

## SWIMMING AUSTRALIA LIMITED (SAL)

### GENERAL BY-LAWS

These By-Laws are made by the SA Board under Rule 37 and Rule 17 of the SAL Constitution. They are binding on SAL and all Members of SAL. They are to be interpreted in accordance with Rule 9 and Rule 37 of the SAL Constitution. In the event of a conflict between these By-Laws and the SAL Constitution the SAL Constitution will prevail.

#### **GBL1 ELECTION OF DIRECTORS**

All elections shall be by exhaustive ballot. When only one person is to be elected and no candidate obtains a majority in the first ballot, a second ballot shall be taken after eliminating the candidate with the least number of votes. If necessary, the procedure will be repeated until one candidate secures a majority of the votes cast. If in the final ballot the votes are equal, the Chairman shall decide between the candidates by drawing lots. When two or more persons are to be elected, those candidates obtaining, at the first ballot, a majority of votes shall be elected. If the number of candidates obtaining such majority is less than the number of persons to be elected, there shall be additional ballots, the voting being restricted to the candidates obtaining the greatest number of votes in the previous ballot to a number not more than twice the places remaining to be filled.

#### **GBL2 FINA BUREAU MEMBER**

The Australian FINA Bureau member shall be an ex-officio member of the Board with a voice but no vote provided that he holds no other Board position.

#### **GBL3 STANDING COMMITTEES**

##### **GBL3.1 High Performance Committee**

- (a) The function of the High Performance Committee shall be:
- (i) To advise the Board in relation to the planning for all Australian teams including competition dates; (including but not limited to pool, open water and swimmers with a disability) as appropriate for SAL;
  - (ii) To advise the Board in relation to policy issues for all tours into and out of Australia;
  - (iii) To advise the Board in relation to selection criteria;
  - (iv) To advise the Board in relation to high performance policy issues relevant to relationships between SAL, State Institutes and Associations;
  - (v) To advise the Board in relation to high performance coaching policy.
- (b) The membership shall be:
- (i) No more than two Directors of Swimming Australia appointed by the Board;
  - (ii) SAL High Performance Director;
  - (iii) A nominee with experience in high performance coaching from an Institute Program appointed by the Director and endorsed by the Board;

## GBL4 OTHER COMMITTEES

### GBL4.1 Judiciary Committee

#### 4.1.1 Discipline Of Members

##### **Matters which may be Referred to Judiciary Committee**

The Board may refer any of the following matters for investigation or determination by a Judiciary Committee in its sole discretion:

- (a) Breach of Constitution: an allegation (not being vexatious, trifling or frivolous) by a complainant (who may be, but need not be, a Member) that a Member has:
  - (i) breached, failed, refused or neglected to comply with a provision of the Constitution, the By-Laws or any other resolution or determination of the Board or duly authorised committee; or
  - (i) acted in a manner unbecoming of a Member or prejudicial to the Objects and interests of SAL and/or swimming;
  - (i) brought SAL or swimming into disrepute; or
  - (i) in particular has breached the SAL Anti-Doping Policy
- (b) Disciplinary matter: where the matter is of a serious enough nature, any appeal from an Individual Member or Club who or which has received a penalty or an adverse finding in disciplinary proceedings conducted by a Member Association or Affiliate, provided that the Individual Member or Club has first exhausted all avenues of appeal available to it under the constitutions of the Member Association or Affiliate or Club as the case may be;

#### 4.1.2 Submission to Jurisdiction

All Members (in these By-Laws “defendant”) will be subject to, and submit unreservedly to the jurisdiction, procedures, penalties and appeal mechanisms of SAL set out in Rule 17 of the SAL Constitution and these By-Laws.

#### 4.1.3 Ongoing participation

(a) Subject always to the SAL Constitution, and subclause b of this clause, during investigatory or disciplinary proceedings under these By-Laws (“proceedings”), a defendant may continue to participate in swimming, pending the determination of the proceedings (including any available appeal) unless the Board decides such continued participation is inappropriate having regard to the matter at hand.

(b) A competitor for whom there has been an adverse anti-doping report on the A Sample may be provisionally suspended by the Chief Executive Officer in consultation with the President without a hearing, after consultation with the Doping Control Advisory Panel, until a hearing before the Judiciary Committee can be made following the test of the B Sample.

#### 4.1.4 Member Associations’ Disciplinary Procedures

The Board in considering an exercise of its discretion under By-Law 4.1, must determine

whether all disciplinary or judiciary avenues available to a Member under the relevant Member State's constitution have been exhausted.

