



Constitution
of

**MOTORCYCLING WESTERN AUSTRALIA
INCORPORATED**

**APPROVED SGM
3 AUGUST 2015**

UPDATED IN ACCORDANCE TO INCORPORATIONS ACT 2015 BY MWA BOARD 2017

TABLE OF CONTENTS

1. NAME OF ASSOCIATION	5
2. DEFINITIONS AND INTERPRETATION	5
2.1 Definitions.....	5
2.2 Interpretation	7
2.3 Severance	7
2.4 The Act.....	7
3. OBJECTS OF THE ASSOCIATION	7
4. POWERS OF THE ASSOCIATION	8
5. PROPERTY AND INCOME.....	8
6. MEMBERSHIP	9
6.1 Minimum number of Members	9
6.2 Categories of Membership.....	9
6.3 Right to Veto.....	10
6.4 Voting and Attendances at Meetings	10
6.5 Membership – Club	10
6.6 Membership Application	10
6.7 Application for Membership	10
6.8 Discretion to Accept or Reject Application	10
6.9 Renewal	11
7. REGISTER OF MEMBERS	11
7.1 Association to Keep Register.....	11
7.2 Access to Register.....	11
7.3 Use of Register.....	11
8. RESPONSIBILITIES OF MEMBERS.....	12
9. EFFECT OF MEMBERSHIP	12
10. DISCONTINUANCE OF MEMBERSHIP	13
10.1 Notice of Resignation.....	13
10.2 Discontinuance for breach	13
10.3 Member to Re-Apply.....	14
10.4 Forfeiture of Rights	14
10.5 Refund of Membership Fees.....	14
11. DISCIPLINE.....	14
11.1 Board resolution	14
11.2 Notice of Alleged Breach	14
11.3 Determination of Board.....	15
11.4 No Appeal.....	15
11.5 Delegation by the Board	15
12. SUBSCRIPTIONS AND FEES.....	15
12.1 Entitlement to Vote	15
13. COUNCIL	15
13.2 Patron.....	16
14. BOARD.....	16
14.1 Existing Directors.....	16
14.2 Powers of the Board	16
14.3 Composition of the Board	16
14.4 Election and Appointment of Directors	17

15. THE APPOINTED DIRECTORS MAY BE APPOINTED UNDER CLAUSE 16.ELECTED DIRECTORS	17
15.1 Nomination for Board.....	17
15.2 Form of Nomination	17
15.3 Elections.....	17
15.4 Term of Appointment for Elected Directors	18
16. APPOINTED DIRECTORS	18
16.1 Appointment of Directors	18
16.2 Qualifications for Appointed Directors.....	18
16.3 Term of Appointment.....	18
17. VACANCIES ON THE BOARD.....	19
17.1 Casual Vacancies.....	19
17.2 Grounds for Termination of Director.....	19
17.3 Board May Act.....	19
18. MEETINGS OF THE BOARD	19
18.1 Board to Meet.....	19
18.2 Decisions of Board	20
18.3 Resolutions Not in Meeting.....	20
18.4 Quorum	20
18.5 Notice of Board Meetings	20
18.6 President	20
18.7 Vice President	21
18.8 Conflict of Interest.....	21
18.9 Disclosure of Interests	21
18.10 General Disclosure	21
18.11 Recording Disclosures	21
18.12 Minutes.....	21
19. HONOURS AND PRIVILEGES.....	22
20. CHIEF EXECUTIVE OFFICER.....	22
21. SPORTING PANELS	22
22. STANDING COMMITTEES.....	22
23. SPECIAL PURPOSE COMMITTEES	23
24. DELEGATIONS.....	23
24.1 Board May Delegate Functions.....	23
24.2 Delegation by Instrument.....	23
24.3 Delegated Function Exercised in Accordance with Terms	24
24.4 Procedure of Delegated Entity	24
24.5 Delegation May Be Conditional.....	24
24.6 Revocation of Delegation.....	24
25. SEAL	24
26. ANNUAL GENERAL MEETING	24
27. SPECIAL GENERAL MEETINGS.....	24
27.1 Special General Meetings May be Held	24
27.2 Requisition of Special General Meetings	25
28. NOTICE OF GENERAL MEETING	25
29. BUSINESS	25
30. NOTICES OF MOTION	26
31. PROCEEDINGS AT GENERAL MEETINGS.....	26
31.1 Quorum	26
31.2 Adjournment of Meeting.....	26

31.3	Adjournment for Lack of a Quorum	26
31.4	Lack of Quorum at Adjourned Meeting	26
31.5	President to Preside	27
31.6	Voting Procedure.....	27
31.7	Recording of Determinations	27
31.8	Where Poll Demanded.....	27
32.	VOTING AT GENERAL MEETINGS.....	27
32.1	Members Entitled to Vote	27
32.2	Chairman May Exercise Casting Vote	27
32.3	Proxy Voting	27
32.4	Postal Voting	27
33.	GRIEVANCE PROCEDURE	28
34.	RECORDS AND ACCOUNTS	28
34.1	Records.....	28
34.2	Records Kept in Accordance with the Act	28
34.3	Inspection and Copying of Records	28
34.4	Board to Submit Accounts	29
34.5	Negotiable Instruments and Banking	29
35.	AUDITOR	29
36.	WINDING UP	29
37.	DISTRIBUTION OF PROPERTY ON WINDING UP	30
38.	ADDITION ALTERATION OR AMENDMENT	30
39.	REGULATIONS.....	30
39.1	Board to Formulate Regulations	30
39.2	Regulations Binding.....	30
39.3	Regulations Deemed Applicable.....	30
39.4	Bulletins Binding on Members	30
40.	STATUS AND COMPLIANCE OF ASSOCIATION	31
40.1	Recognition of Association	31
40.2	Affiliation.....	31
41.	NOTICE	31
42.	INDEMNITY	31

ASSOCIATIONS INCORPORATION ACT 1987 (WA)

CONSTITUTION

MOTORCYCLING WESTERN AUSTRALIA INC

1. NAME OF ASSOCIATION

The name of the Association is Motorcycling Western Australia Incorporated (**Association**).

2. DEFINITIONS AND INTERPRETATION

2.1 Definitions

In this Constitution unless the contrary intention appears:

Act means the *Associations Incorporation Act 2015 (WA)*.

AGM means the annual general meeting of the Association.

Associate Members means a body incorporated or otherwise, or person which is affiliated with the Association under **clause 6**, who is not a Club, Private Promoter, Motorcycle Association, Honorary Member or Licence Holder.

Board means the body managing the Association and consisting of the Directors.

Chief Executive Officer (CEO) means the person appointed to the position by the Board from time to time having the functions set out under this Constitution and as directed by the Board and performing the role of Secretary.

Club means a body which is affiliated with the Association under **clause 6**, having competitive or non-competitive licence holders, and which is active in conducting participation events for Members, the Board being responsible in determining whether a Club is active and entitled to vote in accordance with **clause 12.1**.

