

**Australian Parachute Federation Incorporated**

# **CONSTITUTION**



Date adopted by APF Board: -  
Effective Date: 28 October 2011

## Colophon

---

### Price

This publication is offered free to APF Members.

### About this publication

This publication is produced by The Australian Parachute Federation (APF) for the information of APF members. If you want more information or copies of this manual (or others listed above) for yourself or your friends, please ask the instructional staff at your DZ or contact the APF Office.

### Disclaimer

Skydiving and Parachuting are dangerous. Performance of some of the actions described in this manual may result in injury or death, even if performed as described.

Formation Skydiving and Relative Work are not an exact science and techniques may change. Information in this manual may not be applicable to all types of manoeuvres, freefall operations or canopy descents.

This publication has been produced for the information and assistance of APF members. It is not a do-it-yourself guide to skydiving but should only be used while under the supervision of a qualified APF AFF instructor or RW tutor. Individual skydivers should check the information in this manual and assess the risks involved before carrying out any of the manoeuvres described.

### Copyright

Australian Parachute Federation Incorporated ©2011. This revision was published on 1 Sept, 2011.

### Contact the APF

**Australian Parachute Federation Incorporated**

Postal Address: PO Box 1440 Springwood QLD 4127 Australia

Street Address: Unit 3 Portal Office West, 2994 Logan Road, Underwood QLD 4119 Australia

Telephone: (07) 3457 0100 (International +61 7 3457 0100)

Facsimile: (07) 3457 0150 (International +61 7 3457 0150)

Web site: [www.apf.asn.au](http://www.apf.asn.au) – email: [apf@apf.asn.au](mailto:apf@apf.asn.au)

## Index

---

1.	Introduction.....	4
2.	Interpretation and Definitions.....	4
3.	Objects and Powers.....	5
4.	Powers of the Federation.....	6
5.	Membership.....	8
6.	Councils.....	11
7.	The Federation Board .....	13
8.	Meetings of the Federation Board.....	17
8A	Federation General Meetings .....	19
9.	Indemnity and Liability.....	22
10.	Notices.....	23
11.	Regulations.....	23
12.	Common Seal.....	23
13.	Funds .....	24
14.	Income and Property.....	25
15.	Exercise of Powers of the Federation .....	26
16.	Alterations to the Constitution.....	26
17.	Inconsistency with Constitution and Applicable Laws .....	26
18.	Control of Parachuting.....	27
19.	Misconduct.....	28

## 1. Introduction

---

### 1. Name

The name of the body is the "Australian Parachute Federation Incorporated" (the "Federation").

## 2. Interpretation and Definitions

---

### 2.1 Throughout this Constitution, unless the context otherwise requires:

"**Act**" means the Associations Incorporation Act 1991 (ACT);

"**APF Club**" means a Club which is a Member;

"**Authority**" means any government, any government department or agency;

"**Club**" means any club, organisation, centre, corporation, company or other institution, association or community, in whatever legal form (but excluding any natural person), having purposes consistent with the purposes of the Federation;

"**Club Representative**" means an individual Member who is a member of an APF Club (within a particular Council Area) and represents that APF Club at the Council Meetings;

"**Constitution**" means this document which sets out the rules of the Federation;

"**Council**" means any association having purposes consistent with the purposes of the Federation and which is recognised by the Federation Board as an affiliated Council of the Federation;

"**Council Area**" means an area prescribed by the Federation Board as requiring its own Council;

"**Council Representative**" means a Representative appointed or elected by the Council in accordance with its Council Rules to represent it at Federation Board Meetings;

"**Council Rules**" means the body of rules representing the constitution of a Council;

"**Federation**" means the Australian Parachute Federation Incorporated;

"**Federation Annual General Meeting**" means the annual general meeting of Members;

"**Federation Board**" means the board of Council Representatives which manages the affairs of the Federation in accordance with this Constitution;

"**Federation Board Meeting**" means a meeting of the Federation Board;

"**Federation Board Member**" means a member of the Federation Board;

"**Federation General Meeting**" means a general meeting of individuals and club Members and includes a Federation Annual General Meeting;

"**Management Committee**" means the committee of the Federation Board that may be appointed by the Federation under rule 7.1(c);

"**Honorary Member**" means a Member who has been appointed an Honorary Member in accordance with rule 5.4;

"**Individual Member**" means a Member who is a natural person;

"**Life Member**" means a Member who has been appointed a Life Member in accordance with rule 5.4;

"**Member**" means a member of the Federation;

**"Model Rules"** means the Rules of the Councils of the Australian Parachute Federation Incorporated specified by Regulations to be the Constitution for Councils, as amended or replaced from time to time by any Regulations;

**"Perpetual Member"** means an APF Club which becomes a perpetual Member under rule 5.4;

**"Register"** means the register of Members;

**"Regulations"** means all of the regulations, rules, standards, procedures, and instructions made under rule 11 of this Constitution;

**"Safety Officer"** means Drop Zone Safety Officer, Area Safety Officer and in safety-related aspects of their respective areas of responsibility the Director Safety, Director Riggers and the Director Instructors;

**"Short Term Member"** means a Member under rule 5.1(c);

**"Subscription Fee"** means the fee determined by the Federation Board required to be paid by each Member; and

**"Tribunal"** means an Area Board of Review, the Disciplinary Committee Board of Review, the Disciplinary Committee Appeals Board and the Federation Board if it exercises its powers under rule 19.10(f).

## **2.2 In this Constitution, unless the contrary intention appears:**

- (a) Words importing any gender include all other genders;
- (b) Words importing persons include bodies corporate, incorporated and unincorporated associations;
- (c) Words importing the singular include the plural and vice versa;
- (d) A reference to a statute or code (or to a provision of a statute or code) means the statute, code or provision as modified or amended and in operation for the time being or any statute, code or provision enacted in lieu thereof and includes any regulation or rule for the time being in force under the statute, code or provision.

## **2.3 Headings to this Constitution shall not affect its construction.**

### **3. Objects and Powers**

---

#### **Objects of the Federation**

##### **The objects of the Federation are:**

- (a) To promote and foster parachuting in Australia; and
- (b) To protect the right and opportunity to parachute in Australia in the event it is ever threatened or adversely affected by any entity or person.

