

# **Constitution**

## **Western Australian Institute of Sport Inc.**

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## **PART 1:**

### **Name**

The name of the Association shall be the "Western Australian Institute of Sport Inc".

## **PART 2:**

### **Interpretation**

In this Constitution unless the context requires otherwise:

- 2.1** "The Institute" means the Western Australian Institute of Sport Inc;
- 2.2** "Board" means the Board of Directors;
- 2.3** "Member" means a member of the Institute and of the Board of Directors;
- 2.4** "CEO" means Chief Executive Officer;
- 2.5** "Financial year" means a 12 month period commencing 1 January and ending 31 December of that year;
- 2.6** "the Act" means the *Associations Incorporation Act 2015 (WA)*; and
- 2.7** "Special Resolution" has the meaning given by section 51 of the Act.

## **PART 3:**

### **Objects**

The Objects for which the Institute is established are:

- 3.1** To provide opportunities for talented Western Australian sports persons to pursue excellence in high performance sport;
- 3.2** To provide opportunities for talented Western Australians to further develop their sporting careers in association with or as part of their education or work;
- 3.3** To seek and administer funds to be used to develop and promote sporting excellence amongst Western Australian individuals and teams through the provision of travel, competition, equipment, information or any other requirement;
- 3.4** To provide and develop coaches, coaching resources, facilities and information and to make the same available to assist the development of sporting excellence;
- 3.5** To equip sport science laboratories and design sport science programs and testing that will assist the development of sporting excellence;
- 3.6** To conduct applied research that will assist the development of sporting excellence;
- 3.7** To provide and disseminate sport science information and literature;

- 3.8** To assist, where possible, talented sports people from interstate or other countries who may be engaged in competition or training in WA;
- 3.9** To promote sporting meetings for the purpose of developing the personal skills and levels of excellence of WA's sports people;
- 3.10** To promote and encourage participation in sport from members of the Western Australian community; and
- 3.11** To assist or advance community based sporting projects or events.

#### **PART 4:**

##### **Powers**

- 4.1** Subject to this Constitution the Institute shall have power to do all such acts and things whether solely or in conjunction with any person or persons as are considered necessary incidental or conducive to the attainment of the Objects of the Institute or any of them. All such powers may be exercised by the Board at a meeting of the Institute and shall include the following powers.
- 4.2** The purchase, take on lease or in exchange hire and otherwise any lands, building, easements or property real and personal and any rights or privileges which may be requisite for the purpose of or capable of being used in connection with any of the Objects of the Institute;
- 4.3** To enter into any agreements or arrangements with any Government or authority, statutory, municipal, local or otherwise or any other person or body of persons whether incorporated or not that may seem conducive to the Objects of the Institute or any of them and to obtain from any such Government, authority, person or body of persons any grants, rights, privileges and concessions which the board might think it desirable to obtain and to carry out, exercise and comply with any such agreements or arrangements, rights, privileges or concessions;
- 4.4** To appoint, employ, remove or suspend such managers, clerks, secretaries and other persons as may be necessary or convenient, and to appoint a CEO on terms and conditions approved by the Board. The CEO shall not be a member of the Board;
- 4.5** To delegate to the CEO or other appropriate person or persons those powers or responsibilities it considers appropriate;
- 4.6** To invest and deal with the money of the Institute not immediately required in such manner as may be permitted by law for the investment of trust funds;
- 4.7** To borrow or raise or secure the payment of money in such manner as the Institute may think fit and to secure the same or the repayment or performance of any debt, liability, contract, guarantee or other engagement incurred or to be entered into by the Institute in any way;
- 4.8** To make, draw, accept, endorse, discount, execute and issue promissory notes, bills of exchange, bills of land and other negotiable instruments;
- 4.9** To sell, improve, manage, develop, exchange, lease, dispose of, turn to account or otherwise deal with all or any part of the property and rights of the Institute;

- 4.10** To take any gift or property whether subject to any special trust or not for any one or more of the Objects of the Institute;
- 4.11** To print and publish any newspapers, periodicals, books, leaflets or other literature that the Institute may think desirable for the promotion of its Objects;
- 4.12** To do all such other things as are incidental or conducive to the attainment of the Objects and the exercise of the powers of the Institute;
- 4.13** To act as the trustee for any foundation or project that may be established to promote and develop excellence in sport.