Committee means groups of individuals appointed by the Board to perform the functions or tasks in the operation of the Association and includes Sporting Panels and Special Purpose Committees.

Competition means an activity in which an individual or individuals of any Club or Clubs is/are engaged in motorcycling when speed, endurance, skill or any other such factor can be used as a comparison, other than a gymkhana or a social event.

Constitution means this Constitution of the Association.

Council means the Council of the Association constituted under **clause 13**.

Delegate means the person nominated by a Club as its representative at meetings of the Council.

Director means a Member of the Board and includes any person acting in that capacity from time to time appointed in accordance with this Constitution but does not include the Chief Executive Officer.

FIM means the Federation Internationale Motorcycliste - (the International Motorcycle Federation).

Financial Year means the year beginning 1 January each year and ending 31 December in each year.

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

GCR's means the General Competition Rules of MA including all regulations made under them and appendices to them as amended from time to time by MA or the Association.

Honorary Member means a body incorporated, business or otherwise, or a person who has contributed to the Association's Objectives and whose membership would continue to benefit the Association.

Instrument is an unspecified means by which something is done, to convey the written word, or accomplish a task.

Intellectual Property means all rights subsisting in copyright, trade names, trademarks, logos, designs, equipment, images(including photographs, videos and films) or service marks (whether registered or unregistered) relating to the Association the words 'motorcycling' or any events or competition or motorcycling equipment, product, publication or activity (including all State Championships and the State Motorcycling Calendar) developed, conducted, promoted or administered by the Association.

MA means Motorcycling Australia Limited the National Sporting Organisation for Motorcycling in Australia.

MA Delegate means the President from time to time, or his nominee, who shall represent the Association at meetings or conferences of MA and any adjournments thereof.

Manual of Motorcycling Sport (MoMS) means the manual published by MA incorporating the GCR's.

Member means a person or organisation admitted to membership of the Association under **clause 6.1**.

Life Member means an Individual appointed as a Life Member of the Association under **clause 6.1**.

Motorcycling means the sport of Motorcycling as administered by FIM and MA.

Motorcycling Association means a body which is affiliated with the Association under **clause 6.1**, whose main activity is other than conducting participation events for Members, or is a Club no longer actively conducting participation events within the intents of the definition of a Club according to the Board.

Objects means the Objects of the Association in **clause 3**.

Postal Vote means a vote recorded in writing by a Club that does not have a delegate present at a General Meeting of the Association. Provided that such vote is valid only in the event that the motion to which it refers is not amended in the course of debate at the General Meeting to which the Postal Vote is directed.

Private Promoter means any individual or individuals whether member/s of any Club or not, engaged in organising, conducting or managing the affairs of a competition who/m have a direct pecuniary interest in that competition.

Promoter means any Club or Clubs that engage in organising, conducting and managing matters in relation to the Sport.

Register means a register of Members kept and maintained in accordance with **clause 7**.

Regulations means any Regulations made under **clause 38**

Seal means the common seal of the Association (if any).

Special Resolution means a Special Resolution defined in the Act.

Sport means the organised sport of motorcycling and includes all forms of motorcycling whether competitive or otherwise.

2.2 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 of 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.

2.3 Severance

If any provision of this Constitution or any phrase contained in it is invalid or unenforceable, the phrase or provision is to be read and interpreted if possible, so as to be valid and enforceable, and otherwise shall be severed to the extent of the invalidity or unenforceability, without affecting the remaining provisions of this Constitution.

2.4 The Act

Except where the contrary intention appears, in this Constitution, an expression that deals with a matter under the Act has the same meaning as that provision of the Act. Any model rules created under the Act are expressly displaced by this Constitution.

3. OBJECTS OF THE ASSOCIATION

The Association is established solely for the Objects. The Objects of the Association are to:

- (a) Encourage, promote, manage and foster Motorcycling, and to coordinate, develop, facilitate and control the Sport of Motorcycling in Western Australia.
- (b) Act as the representative within Western Australia for the issue of licences and permits by MA and FIM.

- (c) Lobby all relevant State Government Departments to secure appropriate legislation and regulations governing the administration and use of motorcycles in Western Australia.
- (d) Represent the Sport of Motorcycling in matters relating to any Environmental Protection Act/s and to liaise with Clubs in matters pertaining to the Act/s.
- (e) Publish or join with any other person/s in the producing or publishing through any medium, material relating to the Sport of Motorcycling, or considered directly or indirectly to benefit the said sport.
- (f) Have regard to the public interest in its operations.
- (g) Undertake and or do all such things or activities which are necessary, incidental or conducive to the advancement of these Objects.

4. POWERS OF THE ASSOCIATION

Solely for furthering the Objects, the Association has, in addition to the rights, powers and privileges conferred on it under section 14 of the Act, the legal capacity and powers of a company limited by guarantee as set out under section 124 of the *Corporations Act 2001 (Cth)*.

5. PROPERTY AND INCOME

- (a) The property and income of the Association must be applied solely towards the promotion of the Objects of the Association and no part of that property or income may be paid or otherwise distributed, directly or indirectly, to any member of the Association, except in good faith in the promotion of those Objects.
- (b) Income and property of the Association shall be derived from such sources, and managed in such manner, as the Board determines from time to time.
- (c) 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.
- (d) 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.
- (e) Nothing in **clauses 5 (c) or (d)** shall prevent payment in good faith of or to any Member:
 - (i) for any service actually rendered to the Association whether as an employee or otherwise;
 - (ii) for goods supplied to the Association in the ordinary and usual course of business;
 - (iii) for interest on money borrowed from any Member;
 - (iv) for rent of premises let by any Member to the Association; or
 - (v) for any approved out-of-pocket expenses incurred by the Member on behalf of the Association.

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.

6. MEMBERSHIP

6.1 Minimum number of Members

The Association must have at least six Members who are entitled to vote at General Meetings of the Association.

6.2 Categories of Membership

- (a) Membership of the Association shall be divided into the following categories:
 - (i) Clubs;
 - (ii) Motorcycling Associations;
 - (iii) Private Promoters;
 - (iv) Holders of licenses issued by the Association;
 - (v) All members of Clubs who are not holders of a licence issued by the Association, whether an individual or otherwise;
 - (vi) Life Members;
 - (vii) Honorary Members; and
 - (viii) Associate Members.
 - (ix) Such other categories as are created by Council from time to time.
- (b) Clubs: The Board may admit an incorporated motorcycle club to membership of the Association by resolution of a majority of those members of the Board present and eligible to vote at a meeting of the Board.
 - (i) A member Club no longer active in conducting participation activities within the intent of the definition of a Club may be reclassified by the Board as a Motorcycling Association. The Board will determine whether a club is no longer active. A motorcycle club determined to not be active can apply to the Board at any time to be considered active and to revert to membership as a Club.
- (c) Motorcycling Associations: The Board may admit an incorporated motorcycling association to membership of the Association by resolution of a majority of those members of the Board present and eligible to vote at a meeting of the Board.
- (d) Private Promoters: The Board may admit a Private Promoter whether incorporated or otherwise to membership of the Association by resolution of a majority of those members of the Board present and eligible to vote at a meeting of the Board.
- (e) Licensee Holders: the holders of licenses issued by the Association shall be members of the Association during the currency of the license.
- (f) Life Members: The Council may elect Life Members of the Association provided that such election is decided by a two-thirds majority of those members of the Council present and eligible to vote at a meeting of the Council. Subject to **clause 5.2(a)** a Life Member shall enjoy all the rights and privileges accorded to Clubs except voting rights. To qualify for Life Membership that member must have had at least five (5) years' service to the Association. Nominations for Life membership must be submitted to the CEO three (3) months prior to the AGM. Board approval is required prior to the nomination proceeding to Council.
- (g) Honorary Members: The Board may admit Honorary Members to membership of the Association by resolution of a majority of those members of the Board present

and eligible to vote at a meeting of the Board. The period of membership shall not exceed one (1) year.

