with the Association in accordance with the procedures applicable from time to time;
 - (ii) otherwise remain affiliated financial members of the Association in accordance with the procedures applicable from time to time; and
 - (iii) pay the annual fees prescribed by the Association from time to time.
- (b) Member Associations shall:
 - (i) renew their membership with the Association in accordance with the procedures applicable from time to time;
 - (iv) otherwise remain affiliated financial members of their Region in accordance with the procedures applicable from time to time; and
 - (v) pay the annual fees prescribed by the Association in accordance with the procedures applicable from time to time.
- (c) Individual Members shall:
 - (vi) renew their membership with the Association in accordance with the procedures applicable from time to time;
 - (vii) otherwise remain affiliated financial members of their Member Association and Region in accordance with the procedures applicable from time to time; and
 - (viii) pay the annual fees prescribed by the Association in accordance with the procedures applicable from time to time.

8.4 Region Register

The Regions shall, provide to the Association, such details of Member Associations, Affiliated Clubs and Individual Members as is required by the Association under this Constitution.

9. SUBSCRIPTIONS AND FEES

9.1 The annual membership subscription, fees and any levies payable by Members (or any category of Members) to the Association, the basis of, the time for and manner of payment shall be as determined by the Board from time to time.

9.2 Any Member which or who has not paid all monies due and payable by that Member to the Association shall (subject to the Board's discretion) have all rights under this Constitution

immediately suspended from the expiry of the time prescribed for payment of those monies. Such rights will be suspended until such time as the monies are fully paid or otherwise in the Board's discretion. In the meantime, the Member shall have no automatic right to resign from the Association, and shall be dealt with in the Board's discretion, which includes the right to expel, suspend, disqualify, fine, discipline or retain that Member as a Member, or impose such other conditions or requirements as the Board considers appropriate.

10. REGISTER OF MEMBERS

10.1 Chief Executive Officer to Keep Register

The Chief Executive Officer shall ensure that a register of Members is kept and maintained, in which shall be entered such information as is required under the Act from time to time.

10.2 Inspection of Register

Upon the request of a member of the Association, the Chief Executive Officer shall make the register available for the inspection of the member and the member may make a copy of or take an extract from the register but shall have no right to remove the register for that purpose.

11. EFFECT OF MEMBERSHIP

Members acknowledge and agree that:

- (a) this Constitution constitutes a contract between each of them and the Association and that they are bound by the Rules 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 jurisdiction of the Association;
- (d) this Constitution is made in pursuit of a common object, namely the mutual and collective benefit of the Association, the Members and the sport of Netball;
- (e) this Constitution and By-Laws are necessary and reasonable for promoting the objects of the Association and particularly the advancement and protection of the sport of Netball; and
- (f) they are entitled to all benefits, advantages, privileges and services of Association membership.

12. DISCONTINUANCE OF MEMBERSHIP

12.1 Notice of Resignation

Subject to this Constitution any Member who has paid all monies due and payable to the Association and has no other liability (contingent or otherwise) to the Association may resign from the Association by giving one months' notice in writing to the Association of

such intention to withdraw or resign and upon the expiration of that period of notice, the Member shall cease to be a Member. A Life Member who has paid all monies due and payable to the Association may resign by notice in writing with immediate effect.

12.2 Expiration of Notice Period

Subject to **Rule 12.5** upon the expiration of any notice period applicable under **Rule 12.1** an entry, recording the date on which the Member who or which gave notice ceased to be a Member shall be recorded in the register.

12.3 Forfeiture of Rights

A Member who or which ceases to be a Member, for whatever reason, shall forfeit all right in and claim upon the Association and its property including Intellectual Property. Any Association documents, records or other property in the possession, custody or control of that Member shall be returned to the Association immediately.

12.4 Membership may be Reinstated

Membership which has lapsed, been withdrawn or terminated under this Constitution may be reinstated at the discretion of the Board, on application in accordance with this Constitution and otherwise on such conditions as it sees fit.

12.5 Cessation of Membership

Where a Region ceases to be a Member in accordance with this Constitution or the Act, the Member Associations, Affiliated Clubs and Individual Members of that Region may cease or remain Members to the extent (if any) and for such time (if any) as is determined at the sole discretion of the Board.