## 4. Powers of the Federation

---

**Solely to further the objects set out in rule 3, the Federation shall have the power to:**

- 4.1 conduct parachuting in Australia as provided within the Constitution and Regulations of the Federation;
- 4.2 affiliate or disaffiliate Councils throughout Australia to administer the affairs of the Federation in the Council Areas;
- 4.3 make, amend or revoke Model Rules to be adopted by those Councils as their Council Rules;
- 4.4 admit, enrol and expel Clubs and persons as Members and charge Members such Subscription Fee and any administrative fee as the Federation Board may determine;
- 4.5 take over the funds and other assets and the liabilities of the previous parachuting body APF House Ltd, ACN 005 436 804;
- 4.6 subscribe to, become a member of and co-operate with any other association, club or organisation, whether incorporated or not, whose objects are altogether or in part similar to those of the Federation;
- 4.7 buy, sell and deal in all kinds of articles, commodities and provisions, both liquid and solid, for the Members or persons frequenting the Federation's premises;
- 4.8 purchase, take on lease, take in exchange, hire and otherwise acquire any lands, buildings, easements or property, real and personal, and any rights or privileges which may be requisite for the purposes of, or capable of being conveniently used in connection with, any of the purposes of the Federation, provided that in case the Federation shall take or hold any property which may be subject to any trusts, the Federation shall only deal with the same in such manner as is allowable by the law relating to such trusts;
- 4.9 enter into any arrangements with any Authority, in order to obtain from any such Authority any rights, privileges and concessions which the Federation may deem desirable to obtain and to carry out, exercise and to comply with any such arrangements, rights, privileges and concessions;
- 4.10 appoint, employ, remove or suspend such officers, employees, agents, contractors and other persons as may be necessary or convenient;
- 4.11 construct, improve, maintain, develop, work, manage, carry out, alter or control any houses, buildings, grounds, works or conveniences which may be calculated directly or indirectly to advance the Federation's interests, and to contribute to, subsidise or otherwise assist and take part in the construction, improvement, maintenance, development, working management, carrying out, alterations or control thereof;
- 4.12 invest and deal with the money of the Federation;
- 4.13 take, or otherwise acquire, and hold shares, debentures or other securities of any company or body corporate;
- 4.14 lend and advance money or give credit to any person or body corporate;
- 4.15 guarantee and give guarantees or indemnities for the payment of money or the performance of contracts or obligations by any person or body corporate, and otherwise assist any person or body corporate;

- 4.16 borrow or raise money either alone or jointly with any other person in such manner as may be thought proper and whether upon fluctuating advance account or overdraft or otherwise to represent or secure any moneys and further advances borrowed or to be borrowed alone or with others as aforesaid by notes secured or unsecured, debentures or debenture stock perpetual or otherwise, or by mortgage, charge, lien or other security upon the whole or any part of the Federation's property or assets present or future and to purchase, redeem or pay-off any such securities;
- 4.17 draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange, bills of lading and other negotiable or transferable instruments;
- 4.18 sell, improve, manage, develop, exchange, lease, dispose of, turn to account or otherwise deal with all or any part of the property and rights of the Federation;
- 4.19 take or hold mortgages, liens or charges, to secure payment of the purchase price, or any unpaid balance of the purchase price, of any part of the Federation's property of whatsoever kind sold by the Federation, or any money due to the Federation from purchasers and others;
- 4.20 accept any gift or property whether subject to any special trust or not, for any one or more of the purposes of the Federation provided that in the case where the Federation shall take or hold any property which may be subject to any trusts, the Federation shall only deal with the same in such manner as is allowable by the law relating to such trusts;
- 4.21 take steps by personal or written appeals, public meetings or otherwise, as may from time to time be deemed expedient for the purpose of procuring contributions to the funds of the Federation, in the form of donations, subscriptions or otherwise;
- 4.22 print, publish or distribute any newspapers, periodicals, books, leaflets and other audio, video and electronic productions;
- 4.23 amalgamate with any one or more incorporated associations having objects altogether or in part similar to those of the Federation and which shall prohibit the distribution of its or their income and property among its or their members to an extent at least as great as that imposed upon the Federation;
- 4.24 purchase or otherwise acquire and undertake all or any part of the property, assets, liabilities and engagements of any one or more of the incorporated associations with which the Federation may amalgamate;
- 4.25 transfer all or any part of the property, assets, liabilities and engagements of the Federation to any one or more of the incorporated associations with which the Federation may amalgamate;
- 4.26 make donations for patriotic, charitable or community purposes;
- 4.26A gift all or part of the property of the Federation;
- 4.27 enter into contracts with individuals, associations, companies or other authorities;
- 4.28 initiate, join into or respond to legal proceedings in whatever form the Federation Board may deem necessary;
- 4.29 purchase or otherwise obtain insurance or indemnities pertaining to the Members, officers, agents and property of the Federation, in whatever form the Federation Board may deem necessary;
- 4.30 do all such other lawful things as are incidental or conducive to the attainment of the objects and the exercise of the powers of the Federation.

## 5. Membership

### 5.1 Membership qualifications

**Any of the following are qualified to be Members of the Federation:**

- (a) Clubs;
- (b) Individuals who are members of APF Clubs; and
- (c) Individuals upon whom the Federation Board has conferred Honorary or Life Membership. Short Term Members who are individuals, not being members of APF Clubs, that comply with the provisions of rule 5.2.

### 5.2 Application for Membership

**Subject to clause 5.4, a person (including any Club) qualified to be a Member and who wishes to be a Member may:**

- (a) Apply in writing in the form for the time being prescribed by the Federation Board;
- (b) (i) In the case of individual Members and Short Term Members, pay the Subscription Fee to the Federation directly or through an APF Club as directed by the Federation Board;
- or
- (ii) In the case of Clubs, pay the Subscription Fee directly to the Federation;
- (c) Provide such details or further information as the Federation may generally, or in a particular case, require; and
- (d) Provide evidence that any other requirements prescribed by the Regulations or by the Federation Board generally, or in a particular case, have been satisfied.

The application, Subscription Fee, further information and evidence shall be lodged with the person nominated by the Federation Board from time to time to receive membership applications.

### 5.3 Becoming a Member

- (a) Subject to rule (b), a person (including any Club) making an application to become a Member in accordance with rule 5.2 becomes a Member upon making the application in the prescribed form, paying the Subscription Fee, administrative fee (if any), providing all information and satisfying all requirements prescribed in the Regulations or otherwise by the Federation Board;
- (b) A Club becomes a Member only if its application for Membership is approved by the relevant Council and notice of that approval is given in writing to the Federation. The Federation Board may at the Board meeting following the Council meeting approving the application pass a resolution vetoing the Club's application, in which case the Club's application for Membership will be treated as having been rejected.

### 5.4 Honorary, Life and Perpetual Membership

- (a) The Federation Board, any Council or any Member may nominate any person to be an Honorary Member or a Life Member or any Club to be a Perpetual Member.

- (b) Nominations for Honorary or Life Membership for any person or any club for Perpetual Membership may be submitted to a Federation Board Meeting and if the nomination is approved by not less than 75% of Federation Board Members who are present at that Federation Board Meeting, the nominee shall become an Honorary Member or Life Member or Perpetual Member.
- (c) Subject to rules 5.7 and 19, the duration of Honorary Membership may be for life or for such shorter period as may be set out in the nomination.
- (d) Subject to paragraphs (e), Honorary Members and Life Members and Perpetual Members are not required to pay any Subscription Fee for membership of the Federation.
- (e) The Federation Board may by resolution set a fee and such other conditions as it sees fit for the purchase by any individual natural person of Life Membership or by a Club of Perpetual Membership. Without limiting this rule, those conditions may include a right to become a Life Member or Perpetual Member upon payment of the prescribed fee without satisfying any of the conditions in rule 5.4(a) or (b).

## **5.5 Subscription fees**

- (a) Every Member shall pay a Subscription Fee at such times as may from time to time be prescribed by the Federation Board.
- (b) Unless Regulations are made to the contrary, the following provisions apply to Subscription Fees:
  - (i) The Federation Board shall cause notice to be sent to each Member of the date of expiry of the Member's subscription before the last day of the month of expiry; and
  - (ii) A Member's Subscription Fee must be paid by the due date or such longer period which the Federation Board may in a particular case allow, either with or without requiring the payment of an additional administrative fee.