- (h) Associate Members: The Board may admit Associate Members from time to time for a period not exceeding twelve months

6.3 Right to Veto

The Council may consider a motion properly submitted as an agenda item by a Club at the next practical scheduled General Meeting of Council after the Board meeting approving affiliation in accordance with **clauses 6.2(b)** or **6.2(c)** of a Club or Motorcycling Association, to veto the approval of affiliation. A motion to veto under this clause requires the approval of 25% or more of all Members registered and affiliated with the Association as Clubs.

A Club or Motorcycling Association having its affiliation vetoed may resubmit its application for affiliation to the Board providing further information is provided or other conditions resolved by Council are met.

6.4 Voting and Attendances at Meetings

Only Clubs to Vote: Only Clubs through their nominated Delegates have the right to attend, vote, debate and move and second motions at meetings of the Association. All other Members shall not have such rights. Life Members, Associate Members, Honorary Members and Motorcycling Associations shall be permitted to debate only when invited by the Chairman of the meeting.

6.5 Membership – Club

- (a) Subject to this Constitution any incorporated organisation or association which has as its main object the participation or in the promotion of the Sport is entitled to apply to be a Club under **clause 6.2(b)**.
- (b) A Club which has previously been a Member, but has not renewed membership within a five (5) year period, may be readmitted to Membership by the Board, subject to such penalties or conditions or both as it sees fit.
- (c) An applicant Club may apply to become a member by depositing with the Association an application and associated fee accompanied by:
 - (i) The prescribed membership subscription which will be refundable if the application fails; and
 - (ii) A copy of its Constitution, certificate of incorporation, and a list of the officers and members of the applicant, certified to be correct by the President or Secretary or authorised representative thereof.
- (d) Each application received will be presented to the Board for approval.

6.6 Membership Application

6.7 Application for Membership

- (a) Admission to a Membership Category under **clause 6.1**, other than Clubs and Life Members, will be governed by the procedure set out in By Laws determined by the Board from time to time.

6.8 Discretion to Accept or Reject Application

- (a) The Board may accept or reject an application whether the applicant has complied with the requirements in **clause 6** or not. The Board shall not be required or

compelled to accept any membership application or to provide any reason for such acceptance or rejection.

- (b) Where the Board accepts an application, subject to the right of veto by the Council under **clause 6.3**, the applicant shall become a Member. Membership shall be deemed to commence upon acceptance of the application by the Board.
- (c) Where the Board rejects an application, it shall refund any affiliation fees forwarded with the application and the application shall be deemed rejected by the Association. The Association may retain the application fee.

6.9 Renewal

Members (other than Life Members) must renew their membership annually in accordance with the procedures set down by the Association in Regulations from time to time. The Board may accept or reject an application for membership renewal whether the applicant has complied with the requirements in the Regulations or not. The Board shall not be required or compelled to accept any membership renewal application or to provide any reason for such acceptance or rejection.

7. REGISTER OF MEMBERS

7.1 Association to Keep Register

The Association shall keep and maintain a Register in which shall be entered (as a minimum):

- (a) the full name, one or more of the residential, postal or email address, category of membership, and date of entry of each Member; and
- (b) where applicable, the date of termination of membership of any Member.

Members shall provide notice of any change and required details to the Association within one month of such change.

7.2 Access to Register

- (a) Having regard to the Act, this clause 7, confidentiality considerations and privacy laws, the register shall be available for inspection and copying by a Member, upon reasonable request to the Board. A member may also in writing request the association to provide the Member with a copy of the register.
- (b) A Member who requests a copy of the register must provide to the Association a statutory declaration setting out the purpose for which the request is made and declaring that the purpose:
 - (i) is connected with the objects and affairs of the association; and
 - (ii) is not an improper or unlawful purpose.
- (c) Subject to the Act, the Board may determine a reasonable charge for the cost of complying with a request under this clause

7.3 Use of Register

Subject to the Act, confidentiality considerations and privacy laws, the Register may be used to further the Objects, in such manner as the Board considers appropriate.

8. RESPONSIBILITIES OF MEMBERS

- (a) All Members are responsible for ensuring the efficient administration of Motorcycling in Western Australia strictly in accordance with this Constitution
- (b) Each Member will:
 - (i) Act at all times with all requirements that may be imposed on it by the Association.
 - (ii) At all times act for and on behalf of the interests of the Association, its Members and Motorcycling.
 - (iii) Do all that is reasonably necessary to enable the Objects to be achieved.
 - (iv) Act in good faith and loyalty to ensure the maintenance and enhancement of the Association and Motorcycling, and the standards, quality and reputation of the Association and Motorcycling to the collective and mutual benefit of the Members and Motorcycling.
 - (v) At all times operate with and promote mutual trust and confidence between the Association and the Members in pursuit of the Objects.
 - (vi) Not do or permit to be done any act or thing which might adversely affect or derogate from the standards and quality and maintenance and enhancement of the reputation of Motorcycling.
 - (vii) Promote the economic and sporting success, strength and stability of the Association and act interdependently with each other in pursuit of the Objects.
- (c) Each Club shall maintain in a form and with such details as are lawfully required by the Association, a register of all their members. Each Club shall upon request provide a copy of the register at a time and in a form acceptable to the Association and shall provide regular updates of the register to the Association.
- (d) The CEO, or any agent appointed by the Board, shall have the right to inspect the books, records or documents of a Club when so authorised by the Board.
- (e) Subject to this Constitution all Members, will be and are bound by all acts and decisions of the Association relating to the advancement, development, management and control of the Sport in Western Australia.
- (f) Membership subscriptions, determined by the Board, shall be payable annually, and may be recovered by the Association from a defaulting Member as a debt. Any Member which fails to pay its subscription as and when the same becomes payable is liable to forfeiture of membership.