## **PART 5:**

### **Property & Income**

- 5.1** The income and property of the Institute shall be applied solely toward the promotion of its Objects and no part thereof shall be paid or transferred, directly or indirectly, by way of profit to the Members of the Institute or any of them PROVIDED THAT reasonable remuneration may be paid in good faith to any servant of the Institute in return for services actually rendered but so that (with the exception of the Chair) no trustee, officer or member of the Institute shall be appointed to any salaried office of the Institute and that no remuneration or other benefit in money or money's worth shall be given by the Institute to any trustee officer or member of the Institute except reimbursement of reasonable expenses incurred in carrying out duties in furtherance of the Objects of the Institute.

## **PART 6:**

### **Membership**

- 6.1** There shall be not more than ten (10) members of the Institute comprising:
  - 6.1.1** The Chair and, the Deputy Chair;
  - 6.1.2** The Director General of the Department of Local Government, Sport and Cultural Industries or other administrative body having responsibility for Sport and Recreation from time to time, or in the event that he or she does not wish or is unable to hold membership, the Minister's appointee from such Department or administrative body. This position shall be Ex-officio;
  - 6.1.3** Such other persons as are appointed members as herein provided;
  - 6.1.4** The remaining members of the board;
  - 6.1.5** The members of the Institute shall retire upon the expiration of the term of their appointment;
  - 6.1.6** A retiring member shall be eligible for re-appointment.

## **PART 7:**

### **Register of Members and Access to Register**

- 7.1** The CEO shall establish and maintain a register of members of the Institute specifying the name and address of each person who is a member of the Institute together with the date on which the person became a member in accordance with section 53 of the Act.
- 7.2** The register of members shall be kept at the principal place of administration of the Institute and shall be open for inspection, free of charge, by any member of the Institute at any reasonable hour as in accordance with section 54 of the Act.
- 7.3** If -
- (a) a member inspecting the register of members wishes to make a copy of, or take an extract from, the register under section 54(2) of the Act; or
  - (b) a member makes a written request under section 56(1) of the Act to be provided with a copy of the register of Directors,

the Board may require the member to provide a statutory declaration setting out the purpose for which the copy or extract is required and declaring that the purpose is connected with the affairs of the Institute.

## **PART 8:**

### **Appointment of Directors**

- 8.1** The Minister of the Government of Western Australia having responsibility for Sport and Recreation from time to time ("The Minister") shall appoint the Chair of the Institute in replacement of the Chair retiring or otherwise ceasing to be a Director. The Minister shall notify the Institute of such an appointment in writing;
- 8.2** Except for the Ex-officio appointment identified in Part 6 of this Constitution, the Minister shall appoint the Directors of the Institute in replacement of Directors retiring or otherwise ceasing to be Directors. The Minister shall notify the Institute of such appointments in writing;
- 8.3** All ministerial appointments shall be for a term as determined by the Minister but not exceeding three (3) years;
- 8.4** The Directors of the Institute shall retire upon the expiration of the term of their appointment. A Director's term shall remain valid until the Minister confirms the date of re-appointment or retirement in writing to the Director and the Institute;
- 8.5** A retiring Director shall be eligible for re-appointment, but will not serve for more than a period of ten (10) years;
- 8.6** The Board shall elect a Deputy Chair for a period not exceeding three (3) years;
- 8.7** The Minister may terminate the appointment of a Director at the request of such Director.

## **PART 9:**

### **Board of Directors**

- 9.1** The affairs of the Institute shall be managed by the Board of Directors which shall comprise a maximum of ten (10) Directors consisting of a Chair, a Deputy Chair, seven (7) other Directors and the Director General of the Department of Local Government Sport and Cultural Industries or their minister appointed nominee. All Directors, except the Ex-officio appointment, shall be appointed by the Minister;
- 9.2** The Board may from time to time appoint committees and may delegate any of its powers to such committees as the Board deems appropriate. Any such committee shall abide by any rules, regulations or directions as determined by the Board.

