



Constitution

DATE: 30 May 2018

BASKETBALL VICTORIA INCORPORATED

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ASSOCIATIONS INCORPORATION REFORM ACT (VIC) 2012

CONSTITUTION

of

BASKETBALL VICTORIA INCORPORATED

1. NAME OF ASSOCIATION

The name of the association is Basketball Victoria Incorporated (**BV**).

2. OBJECTS OF BV

The objects for which BV is established and maintained are to:

- (a) provide for the advancement, encouragement, conduct, promotion and administration of Basketball in Victoria;
- (b) affiliate and otherwise liaise with Basketball Australia (**BA**) and such other bodies as may be desirable, in the pursuit of these Objects;
- (c) engender a fraternal feeling amongst players and to promote and preserve the best interests and traditions of Basketball;
- (d) administer and govern Basketball in Victoria for the benefit of Member Associations (without unnecessary interference in the operations of Member Associations) and for the wider Victorian Basketball community;
- (e) select and develop players, teams or sides to represent BV in interstate and state matches;
- (f) provide individuals with opportunity to maximise their potential by competing in the highest level of Basketball possible, given their own ability;
- (g) authorise the holding of BV State Basketball championships (junior, senior, all ability and veterans) and to arrange for the conduct of any other competitions that it may from time to time determine;
- (h) use and protect the Intellectual Property;
- (i) promulgate rules and standards for the management of Basketball, Basketball matches and related activities;
- (j) pursue through itself or others, such commercial arrangements, including sponsorship and marketing opportunities, as are appropriate to further the Objects;
- (k) further develop BV and Basketball into an organised institution and having regard to these Objects, to foster, regulate, organise, conduct and manage tournaments, competitions, displays and other activities;
- (l) promote the health and safety of Members;

- (m) act as final arbiter on all matters arising under the jurisdiction of BV, including disciplinary matters;
- (n) formulate or recognise and implement appropriate policies, including policies in relation to equal opportunity, equity, drugs in sport, health, safety and such other matters as arise from time to time as issues to be addressed in Basketball;
- (o) represent the interests of its Members and of Basketball generally in any appropriate forum;
- (p) have regard to the public interest in its operations;
- (q) facilitate the development of facilities for the enjoyment of Basketball; and
- (r) undertake and or do all such things or activities which are necessary, incidental or conducive to the advancement of these Objects.

3. **POWERS OF BV**

Solely for furthering the Objects BV has, in addition to the rights, powers and privileges conferred on it under 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).

4. **DEFINITIONS AND INTERPRETATION**

4.1 **Definitions**

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

meanings:

Act means the *Associations Incorporation Reform Act 2012* (Vic) as amended from time to time.

Annual General Meeting means a meeting of Members convened in accordance with **Rule 13**.

Appointed Director means a Director appointed in accordance with **Rule 24**.

BA means Basketball Australia or BA Limited.

Basketball means the sport of Basketball.

Board means the body consisting of the Directors in accordance with **Rule 22**.

BV means Basketball Victoria Incorporated.

By-Laws mean any By-Laws made by the Board under **Rule 41**.

Chief Executive Officer means the Chief Executive Officer of BV (by this or such other title as may be designated by the Board from time to time) for the time being appointed under this Constitution.

Constitution means this Constitution as amended from time to time.

Delegate means the natural person appointed from time to time by a Member Association or by a Special purpose member in accordance with **Rule 6.5**.

Director means a member of the Board elected or appointed in accordance with **Rule 23** and includes Elected Directors and Appointed Directors.

Elected Director means a Director elected in accordance with **Rule 23.3**.

Financial Year means the year ending 31 December in each year.

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

Individual Member means a natural person who is:

a registered financial member of a Member Association, Special purpose member or BV; or

a registered player, coach or official in any basketball competition conducted by or under the auspices of BV, a Member Association or a Special purpose member.

Intellectual Property means all rights subsisting in copyright, business names, names, trademarks (or signs), logos, designs, equipment including computer software, images (including photographs, videos or films) or service marks relating to the BV or any event, competition or Basketball activity of or conducted, promoted or administered by the BV.

Life Member means a member appointed as a Life Member under **Rule 5.2**.

Member means any person recognised as a member of BV under **Rule 5**.

Member Association means any properly constituted incorporated body recognised by and admitted to membership of BV by the Board under **Rules 6.1, 6.2 and 7.2**.

Object means the objects of BV in **Rule 2**.

President means the President of BV elected in accordance with **Rule 22.4** from time to time.

Register means the register of Members kept in accordance with **Rule 9**

Special purpose member means any properly constituted incorporated body recognised by, and admitted to membership of BV, by the Board, under **Rules 6.3, 6.4 and 7.2**.

Special Resolution has the same meaning as in the Act.

State Conference Meeting means a meeting of Directors, representatives of Member Associations and representatives of Special purpose members as set out in **Rule 15**.

4.2 Interpretation

In this Constitution:

- (a) a reference to a function includes a reference to a right, authority and duty;

- (b) a reference to a rule, by-law, schedule or annexure is to a rule, by-law, schedule or annexure of, or made under, this Constitution;
- (c) words importing the singular include the plural and vice versa;
- (d) words importing any gender include the other genders;
- (e) headings are for convenience only and shall not be used for interpretation;
- (f) words or expressions shall be interpreted in accordance with the provisions of the Act as they vary from time to time;
- (g) references to persons include natural persons, corporations and bodies politic, and any legal personal representatives, successors and permitted assigns of that person;
- (h) 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
- (i) a reference to “writing” shall unless the contrary intention appears, be construed as including references to printing, photography and other modes of representing or reproducing words in a visible form, including messages sent by electronic mail.

4.3 Severance

If any provision of this Constitution or any phrase contained in it is invalid or unenforceable in any jurisdiction, the phrase or provision must be read down for the purpose of that jurisdiction, if possible, so as to be valid and enforceable. If it cannot be read down it shall be severed to the extent of the invalidity or unenforceability, without affecting the remaining provisions of this Constitution or affecting the validity or enforceability of that provision in any other jurisdiction.

4.4 The model rules

This Constitution expressly displaces the model rules under the Act.

5. MEMBERS

5.1 Categories of Members

The Members of BV shall consist of:

- (a) Member Associations, which subject to this Constitution, shall be represented by their Delegate who shall have the right to be present, debate and vote at General Meetings;
- (b) Special purpose members, which subject to this Constitution, shall be represented by their Delegate who shall have the right to be present and debate but not vote at General Meetings nor to propose motions or nominate persons for election;

- (c) Individual Members, who shall have no right to be present, debate or vote at General Meetings nor to propose motions or nominate persons for election;
- (d) Life Members, who shall have the right to be present, debate and vote at General Meetings; and
- (e) such new categories of Members, created by the Board from time to time under **Rule 5.3**.

