



## Constitution

**Owner: SWAS**

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**Version: 2.0**

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**Approved by: SWAS CEO**

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**Effective from: June 2018**

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## 1 Name of Association

The name of the Association is South West Academy of Sport Inc.

## 2 Definitions

In these rules, unless the contrary intention appears-

**Act** means the Associations Incorporation Act 2015;

**Association** means the Association referred to in Rule 1. The “South West” means the area within the boundaries of the Local Government authorities of Manjimup, Boyup Brook, Donnybrook-Balingup, Bridgetown-Greenbushes, Collie, Dardanup, Harvey, Nannup, Capel, Busselton, Bunbury and Augusta Margaret River;

**annual general meeting** is the meeting convened under Rule 16.1(b);

**convene** means to call together for a formal meeting;

**financial year** means a period means each period commencing 1 July and ending on 30 June in the following year;

**general meeting** means a meeting to which all members are invited and includes a special general meeting and an annual general meeting;

**member** means member of the Association appointed pursuant to Rule 5;

**ordinary resolution** means a resolution other than a special resolution;

**poll** means voting conducted in written form (as opposed to a show of hands);

**special general meeting** means a general meeting other than an annual general meeting;

**special resolution** has the meaning given by the Act, that is –

*A resolution is a special resolution if it is passed by a majority of not less than three-fourths of the members of the association who are entitled to vote at a general meeting of which notice specifying the intention to propose the resolution as a special resolution was given in accordance with those rules.*

*At a meeting at which a resolution proposed as a special resolution is submitted, a declaration by the person presiding that the resolution has been passed as a special resolution shall be evidence of the fact unless, during the meeting at which the resolution is submitted, a poll is demanded in accordance with the rules of the Association or, if the rules do not make provision as to the manner in which a poll may be demanded, by at least 3 members of the association present in person or, where proxies are allowed, by proxy.*

*If a poll is held, a declaration by the person presiding as to the result of a poll is evidence of the matter so declared.*

## 3 Objects of Association

- 3.1 The object of the South West Academy of Sport Inc. is to assist with the identification and sporting development of talented young athletes from the South West Region.
- 3.2 The Association is a not-for-profit body. The property and income of the Association shall be applied solely towards the promotion of the objects of the Association and no part of that property or income may be paid or otherwise distributed, directly or indirectly, to members, except in good faith in the promotion of those objects.
- 3.3 A payment to a member out of the funds of the Association is authorised if:

- (a) the payment is in good faith to the member as reasonable remuneration for any services provided to the Association, or for goods supplied to the Association, in the ordinary course of business; or
- (b) the reimbursement of reasonable expenses properly incurred by the member on behalf of the Association; or
- (c) the Association shall have the option of making any payments, in addition to those above, to committee members as approved by resolution in a meeting of the Association.

#### **4 Powers of the Association**

The powers conferred on the Association are the same as those conferred the Act, so that subject to the Act and any additions, exclusions or modifications inserted below, the Association may do all things necessary or convenient for carrying out its objects and purposes, and in particular, may –

- (a) acquire, hold, deal with, and dispose of any real or personal property;
- (b) open and operate bank accounts;
- (c) invest its money in any security in which trust monies may lawfully be invested or in any other manner authorised by the rules of the Association;
- (d) borrow money upon such terms and conditions as the Association thinks fit;
- (e) appoint agents to transact any business of the Association on its behalf;
- (f) enter into any other contract it considers necessary or desirable; and
- (g) may act as trustee and accept and hold real and personal property upon trust, but does not have power to do any act or thing as a trustee that, if done otherwise than as a trustee, would contravene this Act or the rules of the Association.

#### **5 Appointment of members**

- 5.1 South West membership shall comprise a Committee of persons, aged 18 years or older, with a wide range of skills who support the objects of the Association.
- 5.2 The Committee is to consist of a Chair, Vice- Chair, and other Committee Members.
- 5.4 Other Members of the Committee, including the Vice Chair, will be appointed by the Chair in writing, following consultation with the Chair or their delegate.
  - (a) The Vice Chair and Committee Members will hold office for a term up to three years.
  - (b) Nomination of candidates for Committee positions will be sought by an open and transparent expression of interest (EOI) process which may be implemented by the Association.
- 5.5 Persons who are bankrupt, are subject to insolvency laws, convicted of fraud or dishonesty or have been convicted of an indictable offence will not be eligible to be a Member of the Association.