9. EFFECT OF MEMBERSHIP

- (a) All Members acknowledge and agree that:
 - (i) This Constitution constitutes a contract between each of them and each of them and the Association and that they are bound by the Constitution, any Regulations and the GCR.
 - (ii) They shall comply with and observe the Constitution, any Regulations and the GCR's and any determination or resolution which may be made or passed by the Council or by the Board.
 - (iii) By submitting to the Constitution, the Regulations and the GCR's they accept the jurisdiction of the Association in the matters covered by them.

- (iv) This Constitution is made in the pursuit of a common object, namely the mutual and collective benefit of the Association, its Members and the Sport
 - (v) This Constitution, the Regulations and the GCR's are necessary and reasonable for promoting the Objects and, particularly, the advancement and protection of the Sport.
 - (vi) They are entitled to all benefits, advantages, privileges and services of Association membership.
- (b) Without limiting the provisions of **clause 9(a)** where a Member fails to comply with its financial or other obligations under this Constitution, any Regulation or the GCR's, the Board may determine that Member to be not of good standing. On determination that a Member, is not of good standing, the Board may give notice to the Member of the:
- (i) Board's determination; and
 - (ii) Basis for the Board's determination;

and request that the Member show cause within a reasonable time why further action should not be taken against the Member in accordance with this Constitution, the Regulations or the GCR's. A Member's failure to respond or act to the Board's satisfaction (including assurances or compliance with its obligations) may result in the Board suspending the Member or otherwise imposing such conditions on membership, as the Board sees fit.

10. DISCONTINUANCE OF MEMBERSHIP

10.1 Notice of Resignation

- (a) A Member who has paid all arrears of fees payable to the Association may resign or withdraw from membership of the Association by giving 30 days' notice in writing to the Board.
- (b) Once the Association receives a notice of resignation of membership given under **clause 10.1(a)**, it must make an entry in the Register that records the date on which the Member ceased to be a Member.

10.2 Discontinuance for breach

- (a) Notwithstanding anything else in this Constitution, membership of the Association may be discontinued by the Board upon breach of any clause of this Constitution or the Regulations, including, but not limited to, the failure to pay any monies owed to the Association, failure to comply with the Regulations or any resolutions or determinations made or passed by the Board or any duly authorised committee.
- (b) Membership shall not be discontinued by the Board under **clause 10.2(a)** without the Board first giving the accused Member the opportunity to explain the breach and/or remedy the breach.
- (c) Where a Member fails, in the Board's view to adequately explain the breach, that Member's membership shall be discontinued under **clause 10.2(a)** by the Association giving written notice of the discontinuance to the Member. The Register shall be amended to reflect any discontinuance of membership under this **clause 10.2** as soon as practicable.

10.3 Member to Re-Apply

A Member whose membership has been discontinued under **clauses 10.1** or **10.2**:

- (a) must seek renewal or re-apply for membership in accordance with this Constitution; and
- (b) may be re-admitted at the discretion of the Board with what conditions it sees fit.

10.4 Forfeiture of Rights

A Member who ceases to be a Member, for whatever reason, shall forfeit all rights in and claims upon the Association and its property and shall not use any property of the Association 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.

10.5 Refund of Membership Fees

Membership fees or subscriptions paid by the discontinued Member will not be refunded to the Member upon discontinuance.

11. DISCIPLINE

11.1 Board resolution

- (a) Subject to this Constitution, the Board may by resolution:
 - (i) expel a Member from the Association; or
 - (ii) suspend a Member from membership of the Association for a specified period; or
 - (iii) fine a Member; or
 - (iv) impose such other penalty, action or educative process as it sees fit;
- (b) if the Board considers that the Member has:
 - (i) breached, failed, refused or neglected to comply with a provision of this Constitution or the Regulations;
 - (ii) acted in a manner unbecoming of a Member or prejudicial to the Objects and interests of the Association, or another Member; or
 - (iii) brought itself, the Association, Motorcycling or another Member into disrepute.

Such grounds do not constitute a grievance, and **clause 32** does not apply.

11.2 Notice of Alleged Breach

Where the Board considers that a Member may have satisfied one or more of the grounds in **clause 11.1(b)**, the Secretary shall, as soon as practicable, serve on the Member a notice in writing:

- (a) setting out the alleged breach of the Member and the grounds on which it is based;

- (b) stating that the Member may address the Board at a meeting to be held not earlier than fourteen and not later than twenty eight days after service of the notice;
- (c) stating the date, place and time of that meeting;
- (d) informing the Member that he, she or it may do one or more of the following:
 - (i) attend that meeting; and/or
 - (ii) give the Association, before the date of that meeting a written statement regarding the alleged breach.

11.3 Determination of Board

At a meeting of the Board held under **clause 11.2**, the Board or delegated Panel shall act reasonably and in good faith:

- (a) give the Member every opportunity to be heard; and
- (b) give due consideration to any written statement submitted by the Member; and
- (c) by resolution determine whether the alleged breach occurred.

11.4 No Appeal

There shall be no appeal from a decision of the Board under this **clause 11**.

11.5 Delegation by the Board

Notwithstanding anything in this **clause 11**, the Board may delegate its rights and obligations under this rule to a Panel constituted in accordance with the MoMS in dealing with Members admitted under category (iv) and (v) in **clause 6.2**.

12. SUBSCRIPTIONS AND FEES

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

12.1 Entitlement to Vote

No Delegate is entitled to vote at any General Meeting, nor is any Proxy Vote valid at a General Meeting unless all sums owed to the Association presently due and payable by the Club making a Proxy Vote, or which the Delegate represents, have been paid and the club has as members competition or non-competition licence holders.

13. COUNCIL

- (a) The Council shall be the sole authority as to the interpretation of this Constitution which shall not be altered, repealed, or added to except under the conditions as set out in this Constitution.
- (b) The Council will comprise one Delegate from each Club appointed to represent it on Council.
- (c) Each Club President or Secretary shall notify the Association in writing of its appointed Delegate and of any changes from time to time.
- (d) A Delegate may represent a maximum of one Club at Council Meetings.

- (e) The Council may, by a two-third majority of those present and entitled to vote at a meeting of the Council, resolve to refer back to the Board or any Committee any matter previously considered by the Board or any Committee. The Council shall not otherwise be entitled to overrule or vary a decision of the Board or any Committee made according to this Constitution, By-Laws and GCR in force at the time of the event to which the decision relates. This rule does not apply to the right to veto a Member affiliation in accordance with **clause 6.3**.
- (f) The Council will:
 - (i) review the Association's performance in achieving its aims, Object and policies;
 - (ii) be the final arbiter on matters referred to it by the Board; and
 - (iii) subject to the Act and this Constitution, meet at least three times per year.

13.2 Patron

The Council in General Meeting may elect as it sees fit a Patron for a period of up to two years. Nominations for Patron must be submitted to the CEO one month prior to the AGM. Board approval is required prior to the nomination proceeding to Council.