## **PART 10:**

### **Meeting of the Board**

- 10.1** Board meetings of the Institute shall be held at such place and upon such day at such hour as the Board may from time to time determine but not less than eight (8) times per annum;
- 10.2** Notice of all meetings of the Board shall be given by the Chair to its Directors orally, by letter or instantaneous electronic means at least seven (7) days in advance of the meeting date;
- 10.3** At any Board meeting five (5) Directors of the Board shall form a quorum;
- 10.4** The Chair of the Board shall preside as Chair at every Board meeting or meeting of the Institute and in his/her absence or unwillingness to act, the Deputy Chair shall preside as Chair. In the event of the absence or unwillingness of the Deputy Chair to preside at such meeting, the Directors present shall elect one of them to be Chair of the meeting.
- 10.5** A Director may attend Board or Committee meetings by electronic communications if approved by the Chair of the Board or Committee respectively.

## **PART 11:**

### **Meeting of Members**

- 11.1** The Annual General Meeting of the Institute shall be held at such time and place as the Board may determine, having regard for the requirements of the Financial Management Act, for the following purposes:
- 11.1.1** To receive the Institute's Annual Financial Statements;
  - 11.1.2** To endorse the Annual Report to the Government of Western Australia.
- 11.2** An Extraordinary General Meeting may be called:
- 11.2.1** By the Chair;
  - 11.2.2** At the request of at least 50% of the members of the Board.
- 11.3** At any Extraordinary General Meeting seven (7) members of the Board shall form a quorum;

- 11.4** Fourteen (14) days notice in writing stating the date, time and place of such meeting and the nature of the business to be conducted at the Extraordinary General Meeting shall be given to all members of the Institute;
- 11.5** No business is to be conducted at any Extraordinary General Meeting unless a quorum is present;
- 11.6** If a quorum is not present within 30 minutes after the notified commencement time of a committee meeting -
- 11.6.1** in the case of an Extraordinary General Meeting, the meeting lapses; or
- 11.6.2** otherwise, the meeting is adjourned to the same time, day and place in the following week.
- 11.7** If -
- 11.7.1** a quorum is not present within 30 minutes after the commencement time of a committee meeting held under subrule 11.6.2; and
- 11.7.2** at least 2 committee members are present at the meeting,
- those members present are taken to constitute a quorum.
- 11.8** A member may attend an Annual or Extraordinary General Meeting by electronic or telephonic communications if approved by the Chair of the Board.

## **PART 12:**

### **Voting**

- 12.1** Every Director personally present at a Board meeting shall be entitled to one (1) vote. Voting shall be by a show of hands. In the event of a tie, the Chair shall have a second or casting vote;
- 12.2** At any Board meeting the Chair shall declare that a Resolution has been carried or carried by a particular majority or lost and an entry to that effect in the Minutes Book of the Institute shall be sufficient evidence of such fact without proof of the number or proportion of the votes recorded in favour of or against such Resolution;
- 12.3** No proxy voting shall be allowed at any meeting of the Institute.

## **PART 13:**

### **Expulsion from the Institute**

- 13.1** It shall be the duty of the Board if at any time it is of the opinion that the interests of the Institute so require, to notify by letter any member to withdraw within a time specified in such letter and in default of such rule to submit the question of expulsion of such member to an Extraordinary General Meeting held within one (1) month after the date of such letter;
- 13.2** At such meeting the member whose expulsion is under consideration shall be allowed to offer explanation verbally or in writing and if thereupon three-quarters of the members of the Institute then present shall vote for expulsion the Board shall recommend to the Minister such member shall thereupon be expelled and shall forfeit all privileges.



## **PART 14:**

### **Minutes**

- 14.1** Minutes of proceedings of every Board meeting and any other meeting shall be entered and kept in a book or recorded electronically, which when signed by the Chair of the meeting in question shall be conclusive evidence of the proceedings and shall be binding on members.

## **PART 15: Control of Funds**

- 15.1** The funds of the Institute shall be used in pursuance of the objects of the Institute in such manner as the Board determines.
- 15.2** All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments shall be signed, drawn, accepted, endorsed or otherwise executed in accordance with the board approved Financial Management Manual.

## **PART 16:**

### **Custody**

- 16.1** The custody of books, documents and securities the property of the Board shall be, in the absence of any other delegation, in the CEO.

## **PART 17:**

### **Inspection**

- 17.1** Rule 17 applies to a member who wants to inspect:
- (a) the record of the names and addresses of Board members, and other persons authorised to act on behalf of the Institute, under section 58(3) of the Act; or
  - (b) any other record or document of the Institute.
- 17.2** The member must contact the CEO to make the necessary arrangements for the inspection.
- 17.3** The inspection must be free of charge.
- 17.4** The member may make a copy of or take an extract from a record or document referred to in subrule 17.1(b) but does not have a right to remove the record or document for that purpose.