## **6 Register of members of the Association**

- 6.1 The Chief Executive Officer, on behalf of the Association, must keep and maintain an up to date condition a register of the members of the Association and their postal, residential or email addresses.
- 6.2 The register must note any classification of membership.
- 6.3 Upon the request of a member of the Association, the Chief Executive Officer shall make a copy of the register or provide access to the register for the member to make a copy (or take an extract) but the member shall have no right to remove the register, and the Committee may require the member to provide a Statutory Declaration declaring the purpose of why the copy or extract is required.
- 6.4 The register must be so kept and maintained at the Chief Executive Officer's place of residence, or Association office.
- 6.5 The Chief Executive Officer must as soon as practicable after receiving notification of a person's appointment enter the person's name in the register of members.
- 6.6 The Chief Executive Officer must cause the name of a person who ceases to be a member under Rule 8 to be deleted from the register of members referred to in Rule 6.1.
- 6.7 The Chief Executive Officer must keep a record (for at least one year after a membership terminates) of the date the person ceased to be a member and the reason why.

## **7 Subscriptions of members of the Association**

There will be no subscription payable by members.

## **8 Termination of membership of the Association**

A person ceases to be a member of the Association upon –

- (a) receipt by the Chief Executive Officer or another member of a notice in writing from a member of his or her resignation from the Association; or
- (b) expiry of the member's appointment as a member of the Association, if the member's appointment was for a fixed duration;
- (c) the absence of a member from three consecutive meetings, excepting where a leave of absence has been approved by the committee for a period not exceeding 3 months;
- (d) the member being convicted of a criminal offence;
- (e) the member becomes bankrupt;
- (f) loss of mental capacity; or
- (g) the death of the member.

## **9 Suspension or expulsion of members of Association**

- 9.1 If the Association considers that a member should be suspended or expelled from membership of the Association because their conduct is detrimental to the interests of the Association, it may suspend or expel that member by resolution at a committee meeting following consultation with the relevant members. Before the Association provides such a recommendation, it must follow the process set out in this Rule 9.
- 9.2 The Association must communicate, in writing, to the member –
- (a) notice of the proposed recommendation of suspension or expulsion and of the time, date and place of the general meeting at which the question of that recommendation of suspension or expulsion will be decided; and
  - (b) particulars of the conduct the Association considers is detrimental to the interests of the Association,
- not less than 28 days before the date of the meeting referred to in paragraph (a).
- 9.3 At the meeting referred to in a notice communicated under Rule 9.2, the Association may, having afforded the member concerned a reasonable opportunity to be heard by, or to make representations in writing to, the Association, decide to suspend or expel that member and communicate that decision in writing to the person concerned.

## **10 Management of the Association and Sub-committees**

- 10.1 There will be no separate committee of management since the affairs of the Association will be managed by the members through a general meeting and, if necessary, circular resolution passed pursuant to Rule 18.
- 10.2 The Association may delegate, in writing, to one to more sub-committees (consisting of such member or members of the Association as the Association thinks fit) the exercise of such functions of the Association as are specified in the delegation other than –
- (a) the power of delegation; and
  - (b) a function which is a duty imposed on the general meeting of members by the Act or any other law.
- 10.3 Any delegation under Rule 10.2 may be subject to such conditions and limitations as to the exercise of that function or as to time and circumstances as are specified in the written delegation and the Association may continue to exercise any function delegated.
- 10.4 The Association may, in writing, revoke wholly or in part any delegation under Rule 10.2.

## **11 Chair and Vice Chair**

- 11.1 Subject to Rule 11.2, the Chair must preside at all general meetings.
- 11.2 In the event of the absence from a general meeting -
- (a) of the Chair, the Vice Chair must preside at the meeting; or
  - (b) of both the Chair and the Vice Chair, a member elected by the other members present at the general meeting must preside at the meeting.
- 11.3 The Chair and Vice Chair have specific duties noted in the Association's policies and procedures documents relation to:
- (a) Responsibilities of members.