## **5.6 Member's Liability**

- (a) The liability of a Member to contribute towards the payment of the debts and liabilities of the Federation or the costs, charges and expenses of the winding up of the Federation is limited to the amount, if any, unpaid by the Member in respect of membership of the Federation as required by this rule.
- (b) Notwithstanding cessation of a Member's membership the Member will be liable to the Federation for all Subscription Fees and any administrative fee due to the Federation by the Member up to the date of cessation of membership.

## **5.7 Termination of Membership**

### **A Member ceases to be a Member if:**

- (a) The Member dies, or, in the case of an APF Club, is wound up or dissolved otherwise than for the purpose of reconstruction;
- (b) The Member resigns from the Federation in accordance with rule 5.9;
- (c) The Member is expelled from membership by the Federation Board exercising its power in accordance with this Constitution; or
- (d) The Member fails to pay the Subscription Fee and any administrative fee within the required time after it becomes due.

- (e) The Member's membership is deemed by the Board, in its absolute discretion, to be detrimental to the Federation or any of its Councils, provided always that the Member has been given 14 days written notice of the intention to terminate the Member's membership and has been given an opportunity to show why the Member should not be expelled from membership.

## **5.8 Updating the Register**

Upon cessation of a Member's membership, the Federation Board or the person nominated by the Board to keep the Register shall cause to be made an entry in the Register specifying the Member's name and the date of the cessation of the Member's membership.

## **5.9 Resignation of Membership**

A Member who has paid all amounts payable by the Member to the Federation may resign from membership of the Federation by giving written notice to the Federation, addressed to the person nominated by the Board from time to time to keep the Register, of the Member's intention to resign and, upon the expiration of 30 days or such other time period specified in the notice, the Member ceases to be a Member.

## **5.10 Register of Members**

- (a) The Federation Board shall cause to be kept and maintained and shall appoint a person with responsibility for keeping and maintaining a Register in which there is entered:
  - (i) The full name and address of each Member;
  - (ii) Such other particulars as shall be required by any law to be entered; and
  - (iii) Such further particulars as the Regulations may prescribe.
- (b) The number of individual Members shall be determined from the Register as at the end of the previous quarter.
- (c) The Register, other than address details and other information deemed to be confidential by the person appointed to keep and maintain the Register must be made available for inspection by Members at reasonable times at the registered office of the Federation.

## **6. Councils**

---

### **6.1 Council Areas**

The Federation Board may by resolution prescribe Council Areas from time to time and the boundaries of Council Areas will be as determined by the Federation Board from time to time.

### **6.2 Councils**

- (a) The Federation Board may by resolution recognise a Council as being affiliated to the Federation with responsibility for the Federation's affairs in the Council Area subject to this Constitution, the Regulations and other directions of the Federation Board.
- (b) On the date the Federation adopts this Constitution, the following are recognised as being affiliated to the Federation with responsibility for APF Clubs in their Council Area:
  - (i) Victorian/Tasmanian Parachute Council, Inc.
  - (ii) NSW Council of the Australian Parachute Federation.
  - (iii) South Queensland Parachute Council, Inc.
  - (iv) North Queensland Parachute Council, Inc.
  - (v) South Australian Parachute Council, Inc.
  - (vi) Western Australian Parachute Council.
  - (vii) Northern Territory Parachute Council, Inc.
  - (viii) ACT Parachute Council, Inc
- (c) The Councils are not Members and do not enjoy any of the rights, privileges or authorities of Members under this Constitution.

### **6.3 Rights, Privileges and Powers of Councils**

The Federation Board may from time to time grant or withdraw such of the rights and privileges of the Federation (with or without conditions) and delegate such of the Federation's or the Federation Board's powers (with or without conditions) to Councils or to an individual Council as the Federation Board believes to be desirable for the promotion of the objects of the Federation.

### **6.4 Disaffiliation of Councils**

- (a) The Federation Board may by resolution withdraw recognition of a Council as being affiliated to the Federation.
- (b) Without limiting rule 6.4(a), the Federation Board may disaffiliate a Council if it:
  - (i) Does not comply with this Constitution, the Model Rules as amended from time to time or any of the Regulations in force from time to time;
  - (ii) Subject to rule 6.5(b), does not adopt the Model Rules as amended from time to time as its own Council Rules within the time prescribed by the Federation Board;
  - (iii) Becomes insolvent or is wound up or dissolved for any reason other than for the purpose of reconstruction; or
  - (iv) Does not have one or more APF Clubs in its Council Area with a total of at least 50 members who are also Members of the Federation.

- (c) The Regulations may prescribe the procedure (which shall be procedurally fair) to be followed by the Federation Board when disaffiliating a Council.

## **6.5 Council Rules**

- (a) The Federation Board may by Regulation specify the form of the Model Rules and may make amendments to or new Model Rules as it considers appropriate from time to time for adoption by Councils as their Council Rules provided that:
  - (i) The Model Rules when adopted as Council Rules are not inconsistent with any provision in the Constitution - where there is such inconsistency the provisions of the Constitution shall prevail; and
  - (ii) The Council Rules are not inconsistent with any applicable State, Territory, or Commonwealth legislation - where there is such inconsistency the legislative provisions shall prevail.
- (b) A Council's Rules may vary from the Model Rules if:
  - (i) The variation is necessary to comply with a law applying to the Council or its Rules or is considered by the Federation Board to be desirable for the promotion of the Federation's objects in the relevant Council Area; and
  - (ii) The variation is approved by resolution of the Federation Board.

## 7. The Federation Board

### 7.1 Functions and Powers of the Federation Board

- (a) The Federation Board shall manage the business of the Federation in accordance with this Constitution and the Regulations and may exercise such powers and do such acts and things as may be exercised or done by the Federation.
- (b) The Federation Board may:
- (i) Create executive, technical and other positions;
  - (ii) Appoint or employ any person to hold such a position - other than Federation President or Federation Vice President - with or without such remuneration and for such period as the Federation Board determines in its absolute discretion;
  - (iii) Create committees and appoint any person to be a member of those committees;
  - (iv) Subject to clause 7.1(e) may delegate all or any of its executive, technical or other powers and functions to such persons or committees; and
  - (v) May abolish a position or committee, remove a person from a position – other than Federation President or Federation Vice President - or committee or withdraw any delegation of powers and functions from a person holding a position or from a committee.
- (c) Without limiting the powers of the Federation Board under rule 7.1(b), as at the date of this Constitution, the following positions and committees are recognised as existing under rule 7.1(b):
- (i) President, to represent the Federation in matters of policy interpretation and such other duties as determined by the Federation Board;
  - (ii) Vice-President, to assist the President and to perform the President's functions in the absence of the President;
  - (iii) Secretary, to carry out the administrative functions required under this Constitution and as delegated from time to time by the Federation Board;
  - (iv) Director Aircraft Operations;
  - (v) Director Instructors;
  - (vi) Director Safety;
  - (vii) Director Coaching Projects;
  - (viii) Director Judges;
  - (ix) Director Riggers;
  - (x) Director National Development;
  - (xi) Director Competition;
  - (xii) Disciplinary Committee Chairperson (subject to rule 19); and
  - (xiii) A Management Committee with powers and functions as determined by the Federation Board.
  - (xiv) Remuneration Committee

- (d) The exercise of any power or function delegated to any committee or person appointed to a position under this rule remains subject to the Federation Board's general power to manage the Federation and exercise the Federation's powers and functions.
- (e) The Federation Board may not delegate any powers or functions which under the Act, this Constitution or the Regulations may only be exercised by a special resolution of the Federation Board or a Federation General Meeting.