Subject to this Constitution the Board will determine and will set out in the By-Laws the rights, privileges and obligations of each category of Membership

5.2 Life Members

- (a) Life Members may be elected at a General Meeting by Special Resolution, provided that written notice of nomination for such election shall have been given to the Chief Executive Officer at least 90 days prior to the meeting.
- (b) Life Membership shall be restricted to those whose service to Basketball and BV has been worthy of the highest honour.
- (c) The Board shall present a written report to the General Meeting on the services of those nominees for Life Membership who the Board considers should be considered for election to Life Membership.
- (d) Life Members shall receive such rights and privileges as are determined by the Board from time to time.
- (e) Life Membership may be cancelled by Special Resolution.

5.3 Creation of New Categories

The Board may from time to time create new categories of membership with such rights, privileges and obligations as are determined applicable (other than voting rights), even if the effect of creating a new category is to alter rights, privileges or obligations of an existing category of Members. No new category of membership created under this rule may be granted voting rights.

6. MEMBER ASSOCIATIONS AND SPECIAL PURPOSE MEMBERS

6.1 Objects of Member Associations

A Member Association must be established solely for the following objects:

- (a) conduct, encourage, promote, advance and administer Basketball throughout the relevant local area;
- (b) act, at all times, on behalf of and in the interest of the Members and Basketball in the relevant local area;
- (c) to be admitted as a Member Association and otherwise liaise with BV and adopt its rule and policy frameworks to further these objects;

- (d) abide by, promulgate and enforce the rules of Basketball as may be determined from time to time by BV as may be necessary for the management of Basketball and related activities in Victoria;
- (e) advance the operations and activities of the Member Association throughout the relevant local area;
- (f) act in good faith and loyalty to ensure the maintenance and enhancement of Basketball, its standards, quality and reputation for the benefit of the Members and Basketball;
- (g) to promote the economic and community service success, strength and stability of BV and other Member Associations and to act interdependently with those bodies in pursuit of their respective objects;
- (h) have regard to the public interest in its operations; and
- (i) undertake and or do all such things or activities which are necessary, incidental or conducive to the advancement of these objects.

6.2 Compliance of Member Associations

Each Member Association shall:

- (a) in strict consideration of the Objects and particularly but not only **Rule 2(d)**, be subject to the jurisdiction of BV;
- (b) comprise at least 20 teams within its competition;
- (c) if located in regional Victoria and defined as “Country” associations under By-Laws operate competitions of five teams or more;
- (d) adopt rules and objects which reflect and conform with this Constitution;
- (e) provide BV with copies of its annual financial statements and annual report and other associated documents including but not only evidence of its incorporated status, details of its officer bearers and its membership data within 30 days of the Member Association’s annual general meeting; and
- (f) if requested by BV and agreed with the relevant Member Association, enter into an affiliation agreement with BV.
- (g) BV acknowledges that the rules and objects of each Member Association as at the date of this Constitution are deemed to comply with the obligation imposed by Rule 6.2 (d).

6.3 Objects of Special purpose members

A Special purpose member must be established solely for the following objects:

- (a) act, at all times, on behalf of and in the interest of the Members and Basketball;
- (b) affiliate, and otherwise liaise with BV and adopt its rule and policy frameworks to further these objects;

- (c) abide by, promulgate and enforce the rules of Basketball as may be determined from time to time by BV as may be necessary for the management of Basketball and related activities in Victoria;
- (d) act in good faith and loyalty to ensure the maintenance and enhancement of Basketball, its standards, quality and reputation for the benefit of the Members and Basketball;
- (e) to promote the economic and community service success, strength and stability of BV and other Members and to act interdependently with those bodies in pursuit of their respective objects;
- (f) have regard to its Members and the public interest in its operations; and
- (g) undertake and or do all such things or activities which are necessary, incidental or conducive to the advancement of these objects.

6.4 Compliance of Special purpose members

Each Special purpose member shall:

- (a) be subject to the governance and direction of BV;
- (b) have up to 20 teams within its competition OR only conduct Basketball competitions over a short term or of a special nature;
- (c) adopt rules and objects which reflect and conform with the Constitution;
- (d) provide BV with copies of its annual financial statements and annual report and other associated documents including but not only evidence of its incorporated status, details of its officer bearers and its membership data within 30 days of the Member Association's annual general meeting; and
- (e) if requested by BV enter into an affiliation agreement with BV.

6.5 Delegates

Each Member Association and Special purpose member shall appoint a Delegate to attend and represent them at relevant meetings of BV including General Meetings. Each Member Association and Special purpose member shall advise BV of its appointed Delegate at least 5 days prior to the relevant general meeting or such other time as the Board allows.

6.6 Operation of Constitution

Member Associations and Special purpose members agree that:

- (a) they are bound by this Constitution and that this Constitution operates to create equity and fairness in the way in which the Objects and Basketball are to be conducted, promoted and administered; and
- (b) should a Member Association or a Special purpose member be having administrative, operational or financial difficulties the Board may act to assist that Member Association or Special purpose member in whatever manner it considers appropriate, including, but not limited to the appointment of an administrator:

- (i) without the Member Association's or the Special purpose member's consent where the Member Association's or the Special purpose member's difficulties are significant. For example, but not only insolvent trading or significant reputation damage; or
 - (ii) with the Member Association's or the Special purpose member's consent where the Board's actions are solely to improve the operation and administration of the Member Association or of the Special purpose member; and
- (c) notwithstanding anything else in this Constitution they may be sanctioned in the absolute discretion of the Board (acting reasonably and in good faith) should they fail to comply with this Constitution and in particular but not only **Rules 6.2 and 6.4**.

7. APPLICATION FOR, OR SUSPENSION OR CANCELLATION OF MEMBERSHIP

7.1 Application

An application for membership as a Member Association or Special purpose member must:

- (a) be in writing on the form prescribed by the Board from time to time; and
- (b) meet all membership criteria set down in **Rule 6** and the By-Laws; and
- (c) be accompanied by the appropriate fee, if any.