13. DISCIPLINE OF MEMBERS

13.1 Disciplinary Action

Where the Board 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 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 the sport of Netball; or
- (c) brought the Association or the sport of Netball into disrepute;

the Board may commence or cause to be commenced disciplinary proceedings against that Member, and that Member will be subject to, and submits unreservedly to the jurisdiction, procedures, penalties and appeal mechanisms (if any) of the Association as set out in the By-Laws.

PART IV - GENERAL MEETINGS**14. DELEGATES****14.1 Appointment of Delegates**

Each Region shall appoint two Delegates, one being a voting Delegate, for such term as is deemed appropriate by the Region. A Delegate must:

- (a) be a Member of the Association;
- (b) be appropriately empowered by the appointing Region to consider, make decisions and vote at General Meetings;
- (c) not be a Director of the Association;
- (d) not be a Delegate for more than one Region.

14.2 Regions to Advise

Each Region shall advise the Association of its Delegates within 14 days of the appointment or any change, including the name, address and contact details of the Delegates. The Region must advise the Association of its voting Delegate 48 hours prior to the commencement of the General Meeting.

15. GENERAL MEETINGS

15.1 An Annual General Meeting of the Association shall be held in accordance with the provisions of the Act and this Constitution and on a date and at a venue to be determined by the Board.

15.2 All General Meetings other than the Annual General Meeting shall be Special General Meetings and shall be held in accordance with this Constitution.

16. NOTICE OF GENERAL MEETING**16.1 Notice of General Meetings**

- (a) Notice of every General Meeting shall be given to the Regions and Life Members at the address appearing in the register kept by the Association. No other person shall be entitled to receive notices of General Meetings.
- (b) Notice of a General Meeting shall be given at least 60 days prior to the General Meeting and shall specify the place and day and hour of the General Meeting.
- (c) The agenda for the General Meeting stating the business to be transacted at the General Meeting shall be given at least 30 days prior to the General Meeting, together with any notice of motion received from the Regions.

16.2 Entitlement to Attend General Meeting

Notwithstanding any other Rule, no Member shall be represented at, or take part in a General Meeting, unless all monies (set in accordance with **Rule 9**) then due and payable to the Association are paid.

17. BUSINESS**17.1 Business of General Meetings**

- (a) The business to be transacted at the Annual General Meeting includes the consideration of accounts, reports of the Board (including in relation to the activities of the Association during the preceding Financial Year), auditors and patron and the election of Directors and confirmation of Life Membership.
- (b) All business that is transacted at a General Meeting, and also all that is transacted at the Annual General Meeting, with the exception of those matters set out in **Rule 17.1(a)** shall be special business. "Special Business" is business of which a notice of motion has been submitted in accordance with **Rule 18.1**.

17.2 Business Transacted

No business other than that stated on the notice shall be transacted at that meeting.

18. NOTICES OF MOTION**18.1 Notice of Motion to be Submitted**

All notices of motion for inclusion as special business at a General Meeting must be submitted in writing (in the required form) to the Chief Executive Officer not less than 45 days (excluding receiving date and meeting date) prior to the General Meeting.

18.2 Unsuccessful Motion

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

19. SPECIAL GENERAL MEETINGS**19.1 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.

19.2 Requisition of Special General Meetings

- (a) The Board shall on the requisition in writing of 30% (disregarding fractions) of the Regions convene a Special General Meeting.

- (b) The requisition for a Special General Meeting shall state the object(s) of the meeting, shall be signed by the Regions making the requisition and be sent to the Association. The requisition may consist of several documents in a like form, each signed by one or more of the Regions making the requisition.
- (c) If the Board does not cause a Special General Meeting to be held within three months after the date on which the requisition is sent to the Association, the Regions making the requisition, or any of them, may convene a Special General Meeting to be held not later than three months after that date.
- (d) A Special General Meeting convened by the Regions 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.

20. PROCEEDINGS AT GENERAL MEETINGS

20.1 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 the majority of the Regions.

20.2 Chair of General Meetings

The President shall, subject to this Constitution, preside as chair at every General Meeting of the Association. If the President is not present, or is unwilling or unable to preside, the Directors shall choose one of their number present who shall, subject to this Constitution, preside as chair for that meeting only.

20.3 Adjournment of Meeting

- (a) If within half an hour from the time appointed for the General Meeting a quorum is not present the meeting shall be adjourned to such other day and at such other time and place as the chair may determine. If at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting the meeting will lapse.
- (b) The chair may, with the consent of any General 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 General Meeting is adjourned for 30 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.
- (d) Except as provided in **Rule 20.3(c)** it shall not be necessary to give any notice of an adjournment or the business to be transacted at any adjourned meeting.