## **7.2 Members of the Federation Board**

- (a) The Federation Board shall have as Federation Board Members at least one (1) and no more than two (2) Council Representatives from each Council (as determined by the Council from time to time) which is recognised by the Federation Board for the time being as affiliated to the Federation.
- (b) Any Federation Board Member may undertake one or more offices on the Federation Board.
- (c) Federation Board Members shall be appointed or elected (as the case may be) by Councils in accordance with the Model Rules.
- (d) Each Federation Board Member shall hold office until:
  - (i) The Member is re-elected or re-appointed by the relevant Council;
  - (ii) A successor has been elected or appointed to the Member's office by the relevant Council and notice has been given in accordance with rule 7.3; or
  - (iii) The Member's office has been vacated in accordance with rule 7.4, whichever is the earliest.
- (e) No Federation Board Member shall be entitled to receive any remuneration by virtue of holding the office of Federation Board Member.

## **7.3 Notification of Council Representatives**

- (a) Within 14 days of the commencement or cessation of a Council Representative's term of office, a Council shall notify in writing the person nominated by the Federation Board for this purpose of the election, appointment, removal, death or other commencement or cessation of a Council Representative's term of office.
- (b) Within 14 days of the change occurring, Council shall notify in writing the person nominated by the Federation Board for this purpose of any change to the name, address or other details of Council Representatives prescribed from time to time by the Federation Board.

## **7.4 Vacation of Office**

For the purposes of this Constitution, a vacancy in the office of a Federation Board Member occurs when one of the events specified in rule 7.2(d) has occurred or if the Federation Board Member:

- (a) Becomes of unsound mind;
- (b) Resigns office by notice in writing to the Federation Board and to the Council whose Representative the Federation Board Member is;
- (c) Is absent without the consent of the Federation Board from two consecutive meetings of the Federation Board;
- (d) Is convicted (anywhere within or outside the Australian Capital Territory) of:

- (i) An indictable offence in relation to the promotion, formation or management of a body corporate; or
- (ii) An offence involving fraud or dishonesty punishable by imprisonment for a period of 3 months or more,

and a period of 5 years has not lapsed since the Federal Board Member was convicted and released from imprisonment in respect of the offence, whichever is later, and the leave of the Supreme Court of the Australian Capital Territory has not been granted to the Federation Board Member to act or to continue to act as a Federation Board Member;

- (e) Is an insolvent under administration within the meaning of the Corporations Law and has not been granted the leave of the Supreme Court of the Australian Capital Territory to the Federation Board Member to act or to continue to act as a Federation Board Member;
- (f) Ceases to be a Member;
- (g) Has his or her appointment as Council Representative revoked by the Council which made the appointment; or
- (h) Dies.

### **7.5 Casual Vacancies in the offices of Federation Board Members**

Casual vacancies in the office of any Federation Board Member may be filled by the relevant Council which may appoint or elect a replacement Council Representative in accordance with the Model Rules (subject to rule 6.5). The Council shall notify the Federation Board in writing of the new appointment before the next Federation Board Meeting.

### **7.6 Disclosure of Federation Board Member's Interest**

- (a) Where a Federation Board Member has any direct or indirect pecuniary interest in a contract or proposed contract to which the Federation is or may be a party, the Federation Board Member shall:
  - (i) As soon as the interest becomes apparent - disclose the nature and extent of the interest to the Federation Board; and
  - (ii) Disclose the nature and extent of the interest at the next Federation General Meeting.
- (b) A Federation Board Member who has an interest in a contract or proposed contract referred to in rule 7.6(a) shall not take part in making any decision with respect to the contract or proposed contract and shall not be present during the voting on such matter, but may, subject to rule 7.6(a), participate in any deliberations of the Federation Board with respect to the contract, business or arrangement or proposed contract.
- (c) Where a Federation Board Member who has an interest in a contract or proposed contract discloses such interest in accordance with rule 7.6(a):
  - (i) The contract or proposed contract is not liable to be avoided by the Federation on any ground arising from the fiduciary relationship between the Federation Board Member and the Federation; and
  - (ii) The Federation Board Member is not liable to account for any profits derived from the contract by the Federation Board Member.

## **7.7 Chairperson of the Federation Board**

- (a) The Federation Board may appoint any Federation Member to be Chairperson and may delegate to that Chairperson upon such terms and conditions and subject to such restrictions as the Federation Board thinks fit, any of the powers and functions of the Federation Board.
- (b) The Federation Board may at any time withdraw or vary any of the powers so delegated to the Chairperson.

## **8. Meetings of the Federation Board**

---

### **8.1 Frequency of Federation Board Meetings**

The Federation Board shall have at least one Federation Board Meeting every financial year.

### **8.2 Notice of Federation Board Meetings**

Federation Board Meetings shall be held at such time and place and upon such notice as the Federation Board shall appoint but so that the person appointed for this purpose by the Federation Board gives no less than seven (7) days notice in writing of such meetings to the Federation Board Members and to each Council.

### **8.3 Conduct of Meetings**

- (a) Federation Board Meetings may be conducted by telephone or electronic means.
- (b) No business shall be transacted at any meeting of the Federation Board unless a quorum be present. A quorum shall be constituted by five (5) Federation Board Members.
- (c) The Federation Board may permit any person to attend a Federation Board Meeting and may delegate to any person holding a position created by the Board the function of attending Federation Board Meetings but only Federation Board Members may vote at Federation Board Meetings.

### **8.4 Voting at meetings**

- (a) Council Representatives shall be entitled to one vote at Federation Board Meetings on all matters including election and appointment of a Chairperson of the Federation Board or any person to hold a position created by the Federation Board in accordance with this Constitution.
- (b) Questions arising at meetings shall be determined by a majority of the votes of the Federation Board Members present at the Federation Board Meeting. Where there is an equal number of votes for and against a motion, the motion shall be lost.

### **8.5 Resolutions in Writing**

When a resolution is required with expediency, a resolution in writing (excluding any special resolution to alter the Constitution) conducted by postal or electronic means signed by such number of Federation Board Members as shall represent 51 per cent of the total votes of the Federation Board in accordance with rule 8.4(b) shall be as valid and effectual as if it had been passed at a Federation Board Meeting, until the next Federation Board Meeting. Any such resolution may consist of several documents in identical form, each signed by one or more Federation Board Members.

Where a resolution in writing is not ratified at the following Federation Board Meeting then the resolution in writing shall lapse provided that such lapse shall not invalidate any action taken pursuant to a resolution in writing prior to that Federation Board Meeting.

### **8.6 Motions at Federation Board Meetings**

- (a) Notices of motion may be submitted to the Federation Board or a person nominated for that purpose by the Federation Board either before or at the Federation Board Meeting.
- (b) The Federation Board shall ensure that any notices of motion brought to its attention shall be considered at the following Federation Board Meeting.

## 8.7 Validity of Federation Board Acts

Any act or thing done or suffered by any Federation Board Meeting or Federation Board Member is valid if it is specifically provided for in this Constitution, the Regulations or a written resolution of the Federation Board, NOT WITH STANDING any defect that may afterwards be discovered in the appointment or qualification of a Federation Board Member.

## 8.8 Regulations may provide for the Regulation of Meetings

The Regulations may provide for the regulation of Federation Board Meetings and the management of the Federation's affairs.

