



Notice of Motion – 2016 AGM

2016 Changes to Constitution – Explanatory Memorandum

1. Introduction

There is ongoing pressure for State Sporting Organisations (SSO) to be up to date with contemporary governance processes. From time to time it is necessary for organisations like the ASRL to revisit their governing Constitution to ensure it is reflecting best practice. The ASRL last updated its Constitution in July 2013 to incorporate amendments to the HoF Section 9.3 (2) and before that in May 2013 to amend the financial year end, simplify the election process, change the term of office of committee members, outline the duties of the Secretary and Treasurer, include the use of bank transfers, mandate auditing of the finances and include the use of sms messaging to members.

The current Constitution is written in accordance with the Associations Incorporation Act 1984 (NSW). This Act has been superseded by the Associations Incorporation Act 2009 (NSW), therefore the ASRL Committee felt it appropriate to review the Constitution in order to align it with the revised legislation. The fundamental requirements and purpose of the Act are unchanged, and any Association that does not update its constitution can continue to operate. However, in a dispute or issue, a model constitution devised by Fair Trading NSW would be applied and this may not be in the best interest of the ASRL.

The ASRL Committee is recommending some substantive changes and some general “housekeeping” changes to the Constitution. This explanatory memorandum focuses on explaining the substantive changes. These are:

- The right to vote has been removed from members who are not financial at 30 April in the year of the Annual General Meeting. This is to maintain the integrity of the voting process and ease the burden on administrative processes.
- Member discipline, the Appeals Panel will be made up of 3 panel members: an ASRL Committee Member, a member and a non-member (instead of all non-members). This ensures issues are dealt with in an effective and efficient manner.
- The role of Secretary and Treasurer has been removed from the Constitution and inserted into the Regulations using the same or similar wording. This is to simplify the Constitution and remove operational aspects that are better dealt with in more flexible documents.

The look and feel of the document has been updated to a more professional and current format and paragraphs have been re-ordered in line with the Fair Trading NSW model constitution. The intention has been to simplify the document and establish supporting By-Laws and Regulations allowing a more flexible approach to amendments so the ASRL Committee can effectively respond to changes in circumstances.



Main changes to the 2009 Act are set out below:

- a. **Audit Requirements for larger Organisations** - Associations are split into two tiers, only Tier 1 (gross receipts 250K+ or assets exceeding 500K) must be audited. Tier 2 Associations, (those under the above limits), need not. However, it is recognised that such Associations may still need to be audited for other reasons e.g. Funding purposes.
- b. **Fixed Penalty Notices** - Fixed Penalties are introduced for lesser offences under the Act, rather than the issue of court proceedings by Fair Trading NSW against Committee Members. For example, the offences of failing to notify change of Association address, or failing to maintain a register of Committee Members would be dealt with by way of Fixed Penalty.
- c. **New Offences** -
 - (i) Committee Members who have a direct or indirect interest in a matter that appears to raise a conflict of interest between their own affairs and the affairs of the Association, must disclose the matter to the Committee. A Register of Declared Conflicts must be maintained. This is a legal obligation, a breach of which will result in charges under the Act.
 - (ii) Committee Members must not use their position, or information they hold, for dishonest purposes. Again, breach would result in charges under the Act.
- d. **Seal** - There is no requirement for a common seal, nor for any reference to it in the Constitution.
- e. **Handover of Documents** - Any documents in the possession of a Committee Member must be handed over to the Association within 14 days of ceasing membership.
- f. **Official Address** – This can now be where Association is located, the Public Officer's home address, or some other place e.g. work, where the Public Officer can generally be found. The Public Officer must reside in NSW.
- g. **Committee Member Requirements** – Committee Members must be aged at least 18, and at least three committee members must reside in Australia.

The existing 2013 ASRL Constitution under the 1984 Act and the proposed 2016 Constitution under the updated 2009 Act remains largely unchanged.



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The table below maps the differences between the two documents. The numbers listed in the first column refer to the Clause Numbers in the existing 2013 Constitution. The numbers listed in the second column indicate the corresponding clause in the proposed 2016 Constitution.

Existing Clause	Proposed Clause	Difference / explanation
1	1	No change
2	3	Simplified to combine objects and remove duplications, reduced from 34 to 11 objects. Essentially the ASRL can do anything to further advance the sport.
3	4	Replaced the 21 detailed powers with a single paragraph referencing the rights, powers and privileges provided under the Associations Act and additional legal capacity and powers under the Corporations Act (listing individual powers is not necessary).
4	30	Minor changes to wording
5	31 (b)	No change
6	31 (c)	No change
7	2	Included definition of 'addresses' and 'membership year' and removal of 7.4 as no longer required
8	13	Simplified to combine 6 paragraphs into 1 as not necessary to repeat objects
9	5	Changed to remove the right to vote from members who are not financial at 30 April in the year of the Annual General Meeting
10	11	No change
11	6	Removal of 11.3 (b) and 11.4 (b) as included in 7.1
12	7	Minor wording changes
13	8	No change
14	9	Addition of 9.2 (d) regarding the ability to revoke Life Member and Hall of Fame Member status, 14.3 included in 9.3. 14.5 part of para relating to return of documents moved to 9.1 (c)
15	10	15.2 composition of the Appeals Panel changed to specify 3 panel members, an ASRL Committee Member, a member and a non-member
16	20	Additional information included to clarify dates of notice
17	22	No change
18	23	No change
19	24	No change
20	21	No change
21	25	No change
22	26.1, 26.2	Minor word changing to simplify
23	26.3	No change
24	26.4	No change
25	12	No change
26	13	Minor changes to wording
27	14	Minor changes to wording, 27.3 moved to 16



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28	15	Minor changes to wording, voting procedures to be determined by the Committee
29	17	Minor changes to wording
30	18	Added 18.6 regarding Chairman and expanded 30.6 to reflect new requirements in 2009 Act relating to disclosure
31	-	Role of Secretary and Treasurer removed, to be covered in Regulations
32	19	No change
33	34	Minor changes to wording
34	28	34.3 combined with 30.2 and moved to 28.2, 34.8 moved to 29 (b)
35	29 (a)	Minor changes to wording, new Auditor requirement under Act
36	35	36.2 moved to 22 (d), no other change
37	-	Deleted in line with removal of seal requirement
38	33	Deletion of 38(b) as not required
39	36	Updated to reflect current indemnity and insurance cover
40	31 (a)	Minor changes to wording
41	-	Deleted, not necessary as power given in Act
42	27	Minor changes to wording

Motion

To adopt by SPECIAL RESOLUTION the revised Constitution which has been aligned with the updated Associations Incorporation Act 2009 (NSW).

Moved by: Alex Hill

Seconded by: Don Alexander

