



# CONSTITUTION OF MASTERS SWIMMING TASMANIA

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# Masters Swimming Tasmania Constitution

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# Masters Swimming Tasmania Constitution

## 1 NAME OF ASSOCIATION

The name of the Association will be Masters Swimming Tasmania Incorporated, abbreviated in these rules to Masters Swimming Tasmania or ‘MST’.

## 2 INTERPRETATION

“**The Act**” means the *Associations Incorporation Act* 1964 (Tas.).

“**Committee**” means the State Committee of Masters Swimming Tasmania.

“**Financial Year**” means the year ending on 31st December.

“**Life Member**” means a person upon whom life membership is conferred in accordance with Rule 8(6).

“**Ordinary Committee Person**” means a member of the Committee who is not an Officer of the MST but is a delegate of an affiliated Club.

“**The Regulations**” means regulations under the Act.

Words or expressions contained in these Rules will be interpreted in accordance with the provisions of the *Interpretation of Legislation Act* 1984 (Tasmania) as amended.

## 3 OBJECTS AND PURPOSES

3.1 The primary objects and purposes of MST are:

- (a) to encourage adults, regardless of age or ability, to swim regularly in order to promote fitness and improve their general health;
- (b) to co-ordinate the activities of individuals through clubs so that they may meet together for competition and social interaction at local, national and international levels;
- (c) to publish the results of these meetings so as to provide stimulus to others to take part in Masters Swimming activities and to measure their own performance against those of a similar age; to initiate, promote and assist with research into the benefits derived from swimming and to publish the results of this research;
- (d) to develop accreditation of Masters swimming coaches and safe coaching practices; and
- (e) to train and develop administrators and officials.

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- 3.2 Provided that such objects and purposes will not be construed such that they are contrary to any provisions of the Act.

### 4 POWERS

In pursuance of its objects and purposes, the powers of MST will be:

- (a) the purchasing, leasing, hiring or otherwise acquiring any real or personal property and the disposal of such property;
- (b) the buying, selling, supplying and dealing in goods of all kinds;
- (c) the opening and operating of banking accounts;
- (d) the borrowing or raising of money upon such terms and conditions as MST sees fit or as may be approved or directed by resolution passed at a General Meeting;
- (e) the accepting of any gift, whether subject to a special trust or not, for any one or more of the objects or purposes of MST;
- (f) the taking of such steps from time to time as the State Committee or the members in General Meeting may deem expedient for the purpose of procuring contributions to the funds of MST, whether by way of donations, subscriptions, or otherwise;
- (g) the printing and publishing of such newspapers, periodicals, books, leaflets, or other documents as the Committee or the members in General Meeting may think desirable for the promotion of the objects and purposes of MST;
- (h) subject to the provisions of the *Trustee Act* 1898, the investment of money in any security in which trust moneys may be invested;
- (i) the making of gifts, subscriptions, or donations to any of the funds, authorities, or institutions to which paragraph (a) of sub-section (1) of Section 78 of the *Income Tax Assessment Act* 1936 as amended of the Commonwealth relates;
- (j) the doing of all such other lawful things as are incidental or conducive to the attainment of the objectives of MST;
- (k) the adoption of a Code of Ethics or By-Laws dealing with the conduct of members; and
- (l) the adoption of By-Laws dealing with matters relevant to the purposes of MST.

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### 5 RELATIONSHIP WITH THE MASTERS SWIMMING AUSTRALIA

- 5.1 Masters Swimming Tasmania will affiliate each year with Masters Swimming Australia.
- 5.2 Masters Swimming Tasmania, whilst it remains a member of Masters Swimming Australia, will, unless such obligation is contrary to the Act:
  - (a) observe, carry into effect and generally comply with the policy of Masters Swimming Australia;
  - (b) implement and carry into effect all resolutions of Masters Swimming Australia in so far as such resolutions require any act, matter or thing to be done or performed within Tasmania; and
  - (c) actively and with all due diligence, carry out and perform all such duties within Tasmania as may be vested in or delegated to it by resolution of Masters Swimming Australia.

### 6 OFFICERS OF MASTERS SWIMMING TASMANIA

- 6.1 The affairs of MST will be managed by a Committee of Management.
- 6.2 The Committee:
  - (a) will control and manage the business and affairs of MST;
  - (b) can, subject to these rules, exercise all such powers and functions as can be exercised by MST, other than those powers and functions that are required by these rules to be exercised by General Meetings of MST members; and
  - (c) subject to the Act and these rules, has power to perform all such acts and things as appear to the Committee to be essential for the proper management of the business and affairs of MST.
- 6.3 Any Code of Ethics or By-Laws made by the Committee will have immediate force and effect when approved by the Committee.
- 6.4 Any Code of Ethics or By-Laws made by Masters Swimming Australia will have paramount force and effect over any Code of Ethics or By-Laws of MST.
- 6.5 The Committee will consist of:
  - (a) MST Officers and
  - (b) two delegates from each affiliated Club and nominated by their Club.