## 8.9 Administrative Duties of the Board

**The Federation Board shall:**

- (a) Appoint and keep someone appointed who is resident in the Australian Capital Territory to undertake the role of the public officer as required by the Act;
- (b) Appoint someone to keep minutes of the Federation Board Meetings and the Federation General Meetings;
- (c) Appoint someone to prepare all notices required to be given by the Federation and the Federation Board and to receive notices of motion for Federation Board Meetings and Federation General Meetings; and
- (d) Appoint a person or persons to carry out any powers or duties of the Federation Board of an administrative or technical nature provided for in this Constitution and the Regulations.

## 8.10 Minutes of Federation Board Meetings

- (a) A person appointed for the purpose by the Federation Board shall record minutes of all Federation Board Meetings in writing and, in particular, shall record:
  - (i) The names of all people present; and
  - (ii) All resolutions and proceedings.
- (b) The minutes shall be taken to be a true record if at the Federation Board Meeting following the Meeting the minutes are acknowledged by a resolution of those present as a true and complete record.
- (c) The person appointed by the Federation Board for the purpose shall, within 28 days from the date of a Federation Board Meeting, send to the Federation Board Members and to each APF Club and Council draft minutes of the meeting.

## 8.11 Chairperson

Where the Chairperson elected by the Federation Board under rule 7.7 is not present at a Federation Board Meeting or is unable to act as Chairperson, the Federation Board shall choose an individual Member to be Chairperson of that meeting.

## 8.12 Special Resolutions of the Federation Board

**A resolution of the Federation Board shall be taken to be a special resolution if:**

- (a) It is passed at a Federation Board Meeting of which at least 7 days notice, accompanied by notice of intention to propose the resolution as a special resolution, has been given to Federation Board Members and to each Council; and

- (b) It is passed by at least three-quarters of the votes of Federation Board Members voting in accordance with rule 8.4.

## **8A Federation General Meetings**

---

### **8A.1 Frequency of Federation General Meetings**

The Federation Board shall, at least once every calendar year and in any event within the period required by the Act after the expiration of each financial year of the Federation, convene a Federation General Meeting which will be a Federation Annual General Meeting.

### **8A.2 Calling of and Quorum at Federation General Meetings**

- (a) A Federation General Meeting shall be convened on such date and at such place and time as the Federation Board thinks fit but so that no less than twenty-eight (28) days notice in writing of a Federation General Meeting is given to Members by forwarding the notice by pre-paid ordinary post to each APF Club. APF Clubs shall cause the written notice to be displayed in a prominent place at each APF Club premises for at least 21 consecutive days prior to the Federation General Meeting, but failure by one or more APF Clubs to comply with this last requirement will not invalidate the notice of the Federation General Meeting or of any resolution passed at the Federation General Meeting. For the avoidance of doubt, Short Term Members are not entitled to receive notice of any Federation General Meeting.
- (b) A Federation General Meeting shall be specified as such in the notice convening it and if it is also a Federation Annual General Meeting it shall also be specified as such in the notice convening it. The notice shall also specify a person who is appointed to receive notices of motion although if no such person is specified the person who is the public officer for the purposes of the Act will be deemed to have been specified and the notice will not be invalid.
- (c) No business shall be transacted at any Federation General Meeting unless a quorum is present. Five (5) individual Members present constitutes a quorum.

### **8A.3 Voting at Federation General Meetings**

- (a) Upon any question arising at a Federation General Meeting, each individual Member has one (1) vote only. Short Term Members are not entitled to vote on any question at a Federation General Meeting.
- (b) Member's votes shall be given in person by individual Members present at the Meeting or by a proxy appointed in writing, or by Postal or Electronic means, subject to rule 8A.4.
- (c) In the case of an equality of votes on a question at a Federation Annual General Meeting, the Chairperson at that meeting is entitled to exercise a second or casting vote.
- (d) A Member is not entitled to a vote at any Federation General Meeting unless all money due and payable to the Federation by the Member has been paid.

### **8A.4 Voting by APF Clubs and individual Members not present at Federation General Meetings**

APF Clubs and any individual Member not present at a Federation General Meeting may

- (a) Appoint another individual Member as proxy by notice in writing to the person appointed for this purpose by the Federation Board no later than 24 hours before the time of the meeting in respect of which the proxy is appointed. No individual Member may vote as proxy for more than 10 Members or,

- (b) By resolution in writing conducted by postal or electronic means signed by such Member on an APF Postal Vote Form to the person appointed for this purpose by the Federation Board no later than 24 hours before the time of the meeting.

### **8A.5 Motions at Federation General Meetings**

- (a) Notices of motion to be put to a Federation General Meeting may be submitted to a person appointed by the Federation for that purpose no later than 28 days before the scheduled starting time of the Federation General Meeting. The notice of motion shall be seconded by another Member before it is taken to be a notice of motion.
- (b) The Federation Board shall ensure that any notices of motion brought to the attention of the person appointed for the purposes of receiving notices of motion shall be considered at the following Federation General Meeting and that all such notices are circulated to all APF Clubs before the meeting at which the motion is to be considered. APF Clubs must cause such notices to be displayed in a prominent place at each APF Club premises for at least 21 consecutive days prior to the Federation General Meeting. Failure to comply with this rule will not invalidate any resolution passed in accordance with the notice of motion.

### **8A.6 Chairperson at Federation General Meeting**

A Federation General Meeting shall be chaired by the Federation President unless the Federation General Meeting elects another individual Member to be chairperson of that meeting.

### **8A.7 Business at Federation General Meetings**

In addition to any other business which may be transacted at a Federation Annual General Meeting, the business of a Federation Annual General Meeting shall be:

- (a) To elect a Chairperson for that meeting, if the Chairperson is not to be the Federation President;
- (b) To confirm the minutes of the last Federation Annual General Meeting and of any Federation General Meeting held since that meeting;
- (c) To receive from the Federation Board a report on the activities of the Federation during the last financial year;
- (d) To receive and consider the statement of accounts and the reports that are required to be submitted to Members.
- (e) To elect a Federation President and, if deemed necessary by the meeting, a Federation Vice President.

### **8A.8 Special Resolutions at Federation General Meetings**

A resolution of Members at a Federation General Meeting shall be taken to be a special resolution if:

- (a) It is passed at a Federation General meeting of which at least 28 days notice, accompanied by notice of intention to propose the resolution as a special resolution, has been given to Members in accordance with rule 8A.2(a); and
- (b) It is passed by at least 75 per cent of the votes of Members voting in accordance with rules 8A.3 and 8A.4.

### **8A.9 Minutes at Federation General Meetings**

- (a) A person appointed for the purpose by the Federation Board shall record minutes of all Federation General Meetings in writing and, in particular, shall record:
  - (i) The names of all people present; and
  - (ii) All resolutions and proceedings.
- (b) The minutes shall be taken to be a true record of the Federation General Meeting if, at the following Federation General Meeting the minutes are acknowledged by a resolution of those present as a true and complete record.
- (c) The person appointed by the Federation Board for the purpose shall, within 28 days from the date of a Federation General Meeting, send to the Federation Board Members and to each Club and Council a draft of the minutes of the meeting.

## **9. Indemnity and Liability**

---

### **9.1 Indemnity for Federation Board Members, Employees and Agents**

Federation Board Members and other officers, employees and agents (including persons holding any positions on committees created or appointed under rule 7.1 and also volunteers) and Councils and individual members and Clubs of the Federation may be indemnified out of the funds of the Federation against any costs, charges, losses, damages and expenses incurred in the proper execution of their powers and functions unless the amount was incurred as a result of their own willfully wrongful act, neglect, default or dishonesty.