## **12 Secretary**

12.1 The Chief Executive Officer shall perform the duties of the Association's Secretary.

12.2 The Secretary must –

- (a) co-ordinate the correspondence of the Association;
- (b) keep full and correct minutes of the proceedings of the Association;
- (c) comply on behalf of the Association with –
  - (i) the Act with respect to the register of members of the Association, as referred to in Rule 6;
  - (ii) the Act with respect to keeping and maintaining in an up to date condition the rules of the Association; and
  - (iii) the Act with respect to maintaining a record of –
    - (A) the names and residential, postal or email addresses of the persons who hold the offices of the Association provided for by these rules and persons who are authorised to use the common seal of the Association under Rule 22; and
    - (B) the names and residential, postal or email addresses of any persons who are appointed or act as trustees on behalf of the Association, and the Secretary must, upon the request of a member of the Association, make available the record for the inspection of the member and the member may make a copy of or take an extract from the record but will have no right to remove the record for that purpose;
- (d) unless the members resolve otherwise at a general meeting, have safe custody of all books, documents, records and registers of the Association, including those referred to in paragraph (c); and
- (e) perform such other duties as are imposed by these rules on the Secretary.

## **13 Treasurer**

13.1 The Association may, by resolution, select one of the members as Treasurer (provided that member agrees to act as Treasurer).

13.2 An appointment under Rule 13.1 will be for a specified period.

13.3 A member ceases to be the Treasurer if:

- (a) his/her term of appointment as Treasurer expires;
- (b) he/she ceases to be a member of the Association for whatever reason;
- (c) he/she resigns from the position of Treasurer (yet remains a member of the Association).

13.4 The Treasurer shall –

- (a) ensure that all monies received are paid into an account authorised by members in the name of the Association;
- (b) ensure that payments (cheque or electronic funds transfer) are made only after approval by two (2) authorised signatories comprising the Chair, Deputy Chair, Secretary and Treasurer;
- (c) comply on behalf of the Association with the Act with respect to the accounting records of the Association by –

- (i) keeping such accounting records as correctly record and explain the financial transactions and financial position of the Association;
  - (ii) keeping its accounting records in such manner as will enable true and fair accounts of the Association to be prepared and audited; and
  - (iii) submitting to members at each annual general meeting, accounts showing the financial position of the Association at the end of the immediately preceding financial year.
- (e) ensure that a financial report, balance sheet and statements are submitted at each general meeting of the Association;
  - (f) ensure that an independent audit of accounts and assets is undertaken and submitted at each annual general meeting;
  - (g) ensure that all securities, books and documents of a financial nature and accounting records of the Association are kept safely at the Association's premises; and
  - (h) perform such other duties as are imposed by these rules on the Treasurer.
- 13.5 Financial arrangements must operate within the context of a Finance Policy endorsed by a general meeting and reviewed at every annual general meeting. The Treasurer is responsible for managing the overall financial matters of the Association but may delegate the day-to-day management of financial records, budgets and payments to the Chief Executive Officer. However, the Treasurer remains responsible for the performance of those duties.
- 13.6 If the Association has not appointed a Treasurer, the responsibilities set out in Rule 13.4 are the responsibility of the Chair.

## **14 Roles and responsibilities of members**

- 14.1 All committee members should exercise their powers and discharge their duties with care and diligence that a reasonable person would exercise in reasonable circumstances.
- 14.2 All committee members should exercise their powers and discharge their duties in good faith in the best interests of the Association.
- 14.3 Committee members or former committee member must not improperly use information obtained due to their membership of the Association in respect of:
- (a) gaining an advantage for themselves or another person; or
  - (b) causing detriment to the Association.
- 14.4 All committee members must adhere to the Association's Conflicts of Interest Policy noted in Rule 19 and which aligns with the Act.
- 14.5 All committee members must adhere to the Association's Finance Policy.
- 14.6 All committee members must adhere to both the Association's Communications Protocol and OHS Policy which are held by the Chief Executive Officer and made available to all members.

## **15 Casual vacancies in membership**

A casual vacancy occurs when a person ceases to be a member in accordance with Rule 8. Casual committee member vacancies may be dealt with in accordance with

Rule 5.4 or, in the case of the Chair, Rule 5.3.