## **PART 18:**

### **Seal**

- 18.1** The Institute shall provide for the safe custody of its seal which shall only be used by the authority of the Board or of a committee of members of the Board authorised in that behalf, and every instrument to which the seal is affixed shall be signed by a member of the committee and shall be countersigned by the CEO or by a Director of the Board.

## **PART 19:**

### **Accounts**

**19.1** For each financial year, the Board must ensure that the requirements imposed on the Institute under Part 5 of the Act relating to the financial statements or financial report of the Institute are met.

**19.1.1** without limiting subrule 19.1, those requirements include:

- (a) the preparation of the financial statements and reports; and
- (b) the auditing of these financial statements and reports.

## **PART 20:**

### **Custody of Books and Securities**

**20.1** Subject to subrule 20.2, the books and any securities of the Institute must be kept in the Board's custody or under the CEO's control.

**20.2** The financial records and, as applicable, the financial statements or financial reports of the Institute must be kept in the CEO's custody or under the CEO's control.

**20.3** Subrule 20.1 and 20.2 have effect except as otherwise decided by the Board.

**20.4** The books of the Institute must be retained for at least 7 years.

## **PART 21:**

### **Pecuniary Interest**

**21.1** Where a member of the Board has a pecuniary interest in a matter which is before a General Meeting or a meeting of the Board or Board Committee for discussion, that member shall declare the nature of that interest and shall not take part in any deliberation or decisions of the Board in respect of that matter.

## **PART 22:**

### **Indemnity**

**22.1** Every member, CEO and Director for the time being of the Institute shall be indemnified out of the assets of the Institute against any liability incurred in such capacity in defending any proceedings, whether civil or criminal in which judgment is given in his or her favour or in which he or she is acquitted or in which relief is granted by the Court in respect of any negligence, default, breach of duty or breach of trust. Any of such persons acting in relation to the affairs of the Institute shall likewise be indemnified out of the assets of the Institute from and against all actions, claims, demands, costs and expenses which they or any of them shall or may incur or sustain by or by reason of any act done, concurred in or omitted in or about the execution of their duty or supposed duty with or for the Institute except such (if any) by or through their own wilful neglect or default. The Board shall cause the Institute to hold at its cost an appropriate Directors and Officers insurance Policy.

## **PART 23:**

### **Liability**

- 23.1** No trustee officer or member of the Institute shall as such upon and after the incorporation of the Institute be under any personal liability to any creditor of the Institute beyond the property of the Institute in his or her hands.

## **PART 24:**

### **Dissolution**

- 24.1** An Extraordinary General Meeting of the Institute may by the votes of at least 75% of all the members present and voting resolve to dissolve the Institute.
- 24.2** In the event of the Board resolving to recommend the dissolution of the Institute the Surplus property must be given or transferred to another association incorporated under the Act which has similar objects and which is not carried out for the purposes of profit or gain to its individual members, and which association shall be determined by resolution of the members.

## **PART 25:**

### **Interpretation of the Constitution**

- 25.1** Should any question arise as to the interpretation of this Constitution, such questions shall be decided at a Board meeting of the Institute which decision shall be final and binding.

## **PART 26:**

### **Amendment**

- 26.1** If the Institute wants to alter or rescind any of these rules, or to make additional rules, the Institute may do so only by Special Resolution and by otherwise complying with Part 3 Division 2 of the Act.

## **PART 27:**

### **Resolving Disputes**

- 27.1** In this Part:
- 27.1.1** ***grievance procedure*** means the procedures set out in this Division;
  - 27.1.2** ***party to a dispute*** includes a person –
    - (a) who is a party to the dispute; and
    - (b) who ceases to be a member within 6 months before the dispute has come to the attention of each party to the dispute.
  - 27.1.3** The procedure set out in this Part (the grievance procedure) applies to disputes

- (a) between members; or
- (b) between one or more members and the Institute.

**27.2** The parties to a dispute must attempt to resolve the dispute between themselves within 14 days after the dispute has come to the attention of each party.