14. BOARD

14.1 Existing Directors

The Members of the administrative or governing body (by whatever name called) of the Association in office immediately prior to approval of this Constitution under the Act shall continue in those positions until the next AGM following such adoption of this Constitution. After this General Meeting the positions of Directors shall be filled, vacated and otherwise dealt with in accordance with this Constitution. At the first AGM after adoption of this Constitution of the three Director vacancies, two will be filled for three years and the candidate with the least votes will be elected for two years. At the second AGM after adoption of this Constitution of the three Director vacancies, two will be filled for three years and the candidate with the least votes will be elected for one year. Thereafter each Director will be elected for terms of three years.

14.2 Powers of the Board

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 shall act in accordance with the Objects and shall operate for the benefit of the Members and the community.

14.3 Composition of the Board

The Board shall comprise:

- (a) six (6) elected Directors;

who must all be Members and who shall be elected under **clause Error! Reference source not found.**; and

- (b) up to two (2) appointed Directors who need not be Members and who may be appointed by the Directors in accordance with **clause 15**.

14.4 Election and Appointment of Directors

- (a) The elected Directors shall be elected under **clause Error! Reference source not found.**
- (b) The appointed Directors may be appointed under clause 15.

14.5 Remuneration of Directors

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

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

14.6 Nomination for Board

- (a) Nominations for elected Director positions in **clause 14.3(a)** shall be called for sixty (60) days prior to the annual general meeting and in such form as prescribed by the Board from time to time.
- (b) Nominees for elected Director positions must declare any position they hold in the Association, MA or any other member of MA or the Association.
- (c) A Director cannot be an employee of the Association.

14.7 Form of Nomination

Nominations must be:

- (a) in writing;
- (b) on the prescribed form (if any) provided for that purpose;
- (c) Seconded by a Delegate;
- (d) certified by the nominee (who must be a Member) expressing his willingness to accept the position for which he is nominated. A nominee can only nominate for one (1) position; and
- (e) Delivered to the Association not less than thirty (30) days before the date fixed for the annual general meeting.
- (f) Delivered to Member Clubs not less than twenty one (21) days prior to the date fixed for the annual general meeting

14.8 Elections

- (a) If the number of nominations received is equal to the number of vacancies to be filled or if there are insufficient nominations received to fill all vacancies on the Board, then those nominated shall be declared elected only if approved by the majority of Members entitled to vote.

- (b) If there are insufficient nominations received to fill all vacancies on the Board, or if a person is not approved by the majority of Members under **clause 14.8(a)**, the positions will be deemed casual vacancies under **clause 16.1**.
- (c) If the number of nominations exceeds the number of vacancies to be filled, voting papers shall be prepared containing the names of the candidates in alphabetical order for each vacancy on the Board.
- (d) Voting, including Proxy voting, shall be conducted in such a manner and by such a method as determined by the Board from time to time.

14.9 Term of Appointment for Elected Directors

- (a) Directors elected under **clause Error! Reference source not found.** shall be elected for a term of three years. Subject to provisions in this Constitution relating to early retirement or removal of Directors, elected Directors shall remain in office from the conclusion of the annual general meeting at which the election occurred until the conclusion of the third annual general meeting following.
- (b) Two (2) elected Directors shall retire in each year.
- (c) Following the adoption of this Constitution, no person who has served as an elected Director for a period of two (2) consecutive full terms shall be eligible for election as an elected Director until the next annual general meeting following the date of conclusion of his last term as an elected Director.

15. APPOINTED DIRECTORS

15.1 Appointment of Directors

The elected Directors may appoint up to two (2) appointed Directors.

15.2 Qualifications for Appointed Directors

The appointed Directors may have specific skills in commerce, finance, marketing, law or business generally or such other skills which complement the Board composition. They do not need to be Members.

15.3 Term of Appointment

- (a) Appointed Directors may be appointed by the elected Directors under this Constitution for a maximum term of two years, which shall commence from the first Board meeting after the annual general meeting until after the conclusion of the second annual general meeting that follows.
- (b) Appointed Directors may be appointed to ensure rotational terms that coincide with the elected Directors' rotational terms.
- (c) Any adjustment to the term of appointed Directors appointed under this Constitution necessary to ensure rotational terms under this Constitution shall be determined by the Board.
- (d) Following the adoption of this Constitution, no person who has served as an appointed Director for a period of two (2) consecutive full terms shall be eligible for appointment as an appointed Director until the next annual general meeting following the date of conclusion of his last term as an appointed Director.

16. VACANCIES ON THE BOARD

16.1 Casual Vacancies

Any casual vacancy occurring in the position of Director may be filled by the remaining Directors from among appropriately qualified persons. Any casual vacancy may only be filled for the remainder of the Director's term under this Constitution.

16.2 Grounds for Termination of Director

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

- (a) dies;
- (b) becomes bankrupt or makes any arrangement or composition with his 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 his office in writing to the Association;
- (e) is absent without the consent of the Board from three (3) consecutive meetings of the Board;
- (f) holds any office of employment with the Association;
- (g) is directly or indirectly interested in any contract or proposed contract with the Association and fails to declare the nature of that interest;
- (h) in the opinion of the Board (but subject always to this Constitution):
 - (i) has acted in a manner unbecoming or prejudicial to the Objects and interests of the Association; or
 - (i) has brought the Association into disrepute;
- (i) is removed by Special Resolution; or
- (j) would otherwise be prohibited from being a directors of a corporation under the *Corporations Act 2001 (Cth.)*.

16.3 Board May Act

In the event of a casual vacancy or vacancies in the office of a Director or Directors, the remaining Directors may act. However, 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 a quorum.

17. MEETINGS OF THE BOARD

17.1 Board to Meet

The Board shall meet as often as is deemed necessary in every calendar year for the dispatch of business (and shall be at least as often as is required under the Act). Subject to this Constitution, it may adjourn and otherwise regulate its meetings as it thinks fit. Three Directors may at any time convene a meeting of the Board within reasonable time.

17.2 Decisions of Board

Subject to this Constitution, questions arising at any meeting of the Board shall be decided by a majority of votes and a determination of a majority of Directors shall for all purposes be deemed a determination of the Board. All Directors shall have one vote on any question. Where voting is equal, the chairman may not exercise a casting vote and the motion will be lost.

17.3 Resolutions Not in Meeting

- (a) A resolution in writing that has been signed or assented to by electronic mail, internet communication, facsimile, text message, telephone 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 or assented to by one or more of the Directors.
- (b) Without limiting the power of the Board to regulate its meetings as it thinks 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, internet, video 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 or this Constitution.
 - (iii) If a failure in communications prevents **clause 17.3(b)(i)** from being satisfied by the 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 **clause 17.3(b)(i)** is satisfied again. If such condition is not satisfied within fifteen minutes from the interruption, the meeting shall be deemed to have been terminated or adjourned.
 - (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 the meeting, provided a Director is there present. If no Director is there present, the meeting shall be deemed to be held at the place where the chairman of the meeting is located.

17.4 Quorum

A resolution of the Board must be passed by a majority of votes of the Directors entitled to vote on the resolution.