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- 6.6 An Executive Sub-committee pursuant to clause 19.4, consists of:
- (a) a President, who is the Chairperson for any general meetings and for any Committee meetings;
  - (b) a Secretary, who must perform any duty or function required under the Act to be performed by the secretary of an incorporated association;
  - (c) a Treasurer, who ensures the Association's compliance with all legal and professional financial management requirements;

who will be elected at the MST Annual General Meeting each year and will hold office until the next Annual General Meeting.

- 6.7 The other Officers of MST to be elected will consist of:
- (a) a Coordinator of Coaching and Education, who facilitates coach training, education and achievement of accreditation.
  - (b) a Coordinator of Safety and Health, who liaises with Club Safety Officers in ensuring the safety of members and visitors at all sanctioned activities.
  - (c) a Recorder, who maintains and publishes the results of State swimming events including record times;
  - (d) a Registrar, who maintains the register of members;
  - (e) a Coordinator of Publicity and Publications, who manages the distribution of information within the State and to the public;
  - (f) a Technical Coordinator, who manages the training and provision of technical officers for the conduct of swim meets; and
  - (g) a Public Officer, who represents MST for regulatory requirements.

and will be elected at the MST Annual General Meeting each year and will hold office until the next Annual General Meeting.

- 6.8 Each MST Officer will be eligible for re-election at the Annual General Meeting next after the date of their election.
- 6.9 The President, Secretary and Treasurer will retire from office upon the expiration of a four-year consecutive term, but any of them will be eligible for re-election upon one year's absence from that office.
- 6.10 In the event of a casual vacancy occurring within the Committee of Management, the Committee shall appoint a member to the vacant office, and the member so appointed shall continue in office until the next Annual General Meeting.

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- 6.11 In the event of a Club delegate casual vacancy, a new member is to be delegated by the relevant Affiliated Club and that member shall continue in office until the next Annual General Meeting.

## 7 ELECTION OF OFFICERS OF MST

- 7.1 Nomination of candidates for election as Officers of MST
- (a) will be made in writing signed by two MST members and accompanied by the written consent of the candidate;
  - (b) will be delivered to the MST Secretary not less than seven (7) days before the date fixed for the Annual General Meeting; and
  - (c) will specify the position being nominated for.
- 7.2 If the number of nominations received for officers to be elected is equal to the number of vacancies to be filled, the persons nominated will be deemed to be elected.
- 7.3 If the number of nominations exceeds the number of vacancies to be filled, a ballot will be held.
- 7.4 If insufficient nominations are received to fill all vacancies for elected officers the candidates nominated will be deemed to be elected and further nominations will be received at the Annual General Meeting for the vacant positions.
- 7.5 The ballot for the election of members of the Committee will be conducted at the Annual General Meeting in such usual and proper manner as the Committee may direct.

## 8 VACATION OF OFFICE

- 8.1 For the purpose of these Rules, the office of an MST Officer becomes vacant if the Officer:
- (a) ceases to be an MST member;
  - (b) becomes bankrupt or applies to take or takes advantage of any laws relating to bankrupt or insolvent debtors or compounds with his creditors, or makes any assignment of his estate for their benefit;
  - (c) resigns their office by notice in writing given to the Secretary;
  - (d) dies or becomes of unsound mind; or

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- (e) fails, without leave granted by the Committee, to attend three consecutive meetings of the Committee.

### 9 DISCLOSURE OF INTEREST BY COMMITTEE MEMBERS

- 9.1 A member of the Committee who is interested in any contract or arrangement made or proposed to be made with MST will disclose their interest at the first Committee Meeting at which the contract or arrangement is first taken into consideration, if their interest then exists, or, in any other case, at the first Committee Meeting after the acquisition of their interest.
- 9.2 If a member of the Committee becomes interested in a contract or arrangement after it is made or entered into they will disclose their interest at the first Committee Meeting after they became so interested.
- 9.3 No member of the Committee will vote as a member of the Committee in respect of any contract or arrangement in which they are interested and if they do vote their vote will not be counted.