## **16 Convening general meetings**

### 16.1 The Chair –

- (a) may at any time convene a special general meeting (but must convene a general meeting, including the annual general meeting) not less than 5 times a year;
- (b) must convene annual general meetings within 4 months after the end of the Association's financial year or such longer period as may in a particular case be allowed by the Commissioner; and
- (c) must, within 28 days of receiving a request in writing to do so from not less than 20% of members, convene a special general meeting for the purpose specified in that request.

### 16.2 The members making a request referred to in Rule 15.1(c) must –

- (a) state in that request the purpose for which the special general meeting concerned is required; and
- (b) sign that request.

### 16.3 If a special general meeting is not convened within the 28 days referred to in Rule 15.1(c), the members who made the request concerned may themselves convene a special general meeting as if they were the Chair.

### 16.4 When a special general meeting is convened under Rule 16.3 the Association must pay the reasonable expenses of convening and holding the special general meeting.

### 16.5 The Chief Executive Officer must give to all members not less than 7 days' notice of a special general meeting and that notice must specify –

- (a) when and where the general meeting concerned is to be held; and
- (b) particulars of the business to be transacted and of the order in which that business is to be transacted.

### 16.6 The Chief Executive Officer must give to all members not less than 14 days' notice of an annual general meeting and that notice must specify –

- (a) when and where the annual general meeting is to be held;
- (b) the business to be transacted, including as follows –
  - (i) first, the consideration of the accounts and reports of the Association;
  - (ii) second, any other business requiring consideration by the Association at the annual general meeting.

### 16.7 A special resolution may be moved either at a special general meeting or at an annual general meeting. In addition to those matters specified in Rule 15.5 or 15.6 as relevant, the notice for a meeting at which a special resolution is to be proposed must also include the resolution to be proposed and the intention to propose the resolution as a special resolution. If the special resolution is to amend the Rules of the Association, the notice must be in substantially the same form as Appendix 3.

### 16.8 The Chief Executive Officer must give a notice under Rule 15.5, 15.6 or 15.7 by –

- (a) serving it on a member personally; or
- (b) sending it by post, email or facsimile to a member at the address of the member appearing in the register of members kept and maintained under Rule 6.

- 16.9 When a notice is sent by post under Rule 15.8(b), sending of the notice will be deemed to be properly performed if the notice is sufficiently addressed and posted to the member concerned by ordinary prepaid mail.

## **17 Quorum and proceedings at general meetings**

- 17.1 At a general meeting 50% of the members eligible to attend and vote will constitute a quorum. Members voting by proxy count in constituting a quorum.
- 17.2 Members may participate in a general meeting by electronic means, and members so participating count in constituting a quorum.
- 17.3 If within 30 minutes after the time specified for the holding of a general meeting in a notice given under Rule 15.5 or 15.6 –
- (a) as a result of a request or notice referred to in Rule 15.1(c) or as a result of action taken under Rule 15.3, a quorum is not present, the general meeting lapses; or
  - (b) otherwise than as a result of a request, notice or action referred to in paragraph (a), the general meeting stands adjourned to the same time on the same day in the following week and to the same venue.
- 17.4 If within 30 minutes of the time appointed by sub-Rule 16.3(b) for the resumption of an adjourned general meeting a quorum is not present, the members who are present in person or by proxy may nevertheless proceed with the business of that general meeting as if a quorum were present.
- 17.5 The Chair may, with the consent of a general meeting at which a quorum is present, and must, if so directed by such a general meeting, adjourn that general meeting from time to time and from place to place.
- 17.6 There must not be transacted at an adjourned general meeting any business other than business left unfinished or on the agenda at the time when the general meeting was adjourned.
- 17.7 When a general meeting is adjourned for a period of 30 days or more, the Chief Executive Officer must give notice under Rule 16 of the adjourned general meeting as if that general meeting were a fresh general meeting.
- 17.8 At a general meeting –
- (a) an ordinary resolution put to the vote will be decided by a majority of votes cast on a show of hands or indicated verbally, subject to sub-Rule 16.12; and
  - (b) a special resolution put to the vote will be decided in accordance with the Act as defined in Rule 2, and, if a poll is demanded, in accordance with sub-Rules 16.11 and 16.13.
- 17.9 Subject to these rules, each member present in person or by proxy at a general meeting is entitled to a deliberative vote. In the event of a tied vote, the Chair has a casting vote. If the Chair is absent and another person is acting as the chair of the meeting pursuant to Rule 11.2, that person has a casting vote.
- 17.10 A member (in this rule called "the appointing member") may appoint in writing (in a form substantially similar to that set out in Appendix 2) another member who is a natural person to be the proxy of the appointing member and to attend, and vote on behalf of the appointing member at, any general meeting.
- 17.11 A declaration by the Chair of a general meeting that a resolution has been passed as an ordinary resolution at the meeting will be evidence of that fact unless, during the general meeting at which the resolution is submitted, a poll is demanded in

accordance with sub-Rule 17.12.