7.2 Discretion to Accept or Reject Application

- (a) The Board may accept or reject an application whether the applicant has complied with the requirements in **Rule 7.1** or not. The Board will make a decision on an application within a reasonable time of receiving the application. In considering an application the Board must act reasonably and in good faith.
- (b) Before making its decision to accept or reject an application for membership as a Member Association or Special purpose member, the Board must consult relevant Member Associations (being those associations located in similar geographic areas).
- (c) Where the Board accepts an application, the applicant will become a Member in the relevant category.
- (d) Membership of BV will commence upon acceptance of the application by the Board.
- (e) If the Board rejects an application, it will refund any fees forwarded with the application, and the application will be deemed rejected. The Board is not obliged to provide reasons where it has rejected a membership application.

7.3 Renewal of Membership

- (a) Member Associations and Special purpose members must renew their membership with BV annually in accordance with the procedures set down

from time to time in the By-Laws. Upon renewal the Member must lodge with BV any amendments to its constitution and changes in its Delegate. It must also lodge details of its governing body members.

- (b) The Board may refuse to renew the membership of a Member Association or of a Special purpose member at any time during the membership year if after due notification and reasonable opportunity for rectification:
 - (i) it does not meet the criteria for affiliation set out in by-laws;
 - (ii) it is in breach of the Act, the Constitution or the By-Laws and any determination, resolution or policy which may be made or passed by the Board or any duly authorised committee;
 - (iii) it does not meet the criteria set by BV for that class of membership;
 - (iv) the Board reasonably believes it is not acting in the best interests of basketball in Victoria;
 - (v) the Board reasonably believes it is not acting in the best interests of its members or participants: or
 - (vi) it is trading insolvent.
- (c) Individual Members In order to remain a Member, Individual Members must renew their registration with their Member Association or Special purpose member or, where relevant and applicable, with BV or otherwise remain members of their Member Association or Special purpose member or BV in accordance with the relevant procedures applicable from time to time at the end of each BV financial year.

7.4 Suspension or Cancellation of Membership

The BV Board may suspend or cancel the membership of a Member Association or of a Special purpose member if after due notification and reasonable opportunity for rectification:

- (i) it does not meet the criteria for affiliation set out in by-laws;
- (ii) it is in breach of the Act, the Constitution or the By-Laws and any determination, resolution or policy which may be made or passed by the Board or any duly authorised committee;
- (iii) it does not meet the criteria set by BV for that class of membership;
- (iv) the Board reasonably believes it is not acting in the best interests of basketball in Victoria;
- (v) the Board reasonably believes it is not acting in the best interests of its members or participants: or
- (vi) it is trading insolvent

7.5 Appeals

Appeals against a decision of the Board under rules 7.3 or 7.4 are to be determined by the Basketball Victoria Appeals Tribunal and the decision of the Appeals Tribunal is final.

8 SUBSCRIPTIONS, FEES AND LEVIES

- (a) Subject to **Rule 15.1(e)** the annual membership subscription (if any), fees and any levies payable by Members to BV, the time for and manner of payment shall be as determined by the Board from time to time.
- (b) The Board is empowered to prevent any Member whose fees are in arrears from exercising the whole or any of the rights or privileges of Membership, including but not limited to the right to vote at General Meetings or to participate in BV conducted competitions, Leagues or programs.

9 REGISTER OF MEMBERS

9.1 Chief Executive Officer to Keep Register

- (a) The Chief Executive Officer shall keep and maintain a Register of Members in accordance with the Act and relevant privacy laws and which shall include:
 - (i) the full name and address of the Member;
 - (ii) the Member's category of membership;
 - (iii) the date on which the Member became a Member;
 - (iv) any other information reasonably determined by the Board and approved by a General Meeting; and
 - (v) for each former Member, the date of ceasing to be a Member
- (b) Member Associations and Special purpose members must maintain a register of their members, players, officials, coaches and administrators in accordance with **Rule 9.1(a)** and shall supply this register to the Chief Executive Officer, when requested, for use as a register of Individual Members.

9.2 Inspection of Register

Inspection of the Register will be available as provided by the Act and in accordance with **Rule 30.3**

10 Effect of Membership

Members acknowledge and agree that:

- (a) this Constitution constitutes a contract between each of them and BV and that they are bound by this Constitution and the By-Laws;
- (b) they shall comply with and observe this Constitution and the By-Laws and any determination, resolution or policy which may be made or passed by the Board or any duly authorised committee;

- (b) they are subject to the jurisdiction of BV;
- (c) this Constitution and the By-Laws are necessary and reasonable for promoting the Objects and particularly the advancement and protection of Basketball;
- (d) they are entitled to all benefits, advantages, privileges and services of Association membership;
- (e) they will not become a party to any suit at law or equity, against BV, any Director or any other Member or any other person subject to this Constitution, until all remedies and avenues of appeal allowed by this Constitution have been exhausted, save with the written consent of BV; and
- (f) a right, privilege or obligation of a Member by reason of their membership of BV:
 - (i) is not capable of being transferred or transmitted to another Member; and
 - (ii) terminates upon the cessation of membership whether by resignation or otherwise.

11. RESIGNATION OF MEMBERSHIP

11.1 Notice of Resignation

- (a) Any Member Association or Special purpose member which has paid all monies due and payable to BV may, subject to **Rule 11.10**, resign from BV by giving one (1) month's notice in writing on the prescribed form (if any) to BV of such intention to withdraw or resign. Upon the expiration of that period of notice, the Member Association or Special purpose member shall cease to be a Member.
- (b) A Member Association or Special purpose member may not resign, disaffiliate or otherwise seek to withdraw from BV without approval by Special Resolution of the Member Association or Special purpose member. A copy of the relevant minutes of the general meeting of the Member Association or Special purpose member showing that the Special Resolution has been passed by the Member Association or by the Special purpose member must be provided to BV.
- (c) If a Member Association or Special purpose member ceases to be a Member the membership of all Individual Members of that Member Association shall:
 - (iii) subject to a determination of the Board to the contrary; or
 - (iv) unless they have transferred to another Member Association or Special purpose member; or
 - (v) unless they are also an Individual Member of another Member Association or Special purpose member;
 also cease at that time.

- (d) If an Individual Member resigns from the Member Association or Special purpose member of which they are a member or, where relevant, from BV in accordance with the rules of the Member Association, Special purpose member or BV, they shall be deemed to have also resigned from BV. The Member Association or Special purpose member must notify BV of any resignations under this rule as soon as practicable. For the avoidance of doubt a Member failing to renew their membership is not deemed to be resigning under this rule.

11.2 Expiration of Notice Period

Upon the expiration of a notice given under **Rule 11.1(a)**, an entry, recording the date on which the Member Association or Special purpose member ceased to be a Member, and any other Members whose membership ceases at the time shall be recorded in the Register.