20.4 Voting Procedure

At any General 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:

- (a) by the chair; or
- (b) by the majority of the Delegates.

20.5 Recording of Determinations

Unless a Poll is demanded under **Rule 20.4**, 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.

20.6 Where Poll Demanded

If a Poll is duly demanded under **Rule 20.4** it shall be taken in such 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.

20.7 Resolutions at General Meetings

Except where a Special Resolution is required, all questions at General Meetings shall be determined by the majority of votes (as set out in **Rule 21**). Except as otherwise provided in this Constitution, in the case of an equality of votes on a question at a General Meeting, the chair is entitled to a casting vote.

20.8 Minutes

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

21. VOTING AT GENERAL MEETINGS

- 21.1** Each Region shall, subject to this Constitution, be entitled to one vote at General Meetings. 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 7.1**.

22. PROXY AND POSTAL VOTING**22.1 Proxy Voting Not Permitted**

Proxy voting shall not be permitted at General Meetings.

22.2 Postal Ballot

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

PART V - THE BOARD

23. POWERS OF THE BOARD

23.1 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. In particular, the Board as the controlling authority of the Association shall be responsible for acting on all State issues in accordance with the objects of the Association and shall operate for the collective and mutual benefit of the Association and the sport of Netball throughout Western Australia and shall:

- (a) govern the sport of Netball in Western Australia in accordance with the objects of the Association;
- (b) determine major strategic directions of the Association;
- (c) review the Association's performance in achieving its pre-determined aims, objectives and policies; and
- (d) manage national responsibilities.

24. COMPOSITION OF THE BOARD

24.1 Board Composition

The Board shall comprise:

- a) Five Elected Directors elected in accordance with **Rule 25**;
- b) Two Appointed Directors which shall be appointed in accordance with **Rule 26**.

25. ELECTION OF ELECTED DIRECTORS

25 (A)

(a) Mr. Robert Shaw, whose term as Elected Director is due to end at the conclusion of the 2013 Annual General Meeting in accordance with rule 25.3(a), and who is ineligible for election for a new term commencing at the conclusion of the 2013 Annual General Meeting in accordance with rule 25.1(d), will not, unless the Board otherwise resolves, be required to retire at the conclusion of the 2013 Annual General Meeting, but will instead be required to retire at the conclusion of the 2014 Annual General Meeting.

(b) unless the Board otherwise resolves as contemplated in rule 25A (a), for the purposes of rules 25.3(b) and (c):

(i) the number of Elected Directors to be elected at the 2013 Annual General Meeting will be one less than, but for this rule 25A, would otherwise be elected;

(ii) the number of Elected Directors to be elected at the 2014 Annual General Meeting will be one more than, but for this rule 25A, would otherwise be elected; and

(iii) in each case, there will be an equivalent number of retiring Elected Directors (including the retirement of Mr. Shaw at the conclusion of the 2014 Annual General Meeting).

- (c) *This rule takes effect and will operate as if the rule was in place and effective on and from the time immediately preceding the conclusion of the 2013 Annual General Meeting. This rule 25A shall cease to operate, and have no ongoing force or effect, following the conclusion of the 2014 Annual General Meeting. (Amended 17 March 2012)*

25.1 Qualifications for Elected Directors

- (a) Nominees for Elected Director positions on the Board must meet the qualifications as prescribed from time to time by the Board and set out in the By-Laws.
- (b) Elected Directors should have knowledge of Netball and its stakeholders and a commitment to the development of Netball.
- (c) Nominees for Elected Director positions on the Board must declare any position they hold in a Region, including as an office bearer, director or a paid appointee.
- (d) No person who has served as a Director (whether Elected or Appointed) for a period of six consecutive years shall be eligible for election or appointment as a Director until after the expiration of twelve months following the date of conclusion of her most recent term as a Director.