- 17.12 At a general meeting, a poll may be demanded by the Chair or by three or more members present in person or by proxy and, if so demanded, must be taken in such manner as the Chair directs.
- 17.13 If a poll is demanded and taken under sub-Rule 17.12 in respect of an ordinary resolution, a declaration by the Chair of the result of the poll is evidence of the matter so declared.
- 17.14 A poll demanded under sub-Rule 17.12 must be taken immediately on that demand being made.

## **18 Circular resolutions**

- 18.1 A resolution (other than a special resolution) initiated by the Chair and agreed to in writing by a majority of members shall have the same effect as if it was passed at a general meeting.
- 18.2 Agreement in writing to any such resolution may be transmitted by email or facsimile.
- 18.3 Each such resolution will be recorded in the agenda of the next general meeting and recorded in the minutes of the Association.

## **19 Conflicts of interest**

- 19.1 A member having any direct or indirect pecuniary interest in a contract, or proposed contract, made by, or in the contemplation of, the Association or any other interest in any matter being considered by the Association, must –
  - (a) as soon as he or she becomes aware of that interest, disclose the nature and extent of his or her interest; and
  - (b) not take part in any deliberations or decision of the Association with respect to that contract or other matter (and leave the room when that contract or other matter is discussed).
- 19.2 Rule 18.1(a) does not apply with respect to a pecuniary interest that exists only by virtue of the fact that the member is an employee of the Association.
- 19.3 The Chief Executive Officer must cause every disclosure made under Rule 18.1(a) by a member of the Association to be recorded in the minutes of the meeting of the Association at which it is made.
- 19.4 The Association must ensure that arrangements exist within the context of a Conflicts of Interest Policy which shall be reviewed at each AGM.

## **20 Minutes of meetings of Association**

- 20.1 The Chief Executive Officer must cause proper minutes of all proceedings of all meetings to be taken, and agreed at the subsequent meeting. Minutes must be:
  - (a) entered in a minute book kept for that purpose.
- 20.2 When minutes have been entered and signed as correct under this rule, they are, until the contrary is proved, evidence that –
  - (a) the meeting to which they relate was duly convened and held; and
  - (b) all proceedings recorded as having taken place at the meeting did in fact take place at the meeting.

## **21 Rules of Association**

- 21.1 These rules shall not be altered except in accordance with the Act (including, if so required by the Act, the passing of a special resolution in accordance with the Act).
- 21.2 These rules bind every member and the Association to the same extent as if every member and the Association had signed and sealed these rules and agreed to be bound by all their provisions.

## **22 Common seal of Association**

- 22.1 The Association must have a common seal on which its corporate name appears in legible characters.
- 22.2 The common seal of the Association must not be used without the express authority of the Association and every use of that common seal must be recorded in the minute book referred to in Rule 19.
- 22.3 The affixing of the common seal of the Association must be witnessed by any two of the Chair, Vice Chair, and Chief Executive Officer. If there is no Chief Executive Officer or Treasurer, then the affixing of the common seal of the Association must be witnessed by the Chair and Vice Chair.
- 22.4 The common seal of the Association must be kept in the custody of the Chief Executive Officer or of such other person as the Association from time to time decides.

## **23 Inspection of records of the Association**

- 23.1 A member may at any reasonable time inspect without charge the books, documents, records and securities of the Association.
- 23.2 The committee may refuse to grant access to confidential personal employment materials, commercial or legal matters.