#### 4.1.5 Referral to Judiciary Committee

- (a) The Board may commence or cause to be commenced any proceedings against a defendant by referring the matter to a Judiciary Committee to hear a matter or matters under these By-Laws. A Judiciary Committee shall comprise 3 or more persons selected by the Board, one of whom shall be appointed Chairman. The Chairman must be a duly qualified legal practitioner. No member of the Board, nor any person with an actual or potential interest in a matter coming before the Committee, is eligible to sit on a Judiciary Committee.
- (b) Any such referral to a Judiciary Committee shall be in writing and accompanied by any documentary or other evidence that is available to the Board. The referral shall be clear and unambiguous, stating precisely the matter to be determined.
- (c) No person who is an interested party (as determined by the Chief Executive Officer) shall participate in the determination of the proceedings in any way.
- (d) On receipt of the referral, the Chief Executive Officer shall, in consultation with the members of the Judiciary Committee, determine an appropriate date, time and place for a hearing. Such hearing shall be no less than 14 days and no more than 28 days from the receipt of the referral, unless the matter is deemed to require urgent attention, in which case the defendant and Judiciary Committee may agree on a variation of the time frame set out in these By-Laws, having regard to the availability of key witnesses, amongst other things.
- (e) The Chief Executive Officer shall notify the members of the Judiciary Committee, the defendant and any complainant or relevant Member Association or Affiliate of the date, time and place of the hearing, and in addition, shall advise that each party to the proceedings has the right:
  - (i) to make written submission not less than 7 days prior to the date of the hearing; and
  - (i) to appear at the hearing; and
  - (i) upon written advice to the Judiciary Committee, not less than 7 days prior to the date of the hearing, to be represented by a legally qualified person.
- (f) Subject to these By-Laws, the Judiciary Committee shall conduct the hearing as it sees fit, and in particular shall not be bound by rules of evidence, or unnecessary formality. The defendant must be advised of the hearing procedure determined by the Judiciary Committee at or before the commencement of the proceedings.
- (g) The Judiciary Committee shall be entitled to call such evidence as it thinks fit, and all Members shall provide such evidence as they are able. The Judiciary Committee may adjourn the hearing.
- (h) If the Judiciary Committee, having taken into account the written and oral submissions and other evidence of the parties, considers the allegations sustained, the Judiciary Committee may impose such penalty as it considers appropriate in accordance with By-Law 4.1.6. In all other cases, the proceedings shall be dismissed.
- (i) If a decision cannot be given immediately after the proceedings, the relevant party or parties must be advised of the time and place at which the decision will be given. The

decision, any penalty, the reasons for the decision and notice of the person's appeal rights shall be given in writing and signed by the Judiciary Committee chairman.

- (j) On exhaustion of all disciplinary procedures available to the Member, whether by lapse of time or otherwise, notice of any penalty, suspension or disqualification imposed shall be given by the Chief Executive Officer to all Member Associations, and shall be recognised by all Member States immediately upon receipt of such notice by the Member Associations.
- (k) Suspension, expulsion or reinstatement of any Member shall be recognised by all Member Associations immediately upon receipt of notice to this effect.

#### 4.1.6 Penalties

Penalties which may be imposed include:

- (a) a reprimand;
- (b) suspension, of such activities, on such terms and for such period as is seen fit;
- (c) exclusion from a particular activity, event or events;
- (d) expulsion;
- (e) fines, imposed in such manner and in such amount as is reasonable in all the circumstances of the matter;
- (f) such combination of any of the above penalties as is seen fit; or
- (g) for a doping offence the provisions of FINA rule DC10 shall apply.

#### 4.1.7 Effect of Penalty

- (a) Where a Member is suspended under this Rule, membership and representation rights and privileges in SAL shall be forfeited during the period of such suspension.
- (b) Where a Member is expelled under these Rules membership and representation rights and privileges in SAL shall be forfeited immediately and membership shall cease. Rule 16 of the SAL Constitution and any relevant provisions of the constitution of the Member Association shall apply.

#### 4.1.8 Appeals

- (a) An appeal against a penalty or an adverse finding in disciplinary proceedings conducted by a Member Association or Affiliate under By-Law 1.1(b) must be:
  - (i) made within twenty one (21) days from the time of receiving the decision of such body; and
  - (ii) lodged with Swimming Australia through a Member Association or Affiliate to the National Executive Director; and
  - (iii) in writing and accompanied by extracts or copies of all documents quoted or relating to the matter and such other particulars as may be

thought necessary.

- (b) A decision of a Judiciary Committee may be appealed to the Court of Arbitration for Sport. The Code of Sports-related Arbitration shall apply to any such appeals.

#### **GBL4.2 Selection Committee**

- (a) The Board of Swimming Australia shall appoint a Selection Committee comprising three members from State Associations. The High Performance Director shall be an ex-officio member of the selection committee.
- (b) One appointed member of the Selection Committee shall retire from Office each year.
- (c) The selector to retire shall be the one who has been longest in Office since their last election.
- (d) The retiring selector shall be eligible for re-appointment.
- (e) Nominations for the position of selector from any registered member of an affiliated Association or body shall be submitted through State Associations to the Chief Executive Officer when called by the Board.
- (f) Should a casual vacancy occur in the Selection Committee it shall be filled by the Board.
- (g) On every occSALon when a team is to be selected to represent Australia the Board shall notify the Selection Committee of its requirements. The Selection Committee shall by a specified time submit to the Board a list of names totalling the number required by the Board and graded in such manner as the committee, in the absence of any direction from the Board, considers appropriate to the type of team or squad required. The Selection Committee may further, at its discretion, recommend an increase or decrease in the team complement. The Board shall have the right to adopt the recommendations in whole or in part. It may reject any recommended swimmer but shall not add to the list without a prior recommendation from the Selection Committee.

#### **GBL4.3 Doping Control Advisory Panel**

- (a) The Doping Control Advisory Panel shall comprise six members appointed by the Board.
- (b) Each member shall be either an accredited member of the Australian Sports Medicine Association, an appropriately qualified practitioner in the field of medicine, chemical analyst or other allied professional status.
- (c) The Board shall review the membership of the Panel on an annual bSALs.
- (d) The Doping Control Advisory Panel shall provide advice to the Board, the Chief Executive Officer and/or the Judiciary Committee on doping matters as required.

#### **GBL5 EX-OFFICIO MEMBERS**

The President and Chief Executive Officer shall be ex-officio members of all Committees. The Chief Executive Officer shall be without vote. The Chief Executive Officer provide secretarial support for all Committees not having their own Honorary Secretary.