11.3 Forfeiture of Rights

A Member which ceases to be a Member, for whatever reason, shall forfeit all right in and claim upon BV, its property including Intellectual Property and all competition and participation rights.

12 DISCIPLINE

Where BV is advised or considers that a Member has allegedly:

- (a) breached, failed, refused or neglected to comply with a provision of this Constitution, the By-Laws or any resolution or determination of BV, the Board or any duly authorised committee; or
- (b) acted in a manner unbecoming of a Member, or prejudicial to the objects and interests of BV and/or Basketball; or
- (c) brought him or herself or itself, BV or Basketball into disrepute,

BV may commence or cause to be commenced, disciplinary or investigatory proceedings against that Member and, that Member, will be subject to, and submits to the jurisdiction, disciplinary procedures and penalties and the appeal mechanisms of BV.

13 ANNUAL GENERAL MEETING

13.1 Annual General Meeting to be Held

An Annual General Meeting of BV shall be held in accordance with the Act at a time, date and venue to be determined by the Board.

13.2 Additional Meetings

The Annual General Meeting shall be in addition to any other General Meetings that may be held in the same year. Any General Meeting other than an Annual General meeting is a Special General Meeting.

14 SPECIAL GENERAL MEETINGS

14.1 Special General Meetings May be Held

The Board may, whenever it thinks fit convene a Special General Meeting of BV and, where, but for this rule more than 15 months would elapse between Annual General Meetings, shall convene a Special General Meeting before the expiration of that period.

14.2 Requisition of Special General Meetings

- (a) The Board may by resolution convene a Special General Meeting. The Chief Executive Officer shall convene a Special General Meeting within 45 days of receiving a requisition signed by thirty per cent (30%) of the Member Associations. Notice of a Special General Meeting (where requisitioned by Member Associations) must be sent to Members at least 30 days before the meeting is held.
- (b) The requisition for a Special General Meeting shall state the object(s) of the meeting, shall be signed by the Member Associations making the requisition and be sent to BV. It may consist of several documents in a like form, each signed by one (1) or more of the Member Associations making the requisition.
- (c) If the Board does not cause a Special General Meeting to be held within 45 days after the date on which the requisition is sent to BV, the Member Associations making the requisition, or any of them, may convene a Special General Meeting to be held not later than three (3) months after that date.
- (d) A Special General Meeting convened by Members under this Constitution shall be convened in the same manner, or as nearly as possible as that, in which meetings are convened by the Board.

15 STATE CONFERENCE

15.1 State Conference

BV shall hold a State Conference at least once per year. The objects of the State Conference are to:

- (a) inform the Board of significant membership issues;
- (b) provide feedback to the Board in relation to BV's strategic plan and direction (and future strategic plans);
- (c) discuss statewide issues;
- (d) provide feedback to the Board on BV's finances and budget;
- (e) approve membership and registration fees;
- (f) provide feedback to the Board on the results of its governance decisions and their effect on Members; and
- (g) consider any business notified 35 days in advance by a Member Association or listed by the Board.

15.2 Attendees at State Conference

The following persons may attend a State Conference of BV:

- (a) the Board;
- (b) up to two (2) representatives from each Member Association;
- (c) up to one (1) representative from each Special purpose member;
- (d) Life Members; and
- (e) such other persons the Board considers should be invited.

16 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 and the election of Directors.
- (b) All business that is transacted at a General Meeting, and also all that is transacted at an Annual General Meeting, with the exception of those matters set down in Rule 16(a) shall be special business.
- (c) No business other than that stated on the Notice shall be transacted at that meeting.

17 NOTICES OF MOTION

All notices of motion for inclusion as business at a General Meeting must be submitted in writing to the Chief Executive Officer not less than 35 days (excluding receiving date and meeting date) prior to the General Meeting. Only the Board or a Member Association may submit a notice of motion in accordance with this rule.

18 NOTICE OF GENERAL MEETING

- (a) Notice of every General Meeting shall be given to every Member Association, Special purpose member and Life Member at the address appearing in the Register kept by BV.
- (b) A notice of a General Meeting shall specify the place and day and hour of meeting and shall state the business to be transacted at the meeting.
- (c) Subject to **Rule 14.2(a)**, at least 60 days' notice of the date and venue of a General Meeting shall be given to Members entitled to notice.
- (d) At least 28 days before a General Meeting, Members entitled to notice shall be given:
 - (i) any notice of motion received from the Board or Member Associations; and
 - (ii) the agenda for the meeting.

19 PROCEEDINGS AT GENERAL MEETINGS

19.1 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 BV shall be fifteen (15) Member Associations, represented by their Delegates.

19.2 President to Preside

The President shall, subject to this Constitution, preside as chair at every General Meeting. If the President is not present, or is unwilling or unable to preside, the Directors shall appoint one (1) of their number or another suitable person to preside as chair for that meeting only.

19.3 Adjournment of Meeting

- (a) If within half an hour from the time appointed for the meeting a quorum is not present the meeting shall be adjourned until the same day in the next two (2) weeks at the same time and place or to such other day and at such other time and place as the Board may determine and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting the meeting will lapse.
- (b) The chair may with the consent of any meeting at which a quorum is present and shall if so directed by the meeting adjourn the meeting from time to time and from place to place but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (c) When a meeting is adjourned for 28 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.
- (d) Except as provided in **Rule 19.3 (c)** it shall not be necessary to give any notice of an adjournment or the business to be transacted at any adjourned meeting.

19.4 Use of technology

- (a) A Member not physically present at a General Meeting may participate in the meeting by the use of technology that allows that Member and the Members present at the meeting to clearly and simultaneously communicate with each other.
- (b) A Member participating in a General Meeting under **Rule 19.4 (a)** is taken to be present at the meeting and, if the Member is eligible to vote and votes at the meeting, is taken to have voted in person.

20 VOTING AT GENERAL MEETINGS

20.1 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:

- (a) by the chair; or
- (b) by any Delegate of a Member Association

20.2 Entitlement to Vote

Voting rights held by Members at General Meetings shall be as follows:

1 vote	Life Members
1 vote	Country Member Associations comprising 5-20 teams
2 Votes	Member Associations comprising 20 - 99 teams
3 Votes	Member Associations comprising 100 - 199 teams
4 Votes	Member Associations comprising 200 - 299 teams
5 Votes	Member Associations comprising 300 - 399 teams
6 Votes	Member Associations comprising 400 - 499 teams
7 Votes	Member Associations comprising 500 - 599 teams
8 Votes	Member Associations comprising 600 - 699 teams
9 Votes	Member Associations comprising 700 - 799 teams
10 Votes	Member Associations comprising 800 + teams

Weighted voting shall be calculated on the basis of financial associations in terms of number of teams entered and paid for at the last registration period. The following teams shall be included:

- a) teams belonging to competitions run by the Member Association concerned; and
- (ii) teams entered by Member Associations into leagues and championships authorised by the Board.