## **24 Disputes and mediation**

- 24.1 The grievance procedure set out in this rule applies to disputes under these rules between –
  - (a) a member and another member; or
  - (b) a member and the Association.
- 24.2 The parties to the dispute must meet and discuss the matter in dispute, and, if possible, resolve the dispute within 14 days after the dispute comes to the attention of all of the parties.
- 24.3 If the parties are unable to resolve the dispute at the meeting, or if a party fails to attend that meeting, then the parties must, within 10 days, hold a meeting in the presence of a mediator.
- 24.4 The mediator must be –
  - (a) a person chosen by agreement between the parties; or
  - (b) in the absence of agreement –
    - (i) in the case of a dispute between a member and another member, a person appointed by the Association;

- (ii) in the case of a dispute between a member and the Association, a person who is a mediator appointed to, or employed with, a not for profit organisation.

24.5 A member of the Association can be a mediator.

24.6 The mediator cannot be a member who is a party to the dispute.

24.7 The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.

24.8 The mediator, in conducting the mediation, must –

- (a) give the parties to the mediation process every opportunity to be heard;
- (b) allow due consideration by all parties of any written statement submitted by any party; and
- (c) ensure that natural justice is accorded to the parties to the dispute throughout the mediation process.

24.9 The mediator must not determine the dispute.

24.10 The mediation must be confidential and without prejudice.

24.11 If the mediation process does not result in the dispute being resolved, the parties may seek to resolve the dispute in accordance with the Act or otherwise at law.

## **25 Members not liable for debts of the Association**

The members are not, by reason solely of their membership, liable to contribute to the payment of the debts and liabilities of the Association or the costs, charges and expenses of the winding up of the Association.

## **26 Distribution of surplus property on winding up of Association**

If upon the winding up or dissolution of the Association and after satisfaction of all its debts and liabilities and any obligations to the State Government Department under any funding arrangement with those Departments, there remains any property whatsoever, that property must not be paid to or distributed among the members, or former members. The surplus property must be given or transferred to another association, or associations, incorporated under the Act which has similar objects and which is not carried out for the purposes of profit or gain to its individual members, and which association shall be determined by resolution of the members.

## Member's acknowledgement and agreement

I .....  
(Insert name)

of .....  
(insert residential or postal address)

have been appointed as a member of the South West Academy of Sport Inc.– South West Inc and I agree to be bound by the rules of the Association.

**Signature:** .....

**Date:** .....

Please note:

The Association is bound by the Associations Incorporations Act 2015, including its amendments, and its Rules of Incorporation. You have certain rights and duties under that Act and those Rules. If you require further information about those rights and duties, please contact the Association.

# Proxy Form

## Appointment of Proxy

Rule 17.10

I, .....

(Insert MEMBER'S name)

of .....

(Insert MEMBER'S address)

being a member of South West Academy of Sport Inc.– South West Incorporated

## **APPOINT**

.....

(Insert PROXY'S name)

who also is a member of the Association, as my proxy.

My proxy is authorised to vote on my behalf: (Tick  only **ONE** of the following)

at the general meeting/s (and any adjournments of the meeting/s) on

.....  
(Insert relevant date/s)

OR

in relation to the following resolutions and/or nominations

In favour:

Against:

.....  
.....  
.....  
.....

.....  
.....  
.....  
.....

(Insert resolution Nos, brief description or nominees' name/s)

(Insert resolution numbers, brief description or nominees' name/s)

**Signature** (of member appointing the proxy): .....

**Date:** .....

## Notice of general meeting to amend the rules of incorporation

South West Academy of Sport Inc.– South West is convening a general meeting at which the following resolution/s will be proposed as special resolutions to alter the rules of the association.

The meeting will be held at ..... am/pm on .....  
(insert date)

The meeting will take place at .....

### SPECIAL RESOLUTION/S:

Currently rule.....states:

.....  
.....  
.....

It is proposed to alter this rule so that it states as follows:

.....  
.....  
.....

Currently rule.....states:

.....  
.....  
.....

It is proposed to alter this rule so that it states as follows:

.....  
.....  
.....

### OR

A list of alterations to the rules which will be proposed as special resolutions at the meeting is attached.

### Information for Members

Rule 17.10 allows for proxy votes. A proxy form is enclosed for you to nominate another member to vote on your behalf if you cannot attend the meeting.

Alterations to the rules can only be made if supported by 75% of members voting at the meeting or by proxy.

Alterations to the rules only take effect when lodged with the relevant WA Government agency administering associations.