17.5 Notice of Board Meetings

Unless all Directors agree to hold a meeting at shorter notice (which agreement shall be sufficiently evidenced by their apology or presence) not less than seven (7) days written notice of the meeting of the Board shall be given to each Director. The agenda shall be forwarded to each Director not less than four (4) days prior to such meeting.

17.6 President

The Board shall at the first Board meeting following each Annual General Meeting appoint a President from among its number of Directors elected under Clause **Error! Reference source not found.** who shall also be chairman. The President shall be the nominal head of

the Association and will act as chair of any Board meeting or General Meeting. If the President is not present, or is unwilling or unable to preside at a Board meeting the remaining Directors shall appoint another Director to preside as chair for that meeting only. The term of Vice President is for one year only and he/she may be reappointed.

17.7 Vice President

The Board shall at the first Board meeting following each Annual General Meeting appoint a Vice President from among its number of Directors elected under **clause** Error! Reference source not found.. The Vice President shall act in the absence of the President. If the Vice President is not present, or is unwilling or unable to preside at a Board meeting the remaining Directors shall appoint another Director to preside as chair for that meeting only. The term of President is for one year only and he/she may be reappointed.

17.8 Conflict of Interest

A Director or the CEO shall declare his interest in any contractual, selection, disciplinary, or financial matter in which a conflict of interest arises or may arise. They shall, unless otherwise determined by the Board, absent themselves from discussions of such matters and a Director shall not be entitled to vote in respect of such matters. If the Director casts a vote, the vote shall not be counted. In the event of any uncertainty as to whether it is necessary for a Director to absent himself from discussions and refrain from voting, the issue should be immediately determined by vote of the Board. If this is not possible, the matter shall be adjourned or deferred.

17.9 Disclosure of Interests

The nature of the interest of a Director or CEO must be declared at the meeting of the Board at which the relevant matter is first taken into consideration, if the interest then exists. In any other case, the interest should be revealed to the Board at the next meeting of the Board. If a Director becomes interested in a 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 interested.

17.10 General Disclosure

A general notice stating that a Director or CEO is a Member of any specified firm or company and that he is 'interested' in all transactions with that firm or company is sufficient declaration under **clause 17.9** After the distribution of the general notice, it is not necessary for the Director or CEO to give a special notice regarding any particular transaction with that firm or company.

17.11 Recording Disclosures

Any declaration made, any disclosure or any general notice given by a Director or CEO in accordance with **clauses 17.8, 17.9** and/or **17.10** must be recorded in the minutes of the relevant meeting.

A register of Conflicts of Interest will be kept and Directors shall declare any conflicts on election or appointment to the Board in the register

17.12 Minutes

- (a) The Directors must cause minutes of meetings to be made and kept according to the Act and the Corporations Act 2001 (Cth).
- (b) The minutes of Directors meetings shall not be available for inspection or copying by the Members.

18. HONOURS AND PRIVILEGES

The Board may confer on any person whom it considers has performed meritorious service to the Association, whether as an officer, employee or otherwise, such honours and privileges as it thinks appropriate in the circumstances.

19. CHIEF EXECUTIVE OFFICER

- (a) The Chief Executive Officer shall act as Secretary and shall be appointed as such by the Board in accordance with the Act, but otherwise for such term, and upon such conditions as the Board thinks fit.
- (b) The Association shall be managed by the Chief Executive Officer who may exercise all powers of the Association which are not, under the Act or this Constitution, required to be exercised by the Board or by the Council.
- (c) The Chief Executive Officer shall administer Motorcycling in Western Australia in accordance with the rules and regulations of MA, this Constitution, By-Laws, the GCR's and all policy directions of the Board.

20. SPORTING PANELS

- (d) The Board may appoint Sporting Panels to assist the Board. The members of Sporting Panels will be appointed for terms of up to two (2) years. Sporting Panels will perform the duties assigned to them by, and be directly responsible to, the Board.
- (e) Prior to confirming the appointment of a Sporting Panel, a list of the prospective members will be circulated to member Clubs for comment. The Board will consider any returned comment before confirming appointments.
- (f) Sporting Panels shall consist of as many members as the Board sees fit. The Chairman will be elected by the members of their respective Panel if not appointed by the Board.
- (g) In the event of the death, removal, resignation or disqualification from office of a member of a Sporting Panel, the Board may appoint a person to act in the vacant position.
- (h) The Board shall have regard for the recommendations of a Sporting Panel on any matter referred to the Panel or raised by the Panel for the attention of the Board.
- (i) The Board shall cause Regulations to be made that detail the appointment process and terms of appointment.
- (j) The Board may delegate functions to Sporting Panels in accordance with **clause 23**.

21. STANDING COMMITTEES

- (a) The Board may appoint Standing Committees. The members of Standing Committees will be appointed by the Board for up to two (2) year terms. The Standing Committees will perform the duties assigned to them by and be directly responsible to the Board. The Chairman will make minutes of their Committee's meeting and will provide those minutes to the next meeting of the Board.
- (b) Standing Committees shall consist of a maximum of 6 members. The Chairman will be elected by the members of their respective Committee if not appointed by the Board.

- (c) The members shall, upon the expiration of their terms of office, be eligible for re-appointment.
- (d) The Board shall have regard for the recommendations of a Standing Committee on any matter referred to the Committee or raised by the Committee for the attention of the Board.
- (e) The Board may refer to a Standing Committee matters for recommendation or advice provided the final decision on any matter shall be made by the Board.
- (f) The Board may delegate functions to Standing Committees in accordance with **clause 23**.

22. SPECIAL PURPOSE COMMITTEES

- (a) The Board may appoint Special Purpose Committees chaired by a Director. The Committees will perform the duties assigned to them by and be directly responsible to the Board. The Chairman will make minutes of his/her Committee's meeting and will provide those minutes to the next meeting of the Board.
- (b) At the point of the creation of a Special Purpose Committee the Board shall stipulate the terms of reference and functions.
- (c) The Board may refer to Special Purpose Committees matters for recommendation or advice provided the final decision on any matter or recommendation Board shall be made by the Board.
- (d) The Board shall have regard for the recommendations of a Special Purpose Committee on any matter referred to the Special Purpose Committee or raised by the Special Purpose Committee for the attention of the Board.
- (e) The Board may delegate functions to Special Purpose Committees in accordance with **clause 23**.

23. DELEGATIONS

23.1 Board May Delegate Functions

- (a) The Board may, by instrument in writing, create, establish or appoint Sporting Panels, Committees, Special Committees, individual officers and consultants to carry out specific duties and functions.
- (b) The Board will determine what powers these committees, officers or consultants are given. In exercising its power under this clause, the Board must take into account broad stakeholder involvement.

23.2 Delegation by Instrument

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

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

23.3 Delegated Function Exercised in Accordance with Terms

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

23.4 Procedure of Delegated Entity

The procedures for any entity exercising delegated power shall, subject to this Constitution and with any necessary or incidental amendment, be the same as that applicable to meetings of the Board under **clause 17**. The entity exercising delegated powers shall make decisions in accordance with the Objects, and it shall promptly provide the Board with details of all material decisions. The entity shall also provide any other reports, minutes and information required by the Board.