Subject to this Constitution, votes on behalf of Member Associations shall be exercised by their Delegate. No other Member except Member Associations, and Life Members shall be entitled to vote, but shall, subject to this Constitution, have and be entitled to exercise, those rights set out in **Rule 5.1**. Where a Member's subscriptions or fees are 28 days in arrears at the time of the General Meeting, or a Member is indebted to BV for any sum for a period of 28 days or more, or it is a Member Association not in compliance with **Rule 6.2**, it shall not be entitled to vote unless otherwise permitted in the discretion of the Board. Whether a Member is in arrears or not in compliance will be determined by the Board in its absolute discretion, but acting reasonably and in good faith.

20.3 Recording of Determinations

Unless a poll is demanded under **Rule 20.1**, a declaration by the chair that a resolution has on a show of hands been carried or carried unanimously or by a particular majority or lost and an entry to that effect in the book containing the minutes of the proceedings of BV shall be conclusive evidence of the fact without proof of the number of the votes recorded in favour of or against the resolution.

20.4 Where Poll Demanded

If a poll is duly demanded under **Rule 20.1** it shall always be taken as a secret ballot and in such other manner and either at once or after an interval or adjournment or otherwise as the chair directs and the result of the poll shall be the resolution of the meeting at which the poll was demanded.

20.5 Methods of Voting

Where voting is required to be by secret ballot including where a poll is demanded the chair may appoint a returning officer and scrutineers. In the event of a ballot for the election of any Director the chair shall not appoint any candidate for election as scrutineer or returning officer. Subject to **Rule 20.7**, the returning officer and scrutineers will determine the process of voting by Member attending by technology under **Rule 19.4**.

20.6 Chair may NOT exercise casting vote

Where voting at General Meetings is equal the motion will be declared lost. The Chair does not have a casting vote.

20.7 Lost motion may not be put again for six Months

A motion that is declared lost cannot be resubmitted to a General Meeting unless six (6) months has passed, nor can a motion of the same effect as the lost motion.

20.8 Postal or electronic voting

Postal or electronic voting may be held from time to time in such instances as the Board may determine and shall be held in accordance with procedures prescribed by the Board. All postal or electronic voting shall be conducted under condition of a secret ballot and shall be scrutinised by an impartial person duly appointed by the Board to conduct the ballot.

21 PROXY VOTING NOT PERMITTED

Proxy voting is not permitted at any General Meeting.

22 THE BOARD

22.1 Operation of the Board

- (a) The affairs of BV shall be managed by the Board.
- (b) Subject to this Constitution and the Act, the Board:
 - (vi) shall manage the business and affairs of BV;
 - (vii) may exercise all such powers and functions as may be exercised by BV other than those powers and functions that are required by this Constitution or the Act to be exercised by the members in General Meeting; and
 - (viii) has power to perform all such acts and things as appear to the Board to be essential for the proper management of the business and affairs of BV.

22.2 Composition of the Board

The Board shall consist of:

- (a) six (6) Elected Directors all of whom will be elected in accordance with **Rule 23.4**; and
- (b) up to two (2) additional Appointed Directors who may be appointed in accordance with **Rule 24**.

22.3 Portfolios

The Board may allocate portfolios to Directors.

22.4 President

- (a) The Elected Directors shall elect one (1) of their number to be the President by a majority vote.
- (b) The Director elected to be President under **Rule 22.4(a)** will remain President for the duration of their term of office as Director and shall chair any meeting of Directors unless the resolution electing a person as the President specifies a fixed term for the appointment.

23 ELECTED DIRECTORS

23.1 Nomination for Board

Nominations for Elected Directors shall be called for by the Chief Executive Officer 60 days prior to the Annual General Meeting.

23.2 Form of Nomination

Nominations must be:

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

23.3 Elections

- (a) If the number of nominations received for positions on the Board is equal to the number of vacancies to be filled or if there are insufficient nominations received to fill all vacancies on the Board, then those nominated shall be declared elected.
- (b) If there are insufficient nominations received to fill all vacancies on the Board, the positions will be deemed casual vacancies under **Rule 25.1**.
- (c) If the number of nominations exceeds the number of vacancies to be filled, voting papers shall be prepared containing the names of the candidates in order drawn by ballot, for each vacancy on the Board.

- (d) The voting shall be conducted using the “preferential system” where just one ballot is taken of all candidates and preferences distributed until the required number of candidates, obtain a clear majority (50%+1). The voting shall be by secret ballot on papers prepared by the Chief Executive Officer.

23.4 Term of Appointment

- (a) Subject to this Constitution, Elected Directors shall be elected in accordance with this Constitution for a term of three (3) years, which shall commence from the conclusion of the Annual General Meeting at which the election occurred until the conclusion of the third Annual General Meeting following.
- (b) Following the adoption of this Constitution, no person who has served as an Elected Director for a period of two (2) consecutive full terms (six (6) years) shall be eligible for election or appointment as a Director until the second annual general meeting following the date of conclusion of their last term as a Director.

23.5 Eligibility

To be eligible to be elected or appointed as a Director a person must not be a current employee of BV.

24. APPOINTED DIRECTORS

24.1 Appointment of additional Directors

The Elected Directors may appoint up to two (2) additional Directors who shall be known as appointed Directors.

24.2 Qualifications for additional 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, but need not have experience in or exposure to Basketball. They do not need to be Members.

24.3 Term of Appointment

- (a) Directors appointed under **Rule 24.1** may be appointed by the Elected Directors in accordance with this Constitution for a term of up to three (3) years.
- (b) Following the adoption of this Constitution, no person who has served as an Appointed Director for a period of two (2) consecutive full terms (six (6) years) shall be eligible for election or appointment as a Director until the third Annual General Meeting following the date of conclusion of their last term as a Director.