25.2 Elections of Elected Directors

- (a) The Chief Executive Officer shall call for nominations 60 days before the date of the Annual General Meeting. All Regions shall be notified of the call for nominations.
- (b) Nominations for Elected Directors must be:
 - (i) in writing;
 - (ii) on the prescribed form provided for that purpose;
 - (iii) signed by the nominator, who must be a Delegate of a Region; and
 - (iv) certified by the nominee (who must be a Member) expressing her willingness to accept the position for which she is nominated.
- (c) Nominations must be received by the Chief Executive Officer at least 45 days prior to the Annual General Meeting.
- (d) If the number of nominations received for 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 only be elected if they are elected by the Members by secret ballot in such usual and proper manner as the chair directs. If the nominees are not elected or if there are vacancies to be filled, further nominations shall be called from the floor.
- (e) If the number of nominations exceeds the number of vacancies to be filled, a secret ballot shall be taken in such usual and proper manner as the chair directs.

- (f) The voting shall be conducted by preferential voting, the procedure for which will be detailed in By-Laws.

25.3 Term of Appointment

- (a) Elected Directors shall be elected in accordance with this Constitution for a term of three years, which shall commence from the conclusion of the Annual General Meeting at which the election occurred until the conclusion of the third Annual General Meeting following.
- (b) For each three year interval, two Elected Directors shall be elected in the first year, one in the second year and two Elected Directors in the third year.
- (c) 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. Elections to subsequent Boards shall then proceed in accordance with the procedures in this Constitution with approximately one third of the Elected Directors retiring each year.

25.4 Appointment of President

The Directors must elect a President who will hold office for the balance of their current term of appointment.

26. APPOINTMENT OF APPOINTED DIRECTORS

26.1 Appointment of Appointed Directors

The Elected Directors shall appoint two Appointed Directors.

26.2 Qualifications for Appointed Directors

- (a) 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 the sport of Netball. The Appointed Directors must become Members of the Association.
- (b) No person who has served as a Director (whether Elected or Appointed) for a period of six consecutive years shall be eligible for election or appointment as a Director until after the expiration of twelve months following the date of conclusion of her most recent term as a Director.

26.3 Term of Appointment

- (a) Appointed Directors shall be appointed by the Elected Directors in accordance with this Constitution for a term of two years, which shall commence six weeks after the Annual General Meeting until six weeks after the conclusion of the second Annual General Meeting following.
- (b) One Appointed Director shall be appointed in each year of odd number and one Appointed Director shall be appointed in each year of even number.

- (c) Should any adjustment to the term of Appointed Directors appointed under this Constitution be necessary to ensure rotational terms in accordance with this Constitution, this shall be determined by the Board. Appointments to subsequent Boards shall then proceed in accordance with the procedures in this Constitution with approximately half of the Appointed Directors retiring each year.

27. VACANCIES OF BOARD MEMBERS

27.1 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 makes any arrangement or composition with her 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 her office in writing to the Association;
- (e) is absent without the consent of the Board from two consecutive meetings of the Board;
- (f) holds any office of salaried employment of the Association;
- (g) without the prior consent or later ratification of the Members in General Meeting holds any position of profit under the Association;
- (h) is directly or indirectly interested in any contract or proposed contract with the Association and fails to declare the nature of her interest;
- (i) is removed from office by Special Resolution under **Rule 27.2**; or
- (j) would otherwise be prohibited from being a director of a corporation under the Corporations Act or is disqualified from office under the Act.

27.2 Removal of a Director

- (a) The Association in a General Meeting may by Special Resolution remove any Director, before the expiration of their term of office. If a Director is removed in accordance with this Rule the office of the Director becomes vacant and shall be filled in accordance with the procedure set out in **Rule 27.3**.
- (b) Where the Director to whom a proposed resolution referred to in **Rule 27.2(a)** makes representations in writing to the Chief Executive Officer and requests that such representations be notified to the Members, the Chief Executive Officer may send a copy of the representations to each Region or, if they are not so sent, the Director may require that they be read out at the meeting, and the representations shall be so read.

27.3 Casual Vacancies

- (a) A vacancy in the position of an Elected Director shall be filled by the Directors until the next Annual General Meeting of the Association. If the term of the Elected Director has not expired, the Members shall vote to fill the vacancy for the remainder of the Directors term.
- (b) Any Appointed Director casual vacancy may be filled by the Elected Directors from among appropriately qualified persons, for the remainder of the Director's term.

27.4 Remaining Directors May Act

In the event of a casual vacancy or vacancies in the office of a Director, 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.

28. MEETINGS OF THE BOARD**28.1 Board to Meet**

The Board shall meet as often as is deemed necessary in every calendar year for the dispatch of business and may adjourn and, subject to this Constitution otherwise regulate, its meetings as it thinks fit. The Chief Executive Officer shall, on the requisition of two Directors, convene a meeting of the Board within 30 days.