### 10 AFFILIATION OF CLUBS WITH MASTERS SWIMMING TASMANIA

- 10.1 Any Club may apply for affiliation with MST providing such details as the Committee requires are contained in the form supplied by MST.
- 10.2 Upon the Committee approving the application for affiliation and the Club paying an affiliation fee set by MST, the Club will be affiliated with MST.
- 10.3 Each affiliated club will be bound by the Constitution and By-Laws of MST.
- 10.4 Masters Swimming Tasmania may at its discretion establish or disband a virtual Club for the purpose of providing prospective members to swim in State, National and International Competitions but who do not wish to join an affiliated Club. A member of a virtual Club may not stand for Office in MST and may not vote.

### 11 ANNUAL AFFILIATION AND REGISTRATION FEES

- 11.1 The Club affiliation fee and individual registration fees will be set each year at the Annual General Meeting or at a Special General Meeting for the forthcoming financial year,
- 11.2 Clubs will pay the set affiliation fee by the 31st of December for the forthcoming year.

## 12 EXPULSION AND WITHDRAWAL OF AFFILIATED CLUBS

- 12.1 Subject to this rule, the Committee can expel a Club from MST if, in the opinion of the Committee, the Club has been guilty of conduct detrimental to the interests of MST. The Committee can withdraw affiliation of a Club if annual affiliation fees have not been paid or if the Club has become inactive.
- 12.2 The expulsion or withdrawal of affiliation of a Club pursuant to sub-rule (1) of this rule does not take effect:
- (a) until the expiration of fourteen days after the service on the Secretary of the Club of a notice under sub-rule (3) of this rule; or
  - (b) if the Club exercises its right of appeal under this rule, until the conclusion of the Special General Meeting convened to hear the appeal, whichever is the later date.
- 12.3 Where the Committee expels or withdraws affiliation of a Club from MST, the Secretary of MST will, without undue delay, cause to be served on the Secretary of the Club a notice in writing:
- (a) stating that the Committee has expelled or withdrawn affiliation of the Club;
  - (b) specifying the grounds for the expulsion or withdrawal; and
  - (c) informing the Secretary of the Club that if the Club so desires it can, within fourteen days after the service of the notice, appeal against the expulsion or withdrawal as provided in this rule.
- 12.4 A Club on whom a notice under sub-rule (3) of this rule is served may appeal against the expulsion or withdrawal to a Special General Meeting by delivering or sending by post to the Secretary of MST, within fourteen days after the service of that notice, a requisition in writing demanding the convening of such a meeting for the purpose of hearing its appeal.
- 12.5 Upon receipt of a requisition under sub-rule (4) of this rule, the Secretary will immediately notify the Committee of its receipt, and the Committee will cause a Special General Meeting of members to be held within twenty-one days after the date on which the requisition is received by the MST Secretary.
- 12.6 At a Special General Meeting convened for the purpose of this rule:
- (a) no business other than the question of the expulsion or withdrawal of affiliation will be transacted;
  - (b) the Committee can place before the meeting details of the grounds and the Committee's reasons for the expulsion or withdrawal of affiliation;

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- (c) the expelled or disaffiliated club will be given an opportunity to be heard;
  - (d) the members present will vote by secret ballot on the question of whether the expulsion or withdrawal should be lifted or confirmed.
- 12.7 If at the Special General Meeting a majority of the members present vote in favour of the lifting of the expulsion or withdrawal, the expulsion or withdrawal will be deemed to have been lifted, and the expelled or disaffiliated club is entitled to resume its affiliation with Masters Swimming Australia.
- 12.8 If at the Special General Meeting a majority of the members present vote in favour of the confirmation of the expulsion or withdrawal, the expulsion or withdrawal takes effect, and the expelled or disaffiliated Club ceases to be an affiliated club of Masters Swimming Australia.

## 13 MEMBERSHIP OF MASTERS SWIMMING TASMANIA

- 13.1 Membership is open to any person provided that:
- (a) the person has reached eighteen (18) years of age;
  - (b) the person is a member of a Club which is affiliated with MST; and
  - (c) the person wishes to participate in the activities, and further the objects and purposes of MST.
- 13.2 Membership of MST is acquired through joining an affiliated Club and paying the required fees using the approved registration system of Masters Swimming Australia.
- 13.3 An applicant must be accepted by a Club as a prospective member before being approved for membership by MST.
- 13.4 A right, privilege or obligation of a person by virtue of membership of MST:
- (a) cannot be transferred or transmitted to another person; and
  - (b) terminates upon the cessation of membership, whether by death, resignation or otherwise.
- 13.5 Membership of MST will cease if a member has advised their club of their resignation, by non-renewal of registration or where the club has expelled that member.
- 13.6 Masters Swimming Tasmania may confer the privilege of Life Membership in recognition of distinguished service or sustained excellence based on the following principles:

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- (a) the person's contribution must be of sustained excellence to the furtherance of the ideals of MST;
  - (b) the person will normally have been a member of MST for at least 10 years;
  - (c) the nomination must come from at least two Clubs and be endorsed by MST at an Annual General Meeting;
  - (d) any such nomination with a full history of service must be circulated to Clubs with the notice convening the Annual General Meeting; and
  - (e) no more than two Life Members can be elected in any one year.
- 13.7 Life Members will be invited to such functions and activities as MST deems appropriate.
- 13.8 Life Members may attend General Meetings at their own expense, may have a voice, but are not eligible to vote unless they are attending in another capacity such as an Officer or Club Delegate.

## 14 REGISTER OF MEMBERS

The Registrar will monitor the register of members and will provide a report on membership as required.

## 15 NOTICES

A notice can be served by or on behalf of MST upon any member either personally or by sending it to their email address or by post to the member at their address shown in the register of members.

## 16 DISPUTES

- 16.1 Subject to this rule, a dispute between a member of MST in their capacity as a member, and MST will be determined by arbitration in accordance with the provisions of the *Commercial Arbitration Act* 1986, as amended.
- 16.2 Nothing in this rule affects the operation of the rule relating to the expulsion or withdrawal of affiliation of clubs.

## 17 CONDUCT OF MEETINGS

- 17.1 Masters Swimming Tasmania will in each financial year hold an Annual General Meeting, at least three Committee Meetings and any Special General Meetings as may be required.

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- 17.2 Meetings may be conducted in person at a specified location or by video conference.
- 17.3 The President, or in the President's absence, such one of the attending members of the Committee as may be chosen by the members present, will preside as Chairperson for any Meeting.
- 17.4 The MST Secretary will, at least 14 days before the date fixed for the holding of any Meeting, cause to be sent to all Clubs and Committee members a notice stating the place, date and time of the meeting and the nature of the business to be transacted at the meeting.
- 17.5 A quorum for the transaction of the business of any Meeting will comprise at least three officers of MST and one delegate from at least three of the Affiliated Clubs.
- 17.6 The Chairperson of any Meeting at which a quorum is present can, with the consent of the meeting, adjourn the meeting but no business shall be transacted at the reconvened meeting other than the business left unfinished at the original meeting. If the meeting is not reconvened within fourteen days it will be dissolved, and a new Notice of Meeting will be required to re-establish it.
- 17.7 Persons entitled to vote at any Meeting are the Officers of MST and Club Delegates. Each affiliated Club is therefore entitled to no more than two votes at any meeting. If three or more members from a Club, who are not Officials, attend a Meeting, they must establish at the start of the meeting which two are the appointed two Delegates eligible to vote. All votes will be given personally on a show of hands and in the case of equality of votes on a question, the Chairperson of the meeting is entitled to exercise a second or casting vote.
- 17.8 The outcome of a vote will normally be recorded as carried, or carried by a particular proportion or unanimously, or lost and an entry to that effect in the minutes of the meeting is evidence of the outcome. If at any meeting a count is sought, it will be at the discretion of the Chairperson and recorded as such.

## 18 ANNUAL GENERAL MEETING

- 18.1 The Annual General Meeting will be held on such day as the Committee determines, not later than 3 months after the close of the financial year of MST.
- 18.2 Notice of the Annual General Meeting will be placed on the MST website, at least 21 days before the date fixed for the holding of the Annual General Meeting, stating the place, date and time of the meeting and the nature of the business to be transacted at the meeting.
- 18.3 The ordinary business of the Annual General Meeting will be:
- (a) to confirm the minutes of the last preceding Annual General Meeting and of any Special General Meeting(s) held since that meeting;

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- (b) to receive written reports from the President, Recorder, Coordinator of Publicity and Publications, Coordinator of Coaching and Education, Coordinator of Safety and Health, Registrar, Technical Coordinator, and each of the affiliated Clubs;
  - (c) to receive and review the Treasurer's Report, comprising the audited financial statements for the preceding financial year and budget of revenue and expenses for the forthcoming year;
  - (d) to elect the members of the Committee; and
  - (e) to appoint the Auditor and the Public Officer.
- 18.4 The Annual General Meeting can transact special business of which notice is given in accordance with these Rules.
- 18.5 Any Club or Committee member desiring to bring any business before an Annual General Meeting will give notice of that business in writing to the MST Secretary, who will include that business in the notice calling the next Annual General Meeting.