25. VACANCIES ON THE BOARD

25.1 Casual Vacancies

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

25.2 Grounds for Termination of Director

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

- (a) dies;
- (b) becomes bankrupt or insolvent under administration or makes an arrangement or composition with their creditors generally;
- (c) becomes of unsound mind or a person whose person or estate is liable to be dealt with in anyway under the law relating to mental health;
- (d) resigns their office in writing to BV;
- (e) is absent without the consent of the Board from meetings of the Board held during a period of three (3) months;
- (f) holds any office of employment with BV;
- (g) is directly or indirectly interested in any contract or proposed contract with BV and fails to declare the nature of his interest;
- (h) in the opinion of the Board:
 - (ix) has acted in a manner unbecoming or prejudicial to the Objects and/or interests of BV and/or Basketball; or
 - (x) has brought themselves, BV or Basketball into disrepute,
provided the Director is first given the opportunity to make written or oral submissions to the Board before any decision is reached by the Board;
- (i) is removed by Special Resolution; or
- (j) would otherwise be prohibited from being a director of a corporation under the *Corporations Act*.

25.3 Board May Act

In the event of a casual vacancy or vacancies in the office of a Director or Directors, the remaining Directors may act but, if the number of remaining Directors is not sufficient to constitute a quorum at a meeting of the Board, they may act only for the purpose of increasing the number of Directors to a number sufficient to constitute such a quorum.

26. MEETINGS OF THE BOARD

26.1 Board to Meet

The Board shall meet as often as is deemed necessary but a minimum of six (6) times in every calendar year for the dispatch of business and may adjourn and, subject to this Constitution otherwise regulate, its meetings as it thinks fit. The President or three (3) Directors may at any time, and the Chief Executive Officer shall, on the requisition of the President or three (3) Directors, convene a meeting of the Board within a reasonable time.

26.2 Notice of Board Meetings

- (a) Unless all Directors agree to hold a meeting at shorter notice (which agreement shall be sufficiently evidenced by their presence) not less than fourteen (14) 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 seven (7) days prior to such meeting.
- (b) Notice may be given of more than one Board meeting at the same time.

26.3 Urgent Board Meetings

- (a) In cases of urgency, a meeting can be held without notice being given in accordance with **Rule 26.2** provided that as much notice as practicable is given to each Director by the quickest means practicable.
- (b) Any resolution made at an urgent Board meeting must be passed by an absolute majority of the Board.

26.4 Quorum

At meetings of the Board the number of Directors whose presence is required to constitute a quorum is half plus one (1).

26.6 President as Chair

The President will act as Chair of any Board meeting at which they are present. If the President is not present, or is unwilling or unable to preside, the remaining Directors shall appoint one (1) of their number to preside as chair for that meeting only.

26.7 Decisions of Board

- (a) 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 (1) vote on any question. The Chair shall have no casting vote. Where voting is equal the motion is lost.
- (b) Questions arising at a meeting of the Board shall be determined on a show of hands or, if demanded by a Director, by a poll taken in such manner as the person presiding at the meeting may determine.
- (c) Voting by proxy is not permitted.

26.8 Resolutions not in Meeting

- (a) A resolution in writing, signed or assented to by facsimile or other form of electronic communication by an absolute majority of the Directors shall be as valid and effectual as if it had been passed at a meeting of Directors duly convened and held. Any such resolution may consist of several documents in like form each signed by one (1) or more of the Directors.
- (b) Without limiting the right of the Board to regulate their meetings as they think fit, a meeting of Board may be held where one (1) or more of the Directors is not physically present at the meeting, provided that:
 - (i) all persons participating in the meeting are able to communicate with each other effectively simultaneously and instantaneously whether by means of telephone or other form of communication;
 - (ii) notice of the meeting is given to all the Directors entitled to notice in accordance with the usual procedures agreed upon or laid down from time to time by the Board and such notice specifies that Directors are not required to be present in person;
 - (iii) in the event that a failure in communications prevents condition (i) from being satisfied by that number of Directors which constitutes a quorum, and none of such Directors are present at the place where the meeting is deemed by virtue of the further provisions of this rule to be held then the meeting shall be suspended until condition (i) is satisfied again. If such condition is not satisfied within 15 minutes from the interruption the meeting shall be deemed to have terminated; and
 - (iv) any meeting held where one (1) or more of the Directors is not physically present shall be deemed to be held at the place specified in the notice of meeting provided a Director is there present and if no Director is there present the meeting shall be deemed to be held at the place where the chair of the meeting is located.

27. CONFLICTS

27.1 Effect of conflicts on quorum

A Director, notwithstanding that they have a material personal interest in accordance with **Rule 27.2** or a financial interest in accordance with **Rule 27.3**, may be counted in the quorum present at any meeting but cannot vote in respect of any contract, arrangement or matter in which the Director is interested.

27.2 Material Personal Interests

- (a) A Director who has a material personal interest in a matter being considered at a Board meeting must disclose the nature and extent of that interest to the Board.
- (b) A Director with such a material personal interest must not:
 - (i) be present while the matter is being considered at the meeting; and
 - (ii) must not vote on the matter; and

if the Director votes, the vote shall not be counted.

- (c) In the event of any uncertainty as to whether it is necessary for a Director to absent themselves from discussions and refrain from issues, the issue should immediately be determined by vote of the Board, or if this is not possible, the matter shall be adjourned or deferred.
- (d) This **Rule 27.2** does not apply to a material personal interest that:
 - (i) exists only because the Director belongs to a class of persons for whose benefit BV is established; or
 - (ii) that the Director has in common with all, or a substantial proportion of the Members.
- (e) A general notice that a Director is to be regarded as having a material personal interest in a matter being considered is sufficient declaration for such Director and the said matter. After such general notice it is not necessary for such Director to give a special notice relating to the said matter.
- (f) It is the duty of the Chief Executive Officer to record in the minutes any declaration made or any general notice as aforesaid given by a Director in accordance with this **Rule 27.2**.

27.3 Financial Interest

- (a) A Director is disqualified from:
 - (i) holding any place of profit or position of employment in BV, or in any company or incorporated association in which BV is a shareholder or otherwise interested; or
 - (ii) contracting with BV either as vendor, purchaser or otherwise;except with express resolution of approval of the Board. Any contract or arrangement in which any Director is in any way interested which is entered into by or on behalf of BV without the approval of the Board, will be voided for such reason.
- (b) The nature of the financial interest of such Director must be declared by the Director at the meeting of the Board at which the contract or arrangement is first taken into consideration if the interest then exists, or in any other case at the first meeting of the Board after the acquisition of the interest.
- (c) A Director with a financial interest subject to this **Rule 27.3** must not:
 - (i) be present while the matter is being considered at the meeting; and
 - (ii) must not vote on the matter, andif the Director votes, the vote shall not be counted.
- (d) In the event of any uncertainty as to whether it is necessary for a Director to absent themselves from discussions and refrain from issues, the issue should immediately be determined by vote of the Board, or if this is not possible, the matter shall be adjourned or deferred.