**27.3** The Grievance procedure is started by the following:

**27.3.1** If the parties to a dispute are unable to resolve the dispute between themselves within the time required by rule 27.2, any party to the dispute may start the grievance procedure by giving written notice to the Board of:

- (a) the parties to the dispute; and
- (b) the matters that are the subject of the dispute.

**27.3.2** Within 28 days after the Board is given the notice, a Board meeting must be convened to consider and determine the dispute.

**27.3.3** The Board must give each party to the dispute written notice of the Board meeting at which the dispute is to be considered and determined at least 7 days before the meeting is held.

**27.3.4** The notice given to each party to the dispute must state:

- (a) when and where the Board meeting is to be held; and
- (b) that the party, or the party's representative, may attend the meeting and will be given a reasonable opportunity to make written or oral (or both written and oral) submissions to the Board about the dispute.

**27.3.5** If:

- (a) the dispute is between one or more members and the Institute; and
- (b) any party to the dispute gives written notice to the Board stating that the party:
  - (i) does not agree to the dispute being determined by the Board; and
  - (ii) requests the appointment of a mediator under rule 28,

the Board must not determine the dispute.

**27.4** A dispute is determined by the Board as followed:

**27.4.1** At the Board meeting at which a dispute is to be considered and determined, the Board must

- (a) give each party to the dispute, or the party's representative, a reasonable opportunity to make written or oral (or both written and oral) submissions to the committee about the dispute; and
- (b) give due consideration to any submissions so made; and
- (c) determine the dispute.

- 27.4.2** The Board must give each party to the dispute written notice of the Board's determination, and the reasons for the determination, within 7 days after the Board meeting at which the determination is made.
- 27.4.3** A party to the dispute may, within 14 days after receiving notice of the Board's determination under subrule 27.4.1(c), give written notice to the CEO requesting the appointment of a mediator under rule 28.
- 27.4.4** If notice is given under subrule 27.4.3, each party to the dispute is a party to the mediation.

## **PART 28:**

### **Mediation**

#### **28.1** Application of this Part applies if:

- 28.1.1** written notice has been given to the Chair requesting the appointment of a mediator by a party to a dispute under rule 27.3.5(b)(ii) or 27.4.3.
- 28.1.2** If this Division applies, a mediator must be chosen or appointed under rule 28.2.

#### **28.2** Appointment of mediator

- 28.2.1** The mediator must be a person chosen:
- (a) if the appointment of a mediator was requested by a party to a dispute under rule 27.3.5(b)(ii) or 27.4.3 — by agreement between the parties to the dispute.
- 28.2.2** If there is no agreement for the purposes of subrule 28.2.1(a), then, subject to subrules 28.2.3 and 28.2.4, the Board must appoint the mediator.
- 28.2.3** The person appointed as mediator by the Board must be a person who acts as a mediator for another not-for-profit body, such as a community legal centre, if the appointment of a mediator was requested by —
- (a) a party to a dispute under rule 27.3.4(b)(ii); or
- (b) a party to a dispute under rule 27.4.3 and the dispute is between one or more members and the Institute.
- 28.2.4** The person appointed as mediator by the Board may be a member or former member of the Institute but must not —
- (a) have a personal interest in the matter that is the subject of the mediation; or
- (b) be biased in favour of or against any party to the mediation.

#### **28.3** Mediation process

**28.3.1** The parties to the mediation must attempt in good faith to settle the matter that is the subject of the mediation.

**28.3.2** Each party to the mediation must give the mediator a written statement of the issues that need to be considered at the mediation at least 5 days before the mediation takes place.

**28.3.3** In conducting the mediation, the mediator must:

- (a) give each party to the mediation every opportunity to be heard; and
- (b) allow each party to the mediation to give due consideration to any written statement given by another party; and
- (c) ensure that natural justice is given to the parties to the mediation throughout the mediation process.
- (d) The mediator cannot determine the matter that is the subject of the mediation.
- (e) The mediation must be confidential, and any information given at the mediation cannot be used in any other proceedings that take place in relation to the matter that is the subject of the mediation.
- (f) The costs of the mediation are to be paid by the party or parties to the mediation that requested the appointment of the mediator.

**28.4** If mediation results in decision to suspend or expel being revoked:

- (a) as the result of the mediation, the decision to suspend the member's membership or expel the member is revoked,

that revocation does not affect the validity of any decision made at a Board meeting or general meeting during the period of suspension or expulsion.