### **9.2 Federation Board Members' Liability**

No Federation Board Member or other officer, employee or agent of the Federation shall be liable to the Federation or to any Member for:

- (a) The acts, receipts, neglects or defaults of any Federation Board Member, other officer, employee, contractor, agent or voluntary assistant of the Federation;
- (b) In joining in any receipt or other act for conformity;
- (c) Loss or expense happening to the Federation through the insufficiency or deficiency of title to any property acquired by order of the Federation Board for or on behalf of the Federation;
- (d) For the insufficiency or deficiency of any security in or upon a body in which any of the monies of the Federation may be invested;
- (e) For any loss or damage arising from the bankruptcy, insolvency or tortious act of any person with whom any money, securities or effects shall be deposited;
- (f) For any loss occasioned by any error of judgement, omission, default or oversight on the part of a Federation Board Member, officer, employee or agent;
- (g) For any other loss, damage or misfortune whatever which may happen in the execution of the duties of the Federation Board Member's, officer's, employee's or agent's office or in relation thereto

UNLESS the same happen through the Federation Board Member's or the officer's own wilfully wrongful act, neglect, default or dishonesty.

## **10. Notices**

---

### **10.1 Notices to be served by Posting**

Unless otherwise specified in this Constitution, a notice required to be served by the Constitution or the Regulations may be served by sending such notice by prepaid ordinary post, or (in the case of general notices to Members) by including the notice in a publication of the Federation, a Council or an APF Club and sending such publication by prepaid ordinary post or any other form of post by which publications may be distributed in Australia to:

- (a) The Member's address appearing in the Register; or
- (b) The Council's address as notified to the Federation Board.

Notices of Federation General Meetings to Members may be served in the manner specified in rule 8A.2.

### **10.2 Deemed Service of Notices**

A notice served in accordance with rule 10.1 shall be deemed to have been duly served at the expiration of two (2) working days after posting.

## **11. Regulations**

---

### **11.1 Federation Board May Make Regulations**

The Federation Board may make Regulations on all matters relating to the affairs of the Federation for the purpose of carrying out its objects SUBJECT TO such Regulations being consistent with the Constitution and the rules of any body or Authority which are binding on the Federation.

### **11.2 Regulations are binding**

The Regulations shall be binding on all Members and Councils.

### **11.3 Regulations may be amended**

The Regulations may be added to, revoked, varied or amended from time to time by the Federation Board.

### **11.4 Inspection of Regulations**

The Regulations shall be available for inspection at the registered office of the Federation.

## **12. Common Seal**

---

### **12.1 Affixing of the Common Seal**

The common seal of the Federation shall not be affixed except by authority of the Federation Board. The affixing of the common seal shall be attested by the signatures of two (2) Federation Board Members or a person or persons who are authorised by the Federation Board to do so.

### **12.2 Keeping of the Common Seal**

The common seal of the Federation shall be kept at the registered office of the Federation.

## **13. Funds**

---

### **13.1 Cheques**

All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments shall be signed by two (2) individuals (chosen from Federation Board Members and Federation employees or such other persons as the Federation Board thinks fit) who are authorised to do so by the Federation Board from time to time.

### **13.2 Auditors - appointment**

The Federation Board shall from time to time appoint an auditor or auditors in accordance with the Act.

### **13.3 Auditors - functions**

The auditor or auditors appointed in accordance with rule 13.2 shall audit the Federation's accounting records in accordance with the Act.

### **13.4 Financial Year**

The financial year of the Federation shall run from 1 January to 31 December of the calendar year.

### **13.5 Custody and Inspection of Books and Documents**

- (a) The Federation Board shall ensure that all records and documents relating to the Federation are kept in the custody of:
- (i) A person appointed for this purpose by the Federation Board; or
  - (ii) A Federation Board Member appointed from time to time by the Federation Board, at:
    - (iii) The registered office of the Federation; or
    - (iv) At a place determined by the Federation Board from time to time.
- (b) The records and documents of the Federation shall be made available for inspection by Members at any reasonable time and place upon request to the person appointed by the Federation for this purpose other than records and documents which can reasonably be regarded as confidential.

### **13.6 Funds - Source**

- (a) The Federation may derive funds from Subscription Fees, donations and any other sources which the Federation Board determines subject to this Constitution.
- (b) The Federation shall, as soon as practicable after receiving any money, issue an appropriate receipt.

### **13.7 Funds - Management**

The Federation Board or committee or person appointed by the Federation Board for the purpose shall ensure that the funds of the Federation are used in accordance with the objects and powers of the Federation.

### **13.8 Statement of Accounts**

The Federation Board shall cause a statement of the Federation's accounts to be prepared before the end of the period in which a Federation Annual General Meeting is required to be held in each financial year.

## **14. Income and Property**

---

### **14.1 Income and Property Applied Towards Objects of the Federation**

The income and property of the Federation shall be applied solely toward the promotion of the objects of the Federation.

### **14.2 No Income and Property to be transferred to Members**

No income and property of the Federation shall be transferred directly or indirectly to any Member whether by way of dividend, bonus, profit or in any manner whatsoever, PROVIDED THAT the nothing shall prevent the payment:

- (a) Of remuneration to any employee or servant of the Federation or to any Member in return for any services actually rendered to the Federation;
- (b) For goods supplied to the Federation in the ordinary and usual course of business;
- (c) Of interest at a rate determined from time to time by the Federation Board on money borrowed from any Member;
- (d) Of any reasonable and proper rent for premises demised or let by any Member;
- (e) Of out-of-pocket expenses; and
- (f) Of grants to individual Members, APF Clubs or Councils for the sole purpose of promoting the objects of the Federation.

### **14.3 Distribution of Property upon Dissolution of the Federation**

- (a) The Federation may be wound up:
  - (i) Voluntarily by special resolution at a Federation General Meeting resolving that it be wound up; or
  - (ii) By order of the Supreme Court of the Australian Capital Territory in accordance with the Act.
- (b) On the dissolution or completion of the winding up of the Federation, any surplus property of the Federation shall, subject to any trust affecting the property or part of it:
  - (i) Vest in another association (whether or not that other association is incorporated), being an association that:
    - (A) Has objects substantially the same as the objects of the Federation;
    - (B) Is not carried on for the object of trading or securing pecuniary gain for its members; and
    - (C) Has a provision in its rules requiring any surplus property of the association to be passed, on the dissolution or winding up of the association, to another association that has objects substantially the same as the Federation and is not carried on for the object of trading or securing pecuniary gain for its members,

and has been nominated by a special resolution at a Federation General Meeting;

- (ii) Vest in a fund, authority or institution in Australia specified in paragraph 78(1)(a) of the Income Tax Assessment Act 1936 (or its successor), of the Commonwealth that has been nominated by special resolution of a Federation General Meeting; or
- (iii) Where no association, fund, authority or institution has been nominated in accordance with this rule, vest in the Registrar General of the Australian Capital Territory.

## **15. Exercise of Powers of the Federation**

---

### **15.1 Validity of Exercise of Powers**

Subject to rule 8.7, the exercise of the powers of the Federation in pursuit of the Federation's objects shall be valid only if there is specific provision for such exercise within the Constitution, Regulations, or written resolutions of the Federation Board.