## 19 COMMITTEE MEETINGS

- 19.1 Committee Meetings will be conducted as deemed necessary by the Committee for the conduct of general business of the State, in person or by video conference.
- 19.2 Attendance shall include Committee members and any other financial member who wishes to attend but the latter will not have voting privileges.
- 19.3 The Committee can at any time appoint a sub-Committee from the Committee as it may think fit and will prescribe the powers and functions of the sub-Committee. The Committee can co-opt as members of a sub-Committee such persons as it thinks fit, whether or not those persons are members of MST, but a non-member so co-opted is not entitled to vote. Three appointed members of a sub-Committee or two thirds of its membership, whichever is the greater, will constitute a quorum at a meeting of the sub-Committee.
- 19.4 The President, the Treasurer and the Secretary will constitute an Executive sub-committee to deal with the day-to-day matters and matters of urgency during intervals between Committee Meetings and will report on their actions and have their actions ratified at each Committee Meeting.

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### 20 SPECIAL GENERAL MEETINGS

- 20.1 The Committee can, whenever it sees fit, convene a Special General Meeting of MST.
- 20.2 The Committee will, on the requisition in writing of not less than two Clubs, convene a Special General Meeting of MST.
- 20.3 The requisition for a Special General Meeting will state the objects of the meeting and will be signed by the Secretary of the Clubs making the requisition and be sent to the address of the MST Secretary and may consist of several documents in a like form, each signed by one or more of the Club Secretaries making the requisition.
- 20.4 If the Committee does not cause a Special General Meeting to be held within one month after the date on which the requisition is sent to the address of the MST Secretary, the Clubs making the requisition, or any of them, may convene a Special General Meeting to be held no later than 3 months after that date.
- 20.5 A Special General Meeting convened by the Clubs in pursuance of these rules will be convened as nearly as possible in the same manner that in which Management Meetings are convened by the Committee and all reasonable expenses incurred in convening the meeting will be refunded by MST to the Clubs incurring the expenses.
- 20.6 No business other than that set out in the notice convening the Special General Meeting will be transacted at the meeting.

### 21 AUDIT OF ACCOUNTS

- 21.1 Once in each financial year of MST, the accounts of MST will be examined by the auditor.
- 21.2 The auditor will certify as to the correctness of the accounts of MST and will report thereon to the members present at the Annual General Meeting.
- 21.3 In the auditor's report, and in certifying to the accounts, the auditor will state:
- (a) whether they have obtained the information required by them;
  - (b) whether, in their opinion, the accounts are properly drawn up so as to exhibit a true and correct view of the financial position of MST according to the information at their disposal and the explanations given to them as shown by the records of MST; and
  - (c) whether the rules relating to the administration of funds of MST have been observed.

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- 21.4 The MST Treasurer will cause to be delivered to the auditor a list of all the accounts, books and records of MST.
- 21.5 The auditor:
- (a) has a right of access to the accounts, books, records, vouchers, and documents of MST;
  - (b) can require from the servants of MST such information and explanations as may be necessary for the performance of the duties as auditor;
  - (c) can employ persons to assist them in investigating the accounts of MST; and
  - (d) can, in relation to the accounts of MST, examine any member of the Committee or any servant of MST.

## 22 INCOME AND PROPERTY OF MASTERS SWIMMING TASMANIA

The assets and income of MST will be applied solely in furtherance of the objects and purposes of MST and no portion will be distributed directly or indirectly to MST members except as bona fide compensation for services rendered or expenses incurred on behalf of MST.

## 23 WINDING-UP OR CANCELLATION

- 23.1 In the event of the winding-up or cancellation of MST, no member will be liable to contribute towards payment of any debts or liabilities of MST or the costs, charges and expenses of the winding-up.
- 23.2 Upon the winding-up or cancellation of MST, any monies and assets which remain after the satisfaction of all debts, liabilities and obligations and any property whatsoever of MST will be disbursed to Masters Swimming Australia (Inc.) which is a non-profit organisation and is exempt from income tax under section 23 of the *Income Tax Assessment Act 1936* (Cth.).

## 24 ALTERATION OF RULES

MST in General Meeting may by special resolution alter, amend or add to the Rules of MST as outlined in this Constitution.

## 25 CODE OF ETHICS AND BY-LAWS

Subject to these Rules, all members will be bound by and will comply with any Code of Ethics or By-Laws of MST and of Masters Swimming Australia.