23.5 Delegation May Be Conditional

A delegation under this clause may be made subject to certain conditions or limitations regarding the exercise of any function. These may be specified in the delegation.

23.6 Revocation of Delegation

At any time the Board may, by instrument in writing, revoke wholly or in part any delegation made under this clause. It may amend or repeal any decision made by a body or person under this clause.

24. SEAL

- (a) The Association may have a Seal upon which its corporate name shall appear in legible characters.
- (b) The Board delegates to the CEO the custody of and authorisation to fix the seal to execute a document.
- (c) Two Directors, with the authority of the Board may fix the seal to execute a document.

25. ANNUAL GENERAL MEETING

- (a) The Association shall hold an annual general meeting in every calendar year and within 6 months after the end of the Association's financial year and otherwise in accordance with the Act and this Constitution. It should be held on a date and at a venue determined by the Board.
- (b) All General Meetings other than the annual general meeting shall be Special General Meetings and shall be held in accordance with this Constitution.

26. SPECIAL GENERAL MEETINGS

26.1 Special General Meetings May Be Held

The Board may, whenever it thinks fit, convene a special general meeting. When, but for this clause, more than fifteen months elapses between annual general meetings, the Board shall convene a special general meeting before the expiration of that period.

26.2 Requisition of Special General Meetings

- (a) The Board will convene a special general meeting when at least 10% of Members who would be entitled to vote at such a special general meeting, or three Board members, submit a requisition in writing.
- (b) The requisition for a special general meeting shall state the object(s) of the meeting, be signed by the Members 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 Members making the requisition.
- (c) If the Board does not cause a special general meeting to be held one month after the date in which the requisition is sent to the Association, the Members making the requisition, or any of them, may convene a special general meeting to be held no later than three months after that date.
- (d) A special general meeting convened by Members or Board under this Constitution shall be convened in the same manner, save for the requirements of this clause 26, as General Meetings convened by the Board in clauses 27, 28, 29, 30, and 31

27. NOTICE OF GENERAL MEETING

- (a) Notice of every General Meeting shall be given to all Members in accordance with the Act. Notices shall be sent to the addresses or electronic address appearing in the Association's Register. The auditor and Directors shall also be entitled to receive notice of every General Meeting. This will be sent to the auditor's last known address. No other person shall be entitled, as of right, to receive notices of General Meetings.
- (b) A notice of a General Meeting shall specify the place, day and hour of the meeting and shall state the business to be transacted at the meeting.
- (c) At least 45 days prior to the proposed date of the AGM, the Board will request from Members who are entitled to vote any notices of motions, which must be received no less than 28 days prior to the AGM.
- (d) At least twenty-one (21) days' notice of a General Meeting shall be given to those entitled to receive notice under 27(a), together with:
 - (i) the agenda for the meeting;
 - (ii) any notice of motion received from Members entitled to vote; and
 - (iii) forms for postal votes.
- (e) Notice of every general meeting shall be given in the manner authorised in **clause 40**.

28. BUSINESS

- (a) The business to be transacted at the annual general meeting includes the consideration of accounts and the reports of the Board and auditors, the election of Directors under this Constitution and the appointment of the auditors.
- (b) All business that is transacted at a general meeting and at an annual general meeting, with the exception of those matters set down in **clause 28(a)**, shall be special business.

- (c) No business other than that stated on the notice for a general meeting shall be transacted at that meeting.

29. NOTICES OF MOTION

Members entitled to vote may submit notices of motion for inclusion as special business at a general meeting. All notices of motion must be submitted in writing to the Association no less than thirty (30) days (excluding receiving date and meeting date) prior to the general meeting.

30. PROCEEDINGS AT GENERAL MEETINGS

30.1 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 25% of Members as represented by their Delegates, registered with the Association and eligible to vote.

30.2 Adjournment of Meeting

- (a) The chairman may, with the consent of any meeting at which a quorum is present, and shall, if so directed by the meeting, adjourn the meeting from time to time and from place to place. No business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (b) When a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.
- (c) Except as provided in **clause 30.2(b)** it shall not be necessary to give any notice of an adjournment or the business to be transacted at any adjourned meeting.

30.3 Adjournment for Lack of a Quorum

If a General Meeting does not have a quorum present at the time advertised for the meeting set out in the notice of meeting, the meeting is adjourned to the date, time and place the chairman specifies. The chairman may call a 15 minute adjournment and convene the adjourned meeting thereafter. If the chairman does not specify the date or time or place of the adjourned meeting, then the meeting is adjourned to:

- (i) if the date is not specified – the same day in the next week; and
- (ii) if the place is not specified – the same place; and
- (iii) if the time is not specified – the same time.

30.4 Lack of Quorum at Adjourned Meeting

If no quorum is present at the advertised time of the resumed meeting, then:

- (i) if the meeting was called as a consequence of a requisition of Clubs, the meeting is dissolved;
- (ii) in all other cases, the Clubs present are a quorum

30.5 President to Preside

The President as chairman of the Board shall, subject to this Constitution, preside as chair at every general meeting except:

- (a) in relation to any election for which the chairman is a nominee; or
- (b) where a conflict of interest exists.

If the chairman is not present, or is unwilling or unable to preside, the delegates present shall appoint another Director to preside as chairman for that meeting only.

30.6 Voting Procedure

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

- (a) the chairman; or
- (b) a simple majority of the Members entitled to vote.

30.7 Recording of Determinations

Unless a poll is demanded under **clause 30.6**, the chairman's declaration shall be conclusive evidence of the result of a resolution decided by a show of hands. The declaration does not need to record the number of votes in favour of or against the resolution; the result of the resolution must be recorded in the Association's book of proceedings.

30.8 Where Poll Demanded

If a poll is duly demanded under **clause 30.6** it shall be taken in such a manner and either at once or after an interval or adjournment or otherwise as the chairman directs. The result of the poll shall be the resolution of the meeting.

31. VOTING AT GENERAL MEETINGS

31.1 Members Entitled to Vote

Each Member Club (through its delegate) shall 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 **clause 6.1**.

31.2 Chairman May Exercise Casting Vote

Where voting at General Meetings is equal, the chairman may not exercise a casting vote and the motion will be lost.

31.3 Proxy Voting

Proxy voting shall not be permitted at General Meetings

31.4 Postal Voting

Postal voting is permitted. A postal ballot shall be conducted under the procedures set by the Board in Regulations from time to time and may be by written or by electronic means.

Postal votes shall not be recorded where the resolution to which they refer has been amended in the course of debate at the meeting.