## **16. Alterations to the Constitution**

---

### **16.1 Alteration by Special Resolutions**

The Constitution may be altered in whole or in part only by a special resolution of a Federation General Meeting.

## **17. Inconsistency with Constitution and Applicable Laws**

---

### **17.1 Inconsistency with Council Rules and Council Regulations**

Where there is an inconsistency or conflict between the Constitution and any Council Rules or regulations which may have been passed or which may be passed by any Council, the Constitution shall prevail, shall be of force and effect and shall be regarded as binding on all Councils and Members to the exclusion of any conflicting Council Rules or regulations of the Council.

### **17.2 Inconsistency with the Act or other Applicable Laws**

Any rule in this Constitution which is inconsistent with the Act or with any other law which applies to the Federation is to be read down so that there is no inconsistency. If an inconsistent rule cannot be read down to avoid any inconsistency, then the rule is void.

## **18. Control of Parachuting**

---

### **18.1 Federation has Control of Parachuting**

The Federation shall have control of:

- (a) Competitions;
- (b) Matches;
- (c) Trials;
- (d) Tests; and
- (e) Records

throughout Australia which may be conducted by APF Clubs, Councils or Members.

The Federation may, on such terms as it determines, delegate such control or any aspect of the control to any APF Club, Council or Member or other person.

### **18.2 Federation May Delegate its Powers**

Without limiting rule 7.1, the Federation Board may, by written resolution of the Federation Board, delegate to any APF Club, Council or individual Member, or other person, any powers of the Federation so far as they are exercisable within the Council Area in which such APF Club or Council has jurisdiction.

### **18.3 Delegation of Powers May be Revoked or Varied**

Any control or powers delegated by the Federation pursuant to rules 18.1 and 18.2 may from time to time be revoked or varied as the Federation Board may determine.

### **18.4 Members to Comply with Constitution**

Every Member shall observe and comply with the Constitution, the Regulations and all requirements of the Federation whether made directly or through delegation in accordance with the Constitution or the Regulations.

## **19. Misconduct**

### **19.1 Proscribed Conduct**

Members must not:

- (a) Refuse or neglect to comply or be reckless as to whether or not they comply with this Constitution or any Regulation (including the Federation's Code of Ethics);
- (b) Act in a manner dangerous to themselves or others in the course of parachuting activities; or
- (c) Act in a manner prejudicial to the interests of the Federation: or
- (d) Interfere in a disciplinary investigation.

### **19.2 Disciplinary Powers of Federation**

Subject to this rule 19, the Federation has the following powers to discipline members for breaches of rule 19.1:

- (a) To charge a Member with a breach of rule 19.1;
- (b) To hear complaints from another Member, any person with responsibility under the Regulations for any matter referred to in rule 19.1, any Council or APF Club that a Member has breached rule 19.1;
- (c) To hear the charges or complaints and to determine whether a Member has breached rule 19.1;
- (d) Expel the Member from the Federation, suspend, cancel or modify any of the Member's rights and privileges of Membership of the Federation or to fine a Member for a breach of rule 19.1 including without limitation suspending, cancelling or modifying any or all of the Member's privileges, ratings, sporting license, certificates or other licenses or Membership of the Federation or exercising any other discretion to suspend, modify or cancel rights or privileges which may be delegated to the Federation by an Authority or other body having jurisdiction over the activities of the Federation, or any combination of these;
- (e) To hear appeals from any decision on a charge or complaint or disciplinary action;
- (f) To refer charges, complaints or appeals for resolution by any means of alternative dispute resolution which complies with the rules of natural justice; and
- (g) To make Regulations with respect to the procedures for exercising any of the powers of the Federation under this rule, subject to the prescribed procedures in this rule, including without limitation the regulation of the exercise of powers to cancel, modify or suspend Members' rights and privileges by the Disciplinary Committee or any Area Board of Enquiry.

### **19.3 Disciplinary Committee**

- (a) There shall be a Disciplinary Committee Chairperson appointed by resolution of the Federation Board. The Federation Board shall also appoint an alternate Disciplinary Committee Chairperson to act when the Disciplinary Committee Chairperson is unable to act.
- (b) There shall be a Disciplinary Committee Board of Review appointed as required from time to time by the Disciplinary Committee Chairperson which is to consist of no less than three individual members but so that there is always an odd number of members. The Disciplinary Committee Chairperson may be one of those members and may, subject to rule 19.3(d), chair hearings by a Disciplinary Committee Board of Review.

- (c) There shall be a Disciplinary Committee Appeal Board appointed as required from time to time by the Disciplinary Committee Chairperson which is to consist of no less than three individual members but so that there is always an odd number of members. The Disciplinary Committee Chairperson may be one of those members and may chair appeals to the Disciplinary Committee Appeal Board.
- (d) If an appeal is made to the Disciplinary Committee Appeal Board from a determination by a tribunal which had as one of its members the Disciplinary Committee Chairperson, the appeal shall be heard by a Disciplinary Committee Appeal Board appointed and chaired by the alternate Disciplinary Committee Chairperson.

#### **19.4 Area Boards of Review**

- (a) There shall be an Area Board of Review Chairperson for each Council Area appointed by the Federation Board or by a person delegated by the Federation Board for this purpose. The power to appoint the Area Board of Review Chairperson for a Council Area may be delegated to a Council.
- (b) There shall be an Area Board of Review for each Council Area appointed as required from time to time by the Area Board of Review Chairperson which is to consist of no less than three and no more than six members. The Area Board of Review Chairperson may be one of those members and may chair hearings by the Area Board of Review.
- (c) If the Area Board of Review Chairperson is unable to act for any reason, the Area Board of Review Chairperson's functions may be exercised by the Chairperson of the relevant Council.

#### **19.5 Procedure for Laying Charges and Making Complaints**

- (a) Any Member, any person who has responsibility under the Regulations for any matter referred to in rule 19.1 (including a Safety Officer), or any Council may make a complaint in writing to the relevant Area Board of Review Chairperson that a Member is in breach of rule 19.1.
- (b) Where there is doubt about which Area Board of Review should deal with a complaint, the Disciplinary Committee Chairperson may determine which Area Board of Review shall deal with it.
- (c) Where an Area Board of Review Chairperson receives a complaint in writing or is of the opinion that a Member may have breached rule 19.1, the Area Board of Review Chairperson shall consider the matter and shall:
  - (i) Determine not to proceed with the matter;
  - (ii) Charge the Member with the breach and refer the matter for hearing by the Area Board of Review;
  - (iii) Refer the complaint for hearing by the Area Board of Review; or
  - (iv) Refer the matter for alternative dispute resolution and in any case shall notify the Disciplinary Committee Chairperson of the proposed action.
- (d) If an Area Board of Review Chairperson believes that a matter is particularly serious or that procedural fairness may require that the Area Board of Review should not hear the complaint or charge, the Area Board of Review Chairperson may refer the matter to the Disciplinary Committee Chairperson.

- (e) If the Disciplinary Committee Chairperson receives a reference from an Area Board of Review Chairperson under paragraph (d) of this rule, the Disciplinary Committee Chairperson shall consider the matter and shall:
- (i) Determine not to proceed with the matter;
  - (ii) Charge the Member with a breach of rule 19.1 and refer the matter for hearing by the Disciplinary Committee Board of Review;
  - (iii) Refer the complaint for hearing by the Disciplinary Committee Board of Review; or
  - (iv) Refer the matter for alternative dispute resolution.
- (f) If the Disciplinary Committee Chairperson believes that a matter is particularly serious or that procedural fairness may require that the Area Board of Review should not hear the complaint or charge the Disciplinary Committee Chairperson may require that the matter be dealt with by the Discipline Committee Board of Review or the matter be referred to alternative dispute resolution.

