

# New South Wales Sport and Recreation Model Sport Constitutions

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# Outline

- Objectives
- Constitutions
- Model Constitution templates
  - Background
  - Key issues
- Governance
  - ASC Principles
- Conclusions

# Objectives

- better sporting outcomes
- improved safety for participants
- lower costs and increased budget certainty
- more effective management of assets, events, programs and activities
- improved compliance
- enhanced image and reputation

# Constitutions

- What is the Constitution?
- What are regulations/by-laws?
- What should it contain?
  - *Associations Incorporation Act 1984 (NSW)*
- What is its effect?
- Key clauses
  - Objects
  - Board
  - Members
  - Divisions of power
- Model Rules (traditional structure) vs. Contemporary structures (Sample Handout)

# Templates

- Background
  - Change
  - Regulation
  - Constitutional reform
  - Governance
  - NSW Sport and Recreation
  - ASC

# The Act requirements

- Section 26 (Nature of association) states:
  - “(1) *Subject to this Act, an association's constitution binds the association and its members to the same extent as if it were a contract between them under which they each agree to observe its provisions.*”
- Section 6(5) (Application for registration) states:
  - “(5) *An association's proposed constitution must address each of the matters referred to in Schedule 1.*”

# The Act requirements

- Schedule 1
  - 1 Membership qualifications
  - 2 Register of members
  - 3 Fees, subscriptions etc
  - 4 Members' liabilities
  - 5 Disciplining of members
  - 6 Internal disputes
  - 7 Committee
  - 8 Calling of general meetings

# The Act requirements

- Schedule 1 (cont'd)
  - 9 Notice of general meetings
  - 10 Procedure at general meetings
  - 11 Postal ballots
  - 12 Sources of funds
  - 13 Management of funds
  - 14 Custody of books etc
  - 15 Inspection of books etc
  - 16 Financial year

# Template issues

- All constituent parts of the SO adopt (a) common objects and (b) a common constitution.
- A singular common purpose: the particular sport.
- Create, foster and maintain fiduciary relationships within their organisations: exercise their rights and powers in good faith for the benefit of the others.
- Mutual reliance and interdependence in pursuing the common purpose.
- The assets (including intellectual property) and funds of an SO should only be applied to the common purpose (the sport).
- There should be common, uniform branding under a centralised uniform intellectual property policy.
- Charter agreement or deed of commitment
- “Sporting power” recognition
- Adopt a single set of policies for the sport. Delivery or implementation of policies that may be affected by “local” conditions.

# Template issues

- Flexible and adaptive legal and administrative structures.
- Key stakeholders – recognition and communication.
- Primary function of a board:
  - manage the business of the organisation at that level.
  - give direction to the organisation and to accept responsibility for its management.
- Ongoing governance education.
- The board of an SO should have full governance powers under its constitution.

# Template issues

- Charter of professional conduct for the governance and management of the sport.
- KPI framework and monitoring process for the sport, incorporating changes to processes to ensure data integrity, transparency and timeliness (for example, regular reporting).
- Adopt an “open” financial disclosure policy on income and expenditure for the sport.
- Adopt a national strategic plan to which all SSOs and the NSO contribute, and agree to accept.
- Adopt and implement a communications plan setting out the roles and responsibilities of each of stakeholder.
- Regular meetings and information and other resource sharing forums.
- Uniform committee structure across the SO.

# ASC

- ASC Principles

- *“The incorporated body will have a constitution, which may be changed from time to time by the members. Each sporting organization should give detailed consideration as to how people and/or organizations may become members of the incorporated national body. The members will elect the board of directors (board). The constitution of the incorporated body will state the voting power of each member in this regard. ...”*

# ASC

- ASC Principles
  - Clear delineation of governance roles
  - Effective governance processes
  - Effective governance controls
  - Governance improvement
  - Member responsiveness.

# Conclusions

- In the context of sports and their governing bodies, the issues of structure and accountability encompass:
  - the definition of the goals and roles of the organisation, its constituent parts and its governing body;
  - the demarcation and separation of responsibilities between the organisation, its constituent parts and its governing body;
  - the implementation and communication of policy and responsibilities to and between the organisation, its constituent parts and its governing body;
  - the wider structure and organisation of the governing body and the sport;
  - the selection and appointment of representatives and other members of the governing body; and
  - considering limits to the term of office for elected representatives and other members of the governing body.

# Conclusions

- For a sport to survive and achieve its common object whilst dealing with the commercial, financial, legal, technological, social and sporting changes around it, it should:
  - be sensitive to the environment in which it operates and should be alert to these changes taking place around them;
  - be cohesive with a strong sense of unity. Create a community for it and its stakeholders with a distinct persona and culture;
  - build constructive relationships with entities around it; also those that it is comprised of. Management must listen and not be too directive; and
  - be conservatively financed.

*These notes contain comments of a general nature only and is not intended to be relied upon, not as a substitute for specific professional advice. No responsibility can be accepted by Lander and Rogers or the authors for loss occasioned to any person doing anything as a result of any material in this publication.*

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