- (e) A general notice that a Director is a member of any specified firm or company and is to be regarded as interested in all transactions with that firm or company is sufficient declaration under **Rule 27.2(a)** for such Director and the said transactions. After such general notice it is not necessary for such Director to give a special notice relating to any particular transaction with that firm or company.
- (f) It is the duty of the Chief Executive Officer to record in the minutes any declaration made or any general notice as aforesaid given by a Director in accordance with **Rule 27.2 (f)**.

28. CHIEF EXECUTIVE OFFICER

28.1 Appointment of Chief Executive Officer

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

28.2 Chief Executive Officer to Administer

The Chief Executive Officer shall administer and manage BV in accordance with this Constitution and at the direction of the Board.

28.3 Specific Duties

The Chief Executive Officer shall:

- (a) execute tasks relating to the day to day management of BV;
- (b) as far as is practicable attend all Board meetings and all General Meetings;
- (c) prepare in consultation with the President, and distribute the agenda for all Board meetings and General Meetings;
- (d) facilitate the recording and preparation of minutes of the proceedings of all meetings of the Board and BV; and
- (e) regularly report to the Board and/or BV on the activities of, and issues relating to, BV.

28.4 Manage

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

28.5 Chief Executive Officer may employ

The Chief Executive Officer may, after relevant or necessary consultation with the President, employ such personnel as are deemed necessary from time to time.

28.6 Chief Executive Officer to act as Secretary

- (a) The Chief Executive Officer shall act as Secretary of BV, and shall be appointed by the Board.
- (b) If for whatever reason the Chief Executive Officer is unable to act as Secretary, the Board will determine from time to time who will act as BV's Secretary under the Act.
- (c) The Secretary must give the registrar notice of his or her appointment as Secretary within 14 days after the appointment
- (d) If the position of Secretary becomes vacant, the Board must appoint a person to the position within 14 days after the vacancy arises.

29. DELEGATIONS

29.1 Board may delegate Functions

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

29.2 Delegation by Instrument

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

- (i) this power of delegation; and
- (ii) a function imposed on the Board by the Act, any other law or this Constitution.

29.3 Delegated Function Exercised in Accordance With Terms

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

29.4 Procedure of Delegated Entity

The procedures for any delegated entity shall, with any necessary or incidental amendment, be the same as that applicable to meetings of the Board under this Constitution.

29.5 Delegation may be Conditional

A delegation under this Rule may be made subject to such conditions or limitations as to the exercise of any function or at the time or circumstances as may be specified in the delegation.

29.6 Revocation of Delegation

The Board may by instrument in writing, revoke wholly or in part any delegation made under this Rule, and may amend or repeal any decision made by such body or person under this Rule.

29.7 Standing Commissions

The Board may establish Standing Commissions to which it can delegate functions or portfolios to assist it with the proper administration of Basketball. Such functions or portfolios that a Standing Commission may be delegated, include, but are not limited to the following:

- (a) Senior Basketball; (includes Big V);
- (b) Junior Basketball; (includes VJBL);
- (c) Basketball Victoria Country; and
- (d) Technical Officials; (includes VBRA).

The duties, functions and powers of such Standing Commissions will be determined in accordance with this Constitution. As from the date of adoption of this Constitution the existing Standing Commissions' existing portfolios, by-laws and composition will continue in operation until the Board, after consultation with the Commissions and presentation to the Members, determines otherwise.

30. MINUTES OF MEETINGS, BOOKS AND OTHER DOCUMENTS

30.1 Minutes of General Meetings

- (a) The Board must ensure that minutes are taken and kept of each State Conference and General Meeting.
- (b) The minutes must record:
 - (i) the business considered at the meeting;
 - (ii) any resolution on which a vote is taken and the result of the vote; and
 - (iii) the names of persons present at all meetings.
- (c) In addition, the minutes of each Annual General Meeting must include:
 - (i) any reports or financial statements submitted to the members at the Annual General Meeting; and
 - (ii) any audited accounts and auditor's report or report of a review accompanying the financial statements that are required under the Act.

30.2 Minutes of Board meetings

- (a) The Board must ensure that minutes are taken and kept of each Board meeting.
- (b) The minutes must record:
 - (i) the business considered at the meeting;
 - (ii) any resolution on which a vote is taken and the result of the vote; and

- (xi) any interest declared under **Rule 27.3 (f)**.

30.3 Custody and inspection

- (a) Except as otherwise provided in this Constitution, the Board shall provide for the retention of all books, minutes, documents and securities of BV.
- (b) If requested by a Member, the Board must permit such Member to inspect:
 - (i) the Constitution and By-laws of BV; and
 - (ii) the minutes of each General Meeting.
- (c) Upon written request and payment of a fee determined by the Board from time to time, a Member may obtain a copy of the documents listed at **Rule 30.3 (b)**.
- (d) If requested by a Member and subject to the Act, the Board must permit such Member to inspect the Register of Members.
- (e) Subject to the Act and **Rules 30.3 (c) and (d)**, no Member is entitled to inspect the accounts, books, securities and other relevant documents of BV, unless authorised in writing by the Board.

31 RECORDS AND ACCOUNTS

31.1 Records Kept in Accordance With Act

Proper accounting and other records shall be kept in accordance with the Act. The books of account shall be kept in the care and control of the Chief Executive Officer.

31.2 Association to Retain Records

BV shall retain such records for seven (7) years after the completion of the transactions or operations to which they relate.

31.3 Board to Submit Accounts

The Board shall submit to the Members at the Annual General Meeting the statements of account of BV in accordance with the Act and this Constitution.

31.4 Accounts to be sent to Member Associations and Others

The Chief Executive Officer shall cause to be sent or otherwise made available through available technology (including but not only BV's website) to all persons entitled to receive notice of Annual General Meetings of BV in accordance with this Constitution, a copy of the statements of account, the Board's report, the auditor's report and every other document required under the Act (if any).

31.5 Negotiable Instruments

All cheques and other negotiable instruments shall be signed or otherwise executed by any such persons and in such manner as the Board determines.

32. SOURCES OF FUNDS AND INCOME

32.1 Source of Funds

The funds of BV shall be:

- (a) derived from membership fees (subject to **Rule 15.1(e)**), donations and such other sources; and
- (b) managed in such manner;

as the Board determines from time to time.

31.2 Income of Association

The income and property of BV shall be applied solely towards the promotion of the Objects. No portion of the income or property of BV shall be paid or transferred, directly or indirectly by way of dividend, bonus or otherwise to any Member, but this shall not preclude payment to a Member in good faith for expenses incurred or services rendered.