### **19.6 Notice of Charges or Complaints**

If a Member is charged or if a decision is made to hear a complaint, notice of the charge or complaint must be served on the Member at least 21 days before the date of the hearing which specifies:

- (a) Particulars of all charges and complaints to be heard and the grounds upon which they are based;
- (b) The date, place and time of the hearing and which Tribunal is to hear the charges or complaints; and
- (c) That the Member may do one or more of the following:
  - (i) Attend and speak at the hearing;
  - (ii) Submit to the Tribunal at or prior to the hearing written representations relating to the matter;
  - (iii) Procure representation at the hearing by any person other than a solicitor or barrister admitted as a barrister or solicitor of any State or Federal court in Australia unless the Regulations permit legal representation.

### **19.7 Procedure at Hearings**

At any hearing of a charge or complaint, the Tribunal must:

- (a) Give the Member or the Member's permitted representative an opportunity to make oral representations;
- (b) Consider any written representations submitted to the Tribunal by the Member or on the Member's behalf;
- (c) Make a determination whether rule 19.1 has been breached by the Member; and
- (d) Make a determination of the sanction or sanctions to be imposed on the Member although, unless the Regulations provide otherwise, an Area Board of Review has no power to expel a Member from the Federation or permanently cancel any of the Member's rights and privileges.

## 19.8 Notice of Tribunal's Determinations

The Tribunal must cause written notice of any determination it makes under rule 19.7 to be served on the Member within 14 days of the hearing which specifies:

- (a) The determination;
- (b) The date upon which the determination will take effect if the Member does not appeal or if the Member has no right of appeal under this Constitution;
- (c) Any right of appeal which the Member may have under this Constitution against the determination.

## 19.9 Effect of Notice under Rule 19.8

- (a) Subject to rule 19.9(b), a determination by a Tribunal under rule 19.7 takes effect seven days after the notice referred to in rule 19.8 is served on the Member or on any later date specified in that notice.
- (b) The Tribunal may determine that the cancellation or suspension of a Member's rights or privileges takes effect immediately and remains effective until the period of cancellation or suspension ends or until the Disciplinary Committee Appeal Board on an appeal in accordance with rule 19.10 determines that the cancellation or suspension should be set aside. Alternatively, the Tribunal may determine that the sanction be postponed until an appeal by the Member is heard. The sanction takes effect in accordance with the Tribunal's determination.

## 19.10 Right of Appeal

- (a) A determination by any APF Officer who has responsibility for disciplinary matters delegated by the APF Board, or a determination by an Area Board of Review or the Disciplinary Committee Board of Review may be appealed by the Member lodging with the Disciplinary Committee Chair a notice of the appeal,
  - (i) In the case of a determination by any APF Officer who has responsibility for disciplinary matters delegated by the APF Board, within seven days after the Member has been advised of the penalty
  - (ii) In the case of an Area Board of Review or a Disciplinary Committee Board of Review, within seven days after the notice referred to in rule 19.8 has been served on the Member
  - (iii) and in the case of a determination by an Area Board of Review or Disciplinary Committee Board of Review the appeal is to include copies of the notices served on the Member under rules 19.6 and 19.8.
- (b) The Disciplinary Committee Chairperson must refer the appeal to an appropriate tribunal (either an Area Board of Review or the Disciplinary Committee Appeal Board) and must cause notice of the appeal hearing to be served on the Member at least seven days before the date of the hearing which specifies the matters in rules 19.6(b) and (c).
- (c) The tribunal to which an appeal has been referred must conduct the appeal hearing in accordance with rule 19.3(d) and with the procedures in rules 19.7 and 19.8.
- (d) Any determination of the Disciplinary Committee Appeal Board is final and a Member has no right of appeal to the Federation Board.

- (e) A notice of appeal lodged under paragraph (a) of this rule must clearly set out the grounds of appeal and must clearly identify new evidence (if any) that the Member seeks to rely on. The tribunal to which the appeal is referred shall consider only those matters set out in the notice of appeal.
- (f) The Federation Board may at any time intervene in an appeal commenced by a Member under this rule 19.10 and may conduct the appeal hearing itself in accordance with the procedures in this rule 19. The decision of the Federation Board shall be final and there is no further right of appeal.

### **19.11 No Claim for Reversed Determinations**

No Member who has a penalty of any kind imposed by a determination of a Tribunal under rule 19.7 or 19.10 has any claim against the Federation, Members, Councils, APF Clubs or any officer, employee, contractor or agent of the Federation or Council even if the determination is subsequently found to be invalid or is overturned on appeal by the Member.

### **19.12 Regulations**

The Regulations may prescribe an administrative fee to be paid by a Member and such other requirements as the Federation Board thinks fit in relation to any hearing against a Member. The Regulations may also prescribe that the Federation may refund the whole or part of a Member's costs incurred in relation to a successful appeal by a Member under rule 19.10.

#### **NOTE: Appeal Fees**

When a member appeals a decision of an Area Board of Review or a Disciplinary Committee Board of Review, they must pay an administrative fee of \$500, or an amount determined by the Disciplinary Committee Chair.

If the appeal is successful, the member's costs, including the administrative fee, may be fully or partially refunded, at the discretion of the Disciplinary Committee Chair.

(APF Procedures Manual 5.3 / SM 96/3.23)

### **19.13 Alternative Dispute Resolution**

- (a) The Disciplinary Committee Chairperson, an Area Board of Review Chairperson or a Tribunal may, with the agreement of the Member affected, refer a matter or any issue arising in a matter under its control to arbitration, conciliation, mediation, expert determination or any other appropriate method of alternative dispute resolution.
- (b) The procedural and other rules applying in the forum to which the matter is referred will apply to the resolution of the matter.
- (c) If, under the rules applying to the method of alternative dispute resolution chosen, the matter is not finally determined so as to be binding on the Member after a reasonable attempt has been made to resolve the matter, action may be continued against the Member under this rule 19.
- (d) A Tribunal may take into consideration any report, recommendation or determination made in the course of the attempted alternative dispute resolution when the Tribunal makes any determination under this rule 19.

### **19.14 Records and Minutes**

- (a) The Disciplinary Committee Chairperson shall cause detailed minutes to be made of all hearings before the Disciplinary Committee and shall sign and keep those minutes as a permanent record of the hearings.
- (b) Each Area Board of Review Chairperson shall cause detailed minutes to be made of all hearings before the Area Board of Review and shall sign and forward a copy of those minutes within 30 days of the completion of the hearing to the Disciplinary Committee Chairperson who shall keep them as a permanent record of the hearings.
- (c) Copies of all notices served on Members under rules 19.6 and 19.8 shall be forwarded to the Disciplinary Committee Chairperson by the person who causes the notice to be served (including those served by the Federation Board) at the same time the notice is served on the Member and the Disciplinary Committee Chairperson shall keep all such notices as a permanent record.
- (d) The Federation Board may make Regulations with respect to the keeping of these records and the rights of Members (if any) to inspect part or all of the records. The Federation Board may by resolution delegate someone other than the Disciplinary Committee Chairperson to keep the records.