28.2 Decisions of Board

Subject to this Constitution, questions arising at any meeting of the Board shall be decided by a majority of votes and all questions so decided shall for all purposes be deemed a determination of the Board. All Directors shall have one vote on any question. The chair shall also have a casting vote where voting is equal.

28.3 Resolutions not in Meeting

- (a) A resolution in writing, signed or assented to by telegram, cablegram, radiogram, facsimile, telex, electronic mail or other form of visible or other electronic communication by all the Directors 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 or more of the Directors.
- (b) Without limiting the power of the Board to regulate their meetings as they think fit, a meeting of the Board may be held where one or more of the Directors is not physically present at the meeting, provided that:
 - (i) all persons participating in the meeting are able to communicate with each other effectively, simultaneously and instantaneously, whether by means of telephone or other form of communication;
 - (ii) notice of the meeting is given to all the Directors entitled to notice in accordance with the usual procedures agreed upon or laid down from

time to time by the Board 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 15 minutes from the interruption the meeting shall be deemed to have terminated;
- (iv) any meeting held where one or more of the Directors is not physically present shall be deemed to be held at the place specified in the notice of meeting provided a Director is there present and if no Director is there present the meeting shall be deemed to be held at the place where the chair is located.

28.4 Quorum

At meetings of the Board the number of Directors whose presence (or participation under **Rule 28.3**) is required to constitute a quorum is four Directors.

28.5 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 seven days oral or written notice of the meeting of the Board shall be given to each Director by the Chief Executive Officer. The agenda shall be forwarded to each Director not less than three days prior to such meeting.

28.6 Validity of Board Decisions

A procedural defect in decisions taken by the Board shall not result in such decision being invalidated.

28.7 Chair of Board Meeting

The President shall preside at every meeting of the Board. 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.

29. CONFLICTS

29.1 Directors' Interests

A Director is disqualified from holding any position 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 (with the express exception of a Region, Member Association or Affiliated Club) or from contracting with the Association either as vendor, purchaser or otherwise except with express resolution of approval of the Board and the prior consent or later ratification of the Members in General Meeting. Subject to this Rule, any contract or arrangement entered into by or on behalf of the Association in which any Director is in any way interested will be voided for such reason.

29.2 Conflict of Interest

A Director shall declare her interest in any:

- (a) contractual matter;
- (b) selection matter;
- (c) disciplinary matter; or
- (d) other financial matter;

in which a conflict of interest arises or may arise, and shall absent herself from discussions of such matter and shall not be entitled to vote in respect of such matter. If the Director votes, the 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.

29.3 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.

29.5 Recording Disclosures

It is the duty of the Chief Executive Officer to ensure that any declaration made or any general notice given by a Director in accordance with **Rule 29.3** is recorded in the minutes.

30. CHIEF EXECUTIVE OFFICER**30.1 Appointment of Chief Executive Officer**

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

30.2 Chief Executive Officer to Act as Secretary and Public Officer

The Chief Executive Officer shall act as and carry out the duties of secretary and public officer of the Association (unless prohibited by law) and shall administer and manage the Association in accordance with this Constitution.

30.3 Specific Duties

The Chief Executive Officer shall:

- (a) as far as practicable attend all Board meetings and General Meetings;

- (b) in conjunction with the President prepare the agenda for all Board Meetings and all General Meetings;
- (c) ensure that minutes of the proceedings of all meetings of the Board and the Association are both prepared and recorded; and
- (d) regularly report on the activities of, and issues relating to, the Association.

30.4 Broad Power to Manage

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

30.5 Chief Executive Officer may Employ

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

PART VI - MISCELLANEOUS

31. DELEGATIONS

31.1 Board may Delegate Functions to Committees

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

31.2 Delegation by Instrument

The Board may in establishing the 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 or any other law, or this Constitution.

31.3 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.

31.4 Procedure of Delegated Entity

- (a) The procedures for any committee established shall, with any necessary or incidental amendment, be the same as that applicable to meetings of the Board under **Rule 28**. The quorum shall be determined by the committee, but shall be no less than the majority of the total number of committee members.

- (b) A Director or the Chief Executive Officer shall be ex-officio members of any committee so appointed.
- (c) Within 14 days of any meeting of any committee, the committee shall send a copy of the minutes and any supporting documents to the Chief Executive Officer.