33. AUDITOR

- (a) A properly qualified auditor shall be appointed and the remuneration of such auditor fixed by the Board. The auditor's duties shall be regulated in accordance with the Act and the *Corporations Act (Cth) (2001)*.
- (b) The accounts of BV shall be examined and the correctness of the profit and loss accounts and balance sheets ascertained by an auditor at least once in every year.

34 SEAL

34.1 Safe Custody of Seal

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

34.2 Affixing Seal

The common seal shall only be used by authority of the Board and every document to which the seal is affixed shall be signed by two (2) Directors.

33.5 Director Interest

A Director may not sign a document to which the common seal of BV is affixed where the Director is interested in the contract or arrangement to which the document relates.

35. REGISTERED ADDRESS

The registered address of BV:

- (a) is the address determined from time to time by resolution of the Board; or

- (b) if the Board has not determined an address to be the registered address, the postal address of the Chief Executive Officer.

36. NOTICE

- (a) Notices may be given by the Chief Executive Officer to any Member by sending the notice by pre-paid post or facsimile transmission or where available, by electronic mail, to the Member's registered address or facsimile number or electronic mail address.
- (b) Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing and posting the notice. Service of the notice is deemed to have been effected two (2) working days after posting.
- (c) Where a notice is sent by facsimile transmission, service of the notice shall be deemed to be effected upon receipt of a confirmation report confirming the facsimile was sent to/or received at the facsimile number to which it was sent.
- (d) Where a notice is sent by electronic mail, service of the notice shall be deemed to be effected upon receipt of a confirmation report confirming the electronic mail message was sent.

37. PATRON

BV at its Annual General Meeting may appoint annually on the recommendation of the Board a patron.

38. ALTERATION OF CONSTITUTION

This Constitution shall not be altered except by Special Resolution in accordance with the Act.

39. DISSOLUTION

39.1 Winding up

BV may be wound up voluntarily by Special Resolution.

39.2 Liability of Members

The liability of the Members of BV is limited.

39.3 Member's Contribution

Every Member Association undertakes to contribute to the assets of BV in the event of it being wound up while a Member, or within one (1) year after ceasing to be a Member, for payment of the debts and liabilities of BV and the costs, charges and expenses of winding up, such amount not to exceed one dollar (\$1.00).

39.4 Distribution of Property on Winding Up

If upon winding up or dissolution of BV, there remains, after satisfaction of all its debts and liabilities, any property, the same may be given or transferred to the Member Associations subject to those Member Associations having purposes similar to the purposes of BV and rules which prohibit the distribution of its income and

property among its members and being not carried on for the profit or gain to their members. Such body or bodies shall be determined by the Members at or before the time of dissolution or in accordance with the Act.

40. INDEMNITY

- (a) Every Director and employee of BV shall be indemnified out of the property and assets of BV against any liability incurred by them in their capacity as Director or employee in defending any proceedings, whether civil or criminal, in which judgement is given in their favour or in which they are acquitted or in connection with any application in relation to any such proceedings in which relief is granted by the Court.
- (b) BV 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 whilst acting on behalf of and with the authority, express or implied of BV; and
 - (ii) in the case of an employee, performed or made in the course of, and within the scope of their employment by BV.

41. BY-LAWS

41.1 Board to Formulate By-Laws

The Board may from time to time formulate, issue, adopt, interpret, repeal, replace and amend such By-Laws which in its opinion are necessary for the control and administration of BV's affairs, the proper advancement, management and administration of BV and the advancement of the Objects and Basketball. Such By-Laws must be consistent with this Constitution.

41.2 Notification

Except in urgent matters regarding the safety of Members or as required by legislation, the Board shall distribute any new By-Laws or amendments to existing By-Laws to Member Associations three months in advance of those By-Laws commencing operation, and shall consider any feedback before finalising such By-Laws or amendments.

41.3 General Meeting power

BV in General Meeting may by Special Resolution amend, repeal or replace a By-Law made by the Board under **Rule 41.1** without affecting the validity of acts or decisions made by the Board or anyone authorised to act under that By-Law.

41.4 By-Laws Binding

All By-Laws made under this Rule shall be binding on the Members and shall take effect 28 days after service of the By-Law on the Member Associations.

4.5 Current by-laws

All clauses, rules, by-laws and regulations of BV in force at the date of the adoption of this Constitution insofar as they are not inconsistent with this Constitution, or have been replaced by this Constitution or otherwise repealed by resolution of the Board, shall be deemed to be By-Laws under this clause.

41.6 Bulletins Binding on Members

Amendments, alterations, interpretations or other changes to By-Laws shall be advised to Member Associations and Special purpose members by means of bulletins approved by Board and prepared and issued by the Chief Executive Officer. Such bulletins are binding upon all Members.

42. GRIEVANCE PROCEDURE

- (a) The grievance procedure set out in this clause applies to disputes under this Constitution between a Member and:
 - (I) another Member; or
 - (II) BV.
- (b) The parties to the dispute must meet (which may, if agreed by the parties, take place by using any technology that allows the parties to clearly and simultaneously communicate with each other) and discuss the matter in dispute, and, if possible, resolve the dispute within 14 days after the dispute comes to the attention of all parties.
- (c) If the parties are unable to resolve the dispute at the meeting or if a party fails to attend that meeting, then the parties may, within 10 days, refer the dispute to the Dispute Settlement Centre of Victoria (Department of Justice) for resolution.
- (d) The Board may prescribe additional grievance procedures in By-Laws consistent with this **Rule 42**
- (e) If a member has initiated a grievance procedure in respect of a dispute between the member and BV under this Rule 42, BV must not take disciplinary action against any of the following persons in relation to the matter which is the subject of the grievance procedure until the grievance procedure has been completed—
 - (i) the member who initiated the grievance procedure; or
 - (ii) another member appointed by the complainant member to act on behalf of the complainant member in the grievance procedure.

43. PROCEDURAL IRREGULARITIES

- (a) No decision of BV, the Board, any commission or other Board authorised entity shall be invalid merely because of a failure to give proper notice under this Constitution or the By-Laws or other irregularity in procedure required by

this Constitution or the By-Laws unless a person suffers serious prejudice as a result of that failure to give proper notice or irregularity in procedure.

- (b) BV, the Board, any commission or other Board authorised entity may confirm an earlier decision which may have been otherwise invalid because of a failure to give proper notice or other irregularity in procedure and the decision shall be deemed to be valid from the time it was originally made.