32. GRIEVANCE PROCEDURE

- (a) The grievance procedure set out in this rule applies to disputes under these rules between a Member and:
 - (i) another Member; or
 - (ii) the Association.
- (b) The parties to the dispute must meet and discuss the matter in dispute, and, if possible, resolve the dispute within fourteen days (14) after the dispute comes to the attention of all parties.
- (c) Subject to **clause 32(d)**, if the parties are unable to resolve the dispute at the meeting or if a party fails to attend that meeting, then the parties must, within ten (10) days, refer the dispute for resolution to an independent tribunal established by the Board in accordance with the procedures determined by the Board from time to time.
- (d) Where the matter relates to a breach of Motorcycling Australia's Member Protection Policy or its Code of Conduct, the Board may refer the dispute for resolution to an independent tribunal established by Motorcycling Western Australia in accordance with the procedures determined by Motorcycling Western Australia from time to time.
- (e) The Board may prescribe additional grievance procedures in the Regulations consistent with this **clause 32**.

33. RECORDS AND ACCOUNTS

33.1 Records

- (a) The Association shall establish and maintain proper records and minutes concerning all of its transactions, business, meetings and dealings (including those of the Association and the Board). It shall produce these as appropriate at each Board or general meeting.
- (b) The Board will cause the Association's financial records to be kept for a period of 7 years from their creation as required by the Act.

33.2 Records Kept in Accordance with the Act

Proper accounting and other records shall be kept in accordance with the Act. The books of account, records, documents and securities shall be kept in the care and control of the CEO at the registered place of the Association.

33.3 Inspection and Copying of Records

- (a) Subject to **clause 33.3(e)**, Members may inspect and copy:
 - (i) records, books, securities, this Constitution and other relevant documents of the Association; and
 - (ii) minutes of general meetings of the Association, including financial statements submitted at a general meeting.

- (iii) Minutes of Sporting Panel meetings.
- (b) The Board may refuse to permit a member to inspect records of the Association that relate to confidential, personal, employment, commercial or legal matters or where to do so may be prejudicial to the interests of the Association.
- (c) The Board must on request make copies of these rules available to Members and applicants for membership free of charge.
- (d) Subject to clause **33.3(b)**, a Member may make a copy of any of the other records of the Association referred to in this clause and the Association may charge a reasonable fee for provision of a copy of such a record.
- (e) Members are not entitled to inspect or copy minutes of meetings of the Board.

33.4 Board to Submit Accounts

The Board shall submit the Association's statements of account to the Members at the annual general meeting in accordance with this Constitution and the Act.

33.5 Negotiable Instruments and Banking

- (a) All monies received for and on behalf of the Association shall be paid to the credit of the Association into such Bank or Banks or such other sources of income as the Board shall from time to time direct.
- (b) All monies paid by or on behalf of the Association shall be paid by cheque, other negotiable instrument, Electronic Funds Transfer, or other Electronic means authorised by the Board, drawn against the funds of the Association.
- (c) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments shall be signed by any two of the Executive Director or a member of the Association staff approved by the Board for the purpose, and the President or an elected Director.
- (d) Electronic payments must be post approved by the President or an elected Director approved by the Board for the purpose.
- (e) The Board may at any time or from time to time create any special fund for any special purpose and may prescribe the means by which such funds be closed, and prescribe the manner in which any monies remaining therein shall be used or applied.

34. AUDITOR

- (a) A properly qualified auditor or auditors shall be appointed by the Association at an annual general meeting. The auditor's duties shall be regulated in accordance with the *Corporations Act 2001 (Cth.)* and generally accepted principles and/or any applicable code of conduct. The auditor may be removed by the Association in an annual general meeting in accordance with the Act.
- (b) The accounts of the Association shall be examined and the correctness of the profit and loss accounts and balance sheets ascertained by an auditor or auditors at the conclusion of each financial year.

35. WINDING UP

- (a) Subject to this Constitution the Association may be wound up in accordance with the Act.

- (b) The liability of the Members of the Association is limited.
- (c) Every Member undertakes 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 they ceased to be a Member and towards the costs, charges and expenses of winding up the Association, such an amount not exceeding one dollar (\$1.00).

36. 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, they shall not be paid to or distributed among the Members. Instead, the assets or property shall be given or transferred to another organisation(s) that has Objects similar to those of the Association. The organisation(s) must prohibit the distribution of its income and property among its Members to an extent at least as great as that imposed on the Association by this Constitution. The organisation(s) is to be determined by the Members in a general meeting at or before the time of dissolution. If this does not occur, the decision is to be made by a judge of the Supreme Court of Western Australia or other court as may have or acquire jurisdiction in the matter.

37. ADDITION ALTERATION OR AMENDMENT

No alteration, addition or amendment of this Constitution shall be made unless and until carried by Special Resolution at an Annual General Meeting or by Special Resolution at any general meeting called for such purpose in accordance with this Constitution.

38. REGULATIONS

38.1 Board to Formulate Regulations

The Board may formulate, issue, adopt, interpret and amend Regulations for the proper advancement, management and administration of the Association, the advancement of the purposes of the Association and Motorcycling. Such Regulations must be consistent with the Constitution.

38.2 Regulations Binding

All Regulations are binding on the Association and all Members.

38.3 Regulations Deemed Applicable

All clauses, rules, Regulations, policies and regulations of the Association in force at the date of the approval of this Constitution (as long as such clauses, rules, Regulations and regulations are not inconsistent with or have been replaced by, this Constitution) shall be deemed to be Regulations and shall continue to apply.

38.4 Bulletins Binding on Members

Amendments, alterations, interpretations or other changes to Regulations shall be advised to Members by means of bulletins prepared and issued by the CEO in written or electronic form. The CEO shall take reasonable steps to distribute information in the bulletins to Members. The matters in the bulletins are binding on all Members.

39. STATUS AND COMPLIANCE OF ASSOCIATION

39.1 Recognition of Association

The Association is a Member of MA and is recognised by this body as the entity responsible for the delivery of Motorcycling in Western Australia. The Association is subject to compliance with MA's Constitution. The Association shall administer Motorcycling in Western Australia in accordance with the Objects.

39.2 Affiliation

The Association may not resign, disaffiliate or otherwise seek to withdraw from MA without approval by Special Resolution.

40. NOTICE

- (a) Notices may be given by the Association to any person entitled under this Constitution to receive any notice. The notice can be sent by pre-paid post or facsimile transmission or, where available, by electronic mail or other electronic means to the Member's registered address or facsimile number or electronic mail address or SMS number.
- (b) Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying and posting the notice. Service of the notice is deemed to have been effected three 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 or other electronic means, service of the notice shall be deemed to be effected the next business day after it was sent.

41. INDEMNITY

- (a) Every Director and employee of the Association will be indemnified out of the property and assets of the Association against any liability incurred by them in their capacity as Director or employee in defending any proceedings, civil or criminal, in which judgement is given in their favour or in which they are acquitted or connected with any application in relation to any such proceedings in which relief is granted by the Court.
- (b) The Association shall indemnify its Directors and employees against all damages and losses (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:
 - (i) in the case of a Director, performed or made while acting on behalf of and with the authority, express or implied, of the Association; or
 - (ii) in the case of an employee, performed or made in the course of, and within the scope of, their employment by the Association.