31.5 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.

31.6 Revocation of Delegation

The Board may by instrument in writing, revoke wholly or in part any delegation made under this Rule, and may amend, repeal or veto any decision made by such committee under this Rule where such decision is contrary to this Constitution, the By-Laws, the Act, the objects of the Association or the committee's delegation.

32. BY-LAWS

32.1 Board to Formulate By-Laws

The Board may (by itself or by delegation to a committee) formulate, approve, issue, adopt, interpret and amend such by-laws, regulations and policies ("By-Laws") for the proper advancement, management and administration of the Association, the advancement of the objects of the Association and the sport of Netball as it thinks necessary or desirable. Such By-Laws must be consistent with this Constitution.

32.2 By-Laws Binding

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

32.3 By-Laws Deemed Applicable

All by-laws, regulations and policies of the Association in force at the date of the approval of this Constitution under the Act insofar as such by-laws, regulations and policies are not inconsistent with, or have been replaced by this Constitution, shall be deemed to be By-Laws under this Rule.

32.4 Notices Binding on Members

Amendments, alterations, interpretations or other changes to By-Laws shall be advised to Regions by means of notices approved by the Board and prepared and issued by the Chief Executive Officer. Regions shall be obliged to draw such notices to the attention of their respective Member Associations, Affiliated Clubs and Individual Members. Notices are binding upon all Members.

33. RECORDS AND ACCOUNTS**33.1 Chief Executive Officer to Keep Records**

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

33.2 Records Kept in Accordance with Act

Proper accounting and other records shall be kept in accordance with the Act, generally accepted accounting principles and/or any applicable code of conduct. The books of account shall be kept in the care and control of the Chief Executive Officer.

33.3 Inspection of Records

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

33.4 Board to Submit Accounts

The Board shall submit to the Annual General Meeting the audited accounts of the Association in accordance with the Act.

33.5 Negotiable Instruments

All cheques, promissory notes, bankers drafts, bills of exchange and other negotiable instruments, and all receipts for money paid to the Association, shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by two persons appointed in writing by the Board.

34. AUDITOR

34.1 A properly qualified auditor or auditors shall be appointed and the remuneration of such auditor or auditors fixed by the Board. The auditor's duties shall be regulated in accordance with the Act, or if no relevant provisions exist under the Act, in accordance with generally accepted accounting principles and/or any applicable codes of conduct.

35. NOTICE**35.1 Manner of Notice**

(a) Notices may be given by the Chief Executive Officer to any Member by sending the notice by post or facsimile transmission or where available, by electronic mail, to the Member's registered address, facsimile number or electronic mail address.

(b) Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing and posting the notice. Service of the notice is deemed to have been effected seven days after posting.

- (c) Where a notice is sent by facsimile transmission, service of the notice shall be deemed to be effected upon receipt of a confirmation report confirming the facsimile was sent to/or received at the facsimile number to which it was sent.
- (d) Where a notice is sent by electronic mail, service of the notice shall be deemed to be effected upon receipt of a confirmation report confirming the electronic mail message was received at the electronic mail address to which it was sent.

35.2 Notice of General Meeting

Notice of every General Meeting shall be given in the manner authorised and to the persons entitled to receive notice under this Constitution.

36. SEAL

36.1 Safe Custody of Seal

The Chief Executive Officer shall provide for safe custody of the Seal.

36.2 Affixing Seal

The Seal shall only be used by authority of the Board and every document to which the Seal is affixed shall be signed by two Directors or a Director and the Chief Executive Officer.

36.3 Director's Interest

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

37. ALTERATION OF CONSTITUTION

37.1 This Constitution shall not be altered except by Special Resolution.

38. INDEMNITY

38.1 Directors to be Indemnified

Every Director, auditor, manager, employee or agent of the Association shall be indemnified to the extent provided under the directors and officers insurance policy of the Association (if any) against any liability incurred by her in her capacity as Director, auditor, manager, employee or agent in defending any proceedings, whether civil or criminal, in which judgement is given in her favour or in which she is acquitted or in connection with any application in relation to any such proceedings in which relief is, under the Act, granted to her by the Court.

38.2 Association to Indemnify

The Association shall indemnify its Directors and employees to the extent provided under the directors and officers insurance policy of the Association against all damages and costs (including legal costs) for which any such Director or employee may be or become liable to any third party in consequence of any act or omission except wilful misconduct:

- (a) in the case of a Director, performed or made whilst acting on behalf of and with the authority, express or implied of the Association; and
- (b) in the case of an employee, performed or made in the course of, and within the scope of his or her employment by the Association.

39. WINDING UP

39.1 Winding Up of the Association

Subject to this **Rule 39**, the Association may be wound up in accordance with the provisions of the Act.

39.2 Liability of Members

The liability of the Members of the Association is limited.

39.3 Members' Contributions

The Regions undertake to contribute to the assets of the Association in the event of it being wound up while a Member, or within one year after ceasing to be a Member, for payment of the debts and liabilities of the Association contracted before the time at which the Region ceases to be a Member, and the costs, charges and expenses of winding up, such amount not exceeding \$1.00.

39.4 Distribution of Property on Winding Up

If upon winding up or dissolution of the Association there remains after satisfaction of all its debts and liabilities any assets or property, the same shall not be paid to or distributed amongst the Members of the Association but shall be given or transferred to some body or bodies being incorporated associations under the Act or for charitable purposes. Such body or bodies to be determined by the Members of the Association at or before the time of dissolution, and in default thereof by such judge of the relevant Supreme Court or such other court as may have or acquire jurisdiction in the matter.

40. SOURCE OF FUNDS

- 40.1** The funds of the Association may be derived from annual membership subscriptions, fees and levies payable by Members, donations, grants, sponsorships and such other sources as the Board determines.

41. APPLICATION OF INCOME

41.1 Income and Property Applied to Objects

The income and property of the Association shall be applied solely towards the promotion of the objects of the Association as set out in this Constitution.

41.2 No Income to Members

Except as prescribed in this Constitution:

- (a) 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; and
- (b) no remuneration or other benefit in money or money's worth shall be paid or given by the Association to any Member who holds any office of the Association.

41.3 Payments in Good Faith

Nothing contained in **Rule 41.2** shall prevent payment in good faith of or to any Member for:

- (a) any services actually rendered to the Association whether as an employee or otherwise;
- (b) goods supplied to the Association in the ordinary and usual course of operation;
- (c) interest on money borrowed from any Member;
- (d) rent for premises demised or let by any Member to the Association;
- (e) any out-of-pocket expenses incurred by the Member on behalf of the Association; or
- (f) any other reason;

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

42. GRIEVANCE PROCEDURE**42.1 Grievance by a Member**

Where a Member of the Association has a grievance with another Member or with the Association (but not being any of the grounds set out in **Rule 13**) and that Member considers the grievance warrants investigation and action by the Association, the Member shall follow the procedure set out in this **Rule 42**.

42.2 Grievances Officer

The Member shall contact, either by telephone or in writing, the Association's grievances officer ("Grievance Officer"), appointed by the Board (but not a member of the Board), and advise they have a grievance which they wish to discuss. The identity of the nominated Grievances Officer will be communicated to all Members of the Association by written notice. Where a grievance is to be submitted in writing it should be addressed clearly to the Grievances Officer and marked "Private & Confidential".

42.3 Action by Grievances Officer

- (a) Where a grievance has been received by the Grievances Officer they shall, as soon as practicable, meet with, or discuss the grievance with the aggrieved Member. The Grievances Officer may take whatever steps and conduct whatever investigations necessary to determine whether the grievance is legitimate.
- (b) Where the Grievances Officer determines the grievance is legitimate they shall take all reasonable steps to resolve the grievance.
- (c) Where the Grievances Officer determines the grievance is not legitimate they shall advise the aggrieved Member accordingly. If the aggrieved Member is not satisfied with the Grievances Officer's determination they may take whatever further action they consider necessary or appropriate.
- (d) Where the Grievances Officer is unable to resolve a grievance or considers the grievance of a very serious nature they shall report the grievance to the Chief Executive Officer and/or the Board for action.
- (e) All grievances received by the Grievances Officer, and all information surrounding the circumstances of a grievance which is discovered by the Grievances Officer on investigation shall be confidential and may be communicated only to the Chief Executive Officer and/or the Board.

42.4 Procedures by Grievances Officer

In investigating a grievance and/or determining its legitimacy, the Grievances Officer shall observe and apply the procedures applicable to a proceeding under **Rule 13**, in so far as they are applicable.